



Cowan, DeBaets, Abrahams
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Eleanor M. Lackman

PARTNER

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Eleanor M. Lackman is a Partner in the Litigation, Copyright and Trademark practices, where she handles contentious matters and provides strategic, business-minded counseling on behalf of well-known and up-and-coming clients in the media, entertainment, e-commerce, fashion, sports, technology and consumer products industries.

Eleanor came to CDAS in 2011 with a vision of providing high-quality legal services for sophisticated clients who want their copyright and trademark counseling and litigation matters handled at an elite level, but who do not want to have to choose between outsized rates or having their matters pushed down to those with limited experience. Clients, peers, and industry observers all have recognized the value Eleanor and her team provides. Chambers USA has ranked her as a “Leading Lawyer” in intellectual property every year since 2014, calling her “very precise,” “very smart,” and a “copyright and trademark law expert” who “knows a lot of different [industry] areas.” In 2017, Chambers reported, “Clients say: She’s very cost-effective without compromising on quality.” Variety chose her as the only litigator in its 2016 round-up of “Hollywood’s New Leaders” and featured her in its 2017 “Legal Impact Report.” Law360 has twice chosen her as among five or fewer “Rising Stars” in media and entertainment law, and in 2017, Euromoney Legal Media Group named her “Best in Copyright” at its Americas Women in Business Law Awards.

Her client base is consistent with her energy and innovative view toward legal services. Eleanor understands the value and role of intellectual property in the modern age, and she provides comprehensive legal advice to help forward-thinking clients achieve their goals, regardless of whether those goals involve brand counseling and protection, risk management, or IP licensing; or enforcement or litigation in federal court, before domain dispute providers and arbitral bodies, or at the Trademark Trial and Appeal Board. Several clients in each of the music, motion picture, online media, sports and games, e-commerce, fashion, food and beverage, publishing, travel and leisure, and advertising industries have trusted her with a variety of matters – be they high-profile, core to the business, or run-of-the-mill. She has won cases as lead trial counsel, led large international branding and rebranding projects, argued and won federal appeals, and procured favorable settlements; and on a near-daily basis, she serves as a sounding board for clients who want a second opinion on an issue or help with a sticky situation.

Prior to joining CDAS, Eleanor was associated with some of the largest and most well-recognized law firms in the world, where she performed integral roles on high-profile IP, media and entertainment matters. While in law school, Eleanor served as Associate Editor of the Fordham Intellectual Property, Media & Entertainment Law Journal, and she was selected by the Chief Judge of the United States District Court for the Southern District of New York to receive the Milton Pollack Fellowship, which supported her work on a project designated and overseen by the Chief Judge.

PUBLICATIONS

In addition to serving as a regular contributor to the CDAS [IP, Entertainment and Media Law Blog](#), Eleanor occasionally writes articles and practice guides on cutting-edge topics for outside publication. Recent publications include:

- [Give Me A “C” \(in a Circle\): Cheerleader Uniforms at High Court](#), Law360, May 10, 2016

PRACTICES

- Copyright
- Litigation
- Technology
- Trademarks and Brands

INDUSTRY SECTORS

- Digital Media
- Fashion and Apparel
- Music
- Film

BAR ADMISSIONS

- New York
- California
- U.S. District Courts for the Southern, Eastern and Northern Districts of New York
- U.S. District Courts for the Northern and Central Districts of California
- U.S. Court of Appeals for the Second, Fourth, Seventh, Ninth, D.C. and Federal Circuits
- Supreme Court of the United States

EDUCATION

- J.D., Fordham University School of Law
- A.B. Hon., *magna cum laude*, Rollins College

- [Shifting Injunction Standards in Copyright, Trademark Cases](#), Law360, December 17, 2014
- Co-Author, Practice Note: *Trademark Litigation: Injunctive Relief*, Practical Law Company, October 2014 (annually updated)
- [Symposium: Supreme Court Finds That Aereo Runs Afoul of the Purposes of the Copyright Act](#), SCOTUSblog, June 26, 2014
- [How and Why Aereo Got to the Supreme Court](#), Law360, February 3, 2014
- Co-Author, [The Role of Volition in Evaluating Direct Copyright Infringement Claims Against Technology Providers](#), Bright Ideas (published by the New York State Bar Association's IP Section), Lead Article, Winter 2013
- *Expert Q&A on Time-Based Defenses in Copyright Litigation*, Practical Law Intellectual Property & Technology, November 19, 2013
- Co-Author, Practice Note: *Copyright Litigation: Injunctive Relief*, Practical Law Company, April 2013 (annually updated)
- Co-Author, Update to MLRC "Discovery Roadmap" (includes revisions for handling litigation in era of e-discovery), February 2013

