

## Art

Irell & Manella LLP's substantial expertise in the field of art and cultural property law, as well as memorabilia and collectables, spans over three decades. Our practice is both national and international and covers individual items and entire collections. Our practice areas include purchase and sale transactions; auction and dealer consignments; loans to domestic and foreign museums and galleries; charitable giving of art; sales, use and personal property tax planning for purchases, sales and loans of art; tax deferred exchanges of art; art advisor and consultant agreements; art appraisal agreements; estate planning for art assets; copyright, trademark and other intellectual property rights; resale royalties (CA and foreign); cultural heritage and patrimony concerns; art insurance review (including negotiation of policy terms and coverage); private and public commission of art; state (including the CA Art Preservation Act), federal (including Visual Artist Rights Act) and foreign moral rights; and import/export domestically and internationally.

Our clients include some of the world's foremost private collectors, including many museum trustees, as well as private foundations, artists, international auction houses, museums, motion picture studios and galleries. Our group of attorneys is sought out by collectors and owners with unique needs; for example, our art attorneys represented Maria Altmann and the Bloch-Bauer heirs with regard to the disposition of the five Gustav Klimt paintings restituted by Austria in January 2006. On behalf of the Bloch-Bauer heirs, our attorneys negotiated the sale of the iconic "gold" portrait of *Adele Bloch-Bauer I*, reported in headlines internationally as the most expensive painting ever sold. As described in the materials below, our attorneys have advised on several other world and national record setting transactions.

Our art law practice is unique among other firms, because we work within the context of a full service firm. This added advantage for our clients allows us to combine our art-specific experience with the expertise of our other practice disciplines, including tax, intellectual property, trusts and estates, private foundations, secured transactions, entertainment and litigation.

The attorneys in our art group also have extensive practical knowledge and experience dealing with transactions and events within the unique environs of the art world. The head of our art group annually teaches a course in art and cultural property law at UCLA School of Law. Our attorneys are frequently invited to author articles on art law concerns, and lecture and make presentations on art and cultural property law issues at a variety of venues, including professional conferences (including ALI-ABA, PLI, ABA, USC Tax Institute, Heckerling Institute, IFAR and other associations), auction houses, museums, and art related gatherings (Los Angeles Art Fair, ARCO), and they are often quoted with regard to art related matters and their transactions covered, in various regional, national and international publications and periodicals including *AP*, *Bloomberg*, *The New York Times*, *The Wall Street Journal*, the *Los Angeles Times*, the *Chicago Tribune*, the *Washington Post*, *Forbes*, *Art & Auction*, *ARTnews*, the *Art Newspaper*, *Estate Planning Journal*, *BBC*, *BNA State Tax Notes*, *Los Angeles Business Journal*, *Private Wealth Management* and the *Robb Report*, among others.

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The broad array of services and expertise provided by our art attorneys is reflected in our work in the many aspects of art world transactions:

- Purchase and Sale — Irell & Manella's art group has represented collectors across the full spectrum of art sales and purchases, from single works to entire collections, from antiquities to fine art to collectibles and memorabilia, between private parties (including individual collectors, dealers and museums), at auction, and private treaty sales, among others, ranging in value from thousands of dollars to single purchases in the tens of millions of dollars, with some exceeding \$100 million. Our attorneys have advised on the many aspects of such transactions, including planning, negotiation and due diligence relating to title, condition, value, authenticity and provenance, as well as sales and use tax planning, tax deferred exchanges, resale royalties, import and export concerns and requirements, and use of agents for undisclosed parties. We have prepared and negotiated a variety of purchase agreements, escrow agreements, bills of sale, review on approval agreements, and consultant agreements for art dealers, scholars, conservators and others, as well as art advisory service agreements and appraisal among others.
- Art Loans — From single works of art to entire collections, locally, nationally and internationally, our attorneys have advised private collectors on the many concerns and considerations relating to the loan of their art. Our representation includes drafting and negotiating loan agreements and advising on tax concerns, import and export issues, insurance (with particular focus on inconsistencies between the museum's policy terms and requirements and those of the collector's policy that result in hidden gaps and vulnerabilities), government indemnities, anti-seizure protections, and allocation of risk, as well as security and environmental requirements. As an example, we advised The Broad Art Foundation and Eli and Edythe Broad on aspects of their negotiations for their loan of over 200 works of art for the inaugural exhibition at the newly completed Broad Contemporary Art Museum at the Los Angeles County Museum of Art. In 2006, our attorneys negotiated the blockbuster exhibitions at the Los Angeles County Museum of Art and the Neue Galerie New York of the five Gustav Klimt paintings restituted in January 2006 to the Bloch-Bauer heirs from Austria. We have also advised on major art and cultural property loans to exhibitions at a variety of museums including the Metropolitan Museum of New York; Museum of Contemporary Art, Los Angeles; Museum of Modern Art, New York; Los Angeles County Museum of Art; Art Institute of Chicago; The National Gallery, London; National Gallery of Art, Washington DC; The Tate and Tate Modern; the Philadelphia Museum of Art; Smithsonian; Bellagio Gallery of Fine Art; and Portland Art Museum, among many others.
- Auction and Dealer Consignments — Irell & Manella has negotiated some of the largest single-owner consignments of art ever at auction, as well as secured some of the largest ever auction guarantees. We annually represent individual collectors in consignments of separate and multiple works of art during the auction seasons, advising on all aspects including guarantees, loans, and other terms of the auction consignment process. Such consignments have often resulted in national and world record-setting auction prices. As an example, in 2006, we negotiated and

