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Conceptualizing Artists' Rights: Circulations of the Siegelaub-Projansky Agreement through Art and Law

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Abstract and Keywords

The Artist's Reserved Rights Transfer and Sale Agreement (Siegelaub-Projansky Agreement) of 1971 and the certificates of early Conceptual art have been considered contradictory for enabling so-called "dematerialized" artworks to be exchanged as any other commodifiable work, thus negating Conceptual artists' claims of challenging market and institutional conventions. However, an expanded lens on the life of the Siegelaub-Projansky Agreement in law yields another legacy for these endeavors, where the Agreement is instead evidenced as influencing artists' rights laws in the United States, and where its rhetoric of collectivity can be viewed as a radical appropriation of private law in an effort to establish more equitable art industry norms. This reclaimed narrative of political influence emerges only when we recognize the capacity of these artistic documents as legal instruments, and consider how they have circulated through and challenged the limits of both fields they are cross-classified between: art and law.

Keywords: Conceptual art, law, contract, Seth Siegelaub, certificates, art galleries, art market, art history, Visual Artists Rights Act (VARA), resale royalties

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I. Critical Circulations through Art and Law

The Artist's Reserved Rights Transfer and Sale Agreement; ARRTSA; the Artist's Contract; Original Transfer Agreement; the Projansky Agreement; the Siegelaub-Projansky Agreement. These are but some of the names used to refer to a contract written by the exhibition organizer and dealer of Conceptual art Seth Siegelaub with lawyer Robert Projansky in 1971.[1] The Agreement was developed to be the standard contract used when artwork was sold or title transferred, providing a tool through which artists could control the terms concerning the use and sale of their artwork, and a means through which they could claim intellectual and tangible property rights and moral rights that were unaddressed in U.S. law at the time.[2] Its more extreme provisions grant the artist a veto right over the exhibition of their sold works, a percentage of any fee a collector may receive from lending the work, and 15 percent of the work's accrued value at resale. The existence of the Agreement is communicated through a "Notice" that must be permanently affixed to the work itself or on its certificate of authenticity. All future purchasers or transferees of a work must sign the contract, acknowledging the artist's ongoing relationship to their work, and establishing that, as Siegelaub emphatically concludes the Agreement's introduction, "should there ever be a question about artists' rights in reference to their work, the artist is more right than anyone else."[3] (Figure 1)


THE ARTIST'S RESERVED RIGHTS TRANSFER AND SALE AGREEMENT

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Figure 1 Seth Siegelaub and Robert Projansky, *The Artist's Reserved Rights Transfer and Sale Agreement*, 1971. Poster, 22" x 17" unfolded; 11" x 8.5" folded. First printing by the School of Visual Arts, New York, NY.

Courtesy of the Stichting Egress Foundation, Amsterdam.

Within legal literature, the document is most often cited as the "Projansky Agreement," privileging the authorship of its legal authority, diminishing Siegelaub's role, and implicitly reducing the importance of the artist-user. In contrast, within art history and criticism it is typically referred to as the "Artist's Contract," emphasizing the primacy of the subject position of the artist over any other party involved. This problem of naming has left the historical record fragmented for reasons that disclose the document's ultimate

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complexity: as an artifact straddling the historically antagonistic areas of art and law,[4] neither discourse has provided a complete account of its implications in either field.[5]

As a legal document, the appearance of the Agreement in legal texts and its impact in the legislative and juridical realm should be considered in its art historical evaluation. At the same time, legal scholars considering the Agreement would benefit from attending more to the peculiarities of art as an "unusual" form of property.[6] Rather than begin from a presumption of antagonism, we might also weigh certain shared aspects of art and law, and glean from the differences between their guiding logics. Material and aesthetic practices,[7] the layering of reference and precedent, and speculative proposals shape and reshape the rhetoric and force of ideas and rules guiding the apparatus of law[8]; those same operations can also be said to underpin the cultural construction of art. In both fields, one must rely on either "art" or the "legal," respectively for qualification, and their definitions shift with contestation in either discourse,[9] suggesting that each 'institution' is a living "substance," rather than solid or fixed,[10] and that both not only depend upon critique, but anticipate continual reform. Recognizing such a thing as an 'artist's contract' as an artifact cross-classified between "art" and "law" calls us to view it through the lenses of both fields, while also attending to the "reciprocal, interactive"[11] entanglements that such dual indexing implies. Following the lead of anthropologist Marilyn Strathern, it would be a pity for one to overlook the other's insights simply because their claims are made through "vernaculars that seem local and strange." [12] A review of some of the origins and critical treatment of the Siegelaub-Projansky Agreement[13] within art and legal histories and theories will point toward some of the ways in which one field may yield "possible ways of thinking" about the other.[14]

At minimum, art is touched by the laws of tangible and intellectual property, commerce, publicity, moral rights, and the right to contract, affecting, to varying degrees, the manner in which art is produced, reproduced, exhibited, sold, unsold, preserved, or destroyed. Yet as art historian Nathanael Harrison has observed, even though central modes of art production since the 1960s (and prior) have sought to "undermine norms associated with the ownership of cultural expression," at times 'breaking' the law, or at least challenging its limits, there has been a curious lack of art history and criticism engaging legal theory and doctrine.[15] Instead, most critical frameworks of the later twentieth century have engaged conditions of art's ownership and trade through commodity critique, where art must always risk exposing itself to market forces in order to reveal that conditions of commodification persist, leading to skepticism over the economic emphasis of copyright law,[16] and the rooting of contractual relations in market exchange.[17] The usefulness of the "toolkit" of commodity critique–and its skepticism–has not been exhausted, but for the project of assessing the life of legal artifacts within art that theoretical resource is incomplete.[18]

Scholarship traversing other disciplinary divides has provided a more nuanced consideration of artists' economic and legal interests as social concerns. As legal and cultural historians Martha Woodmansee, Peter Jaszi, and others have demonstrated, artists and authors from the eighteenth century onward have taken up property and

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financial interests in their work not with uncritical financial speculation, but in pursuit of just remuneration,[19] or for securing *any* income from one's work that would sustain an artist's material needs for both their practice and life.[20] Drawing upon social and labor histories, in addition to feminist and critical theories, Julia Bryan-Wilson, Rosalyn Deutsche, and others have shown that artists have also taken up the matter of property and economic rights in order to defend their work against exploitation by patrons, and to assert the importance of their ongoing pecuniary and moral interests.[21]

Although commission or sales agreements and certificates of authenticity and ownership have typically accompanied art transactions since at least the Renaissance,[22] it has been unusual historically for artists to compose the terms of those documents. Conceptual art of the 1960s and early 70s stands as a watershed moment of artists declaring their desired rights in their work via contracts and certificates,[23] using them to supplement or supplant physical works altogether—a particularly common technique in the American context.[24] This aspect of Conceptual art has been revisited by recent scholarship that bridges art and legal discourses to take a more expansive view of the ways in which artists have used the means of the law and commercial markets towards critical ends, or how "negotiations, legal process, [and] documents" may become "medium" for art.[25]

Contracts operate as binding agreements concerning each party's obligations and interests regarding the subject of an exchange, and must contain evidence of an offer, consideration, and acceptance by both parties.[26] Certificates of authenticity serve as the site of a "displaced" signature, a guarantee to a collector that a work is to be attributed to a certain artist, and can also include installation, storage, fabrication, or other relevant instructions.[27] Both may contain the articulation of an artist's terms for how their artwork should be transferred and used, and how the property relation surrounding a work of art should be constituted. These relational capacities of artists' certificates and contracts have been termed by art historian Martha Buskirk as the "contingent" nature of art since Conceptual art, in which the ties that a work of art may enable, or upon which its manifestation, communication, and ownership depends, must be considered as intrinsic to the work itself, or can be the work.[28] As art historian and legal scholar Joan Kee has described, in some cases, artists' certificates may invite a "contract-like" exchange, in that the work calls for constant involvement and potential renegotiation on the part of a collector or exhibitor, thus diverging from and challenging the "strict rationalism" of most agreements in art.[29] And as performance studies scholar Josh Takano Chambers-Letson has similarly speculated, such certificates may still be strictly adhered to in practice 'as-if' they were contracts, thereby expanding the norms and limitations of what such agreements can say or do within art *and* in law.[30]

Exploiting and expanding the contingent status of a work of art would, as artist Robert Smithson remarked in 1972, become the central concern among artists, as they turned their attention toward their alienation from the "value" of their work, investigating "the apparatus the artist is threaded through."[31] This turn arose in tandem with the art world's expansion into a "total industry," in which it would come to resemble other professional and business sectors.[32] As an effect of that expansion, new sites and

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materials for critique emerged,[33] among them the procedures and designations that make up the legal body of the art institution and art market, legal instruments, the relations they manage, and, by extension, the 'legal apparatus' an artwork circulates through in turn. The trails of those circulations are marked and recorded in art's paperwork[34]: provenance records noting exhibitions and sales, repair and condition reports, invoices, insurance appraisals, loan, reproduction, and sales agreements, and certificates of authenticity. Relegated to the back of a frame, or filling folders of a private archive, a lawyer's registry, or a gallery inventory, these items are invisible to the viewer, and yet are constant specters shadowing any work of art, and are (nearly always) necessary for its transaction and trade.[35] When artists author the agreements governing the circulations of their work, they exercise control over *how* their work is threaded through the art-market apparatus, ensuring that, to borrow Deutsche's phrase, one might not be "governed so completely" by the forces controlling the market and institutions of art.[36]

The Siegelaub-Projansky Agreement marks a historical hinge toward that turn in critical focus by fully inhabiting and "infecting"[37] the circulatory system of the art market, its schema of valuation, and the construction of legal authority granting artists' rights, in a manner that, while maintaining a critical wariness, instrumentalizes works of art in order to not only effect critique, but to "reprogram"[38] the operations of the systems it courses through. The Agreement thus stands as a central example among strategies of *critical circulation* in art. It also proposes a particular model for the use of law as medium. The concept of "law as medium" [39] may take many forms, from direct engagement in government and policy, as in the "legislative art" of artist-turned-prisoner-advocate Laurie Jo Reynolds,[40] to the "speculative" "appropriation" of the force of law via legal instruments and procedures, as described by artist and art lawyer Sergio Muñoz Sarmiento.[41] Law as medium as expressed in the Agreement resides between these poles: it is an activist intervention and legal experiment in service of social equity and reform, which is structurally and theoretically informed by artistic practice and critique. Understanding Siegelaub's recognition of the law and contract as medium and method of critique in this sense is crucial for grasping the Agreement's political, social, legal, and artistic atemporal spheres of influence, and as art historian Jeanine Tang has observed, for identifying and imagining the possibilities its "future circulations" may yield.[42] A closer view to the political "phenomenon"[43] that was Conceptual art of the 1960s and early 70s, its fixation on legal and legalistic documents, and the rhetorical and legal capacities within the Siegelaub-Projansky Agreement reveals a more nuanced narrative, which, while clearing up some contradictions that have plagued its dominant analyses, also reveals further tensions and possibilities at the intersections of art and law.

II. The Political Phenomenon of Conceptual Art

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Conceptual art's strategies of "dematerialization"[44] presented a number of political and artistic challenges to, as Seth Siegelaub described, "art as object and as commodity, the permanence of the art object, the one visual canon … and what makes a work of art 'ownable' or not 'ownable'."[45] Constituting that aesthetic was a variety of artistic experimentations aimed at dismantling the commodity status, cultural authority and privilege granted to traditional rarified art forms, such as unique paintings and sculptures.[46] Replacing these conventional media were works that found their material manifestation as typologies of documents,[47] such as "dumb" photographs that merely recorded or served to communicate an action,[48] projects that lived primarily in the pages of books and magazines, or other printed ephemera that could be produced and distributed "cheaply and easily."[49] In extreme cases Conceptual works 'materialized' primarily as written descriptions or instructions on a certificate of authenticity or other 'paperwork', without which the artwork would exist solely as an immaterial and temporal "idea."[50] Underpinning these strategies of art production was a shared investment in challenging the governing standards and terms by which art could not only be defined but also the manner through which it could or could not be exchanged.

Yet early in its historicization Conceptual art was criticized for its myriad contradictions, and they remain its most prominent legacy.[51] Though professing an anti-commodity position, many artists maintained or sought participation in the established art market and art institutional system. In her introduction to *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, a bibliography of relevant exhibitions, events, and criticism published in 1973, critic and curator Lucy R. Lippard lamented that the genre had failed in its aspirations to break the bind between art and its status as a commodity, finding that in its reliance on ephemeral formats, such as postcards and publications, the work of art as privileged commodity was not replaced but instead led to the creation of more types of commodities to market and sell.[52] In her preface to the revised edition, Lippard describes further that although the forms of Conceptual art signaled "democratic outreach," its content did not: "Communication (but not community) and distribution (but not accessibility) were inherent in Conceptual art"; however, "most of the work remained art-referential, and neither economic nor esthetic ties to the art world were fully severed …" so that any alternatives proposed remained caught within the calculated and self-propelling "enclosure" of the art world.[53]

Another enduring tension stems from these artists' appropriation of the administrative techniques of a "managerial class," which have been viewed as replicating the forces of governmentality, neoliberal capitalism, and asserting propriety. Sixteen years after Lippard's comments, critic Benjamin Buchloh's essay "Conceptual Art 1962–1969: From the Aesthetics of Administration to the Critique of Institutions," published in the first major museum historical retrospective of early Conceptual art,[54] reiterated this point and now took aim at Conceptual artists' uses of certificates, contracts, and other forms of paperwork.[55] Rather then consider the introduction of these instruments for their subversive capacities, Buchloh diminishes the technique as having merely replaced "an aesthetic of industrial production (introduced by the readymade) and consumption (pop art) with an aesthetic of administrative and legal organization and institutional

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validation."[56] "Paradoxically," he writes, it would seem that Conceptual art became the most significant paradigmatic change of postwar artistic production in its mimicking of "the operating logic [and aesthetics] of late capitalism and its positivist instrumentality."[57] But for Buchloh this turn also indicated an irretrievable loss, one to which Conceptual art responded with "full optimism" while failing to recognize "that the purging of image and skill, of memory and vision, within visual aesthetic representation was … yet another, perhaps the last of the erosions (and perhaps the most effective and devastating one) to which the traditionally separate sphere of artistic production had been subjected."[58] In this view, the subsumption of art under Conceptualism's aesthetic signaled its complete subsumption within its own closed sphere, where its capacity for critique–within art and beyond–was wholly negated.

A decade later art historian Alexander Alberro extended Buchloh's criticism of Conceptual art's administrative techniques, focusing now on the marketing of Conceptual art, and the lessons that Siegelaub and others took from the "hostility" toward hierarchy and established conventions in the new culture of advertising, as opposed to the anti-establishment stance of the counter-culture.[59] In Alberro's important text on the early work of Siegelaub, *Conceptual Art and the Politics of Publicity* (2003), the author devotes but a slim portion of the final chapter to the Agreement, tracing the document's contradictory origins to Siegelaub's "rather efficient means of retailing [Conceptual] art" by drawing up "'the relevant documents to certify ownership' that would be transferred to collectors to affirm their property," in addition to Siegelaub's increasingly politicized activity.[60] Although the historian correctly recognizes that a key aspect of the Agreement was its application of *the right to contract*, and its capacity as a tool for asserting rights while circumventing governmental bureaucratic intervention, he concludes that it succeeded only insofar as it enabled Conceptual artworks to be traded as any other, for it ensured that any work of art—no matter how "immaterial"—would be able to be sold through existing art market channels and procedures. For Alberro, the complete commodification of a work of art is exemplified in the final page of the form that requires artists to affix a signed "Notice" to the work itself—an act that transfigures the work into pure sign of economic and property value, leading the signature of the artist "and its associative sign value" to come to be what the work signified, as it enabled a work to enter the art market "through the signature of its producer."[61] Here the Agreement's status as a tool for transfer and sale, and its elevation of the artist's signature, was seen to negate Conceptual art's "attack on the cultural system," including any critique of commodity or property relations.[62]

The contradictions laid out by these critics are vital to retain in order to remain self-critical in any historical assessment or analysis, particularly when considering a moment so engaged in the critique of art. At the same time, their negative assessments *assume* that the use of certificates and other administrative forms can only indicate subsumption under capitalism and bureaucratization, rehearsing a scenario where art is helpless before market flows. But there is an alternative narrative to the uses of "an aesthetic of

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administration" that counters this image of powerlessness, which we can locate if we consider these artists as testing "the limits of [their] contractual arrangement[s] with dealer and purchaser," which as art and legal scholars Monroe E. Price and Aimee Brown Price noted in 1968, was then in the most nascent stages of exploration.[63]

Indeed, an examination of the appropriation[64] of the language, force, and material of legal tools among the American milieu of early Conceptual art reveals that a much deeper social critique was at hand, for such instruments were ultimately employed not only for documenting or communicating that a work of art had been made (in lieu of an art object) but also for giving artists a means of controlling or remaining involved in the use and value of their work, granting them power and agency within the art market, and the economic-political system with which it is wholly intertwined.

Seminal within the history of early American Conceptual art and its political investments is the work of exhibition organizer and dealer Seth Siegelaub and his multivalent experiments in formulating critical modes for the circulation of art. In his early realization that "you don't need a gallery to show ideas,"[65] Siegelaub began a trajectory of operating within an expanded notion of the alternative space, physically, metaphorically, and ideologically. When maintaining a formal gallery became financially unviable and structurally unnecessary for the dematerialized artworks he exhibited, Siegelaub abandoned this model to occupy the then-unusual role of independent curator and publisher.[66] From 1968 to 1971 he produced twenty-one projects rooted in expanding how art could be communicated, including new models for international collaboration,[67] and his highly influential "catalogue-exhibitions."