SPEAKING ENGAGEMENTS

Eleanor is frequently asked to speak on advanced intellectual property, media and technology issues. Recent speaking engagements include:

- "Sports Industry Trademark & Brand Protection Update," Sports Lawyers Association 43rd Annual Conference, May 19, 2017
- "Survival Skills for a Rapidly Evolving Trademark Landscape," MarkMonitor NYC Summit, April 25, 2017
- "Navigating Design Challenges in the U.S. Apparel Industry," INTA's Brands and Fashion Conference, March 23, 2017
- "Copyright Cacciatore: Advanced Topics in a No-Fuss Format," AIPLA Mid-Winter Meeting, February 1, 2017
- "Circumventing the Future: The Fate of Section 1201," Copyright & Technology NYC, January 24, 2017
- "Hollywood and the Web: An Internet Update," MLRC Media & Entertainment Law Conference, January 19, 2017
- "IP Licensing Issues," at the "IP in Business Transactions 2017" seminar at the Practising Law Institute, January 9, 2017 (annual engagement since 2006)
- "Intellectual Property and Public Values," Fordham 10th Law and Information Society Symposium, May 13, 2016
- "Using Experts in Copyright Cases," American Bar Association, 31st Annual Intellectual Property Law Conference, April 8, 2016
- "Standing to Sue and Evolving Case Law" at the "Advanced Copyright Law Annual Review 2016" seminar at the Practising Law Institute, March 23, 2016
- "Termination and Transfers," New York City Bar Association, March 15, 2016
- "The Ownership of Copyrightable Contributions in the Wake of *Garcia v. Google* and *16 Casa Duse v. Merkin*," Copyright Society of the U.S.A. Mid-Winter Meeting, February 12, 2016
- "Is It Time To Protect Fashion Under Copyright Law?" Copyright Society of the U.S.A. (Philadelphia Chapter), December 7, 2015
- "Let's (Not) Go Crazy: Lessons on Enforcement Strategy and Fair Use from the 'Dancing Baby' Decision," Association of American Publishers Lawyers Committee, September 30, 2015
- "Sea Change or Business as Usual? Trends and Strategies for Winning Injunctions Post *eBay v. MercExchange*," Roundtable Moderator, INTA Annual Meeting, May 5, 2015
- "Anti-Cybersquatting Strategies in the Era of New gTLDs," Roundtable Moderator, INTA Annual Meeting, May 12, 2014
- [The Supreme Court on Aereo and the Future of TV](#)," On Point (NPR – National Public Radio), April 23, 2014
- "So You Want to Be a Star: Law and the Music Business," Federal Bar Council Winter Meeting, February 13, 2014

- “Copyright/Entertainment Litigation Update,” 25th Annual North American Entertainment, Sports and IP Law Conference, November 9, 2013
- “Copyright 2013,” CMJ Music Marathon, 2013 Entertainment Business Law Seminar, October 18, 2013
- “Please Excuse the Following Disruption: The Past, Present and Possible Future of Television and Radio Copyright Litigation,” Copyright Society of the U.S.A. Annual Meeting, June 11, 2013
- “Evaluating Risk When Using Trademarks in Motion Pictures and On Television,” Roundtable Moderator, INTA Annual Meeting, May 5, 2013
- “Music, Tickets & Other New Top-Level Domains: Will New Top-Level Internet Domains Generate More Reward of More Litigation for Entertainment Industry Stakeholders?,” NARM Entertainment & Technology Conference, February 28, 2013

ASSOCIATIONS AND ACTIVITIES

- Copyright Society of the USA: Co-National Chapters Coordinator; Past Officer, Past Trustee; Co-Chair, New York Chapter (2014-2016); Chair of Membership Committee (2009-2014)
- International Trademark Association (INTA): International Amicus Committee; Internet Committee (2012-2015)
- Media Law Resource Center (MLRC), Litigation and Copyright & Trademark Committees
- Copyright Alliance, Amicus Committee
- Fordham Center on Law and Information Policy (CLIP), Board of Advisors
- National Academy of Recording Arts & Sciences, Entertainment Law Initiative Judge
- New York City Bar Association, Trademarks and Unfair Competition Committee (2006-2009)
- New York University Polytechnic Institute, Adjunct Professor