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drafted the historic consignment of the four restituted Bloch-Bauer Klimt paintings, one of the most complex and valuable consignments ever and that established several world records. In 2005, we structured the planning and purchase for one of our clients of the then most expensive work of contemporary art ever sold at auction. Our attorneys also negotiated the consignment of the Edith Getz collection in the late 80's (setting the then record for the largest ever single owner auction), and the renown Smooke collection, among other single owner auctions. We also represented our client, one of the larger auction companies for high value automobile and collector cars, in the consignment of a major car collection that in 2008 set the record for the most expensive car ever sold in North America, and we also represented our client in the consignment of the renowned Otis Chandler car collection, one of the world's finest and rare examples of classic automobiles and motorcycles, that in 2006 established the world record for the highest single day automotive collection sale. We have also frequently represented collectors on private treaty purchases and sales, as well as in private individual consignments to galleries, art advisors, and dealers for private sale. Our art attorneys have extensive and unique experience in this area, and are sought out to lecture and write about auction consignment agreements, including an extended article on pitfalls and planning strategies in auction consignment agreements published in the April 2009 *Estate Planning Journal*.

- Art Insurance — Our art insurance group has extensive experience assisting collectors in the review, placement and negotiation of art insurance, identifying vulnerabilities and gaps in coverage, and pursuing claims. On behalf of many of our clients we have worked with most all the major art world insurers (including domestic, foreign and international insurance markets) and crafted new cutting edge insurance products for fine art and collectables offering enhanced protection to our clients. We have assisted in obtaining improved policy terms and coverage for earthquake, partial loss, dispute resolution, terrorism, international and domestic transit, museum exhibitions, and unnamed locations to name a few. We have also assisted our clients in managing the risk of loaning their art for exhibition through the use of manuscripted endorsements to utilize the insurance belonging to others as the first line of defense against loss or damage, and assisted our clients with specialized insurance needs, including specialized exhibition and terrorism coverage, as well as addressing often uninsurable risks.
- Cultural Patrimony — Our attorneys have represented collectors in a multitude of transactions involving cultural patrimony. On export and import licenses and permits and related concerns, customs, foreign national umbrella and theft laws, domestic and international treaties, and bi-lateral agreements and conventions, we have advised our clients as they make their way through these complex issues with regard to the purchase and sale, or loan, of cultural property, including native American, ethnological tribal, oceanic, and similar art, antiquities, archeological artifacts, and national and historic treasures relating to many nations, including the U.S., France, Italy, Germany, Greece, Britain, Egypt, Columbia, Mexico, and South Africa, among others.

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- Museums — We have advised museums on copyright, trademark and other intellectual property matters related to art and collectibles, as well as on foreign and domestic moral rights (including the Visual Artist Rights Act and the California Art Preservation Act), and other concerns relating to deaccession, removal, installation and deinstallation, acquisitions, publications and merchandising, and abandoned art loans as well as claims for recovery of looted art. We have also advised on ownership and operational structure and formation issues related to proper tax and foundation planning.
- Sales, Use, and Personal Property Tax — Irell & Manella frequently advises on, and has structured and implemented, sales, use, and personal property tax planning for collectors with regard to small and large purchases, sales and loans of art, helping those collectors avoid common mistakes that unexpectedly may expose them to, and or increase their, tax liabilities. We have also advised and assisted in the preparation of state legislation creating exemptions from these taxes for art on loan for public display. Because of our unique expertise and experience with sales and use tax related to art transactions, collectors frequently seek our advice, and our attorneys have assisted collectors with voluntary disclosure and payment programs with state tax authorities in a variety of states with regard to sales and use taxes. Such advice and planning is also a consideration for an intended loan of art by a collector.
- Public and Private Commissions of Art — Our attorneys have advised on and negotiated commissions of both private and public art projects, including a major state-of-the-art national football stadium and convention complex involving twelve separate public art commissions; a prime retail and residential project in the heart of Hollywood, CA; a major resort, casino and shopping complex in Nevada, and a major redevelopment real estate project involving several city blocks, multiple buildings and public areas on the west coast. We also have substantial experience in handling the many aspects of private commissions directly between collectors and artists for both public and private display.
- Estate Planning, and Charitable and Planned Giving of Art — Irell & Manella LLP has advised individual collectors on their charitable gifting of art, including fractional giving and partial donations (with particular attention to the changes in tax law effective August, 2006 all but eliminating this favored method of gifting, and subsequent further corrective amendments in 2008), monetary contributions to fund the purchase of art by museums and foundations, and construction of wings, other additions and new facilities, through deeds of gift and other planning vehicles. As an example, Irell represented the Broad Art Foundation on its \$60 million gift to LACMA that provided for the construction of the new Broad Contemporary Art Museum as well as funding for the purchase of new major works of art at the institution. At the end of 2008, Irell represented the Broad Foundation on its \$30 million matching grant gift to the Museum of Contemporary Art in downtown Los Angeles to help rebuild MOCA's endowment and provide for funding of future operating expenses. We have extensive experience in estate planning involving art and collectables, involving a variety of trusts, private foundations, and other vehicles, and dealing with

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the IRS Art Board.

For more information please contact Steven Thomas.