Many of Siegelaub's efforts tested his concept of "primary information," wherein the hierarchy between a work of art and its reproduction is reversed, so that "its intrinsic (communicative) value" is found in its appearance in printed media, and "the catalogue can now act as primary information for the exhibition, as opposed to secondary information *about* art in magazines, catalogues, etc., and in some cases the 'exhibition' can be the 'catalogue,'"[68] so that what circulates is not a representation of something but "the something itself."[69] In some cases, photographs, diagrams, and simple text reproduced on a page were all that was needed to fully encounter a work; physical realization would be of secondary concern. For example, Siegelaub's catalogue-exhibition *January 5–31, 1969* found its "primary" manifestation as a modest publication containing a checklist of nine works by each artist, an artist's statement, and photographs or other documentation of two works each, while a physical counterpart of two installed works by each artist served as "secondary" information, demonstrating a version of what the works could look like once executed, or acting to gather the documentary residue of a temporal, immaterial, replicable, or multi-sited work.[70] The exhibition was celebrated at the time for its rejection of standard gallery exhibition models, and for Siegelaub's egalitarian reversal of the location of a work away from rarified object to widely disseminated idea.[71] Endemic to that reversal is, as Alberro argued, a re-inscription of the artist's privileged authorial position, as evidenced in the simultaneous publicizing of the artist's name. But as artist Charles Harrison has observed, much Conceptual art was not only a critique of

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the role of the artist and author in society, but was a product of those relations in turn, particularly in the Anglo-American context.[72] In this view, authorial re-inscription becomes necessary within Conceptual art's context-specific critiques.

Experimentations concerning the status of the art object and linguistic designations of ownership and authorship reach their pitch across Conceptual art's certificates. Artist Lawrence Weiner's language-based works, consisting of singular words, or brief phrases describing the arrangement of physical elements or material interventions, which may or may not be "built,"[73] are accompanied by documents that denote the collector as "responsible" for the work and its execution, and indicate that it is up to the collector or exhibitor whether or not to follow the artist's aesthetic specifications. These documents are held in a registry with his lawyer in New York, who maintains them as official records of ownership and transfer. Weiner has also designated a number of his works as "public freehold" that are never for sale, and which anyone can produce, but the artist's permission should be sought if someone wishes to exhibit or execute the work as attributed to him.[74] In the case of Sol LeWitt, the artist's procedural geometric wall drawings are accompanied by a certificate and a diagram that includes the instructions and a sketch for how the work is be executed, as well as a list of its draftsmen "collaborators,"[75] the locations where it has been shown, and the artist's signature,[76] thus folding in a provenance of each work and granting an unusual degree of credit to those contributing to its realization, while confirming LeWitt's authorship over the work and copyright on its certificate.[77] The instructions for the wall drawings are intrinsic to the idea of the drawing itself—one facilitates the other, and the collaborative procedure that enables the material manifestation of the visual work is necessary to both its conception and making.[78] At the extreme end of the use of the certificate to document and transact an otherwise immaterial work are Ian Wilson's "conversation" pieces, realized through oral communication to underscore the experiential or phenomenological aspect of material concepts (e.g., the idea of time, or an image of a cube formed in the mind of one who hears it described) and then documented in the minimal notation that a discussion happened at a certain place and time. The subject of a conversation is sometimes mentioned, though in most instances Wilson's certificates simply announce that a conversation occurred, and that it was held with or purchased by a named individual or took place within a specific context.[79]

The aesthetics and language of contracts commonly employed within this strand of Conceptual art practice can be seen as moving beyond the general category of the "document"—characterized as statements, forms, notes, and other written artifacts not prepared for explicitly official reasons—to "records," which are designed to attest to formal transactions, and are meant to be tracked or archived within a bureaucratic and legal system.[80] As a pragmatic and legal matter under U.S. copyright law before and since the revisions of 1976, certificates or similar documentation of authorship must be employed in order to protect an artist's right of attribution and other germane interests in such works.[81] In these and other Conceptual artists' reinforcement of a property and financial interest, market participation was clearly never abandoned. Nonetheless, traditional systems of art exchange were troubled. In their use of incommensurable

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discursive and performative media—formal directions left open to degrees of interpretation, an authored idea and its indeterminate execution, the experience of oral communication versus its fixation in writing—these artists exploited and revealed the very instabilities and interpersonal facets of relations that are precisely what such official "records" are *not* designed to record. At the same time, producing such "administrative" "retail" documents was necessary for these works to circulate through an otherwise "rationalized" market system. If indeterminate events, materials, and relations could now constitute the subject and manifestation of art, and could be *sold* as art, it would not be a leap to extend those inquiries to reconsider the terms of art's transfer and sale, and the role of the artist in authoring those terms.

Contextualizing the manner in which authorship was expressed in Conceptual art makes clear that its reassertion through legal and legalistic instruments was indeed an activist tactic, and one that cannot be divorced from the political narrative of its moment.

The use of legal and legalistic "records" by Conceptual artists mark one clear lineage of influence in the formulation of the Siegelaub-Projansky Agreement, alongside Siegelaub's exhibition strategies and his experience as an art dealer, through which he developed relationships with business professionals, lawyers, and others engaged in selling and buying art. The market for contemporary art in the U.S. was rapidly growing at this time, and in the late 1960s and early 1970s a new phenomenon appeared in New York of a high-value resale market for contemporary art that was fueled by speculation.[82] The art market became increasingly international as well, and Conceptual artworks that could be inexpensively produced on site, printed in a catalogue, or presented via documents proved remarkably easy to travel.[83] Coextensive with this expanded network came American artists' increased exposure to civil law concepts of artist's rights, chief among them the *droit de suite* and *droit moral*, which would make their way in the Agreement's terms.

But it was through Siegelaub's involvement with the activist group the Art Workers' Coalition that the intention for the Agreement to serve as an alternate solution to a political situation most clearly emerges. The AWC was initiated on January 3, 1969, when the artist Takis removed his work while on view at the Museum of Modern Art in New York and held it hostage in the museum's sculpture garden until museum director Bates Lowry would meet with him to discuss his grievance.[84] The incident spurred a rash of highly public protests against art institutions throughout New York City calling for an upheaval of their hierarchical structures that disempowered artists and that disconnected them from their sold and donated works. An awareness of potential legal rights was central to the group's platform and rhetoric from the start, and it is within the pages of the recorded and compiled documents of the Art Workers' Coalition that we can decipher the genesis of the terms that would be formalized within the Siegelaub-Projansky Agreement.[85] Borrowing from the 'quick-cheap-and-easy' production mode of Conceptual art, the group's compilation *Documents 1* contains materials directly concerning the AWC's actions, such as press communiqués, museum correspondence, newspaper clippings, protest fliers, and other records of their activity, while a complementary

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collection titled *Open Hearing* contains the transcripts of statements delivered during a public gathering at the School of Visual Arts. The first handful of texts in *Documents I* comprises a series of demands and manifestos, all of which call for increased intellectual property rights for artists, as well as continued involvement in the economic life of their work. One such example is an early publicly circulating statement from January 5, 1969 (coinciding with the first day of Siegelaub's '*January Show*') including a complaint against the "unauthorized use of photographs [of the artist's work] and other materials for publicity purposes," a call for less control to be exercised by "museums, galleries, and private collectors over the work of living artists," and the extreme request that the work of living artists should not be exhibited without their express consent.[86] The group's subsequent proposal of "13 Demands," submitted to Lowry on January 28, 1969, states: "Artists should be paid a rental fee for the exhibition of their works," "The Museum should recognize an artist's right to refuse showing a work owned by the Museum in any exhibition other than one of the Museum's permanent collection," and that it should also "take active steps to inform artists of their legal rights." The scope of these artists' demands were not limited to museum policy, but also reflect an engagement with artists' rights legislation, evidenced by a further demand for the museum to "declare its position on copyright legislation and the proposed arts proceeds act." The Art Proceeds Act of 1966 would have granted artists an inalienable right to collect a 3% royalty on resales of their work, and was proposed leading up to the federal Copyright Act of 1976, in addition to protections for artists' moral rights. Neither of these provisions were included in the Act's 1976 revisions, although artists did gain automatic retention of reproduction rights for their work after title had passed.[87]

At the AWC's *Open Hearing* held on April 10, 1969, attendees presented numerous grievances and demands ranging from the political responsibility of artists and art institutions, to the legal and economic relationships between artists, galleries, and museums, and artists' relationship to society. Desired policy and legislative reforms, in addition to the potential of private law solutions remained a recurrent theme in many attendees' statements, and in its archiving publication, a loose index of subjects addressed over the course of the meeting includes "Legal and economic relationships to galleries and museums." In his statement at the event, Minimalist sculptor Carl Andre suggested that artists should attach binding conditions to their work, which would include that a work may not be resold and that no owners may enrich themselves through the possession of a work.[88] LeWitt noted that an artist should be consulted when his work is displayed or reproduced and that a rental fee should be paid to the artist when their work is exhibited.[89] Stephen Phillips called for the creation of an artists' "protective" organization that would set, enforce, collect and distribute artist's fees and royalties,[90] echoing the administration system managing the *droit de suite*, or resale right in European countries at the time,[91] and which was also proposed to be the method of administration of the Art Proceeds Act of 1966.[92] In a clear reference to the key words associated with Conceptual art, artist Iain Whitecross argued that "no democratization of the object of art is possible" without "an attack on the legal and financial structure of the art world," and called specifically for expanded copyright controls and benefits for artists,

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including a royalty to be paid to artists for the reproduction of images of their work in magazines, films, and other media.[93] Crucial to note is that many of the artists' demands were coupled with calls for rights and protections beyond those of concern to artists, including the issues of health insurance, racial equality, and the ever-looming Vietnam War draft.[94] As Lippard summarized, her interest lay in envisioning "a constructive alternative to the present situation" and in "increased civil rights in general."[95]

In his statement during the event, Siegelaub explained that an artist's work itself may be utilized as a means of gaining agency within an imbalanced system, as, he states, "the art is the one thing that you have and the artist always has and which picks you out from anyone else … This is the way your leverage lies." In an interview one week after the event, Siegelaub noted that the art world and its inequities are "all resting on this small, little thing called an art object. And all (artists) have to do is … just deal with it more intelligently."[96] Siegelaub's revelation that the work of art itself—whether manifesting as an object or not—could be leveraged directly in order to achieve the rights desired by artists required an epistemological shift away from the work of art as concerned primarily with aesthetic and intellectual value and toward a recognition of art as a thing in the world within which certain rights are (or could be) embedded. In other words, "dealing more intelligently" with that "thing" called an art object required acknowledging the work of art as property, and required artists to articulate the property rights they desired in their work through a mechanism that, ideally, could be also enforced.[97]

Siegelaub's remark at the AWC Open Hearing concerning how a work of art may be "leveraged" in order to claim agency over its use links the drive behind many of Conceptual art's property experimentations with the platform of the AWC. Connecting the two is a clear and direct investment in the manner in which art circulates, and how it may or may not be used, manifesting in critiques concerning the degree to which art may be commoditized and owned. As artist Andrea Fraser has similarly observed, "If the AWC attempted to protect artworks contractually, conceptual artists reduced artworks themselves to contracts that often described not only objects or actions, but the conditions under which they would be produced or undertaken… As in the [Siegelaub-Projansky Agreement], the predominant orientation of conceptualism was not to refuse to sell an artwork, but to control it."[98]

Above all, what becomes clear from the combination of activism and artistic legal experimentation in the 1960s and early 1970s is that the desire for claiming artistic agency, or a position for artists as empowered within society, was fundamental beneath both efforts. Still invigorated by the revolutionary high of the Art Workers' Coalition formation and a sea of parallel protests by other groups, Lippard summarized that politicized impetus in an interview from December 1969: "the way artists handle their art, where they make it, the chances they get to make it, how they are going to let it out, and to whom—it's all part of a lifestyle and a political situation. It becomes a matter of artists' *power*, of artists achieving enough solidarity so they aren't at the mercy of a society that doesn't understand what they are doing."[99] For Siegelaub, an interest in artists' ability to claim "power" similarly had implications beyond the art market and

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spoke to a greater concern with how one might claim political agency in general, stating that "power is not recorded in dollars and cents. This is very important. It does not have to do with what I control but has to do with things I am in a position to *make happen*."[100] As an art dealer, publisher, and exhibition organizer with a vast and powerful network, inventing a means of going about the business of art in a politicized manner that could advance more equitable ends was precisely what Siegelaub was in "a position" to facilitate.[101]

Against this backdrop of regular protests, in summer 1969 Siegelaub began discussing with artists what they might want from such an agreement, spending the next two years gathering notes, comments, and criticisms from artists and others with direct interest, including other art dealers and legal experts.[102] In January 1971 he distributed 500 questionnaires to collect comments and critiques of the first draft.[103] At least three existing artists' contracts with which Siegelaub had firsthand knowledge served as important influences as well.[104] French artist Daniel Buren, with whom Siegelaub collaborated, has since 1968 used an agreement for the sale of his works that allows him to maintain a high level of control over the manner in which his context-specific work is exhibited or installed. Buren's contract is signed by the collector, and completed by the artist's addition of a mark and record number, consonant with an art practice that insists upon the absence of the artist's signature from his work.[105] Los Angeles–based artist Edward Kienholz was also known to use a contract that included elaborate terms for continued involvement in his sold works, but in this case the artist's central concern was on securing a 15 percent royalty on future sales, a clear market concern reflecting perhaps the artists' own brief involvement as an art dealer.[106] Members of the Art Workers' Coalition had drafted a much shorter standard form agreement, also bearing terms that would find their way into the Siegelaub-Projansky Agreement, including a 15% royalty of accrued value upon resale, and an exhibition rental fee for artists.[107]

All of these elements — experimental exhibition and distribution practices, challenges to the object status and definition of art, increased exchanges with the European art market and the growth of the U.S. contemporary art market, alongside political and cultural upheaval in the United States — were driving inspirations behind the Agreement. Indeed, the Agreement itself *documents* the moment's investment in rethinking the tactics available for the politicization of art, carrying artifacts of influence across its written terms.

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III. Terms of the Agreement

The Artist's Reserved Rights Transfer and Sale Agreement was envisioned as the antidote for the grievances of the artists in the AWC, providing a site within which artists could articulate their desired property interests in their works, particularly when legislated law and industry norms had proved inadequate. Although its form and function was tied to the techniques of Conceptual art, it was proposed as a standard contract that could be used by any artist making work in any medium and at any level of success. It was also intended to be highly flexible and modifiable, with Siegelaub encouraging users to strike out or alter any unwanted clauses. The Agreement is widely thought to be the first standard artists' contract of its kind and remains the most heavily promoted by far. As Siegelaub notes in its introduction, it was meant to substitute what existed before: "nothing." In exploiting the power to create private law, enabled through the right to contract, the Agreement provided a means for any artist to take a political and economic matter into their own hands while directly instrumentalizing their work and its circulations in that protest.

The Agreement was first distributed as a fold-out poster through the School of Visual Arts in New York in February 1971 and was reprinted by other art schools, prominent international art magazines such as the London-based *Studio International, Domus* and *Data* both produced in Milan, local newspaper *New York Element*, and the catalog for the major quinquennial exhibition *Documenta V* in Kassel, Germany, 1972, as well as by legal advocacy groups in the United States and Europe, and in numerous reference books on the emerging field of art law.[108] Shortly after its introduction in the United States, the Agreement was translated for use in France, Italy, and Germany, and subsequently translated into at least four additional languages.[109] The final document was coauthored with Robert Projansky, a young lawyer establishing himself in the subfield of art law.[110]

On pages 1–4, the front of the poster boldly displays the document's title and Siegelaub's emphatic introduction explaining its intended uses, the social and business dynamics between artists, collectors, and dealers, as well as the authors' guiding ethos. Filling the poster's verso on pages 5-8 is the contract itself, written by Projansky. Users are instructed to copy and promote the document widely, furthering the declarative purpose inherent to its solicitation-driven format.

The terms of the Siegelaub-Projansky Agreement perform its originating activist principles in both their forward rhetoric and contentious legal demands, challenging the norms of what would be acceptable within the art market and the way in which property and ownership relations concerning works of art might be conceived under law. A reading of the contract's terms must proceed from its premise that art is an exceptional form of property and that the forms a work may take, and the relations formed by a work in turn, are all available as material for artistic, legal, and political manipulation and negotiation. As noted in the introductory outline for the contract portion of the Agreement, "the value of the Work, unlike that of any ordinary chattel, is and will be affected by each and every

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other work of art the Artist has created and will hereafter create" and is also impacted by the conditions in which their work is presented and cared for. By signing the Agreement, artists and collectors "recognize that it is fitting and proper that [artists] participate in any appreciated value" of their work and that the artist's "ideas and statements in the Work" be maintained. The Agreement requires that the artist and the buyer of the artwork sign the contract at first sale; upon any and all subsequent transfers and sales of an affected artwork, the buyer or transferee must sign the Agreement and accept the terms agreed upon at the initial transfer. The artist's rights granted through the Agreement carry forward as covenants—terms fixed to an item of property—accompanying the work through all future sales or transfers, thereby requiring each collector to accept the provisions originally established by the artist for the proper stewardship of their work, as if those provisions were integral to the work itself.[111] This framing of artists' desired rights and interests in their work as elements indivisible from a work of art is crucial, for not only does the assertiveness of that premise indicate the intertwined nature of the activist ethos of the contract with its legal operation, but more so, it foregrounds the exceptional character of an artist's relationship to the "value" of their work as inherently interconnected.

The terms of the Agreement include many provisions that are designed to protect and preserve this continuing relationship between both artist and art object, and between artist and collector, though most are designed to privilege the artist's interest.[112] Article Two, "Future Transfers," is by far the most controversial clause, stipulating that the artist is to receive a royalty of 15 percent of any appreciated value (defined in Article Four) of the work each time it is transferred or sold, regardless of the amount of price increase, along with a record of who owns it. This information is to be collected in a Transfer Agreement and Record, found on the final page of the template contract, and which must be signed by the owner and subsequent collector upon each transfer. Article Five, "Transferees to Ratify Agreement," confirms that all purchasers or transferees (including donees, heirs, and others) of the work "covenant" that they will not trade, sell, bequeath, or otherwise transfer the work without obtaining the transferee's ratification and affirmation of all of the contract's terms. Reinforcing Articles Two and Five is Article Fifteen, "Transferees Bound," which further notes that any transferee taking an affected work is bound to the contract. While these terms are vital for the Agreement's capacity to resist alienation and speculation, they are also the most legally complex, as will be discussed further below.

For Siegelaub one of the more controversial clauses was Article Seven, which outlines "Exhibition" terms granting artists the right to be notified when their work is to be displayed by its collectors so that they may advise on or veto the exhibition.[113] He expressly notes, however, that artists will likely want to omit this term as collectors would likely not agree to it.[114] Further outlining an artists' rights in exhibition, Article Eight allows artists to borrow the work for two months every five years, and Article Eleven stipulates that artists receive 50 percent of any rental income from the exhibition of the work. Article Thirteen requires that no rights in the Agreement may be assignable during the artist's lifetime, and perhaps anticipating that changes in the copyright code may

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come to better support artists, the term further states that nothing in the contract should be seen to limit an artist's rights under law. Gesturing toward the moral rights protections available to artists in Europe but not yet in the United States, Article Nine, "Non-Destruction," requires that collectors must not intentionally damage, destroy, or modify the work, and Article Ten calls for the artist to be consulted on any repairs. The insistence on tying attribution to artists' wishes for their work is further underscored in the introduction to the Agreement, wherein artists are advised to disclaim authenticity from their work if the contract is resold without the contract.[115]

Although the Agreement never sways too far from sustaining the artist as the party initiating the contract and driving its negotiation, many of its clauses also stand as evidence of the ways in which the interpersonal and nonmonetary relationality of the art market may be used to all parties' advantage. Privileged throughout Siegelaub's reasoning for the Agreement is an emphasis on its function to formalize an already-existing relationship between artist and collector and to simply make clear a set of implicit expectations, improving a system already perpetuated by self-determined and self-regulating norms; as Siegelaub notes in his introduction, his intent was to "create and clarify a non-exploitative, one-to-one relationship between the artist and owner."[116] The Agreement does not discuss auctions, but focuses on sales to collectors or through dealers, reflecting the smaller market for contemporary art at the time. Article Three, defining "Price/Value" of the work, allows for a remarkably open-ended interpretation of these terms, as the value to be entered can be either "the actual selling price if the Work is sold for money," the money value of the "consideration" for which the "Work is bartered or exchanged," or the "fair market value of the Work if it is transferred in any other manner," thus recognizing that not all exchanges need be monetary in such a socially-oriented market. As Siegelaub noted in an interview following the first publication of the Agreement, the 15 percent royalty also need not be monetary but could come through the trade of another artwork or some other kind of material and nonmonetary exchange.[117] Where the dealer is concerned, Siegelaub suggests in the introduction that artists might want to give them a portion of the 15 percent royalty in exchange for the dealer's assistance and administration of a sale. The balance between negotiation and the affirmation of desired rights is further invoked in Article Seventeen, which invites either contracting party to waive certain rights and obligations on a case-by-case basis, but which will never be deemed "continuing," so that the Agreement as signed by the artist remains authoritatively intact while able to be adjusted when individual circumstances require.

Certain restrictions are placed on artists as well, and artists' obligations to collectors are elaborated. Article Six, "Provenance," redirects the burden of the "covenant" onto the artist, who is required to maintain a file and record of each and every transfer of their work for which a Transfer Agreement and Record has been submitted, a record of the work's exhibition history, and other information relevant to the provenance of the work, which the artist is required to provide to collectors, critics, and scholars upon request. Implied here is that the artist has a responsibility to record the cultural life of their work and to be the steward of the information that is necessary for authenticating and

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sustaining both its monetary and cultural value. Article Twelve ensures that artists retain any and all reproduction rights in their work, though the clause also restricts artists from preventing the reproduction of their work "unreasonably" when reproduced for uses incidental to its exhibition, such as in exhibition catalogs. A further restriction on the rights of the artist is Article Sixteen, which calls for most terms of the Agreement to expire twenty-one years after the death of the artist or their spouse.[118] Artists are instructed to make known their use of the Agreement via a "Notice," stipulated in Article Fourteen and found on the final page of the contract, which must be permanently affixed to the physical work itself or to any supplementary documentation, such as a certificate of authenticity.

While Siegelaub and Projansky received praise for the contract from artists and lawyers, it was also met with criticism by both.[119] Soon after the contract's drafting, artists noted that only those who already held powerful positions in the art market would be able to negotiate such drastic terms, with one respondent to Siegelaub's survey stating that "I will certainly use the Agreement—if everyone else uses it."[120] The National Art Workers Community insisted that it should have required a percentage of resale profits to be paid to an artists' pension fund, or similar fund supporting all artists, instead of limiting its usefulness to individuals with established markets.[121] Lawrence Weiner, with whom Siegelaub worked very closely, was one of the staunchest opponents of the Agreement, criticizing it for encouraging a "merchant first" mentality among artists, where monetary value is privileged over the personal importance and moral rights in one's work.[122] Daniel Buren has agreed with this opinion and uses his own contract that emphasizes a moral right and which allows him to fully control the conditions under which his work is displayed.[123] Artists of that generation who do utilize the contract have also noted its limitations. Adrian Piper uses a modified version of the Agreement omitting clauses that would require a burdensome degree of administrative oversight for the artist, including the resale royalty and exhibition veto right.[124] Hans Haacke, who was a core member of the AWC, is the only currently known artist to have used the Agreement consistently since its introduction, though he limits its use to works selling for over $1,000, as it would be cumbersome to use with editioned works with lower prices.[125] Jackie Winsor used the Agreement for early sales of her work as a test of trust for collectors, ensuring that they understood the importance of caring for her work independent of its price value in the art market, but deemed it necessary as she became more established.[126] Although Haacke, Piper, and Winsor are internationally renowned artists, none of them sells a high volume of work. Haacke's and Piper's practices are directly concerned with certain politics of ownership and representation that are consonant with those in the Agreement, leading some to observe that collectors may be willing to enter into such an exceptional contract because it reflects the ethos in the these artists' works, and not because of their support for the contract generally.[127] Piper and Haacke were both represented by dealer John Weber for many years, and the Paula Cooper Gallery has long represented Winsor and currently Haacke as well, evidence that sales employing the Agreement and facilitated by

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dealers require coordination and commitment over the course of careers, not only in the moment of any one negotiation.

Sharing the criticisms of some artists, legal experts responding to the Agreement at the time of its writing also cited its burdensome provisions as some of the fundamental hurdles preventing its wide use, explaining that courts could interpret the Agreement's overall restrictions on the rights of buyers as unjust and unenforceable. As art lawyers Franklin Feldman and Stephen E. Weil wrote of the contract in 1974, should an artist include Article Seven, the exhibition veto right, it would present a particular difficulty in the case of museums, whose operations often depend on their ability to freely exhibit works in their collections.[128] Feldman and Weil further note that problems of inheritance seem "insuperable," for the contract's restrictive covenants impose what is tantamount to an additional estate tax, and leave no clear means of handling cases where inheritors do not wish to accept the contract's terms.[129] The obligation for *any* transferee to honor the Agreement's terms, including non-consenting inheritors, could be interpreted as an unjust imposition, leading a court to release a beneficiary from their obligation to honor the Agreement, despite the collector's good intentions.[130] Furthermore, they argue, unless a collector can find a future purchaser willing to sign the Agreement, they cannot sell the work without being at risk of high liability, resulting in a potentially lower resale price than they would otherwise obtain, and restricting their ability to resell the work in general.[131]

Numerous provisions in the Agreement, and its unusual restrictions overall, may be preempted by 17 U.S.C. §109, the "first sale doctrine" under federal copyright law, which is designed to limit a copyright holder's exclusive rights over their work, and to enable the unrestricted use, display, and resale (including restrictions on sale price) of a copyrighted work by its purchaser "without regard to the wishes of the copyright holder."[132] This aspect of the copyright code, which pre-dates the 1976 revision,[133] reflects the act's attempted balance between the rights of users of copyrighted works and the interests of copyright holders.[134] Article Two, providing for a resale royalty, is potentially in conflict with 17 U.S.C. §109 (a), which grants "the owner of a particular copy … lawfully made under this title, … to sell or otherwise dispose of the possession of that copy."[135] Article Seven, the exhibition veto right, potentially conflicts with 17 U.S.C. §109 (c), which states that "the owner of a particular copy lawfully made under this title … is entitled, without the authority of the copyright owner, to display that copy publicly … to viewers present at the place where the copy is located." This clause may be particularly unenforceable against collecting museums, whose missions to serve the public interest and facilitate public access to works of art align with the federal statute's aims of benefitting the public.[136] However, preemption cases are typically concerned with whether a state regulatory scheme would likely supplant federal law, and because contracts only affect parties to them, federal interests are generally not implicated in state enforcement of a private contract.[137] Courts' interpretations of relevant federal doctrine can shift though, particularly if states consistently uphold standard agreements

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that are viewed as challenging federal law.[138] The degree to which preemption concerns are relevant to private contract is unclear, and practicing lawyers and legal scholars offer widely differing opinions on the matter.

Articles Five and Fifteen present a fundamental structural difficulty, as there might be no way to make the Agreement legally binding for future owners. Contracts must have consideration, wherein a bargain and exchange occurs between consenting parties. In the Agreement, however, this only happens between the first buyer and the artist; subsequent exchanges are between the seller and a new transferee. As John Henry Merryman and Albert Elsen argued in their commentary from 1979, artists have little to no recourse for enforcing the contract after the third sale.[139] While artists could reasonably expect to recover damages from the initial collector in the case of both primary and secondary sales, there is no clear avenue by which they may bring a claim against tertiary and future collectors, for the artist is no longer directly involved in these transactions, and thus they are dependent upon the seller to insist on the continued inclusion of the original Agreement's covenanted terms.

Responding to these complaints about the realistic usability and enforceability of the Agreement, in 1975 Robert Projansky drafted an updated version maintaining the same terms but clarifying the contract's language and tempering Siegelaub's introduction.[140] That same year, lawyer Charles Jurrist wrote another revised version of the contract limiting the resale royalty to the secondary sale, thereby obfuscating the cumbersome follow-up requirement of future resales. Further shifting the contract towards establishing mutual obligations between artist and collector, and away from privileging the desires of artists, the Jurrist contract contains additional restrictions against certain actions an artist might take that would impact the price value of their sold works, such as making duplicates of sold works, or increasing the size of an edition.[141] As noted in his introduction, Jurrist believed this version of the contract "represents a [more] realistic starting point from which the artist may negotiate a package of contractual rights with the collector."[142] While Projansky and Jurrist's later versions of the Agreement may seem more practicable to the legal eye, they in fact have been used even less by artists than the original. These redraftings abandoned any activist flare, which had emphasized the document as artist-driven while actively collaborative with collectors and dealers. Instead, Projansky and Jurrist sought to streamline the process of sales within the existing norms and laws of the art and legal systems, ignoring the Agreement's fundamental aim of altering them.

The legal criticisms presented by Feldman and Weil, and by Merryman, share a similar core mistake in their assumptions concerning what the Agreement sought to accomplish, for they fail to grasp the extent of its attempt at reconfiguring ownership relations around works of art. Narrowly anchored in established legal norms, their analyses do not take seriously enough the full implications of the assertion outlined in the guiding preface to the contract portion of the Agreement: "the value of the work, unlike any ordinary chattel, is and will be affected by each and every other work of art the Artist has created and will hereafter create." (*See*: Fig. 6)[143] Foregrounded here and in the remaining text

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of the preface is the premise that an artist's pecuniary and personal interest cannot be bracketed to the sale and resale of their work, and rather than consider art through a generic lens of alienable things, works of art and an artist's relationship to their works must instead be considered through their *implication over time*. As cultural sociologists Pierre Bourdieu, Olav Velthuis, and many others have observed, artists' reputations, oeuvre, exhibition opportunities, and market value—the aspects that constitute one's material life and livelihood as an artist—are all impacted by the circulation and uses of their artworks, and are subject to the accretion or loss of cultural and financial capital that collects as an effect of those entanglements.[144] Following the general rule of contract interpretation, that the meaning of contract language is ascertained by what a "reasonable person" would understand the language to mean,[145] the rhetorical and structural re-articulation of that premise throughout the Agreement aims to ensure the clear communication of its infrastructural social, economic, legal, and ethical objectives.

Structurally, the importance of the artist's implication over time is most directly asserted in the Agreement's reliance on covenants, and in its dependence on the "permanent" affixation of a "Notice" to indicate the contract's existence. Yet for all of the contract's aforementioned critics these are its most difficult aspects. In Merryman's view, covenants may work when land is at issue for there is an established system of legal registration and records that facilitate the communication of covenants, but at the time of his writing, he notes, there was no similar practice established in art.[146] Feldman and Weil present a more general criticism of covenants as unrelentingly burdensome for their non-negotiable nature, and again point to the problem of ensuring that all future purchasers of a work will be informed of the responsibilities they are contracting into.[147] But the implementation of covenants to bind the artist's demands to their work cannot be reduced to a hurdle for the smooth exchange of an artwork, nor must covenants be rejected on the grounds that they are burdens on the interests of collectors. As legal scholars Henry Hansmann and Marina Santilli have more recently argued, the interconnected relationship of an artist to their work over time actually provides a justification for the negative servitudes of moral rights, for example, for despite their normal opposition under common law, such rights in this case protect the values of an artist's work across their career and protect that value for all collectors of an artist's work.[148]

The posit of foregrounding an artist's involvement in their work over time was in fact already introduced in the legal experimentations of Conceptual art, as manifest in its contracts and certificates. As art lawyer and curator Daniel McClean has described, unlike a traditional work that is created by an artist and then signed and released, such artworks are "in a process of continual reformation that requires a fundamental authorization [by the artist] each time they materialize."[149] Despite their "legal appearance," he continues, artists' certificates of authenticity do not provide "certainty," rather, they offer "only a promise that, like its object, is contingent. With this promise it is the personal relations founded upon trust between artist and collector that count more than the law." This fact of ongoing relationality, and the appearance of the certificate, is what enables the artist to be "implicated" over time, providing a mechanism by which

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their rights must be attended to by design.[150] The Siegelaub-Projansky Agreement carries the same purpose. Furthermore, just as the definition of a work of art was the subject of many of Conceptual art's provocations, and was in certain respects continued through Siegelaub-Projansky Agreement, this reframing should also lead us to consider what other configurations might be available for the ownership and sale of art, and the very notion of an artist's rights in their work.

IV. The Social Life of Contracts

As legal sociologist Mark Suchman has noted, "to make sense of a contractual practice, one must understand both the economic and the cultural environments that gave it birth. At the same time, however, one must also recognize that contracts, like any artifacts, are themselves capable of affecting these environments, both culturally and economically."[151] While referred to in the shorthand as "private law," contracts are in fact subject to the law as written by legislatures and interpreted by courts. However, in addition to serving as the sites where substantive legal rights may be created between individuals, contractual practices can also serve to influence rights as they find expression in statute.[152] Having documented, so to speak, some of the cultural and economic factors leading to the Siegelaub-Projansky Agreement's conception, we can turn our view to the effects it has had on the environment of public law in the United States, where since the early 1970s it has been invoked as a source of influence for how artists' rights in their work may be recognized and protected under legislation.

It's no coincidence that two years after the Agreement was first distributed, artist Robert Rauschenberg protested an auction at Sotheby's Parke-Bernet in New York where collector Robert Scull resold two works by him at a stunning profit. Rauschenberg's *Double Feature*, which Scull bought in 1959 for $2,300, was resold at the auction for $90,000, and *Thaw*, which just one year prior had been bought for $900, now brought a final bid of $85,000.[153] The auction became infamous as a record-breaking sale of contemporary art and signaled for many that the uncomfortable relationship between art and its economic life had reached a new phase of spectacle and speculation.[154] Upset by the fact that he would get nothing from this secondary sale, Rauschenberg, along with other notable artists and legal advocates, launched a lobbying campaign in favor of passing a law that would require the payment of resale royalties to visual artists. The efforts of Rauschenberg and his partnering legal and congressional advocates resulted in the passing of the California Resale Royalty Act in 1976, which allowed artists to collect a 5 percent royalty on any resale of their art over $1,000, if the seller resided in California or the sale took place in California.[155] Although a state statute, it was envisioned as a model for other states and jurisdictions to follow. Prior to the passing of the bill and after, notable legal scholars and legal advocates in California and New York, including Price and Hamish Sandison, republished and distributed the Siegelaub-Projansky Agreement

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among lawyers and artists, presenting it as an important precedent for the law, while also framing it as a valuable means by which artists may claim rights as an alternative to resale royalties legislation.[156]

The Agreement has continued to be discussed in subsequent hearings and congressional reports in favor of increased economic and resale rights for artists in the United States and is frequently cited and analyzed in legal literature on the subject. In 1978, Representative Henry Waxman introduced the Visual Artists' Residual Rights Act,[157] which would have extended the terms of the California statute to the federal level; however, it was not passed.[158] In 1987, Senator Ted Kennedy had more success in advocating for a version of the Visual Artists Rights Act, or VARA, that would address both moral rights and resale rights for artists. Kennedy and Siegelaub corresponded briefly about the Agreement prior to and during the proposal of the bill, with Kennedy showing interest in the potential of applying some of it terms to the legislation.[159] Among those present or submitting statements at a congressional hearing on Kennedy's bill was New York art dealer John Weber, who represented Hans Haacke, one of the most ardent users of the Agreement. In his submitted statement, Weber writes that many art dealers in New York were in favor of the legislation and that he had never lost a sale in his two decades of the contract's use.[160]

VARA[161] was eventually passed in 1990, though it only addressed issues pertaining to moral rights,[162] affording protections against the destruction of artworks by living artists, and the right for an artist to prevent a manner of exhibition of their work that would be "prejudicial" to their personal investment and reputation.[163] VARA rights are inalienable in that they cannot be sold nor transferred, but may be waived. The statute's limitations, however, may preclude it from meeting the needs of many artists. In order for a work of art to be protected by VARA, it must fall under the definition of a "work of visual art" under § 101 of the U.S. Copyright Code, which is restricted to "painting, drawing, print, or sculpture," or a "still photographic image produced for exhibition purposes only," in a limited edition of 200 or less, consecutively numbered, and signed or bearing the signature of the artist and consecutively numbered by the author.[164] This definitional bracketing of what art mediums are protected, or which are considered protectable, leaves an open question as to whether certain forms of digital art, sound art, installation, or performance art, and Conceptual art could be covered, and as Amy Adler, Sonya Bonneau, and other legal scholars have noted, this and other inadequacies in the law indicates that a statutory solution may not be the ideal, or only means for defending artists' rights.[165]

As a compromise to members of Congress who had been in favor of a resale right attached to VARA, Congress also voted that a study should be undertaken to assess the real market impact and most effective structure of a federal resale rights law. The resulting 1992 report by the Copyright Office was not supportive of the resale right, though it did encourage the Office to reconsider that position were Europe to harmonize their resale royalties laws.[166] The report also came to the unsurprising conclusion that it was impossible to gather sufficient data on the unregulated art market, though it

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discusses the Agreement as notable for being a direct result of activism among artists and is regarded as evidence of what artists, as a constituency, want of government action.[167] Since 1992 more countries have adopted a version of the resale right, prompting the Office to continue their investigation, and in 2013 an updated report was delivered in favor of instituting a resale right in the United States and once again mentions the Siegelaub-Projansky Agreement for its important precedent.[168]

The 2013 report offered a number of observations for why implementing a resale royalty for visual artists would be justified. As it observed, "Although visual artists possess the same exclusive rights under copyright law as other authors, they are disadvantaged as a practical matter by certain factors endemic to the creation of works that are produced in singular form (or in very limited copies) and are valued for their scarcity. There are sound policy reasons to address this inequity, including the constitutionally-rooted objective to incentivize the creation and dissemination of artistic works."[169] Dismissing many common criticisms of a resale royalty law, they argue "there is no evidence to conclusively establish that it would harm the US visual art market … (or) that a resale royalty would substantially reduce prices in the primary art market or shift the secondary art market away from the United States."[170] But they also cautioned that the royalty may only apply to a limited number of artists, thus rendering its administrative costs potentially wasteful. Most intriguing is the Office's reminder that the adoption of the resale royalty was only one option among many to "address the disparate treatment of artists under the law," thus suggesting that private law may yield more viable and appropriate solutions.

Indeed, all subsequent attempts at introducing legislation providing resale royalties for visual artists at the federal level have not progressed beyond committee, and the sole state law, the California Resale Royalties Act, has been embattled in a cluster of cases since 2011. [171] In 2015 the U.S. Court of Appeals for the Ninth Circuit, en banc, found that the statute was in violation of the commerce clause, for it enabled California to regulate the sales of artworks that took place in other states.[172] An April 2016 decision on remand to the District Court of the Central District of California found that the state statute was preempted by the first sale doctrine under federal copyright law, which limits a copyright holder's control over the resale of their copyrighted works.[173] However, like the Copyright Office, the District Court was careful to articulate the important alternative of private agreements, noting that despite the preemption of the statute, "the purchasers of copyrighted goods can agree to limit their commercial conduct through contract," and that such agreements serve the important market function of enabling "copyright holders to exercise control over downstream markets in exchange for a wide variety of contractual benefits to resellers."[174] The CRRA was previously challenged in *Morseburg v. Balyon* (1980), and though the court in this case upheld the legality of the statute, they too expressed that similar rights "perhaps could be obtained by contract," citing the Siegelaub-Projansky Agreement as an example.[175]

Despite the encouragement intimated by the Copyright Office and the California District Court in favor of contractual alternatives for resale royalties and other artists' continued rights in their work, enforceability of such provisions is not guaranteed. A resale royalty

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and additional artists' rights laws are necessary at the federal level to provide clarity on issues of preemption. Furthermore, as lawyer Phil McLeod commented at the time of *Morseburg*, statutory recognition of artists' "continuing interest in their work" would provide a baseline of rights, allowing artists "to contract more freely," and leaving them more likely to gain "the substantial protection they need."[176]

While the gradual adoption of artists' rights laws in the United States has undoubtedly been in large part the product of European influence and the increasingly global nature of the art market, this history is clearly not without a local voice as well. The recurrence of the Agreement in juridical literature reveals that Siegelaub and Projansky set a key domestic legal precedent for artists articulating their desire for such rights, and the Agreement served as a blueprint for what might be contained within artists' rights laws in the United States.

At the same time, this tracing of the legacy of the Siegelaub-Projansky Agreement in public law, paired with the previous contextualization of its activist inspiration, reveals another, more theoretical host of contradictions and possibilities. If Congress were to someday pass a federal resale royalty, what would that mean for the legacy of the Agreement as an activist gesture of creating "law without the law,"[177] developed with the belief that a legislative solution was not the ideal strategy? Or, were laws to pass that addressed all provisions in the Agreement, would it have fully succeeded by writing itself out of necessity (dematerializing perhaps), and fulfilling the aim of concretely influencing social politics? Or, might we be better off preserving the Agreement as a device of private law to be leveraged by artists, so that they may be the ones to reform and reauthor art industry norms?

While not absolutely opposed to the idea of a legislated answer to artists' demands, the Agreement was explicitly conceived as a non-legislative, private law solution to the issue of artists' desires for continued rights in their work. Every turn in Siegelaub's introductory text reiterates the importance of the Agreement as artist-driven and dependent on collective coordination among the art community. As he writes, "The more artists and dealers are using it, the better and easier it will be for everybody. It requires no organization, no dues, no government agency, no meetings, no public registration, no nothing—just your will to use it."[178] In recognizing and emphasizing the importance of the contract form itself as a tool to be leveraged, implemented, administered, and authored by artists, the Agreement was aimed at providing a means by which state power could be obfuscated, rejected, and which artists did not have to rely upon in order to influence the system of art and to institute political change. It is through the Agreement's leveraging of self-governance by artists that its greatest legal, political, and performative act of critique occurs.

V. Corrective Contracts

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Writing in a publication distributed in 1976 to promote discussion around the California Resale Royalty Act, and accompanying a reproduction of the Siegelaub-Projansky Agreement, Monroe and Aimee Brown Price argued that the framing of the issue of resale royalties and other artists' rights as a remedy for the romantic notion of the "starving artist" was misguided, for it perpetuated an image of "powerlessness" among artists that could only be self-fulfilling.[179] The issue in the authors' view was one of norms and knowledge, for as they continue, the problem of artists' "powerlessness" was due in part to the fact that most artists, even those with high status in the art world, have only "a fragmented idea of the sorts of matters they could negotiate about with their dealers." Under these dominant conditions, they suggest, artists had yet to explore the limits of the contractual arrangements they might establish with dealers and collectors, and, by extension, artists had yet to discover the kinds of claims they may make vis-à-vis their work and the means by which those claims might be asserted.

Here we can return to some of the criticisms made against the Agreement by those in either fields of art and law. The full scope of claims an artist may wish to make in regard to one's work might not be limited only to the connection an artist can retain to it once sold, but rather, the entire scope by which it may or may not be used, the manner and method by which their work is kept or not kept, sold or not sold, commodified or not commodified. Legal critics of the Agreement have argued that its facilitation and provisions are overly burdensome as to be self-defeating, making sales that utilize the contract nearly impossible and thus unhelpful for artists, while critics in art have denounced it for its focus on art's market exchange. These criticisms from either field are not without merit, and indeed, as warnings they are surely worthy of heading. But an accounting of the Agreement's total implications remains incomplete.

Instead, the contract's capacity to slow sales, or act as an impassible obstacle to resale speculation, is in fact one of its crucial functions, and it can only express that function when faced with the crisis of art's commodification. In this view, the Agreement reveals a positive counter-narrative in its capacity to be speculation and market-resistive, and moreover, as inviting negotiation around wholly different market norms.

That alternate narrative and account of the possibilities within the Agreement is explored in *The Artist's Contract*, a project developed by German artist Maria Eichhorn to uncover the history of the Agreement's use by artists and art dealers.[180] From 1996 to 2005 Eichhorn interviewed each of the artists who were known to have utilized the Agreement, two dealers who had administered it, as well as Robert Projansky, and Seth Siegelaub.[181] As an artist's project that emphasizes the voices of other artists, a more nuanced version of the real efficacy and problems within the Agreement emerges. Many of the artists interviewed express the same hesitancies harbored by Alberro and Buchloh, particularly Lawrence Weiner, who contends that for an artist to use the Agreement would be to participate in capitalist speculation surrounding their work, which constitutes a form of exploitation.[182] Echoing Lippard's criticisms of Conceptual art, most profoundly for Weiner, the Agreement was problematic because it did not seek a "real re-organization, a real revolutionary or structural change," a deficit that reflects the fact that the artist-

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activists of the time were more concerned with exhibitions than greater social needs.[183] Yet the Agreement was also not a complete failure for Weiner, as the ideas professed in it and which emerged from its surrounding political climate remained active in the lives of the artists who had participated and within the society at large. Despite his opposition to the ideological basis of the Agreement, Wiener also recognizes that the reverberations of Siegelaub's gesture among artists and within society might have had a more positive legacy than critics of its role in the commodification of art would suggest. That sentiment is echoed in Lippard's later concession concerning the political legacy of Conceptual art, that it did in fact succeed in creating new forms of criticism in art, the possibilities for which had not been exhausted.[184]

In their dismissal of the political potential within the Agreement, critics have ignored the full implications of its status as a legal tool, which do not end with an "aesthetics of administration," but also comprise the form, idea, and function of a contract itself. Furthermore, as a modifiable contract that can be implemented for resistive use, or that can be tooled to act as a more routine strategy for record keeping and clarifying terms of a sale, the Agreement is emblematic of art's status as a "contested commodity," in legal theorist Margaret Jane Radin's terms, wherein goods are understood to circulate along a scale of "complete" to "incomplete" commodification.[185] What the Agreement establishes is that it may be artists who set the terms for, or degree of the commodification of their work. Rather than default to a mistrust of the use of legal techniques as evidence of complete commodification, governmentality, and the violent force of law,[186] or as a mere cumbersome legal hurdle, we might instead consider how the *author* of a contract can become a radical position once we rethink *who* is administering those forms and how such tools may even be intentionally *mis*used. As anthropologist Adam Reed has noted, the fact that one may submit to an administered procedure could be read as a sign that they are subjected to its hegemonic power, *or* it might be interpreted as the individual mimicking that procedure in order to subvert it.[187] Conceptual art's appropriation of administrative forms was not simply for (anti)aesthetic purpose, nor was the use of certificates and contracts purely developed to enable the transfer and sale of immaterial artworks. Instead these modalities were utilized with the intent to simultaneously exploit and critique the real operation of each format and its associated social institutions: the market and the juridical. The Agreement had to adopt the structural rules of these social institutions that were the subject of its critique in order to address and critique both the art world and political society at large.

In that light, we might consider the Agreement's aims of reforming industry norms as emblematic of what critical race theorist Charles W. Mills has observed as the potential for legal doctrine and norms to be altered for "corrective" use, by redirecting their application to account for the structural class, racial, and gender inequities that maintain the currently governing "domination contract" that is designed to perpetuate hierarchical and exclusionary conditions in society.[188] For Mills, by reorienting law and the operation of legal instruments away from the civil society myth of equality among subjects and toward acceptance of the "non-ideal" reality of inequality that is the actual dominant social condition, a new normative contract may well emerge that carries with it a truly

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ethical concern, and which that new contract is scripted to continually address.[189] Here, it is law's structural and theoretical capacity for alteration based on application (or misapplication) that is key.[190]

Crucially, the Agreement was never meant to undo the art market; rather, its intent was to use the existing art market and the systems and structures of law—which Siegelaub clearly understood could not be ignored or evaded[191]—in order to amend inequitable conditions and the problem of an artist's alienation from their work after it is sold. Maintaining an artist's interest in their work throughout its circulations finds its material remedy in the Agreement's requirement that a "Notice" indicating the document's presence and terms must be affixed to the work or its certificate of authenticity. Alberro concluded that the Notice serves to subsume any affected work under a commodity regime, and particularly in the case of its affixation to Conceptual art works, acts as a mechanism enabling the salability of an otherwise dematerialized and supposedly decommoditized work.[192] In response to the historian's dismissal, we should take note of Siegelaub's own distinction between a work of art and any documentation that might accompany its transfer, of which the Agreement's Notice is a part. In his introduction to the contract, Siegelaub refers to such paperwork as "a (legal) part of the work."[193] These parentheses serve to maintain some barrier between that which constitutes the legal aspects of a work, recognizing that they might be conceptually separable from the work itself, and those aspects that yet operationally must remain parts of the same whole. The intent was never for the Agreement to swallow the meaning of a work; rather, it is a safeguard for controlling the work's economic and material uses, and a vehicle for asserting the protection of those values as ideal industry standard practice. Rethinking the capacity of the "Notice" for what it accomplishes as a legal technology opens up other ways of thinking about what it is capable of effecting by design: to put a collector literally 'on notice' of continued economic and integrity rights desired by the artist and that must be followed as part of the work. At the same time, the Notice serves as a recording device, documenting the community of individuals that has formed by virtue of their negotiation of the affiliated contract's terms, which includes the artist and all collectors who have added their signature to its chain of forms.

A broader consideration of the capacities of the "Notice" reveals its potential to challenge norms of private property as well. Countering the Agreement's legal skeptics, Hansmann and Reinier Kraakman have described the Siegelaub-Projansky Agreement and this mechanism as exemplary of the ability of individuals to create and convey nonstandard terms for the manner in which property might be held, shared, leased, or exchanged. In their view, the mechanism of the Notice serves to create stable property rights for an artist, potentially in perpetuity,[194] for it functions as a "verification" of the express terms of use and access for an artist's work, which are then able to "run" with it inalienably through every transfer.[195] The Notice's direct communication of the artist's intended property relation is particularly useful in the case of works that defy easy categorization or protection under existing artist's rights laws, for courts will first look to those express terms instead of turning only to ill-fitting statutes for their interpretation and judgment in resolving a dispute.[196] With the clear communication of a privately agreed upon property

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relation in place, artists, collectors, and dealers may even realize entirely other ownership relations between them that are more befitting of the unusual class of property that is art.[197] As they propose, a more equitable and appropriate conception of the work of art as property may be located by embracing artworks as assets, yielding the possibility for a configuration of partial property rights in which artists always retain some express ownership, and all owners recognize their mutual obligations to fulfill the desired terms of the work and its care.[198] What constitutes those obligations is up to the artist and collector to decide: They could be to increase the financial value of the work, or, they could also simply mean that the artist's wishes are maintained, which may, as Eichhorn has rightly argued, entail that a work's market exchange is resisted.[199] In this configuration, paradoxically perhaps, the artist's ongoing partial ownership rights in their work are actually reinforced every time it is resold, for while the individual owner-investor of the work-as-asset may change, the artist's ongoing interests or "share" remains stable and thus strengthens over time, thus hinting at a very different outcome for transactional art exchange than the dominant image of the artist as speculator or as alienated from the value of their work after it has been sold. Hansmann and Kraakman's framing of ongoing joint ownership also proposes an alternative to the Siegelaub-Projansky Agreement's harsh and possibly unenforceable reliance on covenants, allowing us to consider other means by which the interests of owners, users, and producers may be honored and negotiated, including configurations that do not have to signal the complete commodification of art.

This is one aspect of the Agreement's potential as an instrument of private law that is capable of proposing an alternate structural definition of property interests and relations in works of art, and gestures towards the community-forming potential of contractual agreements and property relations in general. The Agreement's proposal of collective self-governance driven by artists is another. As a standard contract, the Agreement exploits and reverses what Friedrich Kessler classically identified as the typical power imbalance of boilerplate agreements: that they are often employed by the party in a greater position of bargaining and industry power, leaving little room for other parties to negotiate boilerplate terms. But here, the potential widespread use of this standard contract by artists flips this dynamic, rendering artists themselves as the party in possession of greater bargaining power, instead of collectors and art dealers. While Kessler warns that the ideals of freedom of contract can have dangerous results for consumers in a capitalistic system dominated by monopolistic industry, he also observes that "freedom of contract must mean different things for different types of contracts. Its meaning must change with the social importance of the type of contract and with the degree of monopoly enjoyed by the author of the standardized contract."[200] Thus the Siegelaub-Projanksy Agreement, as a full exploitation of the freedom of contract, designed for use by the party nearly always at a disadvantage in any relevant business dealing, carries with it a special symbolic meaning that allows us to envision a scenario in which the artist does have greater bargaining power, for it is a potentially enforceable legal instrument whose mere proposal has proven capable of influencing legislation, while simultaneously challenging and working within industry norms. As Kessler writes,

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"Freedom of contract means that the state has no monopoly in the creation of law" and what becomes legislated may in fact be a bottom-up rather than a top-down process, in which contracting individuals actively negotiate for themselves their preferred terms of cooperation and governance.[201] The community-forming capacity of the Siegelaub-Projansky Agreement as boilerplate or industry standard capable of influencing public law allows us to observe it as, in law and anthropology theorist Annelise Riles' words, "both a conceptual project and a material project" where theories generate material objects, and material objects in turn enable theorization, revealing that "legal theories have concrete effects in the world in part because of the kind of material practices of lawmaking they put into motion"[202]; here we might swap "legal" for "artistic," or even "conceptual," so that the Siegelaub-Projansky Agreement emerges as the site where conceptual or artistic techniques can be envisioned and documented as engendering legal effects.

For Siegelaub, the Agreement's success was dependent on its broad adoption by artists and dealers at all levels, establishing an industry-wide equitable standard that could only be achieved through self-regulation, enabling artists to take a political and economic matter into their own hands by directly instrumentalizing their work and its circulations in that protest. Siegelaub's celebration of the emancipatory capacities of private law has rightfully been criticized for its positivist rhetoric, as has his tacitly uncritical view of free markets. We should also pause to identify a further contradiction in the very idea of private contracts—rooted in individualism—as addressing collective social concerns, for coordinated atomization does not equal egalitarian or democratic collectivity. But as is clear from his emphasis on negotiation and collaboration among contracting parties, the ethos behind the Agreement was also driven by an understanding that systems of self-governance must be underpinned by mutual commitments, and contracts need not be regarded *only* as technologies of control, division, and administration but can also serve as sites of accountability where presently there is none and can be a space where *other* forms of ownership, power, and community are conceived.[203] The real change enabled by the use of the Siegelaub-Projansky Agreement occurs in the "future circulation" of an affected artwork and in the lasting economic and legal critique that is enacted as the terms of the Agreement are uttered, questioned, and enforced with every future exchange.[204] It is through these circulations that the Agreement and other contractual practices are able to unearth a critical lens on the provenance of a work and the collecting practices affecting it,[205] call institutions and collectors to "commit" to promises made,[206] and act as "Trojan horses" ready to challenge uses of a work that run against an artist's wishes.[207] By bringing attention to these matters, and demanding a response, the use of such contracts may yet shift industry behaviors and norms towards more equitable ends, and by extension, render the space of art as a site where social critique is not negated, but where the most optimistic aims of such critique may be realized.[208]

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VI. Conceptualizing Artists' Rights

The Siegelaub-Projansky Agreement and the paperwork of Conceptual art adopted the visual and linguistic codes of both art *and* its governing social institutions in order to not only critique power, but rather, understood the importance of identifying, appropriating, and re-deploying the language of power in order to make artists' claims visible to power.[209] Historical analyses of Conceptual art and the Agreement might expand to consider its legacy within the legal and legislative realms and the specific ways in which artists have appropriated, manipulated, and protested their machinations. At the same time, legal theorists might look further to artists' experimentations with the boundaries and operations that self-define the doctrines of property and contract in order to more critically and expansively think-through their perpetual redefinitions.[210] As Kee has suggested, when paired in conversation and collaboration—even as an agonistic grouping—art and law can even reveal themselves to be "reciprocal sources of creative social agency."[211] Through this lens that bridges the discourse and techniques of art and law, we find a counter-narrative where art may in fact inform political democracy, and instruments of law become medium in art and the legal system.

As an artistic "phenomena" invested in the conscious questioning of relations "between people and things, people and institutions," and questioning the role of art,[212] one cannot gain a full understanding of Conceptual art's political impulses and after effects without also exploring the social and political context from which it emerged, and one of the spaces outside of art where its impact is still felt, the law. The Agreement's equal presence in the legal and art historical records makes that clear. Siegelaub himself identified the problems of seeing Conceptual art's political origins and legacy too narrowly. In 1990 he published a response to Buchloh's essay in which he explains that the historian had missed the true context from which Conceptual art arose, arguing that it had much more to do with political upheaval than responding to any art historical precedent.[213] Siegelaub's text ends with a list of "some actors 'missing in action'" from Buchloh's narrative, including under-recognized artists such as Yvonne Rainer, Christine Kozlov, and the Rosario Group; activist groups the Black Panthers and the Art Workers' Coalition; and moments of political rupture including May '68, the Bay of Pigs, and "lest we forget, the Vietnam War." As a whole, Siegelaub's major corrective in his reply was not merely to reinscribe vital individuals, places, and political events into the historical record, but more so, to demand that we consider the history of Conceptual art and the Siegelaub-Projansky Agreement—and their administrative or legal techniques—through their circulations in all fields they touch: society, politics, art, and law.

Siegelaub's recognition of these possibilities at the intersection of these fields led to the writing of a highly politicized contract that has gone on to influence policy in favor of increased artists rights, which perhaps may one day be instituted. At present, the Agreement remains a symptomatic marker of the social contract of inequity pervading the

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field of art.[214] Yet as an artifact documenting the conceptualization of artists' rights, and their continual reconceptualization, it preserves a site where correcting that contract can be imagined.

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Woodmansee, Martha, and Peter Jaszi, eds. "Introduction." In *The Construction of Authorship: Textual Appropriation in Law and Literature*, 1–14. Durham: Duke University Press, 1994.

Notes:

([1]) Robert Projansky and Seth Siegelaub, *The Artist's Reserved Rights Transfer and Sale Agreement* (New York: School of Visual Arts, 1971). Published as (selection) *Contrat pour la préservation des droits de l'artiste sur toute œuvre cédée*, translated and revised by Michel Claura (Brussels: Herman Daled, 1971); *Contratto di trasferimento di opere d'arte*, translated and revised by Germano Celant (Milan: Marina Le Noci, 1971); and *Künstlerverkaufs und Rechtsabtretungsvertrag*, revised by Jürgen Jans (Düsseldorf: Konrad Fischer, 1971). Reprinted in (selection) *Studio International* 181, no. 932 (April 1971): 142–144, 186–188; *Domus*, no. 497 (April 1971): insert; *Data*, no. 2 (February 1972): 40–46; *Leonardo* 6, no. 4 (Autumn 1973): 347–350; and with a new introduction by Seth Siegelaub (18/13) in *documenta 5*. Befragung der Realität—Bildwelten heute, edited by Harald Szeemann et al. (documenta GmbH and Bertelsmann Verlag: Kassel, 1972); Franklin Feldman and Stephen E. Weil, *Art Works: Law, Policy, Practice* (New York: Practising Law Institute, 1974), 81–93; John Henry Merryman and Albert E. Elsen, *Law, Ethics, and the Visual Arts: A Coursebook* (Temporary Edition) (Stanford, Calif.: John Henry Merryman and Albert E. Elsen, 1975), 731–735; John Henry Merryman and Albert Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4-144–4-155; and in *A Guide to the California Resale Royalties Act*, edited by Monroe E. Price and Hamish Sandison (Los Angeles: Advocates for the Arts and UCLA School of Law, and Berkeley: Bay Area Lawyers for the Arts), 1976, 23–29.

([2]) Prior to the revisions introduced in the Copyright Act of 1976, unpublished works were not protected by copyright unless they had been registered, published works needed to be accompanied by a copyright notice if they were to be considered protected,

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joint-authorship of copyrighted works was not recognized by statute, and copyrights could not be divided. In the case of works of visual art, copyright over a work was assumed to transfer with title unless otherwise agreed upon. See: Peters, Marybeth. *General Guide to the Copyright Act of 1976*. (Washington, DC: United States Copyright Office, Library of Congress, 1977), A2:1-11. No moral rights protections were afforded at the federal level until the Visual Artists Rights Act of 1990, and there is still no federal law granting resale royalties for visual artists.

([3]) Robert Projansky and Seth Siegelaub, *The Artist's Reserved Rights Transfer and Sale Agreement* (New York: School of Visual Arts, 1971), 4.

([4]) Joan Kee, "Towards Law as an Artistic Medium: William E. Jones's Tearoom," *Law, Culture and the Humanities* 12, no. 3 (October 1, 2016): 695, 713.

([5]) The amount of writing on the Agreement from either field is near equal. Tellingly, however, *The Artist's Reserved Rights Transfer and Sale Agreement* is not reproduced in two of the most seminal books of artists' and curators' writings on Conceptual art: Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972; A Cross-Reference Book of Information on Some Esthetic Boundaries* (New York: Praeger, 1973); Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, reprint edition (Berkeley: University of California Press, 1997); Alexander Alberro and Blake Stimson, *Conceptual Art: A Critical Anthology* (Cambridge, Mass.: MIT Press, 1999).

([6]) Gregory S. Alexander, "Objects of Art; Objects of Property," *Cornell Journal of Law and Public Policy* 26 (2017): 461–68; Carl M. Colonna and Carol G. Colonna, "An Economic and Legal Assessment of Recent Visual Artists' Reversion Rights Agreements In The United States," *Journal of Cultural Economics* 6, no. 2 (1982): 77.

([7]) *See* Joan Kee, "Towards Law as an Artistic Medium: William E. Jones's Tearoom," *Law, Culture and the Humanities* 12, no. 3 (October 2016): 695–713; Annelise Riles, ed. *Documents: Artifacts of Modern Knowledge* (Ann Arbor: University of Michigan Press, 2006); Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Chicago; University of Chicago Press, 2011); Cornelia Vismann, *Files: Law and Media Technology* (Stanford: Stanford University Press, 2008).

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([8]) For Bruno Latour, law may be distinct from other social systems in its ability to exert social and existential force, constitute the circuitry through which the global flow of capital is managed, and bracket what an "official" institution can and cannot be or do. Bruno Latour, *The Making of Law: An Ethnography of the Conseil d'Etat* (Cambridge, UK: Polity Press, 2010), 274. Responding to Latour, Alain Pottage writes that a more complete description of law's materiality and opertions may be found in the Foucauldian dispositif or apparatus, bearing a "predominantly strategic function, [which involves] a rational and concerted intervention in relations of force, either so as to develop them in a particular direction or so as to block them, stabilize them, or exploit them," and the conceptuality of which is expressed in "the mode and effects" of its "assembly." Alain Pottage, "The Materiality of What?," *Journal of Law and Society* 39, no. 1 (March 1, 2012): 182. *See* Michel Foucault, "Le jeu de Michel Foucault" in *Dits et Ecrits*, Vol. iii (1994), 299. Cited in Alain Pottage, "The Materiality of What?," *Journal of Law and Society* 39, no. 1 (March 1, 2012): 181.

([9]) For this definition of law, *see* Bruno Latour, *The Making of Law: An Ethnography of the Conseil d'Etat* (Cambridge, UK: Polity Press, 2010), x, 255. For this definition of art, *see* Bürger, Peter, *Theory of the Avant-Garde*, (Minneapolis: University of Minnesota Press, 1984), lii.

([10]) Joan Kee, "Towards Law as an Artistic Medium: William E. Jones's Tearoom," *Law, Culture and the Humanities* 12, no. 3 (October 2016): 695.

([11]) Joan Kee, "Towards Law as an Artistic Medium: William E. Jones's Tearoom," *Law, Culture and the Humanities* 12, no. 3 (October 2016): 695.

([12]) Marilyn Strathern, *Kinship, Law, and the Unexpected: Relatives Are Always a Surprise* (New York: Cambridge University Press, 2005), 112.

([13]) As a matter of corrective naming, shorthand reference to the Agreement throughout this article will retain the names of both authors in an attempt to present an equivalence between their respective fields.

([14]) Marilyn Strathern, *Kinship, Law, and the Unexpected: Relatives Are Always a Surprise* (New York: Cambridge University Press, 2005), 112.

([15]) Nathanael Harrison, "Appropriation Art and U.S. Intellectual Property Law Since 1976" (University of California, San Diego, 2014), 3, 20. For additional art historical writing that considers the material and social effects of the intersection of art and law in modern and contemporary art, *see* Martha Buskirk, *The Contingent Object of Contemporary Art* (Cambridge, Mass.: MIT Press, 2003); Gail Feigenbaum and Inge Reist, eds., *Provenance: An Alternate History of Art* (Los Angeles: Getty Research Institute, 2013); Noah Horowitz, *Art of the Deal: Contemporary Art in a Global Financial Market* (Princeton, N.J.: Princeton University Press, 2011); Miwon Kwon, "The Becoming of a Work of Art: FGT and a Possibility of Renewal. a Chance to Share, a Fragile Truce," in

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Felix Gonzalez-Torres, ed. Julie Ault (Göttingen: Steidldangin, 2006), 281–314; Daniel McClean, ed., *The Trials of Art* (London: Ridinghouse, 2007).

([16]) United States copyright law is rooted in encouraging an economic incentive for production in the arts and sciences, as evidenced in the constitutional premise of copyrights to secure limited exclusive rights for writers, artists, and others over the use and reproduction of their works: "The Congress shall have Power … To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." U.S. Constitution, Article I, Section 8.

([17]) Sergio Muñoz Sarmiento and Eduardo M Peñalver, "Law in the Work of Félix González-Torres," *Cornell Journal of Law and Public Policy* 26 (2017): 449, 450.

([18]) Hal Foster, *Recodings: Art, Spectacle, Cultural Politics* (Port Townsend: Bay Press, 1985), 2, 5. Foster has identified the importance of drawing from the "toolkit" of discourses outside of art history and criticism in order to locate counter-models and alternate narratives, and to redraw political and cultural mappings in order to make "a critical intervention in a complex (generally reactionary) present." In doing so, Foster does not claim to be identifying or explicating a historical break, and philosophy need not be rejected (on the basis that it is useless), nor should history be refused (on the grounds that it is elusive or irrelevant).

([19]) Peter Jaszi, "On the Author Effect: Contemporary Copyright and Collective Creativity," in *The Construction of Authorship: Textual Appropriation in Law and Literature*, edited by Martha Woodmansee and Peter Jaszi (Durham: Duke University Press, 1994), 29–56; Martha Woodmansee and Peter Jaszi, eds., "Introduction," in *The Construction of Authorship: Textual Appropriation in Law and Literature* (Durham: Duke University Press, 1994), 1–14; Martha Woodmansee, "On the Author Effect: Recovering Collectivity," in *The Construction of Authorship: Textual Appropriation in Law and Literature*, edited by Martha Woodmansee and Peter Jaszi (Durham: Duke University Press, 1994), 15–28.

([20]) Martha Woodmansee, *The Author, Art, and the Market: Rereading the History of Aesthetics* (New York: Columbia University Press, 1994), 11–86; Ruben Jacobs, *Everyone Is an Artist: On Authenticity, the Position of the Artist, and the Creative Industries* (Rotterdam: V2_publishing, 2016).

([21]) Julia Bryan-Wilson, *Art Workers: Radical Practice in the Vietnam War Era* (Berkeley: University of California Press, 2009); Rosalyn Deutsche, *Evictions: Art and Spatial Politics* (Chicago: Graham Foundation for Advanced Studies in the Fine Arts, 1996).

([22]) Before the Romantic period's expectation of the artist to impart their subjectivity into a work of art, written agreements between artist and patron were customary. In fifteenth-century Italy, for example, patrons dictated the content of a commissioned image, including the materials that were to be used and the archetypal or religious figures that

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would be featured by stipulating these terms in documents of varying legal formality. But this normative practice was largely suppressed once the artist began to assert their personal intentionality. Marcel Duchamp's deftness at playing jester to the court of the art gallery and museum system is often discussed as the inspiration for the later incorporation of terms sale into a work by Fluxus artists and Conceptual artists among others. *See generally* Michael Baxandall, *Painting and Experience in Fifteenth Century Italy: A Primer in the Social History of Pictorial Style*, 2nd ed. (Oxford: Oxford University Press, 1988); Martha Buskirk, *The Contingent Object of Contemporary Art* (Cambridge, Mass.: MIT Press, 2003.); Susan Hapgood and Cornelia Lauf, eds., *In Deed: Certificates of Authenticity in Art* (Roma Publications, 2011); Liz Kotz, *Words to Be Looked At: Language in 1960s Art* (Cambridge, Mass.: MIT Press, 2007); Stephen C. Pinson, *Speculating Daguerre: Art and Enterprise in the Work of L. J. M. Daguerre* (Chicago: University of Chicago Press, 2012).

([23]) Buskirk, Martha. "Certifiable," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011), 98.

([24]) Robert C. Morgan has described that American Conceptual art shares a consistent interest in language as art, explored via three central methodologies: the structuralist, the systemic, and philosophical investigation. These methods of art are intrinsically dependent on some kind of document form. Robert C. Morgan, *Conceptual Art: An American Perspective* (Jefferson, N.C.: McFarland, 1994), 13–32.

([25]) Sergio Muñoz Sarmiento, "Sarmiento on Sarmiento," *Yale Journal of Law and the Humanities* 27, no. 2 (Summer 2015): 390. On the theoretical detachment, or reversal of means from ends see: Bruno Latour and Couze Venn, "Morality and Technology: The End of the Means," *Theory, Culture & Society* 19, no. 5–6 (December 1, 2002): 247–60; Annelise Riles, "Property as Legal Knowledge: Means and Ends," *The Journal of the Royal Anthropological Institute* 10, no. 4 (2004): 775–795.

([26]) Joan Kee, "Felix Gonzales-Torres on Contracts," *Cornell Journal of Law and Public Policy* 26 (2017): 522.

([27]) Buskirk, Martha. "Certifiable," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011), 98.

([28]) Martha Buskirk, *The Contingent Object of Contemporary Art* (Cambridge, Mass.: MIT Press, 2003), 153–154.

([29]) Joan Kee, "Felix Gonzales-Torres on Contracts," *Cornell Journal of Law and Public Policy* 26 (2017): 518.

([30]) Joshua Takano Chambers-Letson, "Contracting Justice: The Viral Strategy of Felix Gonzalez-Torres," *Criticism* 51, no. 4 (2010): 559–587..

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([31]) Bruce Kurtz, "Conversation with Robert Smithson (1972)," in *Robert Smithson, The Collected Writings, by Robert Smithson*, edited by Jack D. Flam (University of California Press, 1996), 262–269. This interview is cited to similar effect by Craig Owens, "From Work to Frame, or Is There Life After 'The Death of the Author?,'" in *Beyond Recognition: Representation, Power, and Culture* (Berkeley: University of California Press, 1992).

([32]) Hans Haacke, "Museums, Managers of Consciousness," in *Hans Haacke: Unfinished Business*, edited by Brian Wallis (New York: Cambridge, Mass: New Museum of Contemporary Art ; MIT Press, 1986), 60–61.

([33]) Frederic Jameson, "Hans Haacke and the Cultural Logic of Postmodernism," in *Hans Haacke: Unfinished Business*, edited by Brian Wallis (New York: Cambridge, Mass: New Museum of Contemporary Art ; MIT Press, 1986), 47.

([34]) By "circulations" I refer to Bruno Latour's use of the term in Actor-Network Theory. In Latour's terms, such a lens presumes that we can learn just as much by turning our magnifiers not on the echoes of the past, but on the active objects and actants that artifacts relay off of or penetrate through. *See* Bruno Latour, "On Recalling ANT," in *Actor Network Theory and After*, edited by John Law and John Hassard (Oxford: Blackwell, 1999), 15–25.

([35]) Martha Buskirk, "Certifiable," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011), 98.

([36]) Rosalyn Deutsche, "Hans Haacke and the Art of Not Being Governed Quite So Much," in *Culture and Contestation in the New Century*, edited by Jean-Marc Léger (Bristol, UK: Intellect, 2011), 25.

([37]) Josh Takano Chambers-Letson, "Contracting Justice: The Viral Strategy of Felix Gonzalez-Torres," *Criticism* 51, no. 4 (2010): 561.

([38]) John A. Tyson, "The Context as Host: Hans Haacke's Art of Textual Exhibition," *Word & Image* 31, no. 3 (July 3, 2015): 213.

([39]) *See also:* Amar Bakshi, "The Legal Medium," *Yale Journal of Law and Humanities* 27, no. 2 (2015): 331, 334; Joan Kee, "Towards Law as an Artistic Medium: William E. Jones's Tearoom," *Law, Culture and the Humanities* 12, no. 3 (October, 2016): 693–715, esp. 695, 698, 709, 715. Kee describes another dimension of law as medium, where art considers "law's own materiality," and reveals "law as a function of the juxtaposition of forms, in which form refers both to the visual culture of law as denoted by phenomena like courthouse architecture, but also to the patterns around which law is structured." Here, law may be taken up as "an artistic medium in order to apprehend how, rather than what, it means."

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([40]) Laurie Jo Reynolds and Stephen F. Eisenman, "Law as Artistic Medium: Why Artists?" in Rebecca Zorach, ed., *Art Against the Law* (Chicago: The School of the Art Institute of Chicago, 2014), 79–80; Laurie Jo Reynolds Reynolds, "Tamms Is Torture: The Campaign to Close an Illinois Supermax Prison," *Creative Time Reports* (blog), May 6, 2013, http://creativetime.org/reports/2013/05/06/tamms-is-torture-campaign-close-illinois-supermax-prison-solitary-confinement/.

([41]) Sergio Muñoz-Sarmiento, "Suburban Interventions, a Question of Property, and Assigned Value (Title)," *Law Text Culture* 10 (2006): 7–17; Sergio Muñoz Sarmiento, "Sarmiento on Sarmiento," *Yale Journal of Law and the Humanities* 27, no. 2 (Summer 2015): 385–398.

([42]) Jeanine Tang, "Future Circulations: On the Work of Hans Haacke and Maria Eichhorn," in *Provenance: An Alternate History of Art*, ed. Gail Feigenbaum and Inge Reist (Los Angeles: Getty Research Institute, 2013), 173–196.

([43]) Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, reprint edition (Berkeley: University of California Press, 1997), ix.

([44]) This term was coined by critics John C. Chandler and Lucy R. Lippard in their article "The Dematerialization of Art," *Art International*, February 1968. "The visual arts at the moment seem to hover at a crossroad that may well turn out to be two roads to one place, through they seem to have come from two sources: art as idea and art as action. In the first case, matter is denied, as sensation has been converted into concept; in the second case, matter has been transformed into energy and time-motion."

([45]) John Slyce. "The Playmaker: Seth Siegelaub Interviewed by John Slyce Part 1," *Art Monthly*, no. 327 (June 2009): 2.

([46]) Vincent Bonin, "Lucy R. Lippard's writing in and around conceptual art, 1969-73," in *Materializing Six Years : Lucy R. Lippard and the Emergence of Conceptual Art* (Cambridge, Massachusetts: The MIT Press, 2012), 43; Charles Harrison in Claude Gintz and Suzanne Pagé, eds., *L'Art conceptuel, une perspective* (Paris: Musée d'art moderne de la ville de Paris, 1989), 63; Blake Stimson, "The Promise of Conceptual Art" in Alexander Alberro and Blake Stimson, *Conceptual Art: A Critical Anthology* (Cambridge Mass: MIT Press, 1999), xxxix.

([47]) Annelise Riles has noted a core duality to the cultural functions of the document and documentation, which bears a striking resemblance to the contradictions of Conceptual art: It has historical origins as referencing both a utopian modernist vision of political harmony through transparency and information exchange, while also containing a critique of that vision's universalist pretensions. As Riles describes, documents and documentation are at the center of the project of modern knowledge to reflexively seek further knowledge about the self and are the material site of cultural interests in accountability, transparency, and transactional relations. Annelise Riles, "Introduction: In

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Response," in *Documents: Artifacts of Modern Knowledge*, edited by Annelise Riles (Ann Arbor: University of Michigan Press, 2006), 6.

([48]) "I use the camera as a 'dumb' copying device that only serves to document whatever phenomena appear before it through the conditions set by a system. No 'aesthetic' choices are possible. Other people often make the photographs. It makes no difference." Douglas Huebler in *Prospect 69: Katalog-Zeitung zur internationalen Vorschau auf die Kunst in der Galerie der Avantgarde* (Düsseldorf: Städtische Kunsthalle, 1969), 26.

([49]) Seth Siegelaub and Michel Claura, "L'art conceptuel," *xxe siècle* 35, no. 41 (December 1973): 156–159.

([50]) Robert C. Morgan lists the typologies of the Conceptual art document as: photographs, maps, printed text, diagrams, handwritten or drawn notations, natural specimens, found, manufactured, or handbuilt objects, and legal certificates and papers. Robert C. Morgan, *Art into Ideas: Essays on Conceptual Art* (Cambridge: Cambridge University Press, 1996), 28.

([51]) Alexander Alberro, "Reconsidering Conceptual Art, 1966-1977," in *Conceptual Art: A Critical Anthology* (Cambridge Mass: MIT Press, 1999). Xvi–xxxvii; Blake Stimson, "The Promise of Conceptual Art" in *Conceptual Art: A Critical Anthology* (Cambridge Mass: MIT Press, 1999), xxxviii–lii.

([52]) Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972; A Cross-Reference Book of Information on Some Esthetic Boundaries* (New York: Praeger, 1973), 263–264.

([53]) Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, reprint edition (Berkeley: University of California Press, 1997), xvi.

([54]) *L'art conceptuel, une perspective*, curated by Claude Gintz and Suzanne Pagé. Musée d'art moderne de la ville de Paris, November 22 1989–February 18, 1990.

([55]) Beyond their vast historical influence, these two texts are also important for their retrospective framings of Conceptual art—Lippard's is considered a key source book of artists' writings and exhibition materials, while Buchloh's initially appeared within the exhibition catalogue of the first major historical retrospective of the genre.

([56]) To Buchloh it is no mistake that such an administrative aesthetic was adopted by the artists of this generation, since by the mid-1960s an emergent managerial class had become firmly established as the most common and powerful class of postwar society. Benjamin H. D. Buchloh, "Conceptual Art 1962–1969: From the Aesthetic of Administration to the Critique of Institutions," in *L'Art conceptuel, une perspective*, edited by Claude Gintz and Suzanne Pagé, 1st edition (Paris: Musée d'art moderne de la ville de Paris, 1989). Reprinted in October 55 (December 1, 1990).

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([57]) Benjamin H. D. Buchloh, "Conceptual Art 1962–1969: From the Aesthetic of Administration to the Critique of Institutions," *October* 55 (December 1, 1990): 142–143.

([58]) Benjamin H. D. Buchloh, "Conceptual Art 1962–1969: From the Aesthetic of Administration to the Critique of Institutions," *October* 55 (December 1, 1990): 143.

([59]) Alexander Alberro, Conceptual Art and the Politics of Publicity (Cambridge, Mass: MIT Press, 2003). 24.

([60]) Alexander Alberro, Conceptual Art and the Politics of Publicity (Cambridge, Mass: MIT Press, 2003). 164.

([61]) Alexander Alberro, *Conceptual Art and the Politics of Publicity* (Cambridge Mass.: MIT Press, 2003), 169.

([62]) Alexander Alberro, *Conceptual Art and the Politics of Publicity* (Cambridge Mass.: MIT Press, 2003), 169.

([63]) Monroe E. Price and Aimee Brown Price, "Rights of Artists: The Case of the Droit de Suite," in Monroe E. Price and Hamish Sandison, *A Guide to the California Resale Royalties Act* (Berkeley: Bay Area Lawyers for the Arts, 1975), 34.

([64]) This framing arose through numerous conversations with Sergio Muñoz Sarmiento between 2014 and 2015.

([65]) Alexander Alberro and Patsy Norvell, eds., "Interview with Seth Siegelaub, April 17, 1969," in *Recording Conceptual Art: Early Interviews with Barry, Huebler, Kaltenbach, LeWitt, Morris, Oppenheim, Siegelaub, Smithson, Weiner*, by Patricia Norvell (Berkeley: University of California Press, 2001), 38.

([66]) Lucy R. Lippard was another notable independent curator in the United States who similarly experimented with various exhibition and publication formats, most notably her so-called "Numbers Shows," a series of exhibitions named for the population of their respective host cities. Participating artists were asked to provide a description of a work for the show on an index card, which Lippard and the exhibiting institution would execute on-site. Facsimiles of these cards were produced and sold or given away as the catalogs for each exhibition. The catalogs for the Seattle and Vancouver iterations, *557,087* and *955,000*, were collaborations with Siegelaub. *See* Cornelia H. Butler, *From Conceptualism to Feminism: Lucy Lippard's Numbers Shows, 1969–74* (London: Afterall Books, 2012).

([67]) *See* Seth Siegelaub, ed., *March 1969* (New York: Seth Siegelaub, 1969); Seth Siegelaub, ed., *July, August, September 1969 / Juillet, Août, Septembre 1969 / Juli, August, September 1969* (New York: Seth Siegelaub, 1969). These two "catalogue-exhibitions" were multi-sited group shows that had their primary manifestation in book form. For *March 1969* Siegelaub assigned a day of the month to a different artist who would create a conceptual work on that day, their description for which was printed in the catalogue. *July, August, September 1969* took place across multiple sites internationally

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and documented physical works that had been installed and/or descriptions of immaterial works, so that the catalogue was the only "guide" or site where all of the works could be perceived together. The catalogue's trilingual text in English, French, and German marks a growing interest in international communication and collaboration among Siegelaub, his milieu, and the Euro-American art world generally.

([68]) Charles Harrison, "On Exhibitions and the World at Large: Seth Siegelaub in Conversation with Charles Harrison," *Studio International* 178, no. 917 (December 1969): 202–203.

([69]) Alexander Alberro and Patsy Norvell, eds., "Interview with Seth Siegelaub, April 17, 1969," in *Recording Conceptual Art: Early Interviews with Barry, Huebler, Kaltenbach, LeWitt, Morris, Oppenheim, Siegelaub, Smithson, Weiner*, by Patricia Norvell (Berkeley: University of California Press, 2001), 34.

([70]) *See* Robert C. Morgan, "The Situation of Conceptual Art: The 'January Show' and After," *Arts Magazine* 63, no. 6 (February 1989): 40–43; Seth Siegelaub, ed., *January 5–31, 1969* (New York: Seth Siegelaub, 1969).

([71]) Gregory Battcock, "Painting Is Obsolete," *New York Free Press*, January 23, 1969.

([72]) Charles Harrison in Claude Gintz and Suzanne Pagé, eds., *L'Art conceptuel, une perspective* (Paris: Musée d'art moderne de la ville de Paris, 1989). 63.

([73]) Since 1969 the following "Statement of Intent" has accompanied each of Weiner's works: 1. The artist may construct the piece, 2. The piece may be fabricated, 3. The piece need not be built. Each being equal and consistent with the intent of the artist the decision as to condition rests upon the receiver on the occasion of receivership.

([74]) Dieter Schwartz, "Public Freehold," *Parkett*, December 1994, 45–51; "Interview with Lawrence Weiner" in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, ed. Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009). 148.

([75]) Sol LeWitt, "Pasadena Art Museum, November 17, 1970–January 3, 1971," *Art Now* 3, no. 2 (1971). Reprinted in Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, reprint edition (Berkeley: University of California Press, 1997), 201.

([76]) Lewitt's certificates state: "This certification is the signature for the wall drawing and must accompany the wall drawing if it is sold or otherwise transferred."

([77]) In addition to LeWitt's signature, the artist includes the © symbol next to his name on the certificate.

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([78]) LeWitt's certificates are not replaceable and thus have been considered as if they are original works for matters of authenticity and legal protection for both collector and artist. This designation of the work was at issue in the case between gallerist Rhona Hoffman and collector Roderic Steinkamp. A certificate for a work by Lewitt consigned to the gallery was misplaced, leaving to question whether a new certificate could be issued, or whether the loss of the certificate would constitute the destruction and loss of the artwork. *See* Complaint, *Steinkamp v. Hoffman*, No. 651770, 2012 WL 1941149 (N.Y. Sup. Ct. May 22, 2012); Derek Fincham, "How Law Defines Art," *John Marshall Review of Intellectual Property Law*, no. 14 (2015): 322.

([79]) One such certificate of Wilson's reads, "A discussion on the 26th of March 1975 was purchased by John Weber," and is signed at the bottom by the artist and John Weber. Reproduced in Susan Hapgood and Cornelia Lauf, *In Deed: Certificates of Authenticity in Art* (Roma Publications, 2011), 69.

([80]) Ian Hodder, "The Interpretation of Documents and Material Culture," in *Handbook of Qualitative Research*, edited by Norman K. Denzin and Yvonna S. Lincoln (Newbury Park: Sage, 1994), 393.

([81]) Works of art that take the form of instructions or are immaterial do not meet the criteria for "works of visual art" under the current federal copyright code. Although it is understandable that such works may not merit certain protections that cover the material integrity of artworks, such as the Visual Arts Rights Act (1990) (17 U.S. Code § 106 (a)) protections against physical damage and destruction, immaterial Conceptual works still merit attribution rights and protections against appropriation in violation of fair use. One major hurdle for copyright protection of immaterial or temporal works has been the argument that such works do not meet the fixation requirement for copyrightable works. As Nimmer describes, fixation in tangible form is not merely a statutory condition to copyright, but is also a constitutional necessity. *See* Melville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 2.03[B]: A work is "fixed" in a tangible medium of expression "when its embodiment in a copy or phonorecord… is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration." The issue of fixation was the deciding factor against artist Chapman Kelley in his attempt to save his garden painting *Wildflower Works* from destruction by the Chicago Park District. *See Chapman Kelley v. Chicago Park District* Appeals from the United States District Court for the Northern District of Illinois, Eastern Division. No. 1:04-cv-07715 (2011). For arguments in favor of why immaterial, temporal artworks should be considered "fixed," *see* Zahr K. Said, "Copyright's Illogical Exclusion of Conceptual Art," *Columbia Journal of Law & the Arts* 39 (2016-2015): 335–354, and Bob Clarida, "Copyrightability of Conceptual Art: An Idea Whose Time Hasn't Come," *Columbia Journal of Law & the Arts* 39 (2016-2015): 365–370.

In other instances, Conceptual artworks may be too minimal in "originality" to be copyrightable, as in the case of art that assumes the form of short phrases, single words,

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or perhaps resembling technical drawings and other minimal graphic and geometric forms, such as those by Weiner, LeWitt, and Wilson. *See*

17 U.S. Code § 101:

A work of visual art does not include—

((A))
((i)) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;
((ii)) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;
((iii)) any portion or part of any item described in clause (i) or (ii);

((B)) any work made for hire; or
((C)) any work not subject to copyright protection under this title.

([82]) Olav Velthuis, *Talking Prices: Symbolic Meanings of Prices on the Market for Contemporary Art* (Princeton, N.J.; Woodstock: Princeton University Press, 2007), 142; Hans Abbing, *Why Are Artists Poor?: The Exceptional Economy of the Arts* (Amsterdam: Amsterdam University Press, 2002), 126.

([83]) *See generally* Sophie Richard, *Unconcealed, the International Network of Conceptual Artists 1967–77: Dealers, Exhibitions and Public Collections*, edited by Lynda Morris (London: Ridinghouse, 2009). Although it is evident from many of Siegelaub's exchanges with politically engaged artists in France, Germany, and other European countries that the Contract is indebted to this influence, it is important to discuss the document in terms of its legacy within American art and law, as this is this context that its structure and terms were originally designed to address.

([84]) For a full account of the event and the founding of the Art Workers Coalition, *see* Julia Bryan-Wilson, *Art Workers: Radical Practice in the Vietnam War Era* (Berkeley: University of California Press, 2009). Takis' *Tele-Sculpture* was in the museum's collection, but the artist disagreed with the curatorial lens of the exhibition in which it was included. *See also* Pontus Hultén, *The Machine, as Seen at the End of the Mechanical Age* (New York: Museum of Modern Art, 1969) [Exhibition catalogue].

([85]) A subgroup of the Art Workers' Coalition composed a contract that preceded Siegelaub's, but it was never distributed on a wide scale. "Recommended Draft Contract for Sale and Purchase of a Work of Art Prepared by the Art Workers Coalition"; The Parasite Archive 1969-1999; MSS.333; Box 3, Folder 23, Art Workers Coalition Documents 1970-71; Fales Library and Special Collections, New York University Libraries.

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([86]) Art Workers Coalition, *Art Workers Coalition: Documents 1* (New York: Art Workers Coalition, 1969), 5.

([87]) The Art Proceeds Act of 1966 contained the following provisions: artists would receive a royalty of 3 percent on the gross resale price of their works resold for $300 or more; applicable works of art would be unique sculptures, drawings, paintings, or illustrated manuscripts; rights extended for the life of the artist or the duration of their copyright, and would pass to the artist's heir if still valid after their death; a Federal Registry would be established, and artists would be required to register their works in order to claim any royalties or designate an Artist's Society to collect the royalty on their behalf. *See* Schulder, Diane B. "Art Proceeds Act: A Study of the Droit De Suite and a Proposed Enactment for the United States," 61, no. 1 *Northwestern University Law Review* (1966–1967): 19–45.

([88]) Carl Andre in Art Workers Coalition, *Art Workers Coalition: Open Hearing* (New York: Art Workers Coalition, 1969), 30–34.

([89]) Sol Lewitt in Art Workers Coalition, *Art Workers Coalition: Open Hearing* (New York: Art Workers Coalition, 1969), 21.

([90]) Stephen Phillips in Art Workers Coalition, *Art Workers Coalition: Open Hearing* (New York: Art Workers Coalition, 1969), 43.

([91]) For a thorough description of French, German, and Italian resale right systems up until 1980, *see* Carole M. Vickers, "Applicability of the Droit de Suite in the United States," *Boston College International and Comparative Law Review* 3, no. 2 (Summer 1980): 435–444.

([92]) Schulder, Diane B. "Art Proceeds Act: A Study of the Droit De Suite and a Proposed Enactment for the United States," 61, no. 1 *Northwestern University Law Review* (1966–1967): 44–45.

([93]) Iain Whitecross in Art Workers Coalition, *Art Workers Coalition: Open Hearing* (New York: Art Workers Coalition, 1969), 76–77.

([94]) The draft in the United States lasted from 1965 to 1973. The draft lottery system was introduced in December 1969, the same year that calls for military enrollment peaked. The close overlap between the draft years and the generally bracketed time period of Conceptual art of 1966–1972 has led many historians and critics to call it the art of the Vietnam War era. Though most artists involved were too old for the draft, the specter of the issued draft card should be recognized as another source of protest and influence in these artists' adoption of official records and documents.

([95]) Lucy R. Lippard in Art Workers Coalition, *Art Workers Coalition: Open Hearing* (New York: Art Workers Coalition, 1969), 58.

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([96]) In the interview, he continues to question why artists don't have a system in place for collecting royalties on the reproduction and resale of their work, such as ASCAP for musicians, and makes broader remarks concerning the need for artists to stop being treated—and considering themselves—as second-class citizens. Alexander Alberro and Patsy Norvell, eds., "Interview with Seth Siegelaub, April 17, 1969," in *Recording Conceptual Art: Early Interviews with Barry, Huebler, Kaltenbach, LeWitt, Morris, Oppenheim, Siegelaub, Smithson, Weiner*, by Patricia Norvell (Berkeley: University of California Press, 2001), 45.

([97]) I am indebted to Lise Soskolne, core organizer of the artist activist group Working Artists for the Greater Economy (W.A.G.E.), for her insights into the notion of "the work of art as the property of the artist," which unfolded over a series of conversations in 2015–2017. I also thank Dr. Annelise Riles for drawing my attention beyond artist's uses of contracts to artist's concepts of property.

([98]) Andrea Fraser, "What is Intangible, Transitory, Mediating, Participatory, and Rendered in the Public Sphere? Part II," edited by Darío Corbeira, et. al. *Brumaria: The Art Workers' Coalition*, no. 15–16 (2010), 225. Originally published in Andrea Fraser, *Museum Highlights: The Writings of Andrea Fraser* (Cambridge: MIT Press, 2005), 55–80.

([99]) Ursula Meyer interview with Lucy R. Lippard from December 1969, excerpt printed in Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, reprint edition (Berkeley: University of California Press, 1997), 8–9.

([100]) Ursula Meyer interview with Seth Siegelaub from November 1969, excerpt printed in Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, reprint edition (Berkeley: University of California Press, 1997), 126.

([101]) Fittingly, the Agreement would be one of Siegelaub's final efforts in the New York art world. In 1972 he moved to Bangolet, France, and later to Amsterdam, where he founded independent libraries, research centers, and a publication distribution company devoted to Marxism and mass media, the production of handwoven textiles, and other subjects. All of these activities were underpinned by interests in the material conditions of communication and labor. *See* Leontine Coelewij and Sara Martinetti, *Seth Siegelaub: Beyond Conceptual Art* (Amsterdam and Köln: The Stedelijk Museum and Walther König, 2016); Marja Bloem et al., eds., *Seth Siegelaub: "Better Read Than Dead," Writings & Interviews, 1964-2013* (Cologne and Amsterdam: Verlag der Buchhandlung Walther König and The Stichting Egress Foundation). Forthcoming.

([102]) *See generally* Alexander Alberro and Patsy Norvell, eds., "Interview with Seth Siegelaub, April 17, 1969," in *Recording Conceptual Art: Early Interviews with Barry, Huebler, Kaltenbach, LeWitt, Morris, Oppenheim, Siegelaub, Smithson, Weiner*, by Patricia Norvell (Berkeley: University of California Press, 2001), 31–52.

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([103]) Siegelaub, Seth. "First Draft of the Artist's Reserved Rights and Transfer and Sale Agreement and Artist Questionnaire," Seth Siegelaub Papers. Gift of Seth Siegelaub and the Stichting Egress Foundation, Amsterdam. [I.A.93]. The Museum of Modern Art Archives, NY.

([104]) A fourth example is the contract used by artist Grant Wood, which Siegelaub knew about tangentially. Clare Spark and Seth Siegelaub, *A New Artist's Contract: An Interview with Seth Siegelaub*, April 25, 1971, Broadcast on WKPFK (Los Angeles); unpublished.

([105]) "Interview with Daniel Buren" in *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009).

([106]) Ed Kienholz's contract had very extensive and explicit terms regarding the artist's rights in the future transfer of his work, including the provision that he should be notified of any resales and that he was entitled to a 15 percent royalty on any profit on a resold work, with extremely specific terms for how the royalty was to be disbursed and communicated, going so far as to note that a statement declaring this obligation might be physically affixed to the work. Kienholz's contract is reproduced in full John Henry Merryman and Albert Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4-163–4-165. Kienholz founded two galleries in Los Angeles, the Now Gallery (1956–1957) and Ferus Gallery (1957–1966) with Walter Hopps.

([107]) "Recommended Draft Contract for Sale and Purchase of a Work of Art Prepared by the Art Workers Coalition"; The Parasite Archive 1969–1999; MSS.333; Box 3, Folder 23, Art Workers Coalition Documents 1970–71; Fales Library and Special Collections, New York University Libraries.

([108]) Robert Projansky and Seth Siegelaub, *The Artist's Reserved Rights Transfer and Sale Agreement* (New York: School of Visual Arts, 1971). Published as (selection) *Contrat pour la préservation des droits de l'artiste sur toute œuvre cédée*, translated and revised by Michel Claura (Brussels: Herman Daled, 1971); *Contratto di trasferimento di opere d'arte*, translated and revised by Germano Celant (Milan: Marina Le Noci, 1971); and *Künstlerverkaufs und Rechtsabtretungsvertrag*, revised by Jürgen Jans (Düsseldorf: Konrad Fischer, 1971). Reprinted in (selection) *Studio International* 181, no. 932 (April 1971): 142–144, 186–188; *Domus*, no. 497 (April 1971): insert; *Data*, no. 2 (February 1972): 40–46; *Leonardo* 6, no. 4 (Autumn 1973): 347–350; and with a new introduction by Seth Siegelaub (18/13) in *documenta 5*. Befragung der Realität—Bildwelten heute, edited by Harald Szeemann et al. (documenta GmbH and Bertelsmann Verlag: Kassel, 1972); Franklin Feldman and Stephen E. Weil, *Art Works: Law, Policy, Practice. New York: Practising Law Institute*, 1974, 81–93; John Henry Merryman, and Albert E. Elsen, *Law, Ethics, and the Visual Arts: A Coursebook* (Temporary Edition) (Stanford, Calif.: John Henry Merryman and Albert E. Elsen, 1975), 731–735; John Henry Merryman, and Albert

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Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4-144–4-155; and in *A Guide to the California Resale Royalties Act*, edited by Monroe E. Price and Hamish Sandison (Los Angeles: Advocates for the Arts and UCLA School of Law, and Berkeley: Bay Area Lawyers for the Arts, 1976), 23–29.

([109]) Recent translations have been made for Spain, the Netherlands, Brazil, and Mexico: Darío Corbeira, et. al., eds., "Contrato de Transferencia y Venta de la Obra y Derechos Reservados del Artista," translated by César Fernández, Xosé Luis Longarela, Teresa Martín, Patricia Rodríguez Corredoira, Mariana Suijkerbuijk, in *Brumaria: The Art Workers' Coalition*, no. 15–16 (2010): 101–109; *Overeenkomst tot Verkoop en Overdracht Onder Voorbehoud van Bepaalde Rechten van de Kunstenaar*, The Stedelijk Museum, Amsterdam, 2015; *Contrato de Cessão e Transferência de Obras de Arte com Reserva de Direitos*. Translated by Juliana Cesario Alvim Gomes and Marina Croce, revised by Luiz Vieira and Regina Melim, (Florianópolis and São Paolo: Par(ent)esis and IKREK, 2016); Translation and revision for use in Mexico, *Tada*, (Forthcoming). Siegelaub also had plans to translate the Agreement for use in Japan and Spain in 1971, but these were not realized. *See* Jo Melvin, "Studio International Magazine: Tales from Peter Townsend's Papers" (Chelsea College of Art, London, 2013), 133.

([110]) Projansky was connected to ubiquitous art lawyer Jerald Ordover, and had participated in advocacy for three artists arrested for flag desecration during the 1970 exhibition *The People's Flag Show* at Judson memorial church in New York. *See* Robert Projansky, "The Perilous World of Art Law," *Juris Doctor* 4, no. 6 (June 1974): 14–21, 38; Grace Glueck, "Flag-Show Case Aired by Panel: Lawyers and Art Figures Discuss the Arrest of 3," *New York Times*, 1970, 60.

([111]) My thanks to artist Jason Simon for introducing the term and concept of "stewardship" in regard to a collector's responsibility for an acquired work of art.

([112]) Robert Projansky and Seth Siegelaub. *The Artist's Reserved Rights Transfer and Sale Agreement* (New York: School of Visual Arts, 1971), 6–8.

([113]) A clear reference perhaps to the controversy between Takis and the Museum of Modern Art.

([114]) See contract as reproduced here for entire clause. In the introduction, Siegelaub warns that "Few collectors will want to buy a work if their right to lend it for exhibition is so restricted by someone else. If you give a work away you can leave [7](b) in, but that will make it very difficult for your friend to sell it. We have put (b) in because (a) is the least an artist should accept and (b) is the most he/she can ask for." Robert Projansky and Seth Siegelaub. *The Artist's Reserved Rights Transfer and Sale Agreement*. (New York: School of Visual Arts, 1971), 2.

([115]) Daniel McClean, "Authenticity in Art and Law: A Question of Attribution or Authorization?," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011), 93.

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([116]) Robert Projansky and Seth Siegelaub, *The Artist's Reserved Rights Transfer and Sale Agreement*, (New York: School of Visual Arts, 1971), 2.

([117]) Clare Spark, *A New Artist's Contract: An Interview with Seth Siegelaub*, April 25, 1971. Broadcast on WKPFK (Los Angeles). Unpublished audio recording.

([118]) Articles Seven, Eight, and Ten expire with the life of the artist.

([119]) There are three substantial folders of correspondence concerning the published contract in Siegelaub's archives. Siegelaub, [I.A. 97, I.A.98, I.A.99], MoMA Archives, NY. Siegelaub notes that the contract was never widely used and that many were unhappy with its proposals. "Interview with Seth Siegelaub, 2005," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 261–277.

([120]) Seth Siegelaub and Robert Projansky, "The Artist's Reserved Rights Transfer and Sale Agreement" (School of Visual Arts, 1971). 3.

([121]) "NAWC to Issue New Contract," *Art Workers Newsletter* 1, no. 3 (May 1971): 4. Excerpt reproduced in Leontine Coelewij and Sara Martinetti, *Seth Siegelaub: Beyond Conceptual Art* (Amsterdam and Köln: The Stedelijk Museum and Walther König, 2016), 202.

([122]) "Interview with Seth Siegelaub, 2005," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 83–84.

([123]) "Interview with Seth Siegelaub, 2005," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 92.

([124]) "Interview with Adrian Piper," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 199.

([125]) "Interview with Hans Haacke," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie*

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Winsor, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 69.

([126]) Roberta Smith, "When Artists Seek Royalties on Their Resales," *The New York Times*, May 31, 1987, http://www.nytimes.com/1987/05/31/arts/when-artists-seek-royalties-on-their-resales.html.

([127]) Jeanine Tang, "Future Circulations: On the Work of Hans Haacke and Maria Eichhorn," in *Provenance: An Alternate History of Art*, edited by Gail Feigenbaum and Inge Reist (Los Angeles: Getty Research Institute, 2013), 189; "Interview with John Weber," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 166; Lauren van Haaften-Schick, "The Location of Power," in *Evidentiary Realism*, edited by Paolo Cirio (New York and Berlin: Fridman Gallery and Nome Gallery, 2017). (Print edition forthcoming.) http://www.evidentiaryrealism.net/the-location-of-power/.

([128]) Franklin Feldman and Stephen E. Weil, *Art Works: Law, Policy, Practice* (New York: Practising Law Institute, 1974). 96.

([129]) Franklin Feldman and Stephen E. Weil, *Art Works: Law, Policy, Practice* (New York: Practising Law Institute, 1974), 96–97.

([130]) Gregory S. Alexander, "Intergenerational Communities," *Law & Ethics of Human Rights*; Berlin 8, no. 1 (2014): 21–57.

([131]) Franklin Feldman and Stephen E. Weil, *Art Works: Law, Policy, Practice* (New York: Practising Law Institute, 1974), 96.

([132]) The first sale doctrine issue is cited as the core reason why the California Resale Royalty Act has been essentially nullified, according to the April 2016 decision in a California district court ruling that the state law is preempted by the federal statute. See: *Estate of Robert Graham v. Sotheby's, Inc.*, No. 11-cv-08604 and *Sam Francis Foundation v. Christie's, Inc.*, No. 11-cv-08605 (consolidated), 860 F.Supp.2d 1117 (C.D. Cal. 2012), *aff'd in part*, No. 12-56077 and No. 12-56067 (9th Cir. May 5, 2015), *dismissed on remand by* No. 11-cv-08604, slip op. (C.D. Cal. Apr. 11, 2016). 7.

([133]) The first sale doctrine was codified in the Copyright Act of 1909: "That the copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object; but nothing in this Act shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyrighted work the possession of which has been lawfully obtained." Copyright Act of 1909, Pub. L. No. 60-349, § 41, 35

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Stat. 1075, 1084 (1909). The first sale doctrine remained generally unchanged during subsequent revisions to the code. *See* Dan Karmel, "Off the Wall: Abandonment and the First Sale Doctrine," *Columbia Journal of Law and Social Problems*, New York 45, no. 3 (Spring 2012): 358–361.

([134]) We might note however that VARA's restrictions against a purchaser's ability to modify or destroy the artwork of a living artist leaves precedent for future laws and court decisions concerning the limitations of what an owner of an artwork may do with that artwork.

([135]) 17 U.S.C. §109 (a): "Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord."

([136]) Christine Bohannan, "Copyright Preemption of Contracts," *Maryland Law Review* 67, no. 3 (2008): 616–618.

([137]) Christine Bohannan, "Copyright Preemption of Contracts," *Maryland Law Review* 67, no. 3 (2008): 614; Robert A. Hillman and Maureen A. O'Rourke, "Principles of the Law Of Software Contracts: Some Highlights," *Tulane Law Review* 84, no. 6 (2010): 1519–1539, 1526–1527.

([138]) Robert A. Hillman and Maureen A. O'Rourke, "Principles of the Law Of Software Contracts: Some Highlights," *Tulane Law Review* 84, no. 6 (2010): 1519–39, 1526-27.

([139]) John Henry Merryman and Albert Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4–142.

([140]) Reprinted in Tad Crawford, *Legal Guide for the Visual Artist* (New York: Hawthorn Books, 1977), 62.

([141]) John Henry Merryman and Albert Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4-160.

([142]) John Henry Merryman and Albert Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4–159.

([143]) "What happens to the work in terms of its resale, in terms of its treatment, in terms of its availability for exhibition is of profound and rightful concern to the artist." Monroe E. Price and Aimee Brown Price, "Rights of Artists: The Case of the Droit de Suite" in Hamish Sandison and Monroe E. Price, *A Guide to the California Resale Royalties Act* (Berkeley: Bay Area Lawyers for the Arts, 1975), 32.

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([144]) Pierre Bourdieu, "The Field of Cultural Production, or: The Economic World Reversed," *Poetics* 12, no. 4 (November 1, 1983): 311–356; Martha Buskirk, *Creative Enterprise: Contemporary Art between Museum and Marketplace* (New York: Continuum, 2012); Ruben Jacobs, *Everyone Is an Artist: On Authenticity, the Position of the Artist, and the Creative Industries* (Rotterdam: V2_publishing, 2016); Olav Velthuis, *Cosmopolitan Canvases: The Globalization of Markets for Contemporary Art* (New York: Oxford University Press, 2015).

([145]) Hillman, Robert A. *Principles of Contract Law*. St. Paul, MN: West Academic Publishing, 2014. 279–281.

([146]) John Henry Merryman and Albert Edward Elsen, *Law, Ethics and the Visual Arts: Cases and Materials* (New York: Bender, 1979), 4-142. This criticism is a clear oversight of the norm rapidly introduced with Conceptual art, that all art sales would now be accompanied by certificates and other records. *See* Martha Buskirk, "Certifiable," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011).

([147]) Franklin Feldman and Stephen E. Weil, *Art Works: Law, Policy, Practice* (New York: Practising Law Institute, 1974), 96. The issue of notification may not be as great as these authors claim. When works by Hans Haacke have sold at auction, auction houses have displayed the agreement and notified bidders of its existence in advance. Roberta Smith, "When Artists Seek Royalties on Their Resales," *The New York Times*, May 31, 1987, http://www.nytimes.com/1987/05/31/arts/when-artists-seek-royalties-on-their-resales.html.

([148]) Henry Hansmann and Marina Santilli, "Authors' and Artists' Moral Rights: A Comparative Legal and Economic Analysis," *Journal of Legal Studies*, Chicago 26, no. 1 (January 1997): 95–143; Michael Rushton, "Artists' Rights," in *A Handbook of Cultural Economics*, edited by Ruth Towse (Cheltenham, UK; Northampton, Mass.: Edward Elgar, 2003), 77.

([149]) Daniel McClean, "Authenticity in Art and Law: A Question of Attribution or Authorization?," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011), 94.

([150]) Daniel McClean, "Authenticity in Art and Law: A Question of Attribution or Authorization?," in *In Deed: Certificates of Authenticity in Art*, edited by Susan Hapgood and Cornelia Lauf (Roma Publications, 2011), 94.

([151]) Mark C. Suchman, "The Contract as Social Artifact," *Law & Society Review* 37, no. 1 (March 2003): 92.

([152]) Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Chicago: University of Chicago Press, 2011), 45–46.

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([153]) M. Elizabeth Petty, "Rauschenberg, Royalties, and Artists' Rights: Potential Droit De Suite Legislation in the United States," *William and Mary Bill of Rights Journal* 22, no. 3 (March 2014): 978.

([154]) M. Elizabeth Petty, "Rauschenberg, Royalties, and Artists' Rights: Potential Droit De Suite Legislation in the United States," *William and Mary Bill of Rights Journal* 22, no. 3 (March 2014): 978.

([155]) California Resale Royalties Act, Cal. Civ. Code § 986(a).

([156]) Hamish Sandison, ed., *The Visual Artist & the Law: Handbook for a Seminar on the Legal Problems of Artists and Art Groups* (Berkeley: Bay Area Lawyers for the Arts, 1975); Monroe E. Price and Hamish Sandison, *A Guide to the California Resale Royalties Act* (Los Angeles: Advocates for the Arts, UCLA School of Law, 1976).

([157]) H.R.11403-95th Congress (1977–1978).

([158]) Carole M. Vickers, "The Applicability of the Droit de Suite in the United States," *Boston College International and Comparative Law Review* 3, no. 2 (Summer 1980): 433–466.

([159]) Siegelaub, [I.A.99], MoMA Archives, NY.

([160]) S. 1619-100th Congress (1987–88), 860.

([161]) 17 U.S.C. § 106 (a). The Visual Artists Rights Act of 1990 (VARA) grants authors of protected visual art works the following right to claim authorship, the right to prevent the use of one's name on any work the author did not create, the right to prevent use of one's name on any work that has been distorted, mutilated, or modified in a way that would be prejudicial to the author's honor or reputation, and the right to prevent distortion, mutilation, or modification that would damage the author's honor or reputation.

([162]) Like the resale right or droit de suite, the concept of *droit moral* or *droit de paternité* originated under civil law in France. As first conceived, moral rights carry the understanding that artists' intimate beings, or their person, is embedded in the artworks they produce, and thus these creators are entitled to continued rights over their artworks even after they have been sold. In the French context, the two concepts of a resale right and a moral right are closely intertwined; both are designed to secure a continued property interest in one's artwork after it leaves the hands of the artist who made it.

([163]) Although VARA claims are seldom brought by artists, there are multiple cases in which a political statement was undoubtedly part of the impetus for doing so. Since its passing, VARA has been successfully utilized by artists as a means of enacting this precise critique over exhibition context, as when Cady Noland in 2012 filed a VARA claim against art dealer Marc Jancou and Sotheby's for attempting to auction a work that Noland said was damaged and would therefore be harmful to her artistic reputation were it made public. In reality, Noland is another figure who like Siegelaub has withdrawn

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from the art world in favor of political engagement, and it is not a stretch to conjecture that her problem may have been with the context of an auction house and the dealers involved. *See* Amy Adler, "Cowboys Milking, Formerly Attributed to Cady Noland," *Brooklyn Rail*, March 2016. http://brooklynrail.org/2016/03/criticspage/cowboys-milking-formerly-attributed-to-cady-noland.

([164]) 17 U.S. Code § 101: A "work of visual art" is—

> ((1)) a painting, drawing, print, or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author, or, in the case of a sculpture, in multiple cast, carved, or fabricated sculptures of 200 or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or
> ((2)) a still photographic image produced for exhibition purposes only, existing in a single copy that is signed by the author, or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author.

A work of visual art does not include—

> ((A))
> ((i)) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;
> ((ii)) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;
> ((iii)) any portion or part of any item described in clause (i) or (ii);
>
> ((B)) any work made for hire; or
> ((C)) any work not subject to copyright protection under this title.

([165]) *See* Amy M. Adler, "Against Moral Rights," *California Law Review* 97, no. 1 (2009): 263–300; Sonya G. Bonneau, "Honor and Destruction: The Conflicted Object in Moral Rights Law," *St. John's Law Review* 87, no. 1 (Winter 2013): 47–105.

([166]) The 1992 report recommended that the U.S. Copyright Office should reconsider a resale royalty law if such a law was adopted by the European Union. The European Union harmonized its droit de suite laws in 2001 with the adoption of Directive 2001/84/EC. The Directive had two primary objectives: ensuring that authors of graphic and plastic works of art share in the economic success of their original works of art; and generally requiring member states to implement harmonized resale royalty legislation by 2006. *See Resale Royalties: An Updated Analysis*. United States Copyright Office, Office of the Register of Copyrights, December 2013, 13.

([167]) U.S. Copyright Office, *Droit De Suite: The Artist's Resale Royalty* (Dec. 1992), 63 n. 11.

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([168]) *Resale Royalties: An Updated Analysis*, United States Copyright Office, Office of the Register of Copyrights, December 2013, 70–71.

([169]) *Resale Royalties: An Updated Analysis*, United States Copyright Office, Office of the Register of Copyrights, December 2013, 10.

([170]) *Resale Royalties: An Updated Analysis, United States Copyright Office*, Office of the Register of Copyrights, December 2013, 10.

([171]) In 2011 another wave of federal resale rights bills were introduced, though the final attempt, the 2015 Artists Royalties Too (ART) Act died in committee (American Royalties Too Act of 2015, H.R. 1881, 114th Congress, 2015).

([172]) *Sam Francis Foundation; Estate Of Robert Graham; Chuck Close; Laddie John Dill V. Christies, Inc., et. al*., No. 12–56067. (9th Cir. May 5, 2015).

([173]) At present the California Resale Royalties Act is effectively null. *Estate of Robert Graham v. Sotheby's, Inc.*, No. 11-cv-08604 and *Sam Francis Foundation v. Christie's, Inc.*, No. 11-cv-08605 (consolidated), 860 F.Supp.2d 1117 (C.D. Cal. 2012), *aff'd in part*, No. 12-56077 and No. 12-56067 (9th Cir. May 5, 2015), *dismissed on remand by* No. 11-cv-08604, slip op. (C.D. Cal. Apr. 11, 2016), 7.

([174]) *Estate of Robert Graham v. Sotheby's, Inc.*, No. 11-cv-08604 and *Sam Francis Foundation v. Christie's, Inc.*, No. 11-cv-08605 (consolidated), 860 F.Supp.2d 1117 (C.D. Cal. 2012), *aff'd in part*, No. 12-56077 and No. 12-56067 (9th Cir. May 5, 2015), *dismissed on remand by* No. 11-cv-08604, slip op. (C.D. Cal. Apr. 11, 2016), 8.

([175]) *Morseburg v. Balyon*, 621 F. 2d 972 (9th Cir. Jun 17, 1980), 976.

([176]) Phil McLeod, "California's Resale Royalties Act," *(Comm/Ent), A Journal of Communications and Entertainment Law* 2, no. 4 (1979): 743.

([177]) Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, ed. Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 15.

([178]) Siegelaub's admonishment of "organizations" and "meetings" should also be read as a criticism of his perceived laborious and dysfunctional organization of the Art Workers' Coalition. Robert Projansky and Seth Siegelaub, *The Artist's Reserved Rights Transfer and Sale Agreement* (New York: School of Visual Arts, 1971), 4.

([179]) Monroe E. Price and Aimee Brown Price, "Rights of Artists: The Case of the Droit de Suite," in Monroe E. Price and Hamish Sandison, *A Guide to the California Resale Royalties Act* (Berkeley: Bay Area Lawyers for the Arts, 1975), 34.

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([180]) Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009). Jeannine Tang has previously analyzed this aspect of Eichhorn's project as a response to Alberro and Buchloh. Jeanine Tang, "Future Circulations: On the Work of Hans Haacke and Maria Eichhorn," in *Provenance: An Alternate History of Art*, edited by Gail Feigenbaum and Inge Reist (Los Angeles: Getty Research Institute, 2013), 173–196.

([181]) In fact, many more artists used and continue to use the Agreement than are included in Eichhorn's book, but are lesser-known figures.

([182]) "Interview with Lawrence Weiner," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 131.

([183]) "Interview with Lawrence Weiner," in Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 140.

([184]) Lucy R. Lippard, *Six Years: The Dematerialization of the Art Object from 1966 to 1972*, Reprint edition (Berkeley: University of California Press, 1997), xxii.

([185]) Margaret Jane, Radin, *Contested Commodities* (Cambridge, Mass.: Harvard University Press, 1996), 6.

([186]) Michel Foucault, *Psychiatric Power: Lectures at the Collège de France, 1973–74*, translated by Jacques Lagrange (New York: Picador, 2006), 46–57. *See also* Annelise Riles, "Introduction: In Response," in *Documents: Artifacts of Modern Knowledge*, edited by Annelise Riles (Ann Arbor: University of Michigan Press, 2006), 1–38.

([187]) Adam Reed, "Documents Unfolding," in *Documents: Artifacts of Modern Knowledge*, edited by Annelise Riles (Ann Arbor: University of Michigan Press, 2006), 158–177, 159.

([188]) Charles W. Mills, "The Domination Contract," in *Contract and Domination*, by Carole Pateman and Charles W. Mills (Cambridge, UK: Polity, 2007), 98; 88, 93, 105.

([189]) Mills' reference to a "non-ideal" reality is posed as a response to the limitations of John Rawls' "ideal theory," which proposes that political philosophy strive for a theorization of the ideal at the expensive of fully examining existing and persistent injustice. Charles W. Mills, "The Domination Contract," in *Contract and Domination*, by Carole Pateman and Charles W. Mills (Cambridge, UK: Polity, 2007), 94.

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([190]) This is particularly true of common law contexts like the United States, where the primacy of precedent and the capacity for reactionary rulings means that law's textual framework is held together by conflict and contradiction just as much as by what is codified.

([191]) My thanks to Sergio Muñoz Sarmiento for emphasizing this point during conversations on this subject.

([192]) Alexander Alberro, *Conceptual Art and the Politics of Publicity* (Cambridge, Mass.: MIT Press, 2003), 169.

([193]) Robert Projansky and Seth Siegelaub, *The Artist's Reserved Rights Transfer and Sale Agreement* (New York: School of Visual Arts, 1971), 3.

([194]) Henry Hansmann and Reinier Kraakman, "Property, Contract, and Verification: The Numerus Clausus Problem and the Divisibility of Rights," *Journal of Legal Studies* 31, no. S2 (2002): 381.

([195]) Henry Hansmann and Reinier Kraakman, "Property, Contract, and Verification: The Numerus Clausus Problem and the Divisibility of Rights," *Journal of Legal Studies* 31, no. S2 (2002): 379, 384.

([196]) Lacking such explicit "notice" courts will tend to interpret alternative configurations of property ownership by attempting to conform them to more typical arrangements, even if they do not fit the actual will of the parties. Henry Hansmann and Reinier Kraakman, "Property, Contract, and Verification: The Numerus Clausus Problem and the Divisibility of Rights," *Journal of Legal Studies* 31, no. S2 (2002): 381.

([197]) Hansmann notes that art is already a split type of property under law, in that the artist may retain their copyright, though title to the object passes. Henry Hansmann and Reinier Kraakman, "Property, Contract, and Verification: The Numerus Clausus Problem and the Divisibility of Rights," *Journal of Legal Studies* 31, no. S2 (2002): 378.

([198]) Henry Hansmann and Reinier Kraakman, "Property, Contract, and Verification: The Numerus Clausus Problem and the Divisibility of Rights," *Journal of Legal Studies* 31, no. S2 (2002): 390. A similar argument in favor of considering works of art as assets has been made by Amy Whitaker. *See* Amy Whitaker. "Artist as Owner Not Guarantor," College Art Association, 2017, to be published in a forthcoming issue of *Visual Resources*.

([199]) Maria Eichhorn, *The Artist's Contract: Interviews with Carl Andre, Daniel Buren, Paula Cooper, Hans Haacke, Jenny Holzer, Adrian Piper, Robert Projansky, Robert Ryman, Seth Siegelaub, John Weber, Lawrence Weiner, Jackie Winsor*, edited by Gerti Fietzek (Cologne: Verlag der Buchhandlung Walther König, 2009), 16.

([200]) Friedrich Kessler, "Contracts of Adhesion—Some Thoughts about Freedom of Contract," *Columbia Law Review* 43, no. 5 (1943): 642. My thanks to Michaela Brangan for initially drawing my attention to this text.

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([201]) Friedrich Kessler, "Contracts of Adhesion—Some Thoughts about Freedom of Contract," *Columbia Law Review* 43, no. 5 (1943): 641.

([202]) Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Chicago: University of Chicago Press, 2011), 59.

([203]) For a similar interpretation of the function of audits, *see* Marilyn Strathern, "Bullet-Proofing," in *Documents: Artifacts of Modern Knowledge*, edited by Annelise, Riles (Ann Arbor: University of Michigan Press, 2006), 181–205.

([204]) Jeanine Tang, "Future Circulations: On the Work of Hans Haacke and Maria Eichhorn," in *Provenance: An Alternate History of Art*, ed. Gail Feigenbaum and Inge Reist (Los Angeles: Getty Research Institute, 2013), 173–196. Tang's essay opens with the observation by Daniel Buren to Maria Eichhorn, "You are working with a view to the future circulation of your work." Quoted from Maria Eichhorn, "On the Avertissement: Interview with Daniel Buren," in *Institutional Critique and After*, ed. John Welchman (Zurich: JRP/Ringier, 2006), 85–121, esp. 115.

([205]) *See generally* Jeanine Tang, "Future Circulations: On the Work of Hans Haacke and Maria Eichhorn," in *Provenance: An Alternate History of Art*, edited by Gail Feigenbaum and Inge Reist (Los Angeles: Getty Research Institute, 2013), 173–196.

([206]) Alexander Alberro, "Specters of Provenance: National Loans, the Königsplatz, and Maria Eichhorn's 'Politics of Restitutions,'" *Grey Room* (January 1, 2005): 68.

([207]) Lucy R. Lippard, "Trojan Horses: Activist Art and Power," in *Art after Modernism: Rethinking Representation*, edited by Brian Wallis (New York; Boston: New Museum of Contemporary Art ; D.R. Godine, 1984), 340–358.

([208]) The artist advocacy organization Working Artists for the Greater Economy (WAGE) has introduced one manifestation of this phenomenon in their system of WAGE Certification, wherein arts nonprofits agree to pay exhibiting artists an equitable fee and earn the respected the status of WAGE Certified in turn. In the three years since the introduction of the system in 2014, forty organizations across the United States have become certified, and the WAGE fee schedule has arguably become a new standard by which curators and arts organizations gauge what constitutes an equitable artist's fee. *See* http://www.wageforwork.com/.

([209]) My thanks to artist Anthony Graves for this concise framing.

([210]) Gregory S. Alexander, "Objects of Art; Objects of Property," *Cornell Journal of Law and Public Policy* 26 (2017): 461–68.

([211]) Joan Kee, "Art Encounters Law," *Brooklyn Rail*, March 2016, http://brooklynrail.org/2016/03/editorsmessage/art-encounters-law. *See also* Joan Kee, "Towards Law as an

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Artistic Medium: William E. Jones's Tearoom," *Law, Culture and the Humanities* 12, no. 3 (October, 2016): 695, 713.

([212]) Daniel Buren, Seth Siegelaub, Michel Claura, and Deke Dusinberre, "Working with Shadows, Working with Words," *Art Monthly*, No. 12, December 1988–January 1989, 5.

([213]) Seth Siegelaub, "Addendum," in *L'Art conceptuel, une perspective*, edited by Claude Gintz and Suzanne Pagé, second extended edition (Paris: ARC-Musée d'Art Moderne de la Ville de Paris, 1990), 257–258 (English).

([214]) *See, for example* "Artists Report Back," BFAMFAPhD Census Report, http://bfamfaphd.com/; Lise Soskolne, "On Merit," *The Artist as Debtor: The Work of Art in the Age of Speculative Capitalism*, February 22, 2015, http://artanddebt.org/artist-as-debtor/; Benjamin Sutton, "Artists from Five Galleries Dominate US Museum Shows," *Hyperallergic*, April 2, 2015, https://hyperallergic.com/195752/artists-from-five-galleries-dominate-us-museum-shows/.

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