AWARDS AND RECOGNITIONS

- “Leading Lawyer,” Intellectual Property: Trade Mark and Copyright, *Chambers USA*, 2014-2017
- Selected for “Legal Impact Report,” *Variety*, 2017
- “Best in Copyright,” 2017 Euromoney Americas Women in Business Law Awards
- “Hollywood’s New Leaders,” Law & Finance, *Variety*, 2016
- “Rising Star, Media & Entertainment,” *Law360*, 2016-2017
- “Super Lawyer, Intellectual Property Litigation,” New York, *Super Lawyers*, 2013-2016
- “Rising Star, Intellectual Property Litigation,” New York, *Super Lawyers*, 2012

REPRESENTATIVE MATTERS

MEDIA & ENTERTAINMENT DEFENSE

- Argued, briefed, and won appeal at Second Circuit in *16 Casa Duse v. Merkin*, a landmark case involving rights in collaborative works.
- Defeated trademark infringement claim and TTAB appeal in federal court over name of professional basketball team.
- Defended analytics company against claims of breach of contract and trademark infringement, resulting in favorable settlement.
- Defeated copyright and contract claims asserted against famous rap artist concerning record label logo.
- Defended book-writer in copyright infringement lawsuit involving hit Broadway musical, *Spider-Man: Turn Off The Dark*.
- Defending traditional and Internet-based media companies against patent infringement and defamation claims.
- Defended and favorably resolved several copyright and trademark lawsuits and other claims asserted against major social media news outlets.
- Defeated motion for preliminary injunction brought by former employer against talent agent.

- Ongoing defense against numerous publicity, trademark and copyright claims brought against clients in industries including news media, photography, fashion, publishing, and entertainment.
- Successfully defeated an action, based on alleged trademark infringement, for a temporary restraining order and preliminary injunction that threatened U.S. distribution of Oscar®-nominated film.*
- Won motion to dismiss copyright and trademark infringement claims brought by pinball machine manufacturer against major motion picture studio over set dressing in film.*

TRADEMARK & COPYRIGHT ENFORCEMENT

- For top-selling card game company, obtained significant settlement and public confession of liability from U.S. and internationally based counterfeiters of card game.
- Obtained settlement on behalf of major record label for underpayment of royalties on music samples.
- Won injunctive relief on behalf of software company against financial institution over unlicensed use of client's software.
- Obtained preliminary injunction on behalf of estate of famous illustrator against unauthorized reproductions of works.
- Successfully resolved claims of copyright infringement asserted against prominent fashion brands.
- Litigating multiple cases on behalf of applicants and opposers before the Trademark Trial and Appeal Board.
- Procured favorable settlement following partial summary judgment win and jury selection in infringement case on behalf of fashion brand against manufacturer and online retailer of knock-off apparel.
- Obtained several dozen domain names from infringers and cybersquatters via UDRP, URS and other domain mechanisms.
- On behalf of several clients in music, publishing, entertainment and fashion, successfully enforced trademark and publicity rights against competitors, affiliate marketers, online businesses, impersonators and developers of infringing apps.
- As lead trial counsel, won full defense of contract and other claims brought by apparel supplier against catalog company after trial.*
- Represented famous fashion brand in trademark and counterfeiting lawsuit against online retailer; nearly \$2 million plus attorneys' fees awarded.*

IP & NEW TECHNOLOGY

- Represented music company in conjunction with subpoena and deposition in *Flo & Eddie v. SiriusXM* litigation.
- Drafted *amicus* briefs on behalf of industry organizations in *Capitol Records v. ReDigi* ("used" mp3 service, 2d Circuit), *Disney Enterprises v. VidAngel* (film editing service; 9th Circuit), *WNET v. Aereo* (broadcast television retransmission, U.S. Supreme Court), *Fox Television Stations v. FilmOn X* (broadcast television retransmission, 9th Circuit), *WNET v. FilmOn* (D.C. Circuit); *Windows to the World v. FilmOn* (7th Circuit); *Viacom v. YouTube* (secondary liability on the Internet, 2d Circuit), *Authors Guild v. HathiTrust* (digital book scanning, 2d Circuit), and *Cambridge University Press v. Becker* (digital course packs, 11th Circuit).
- Advised broadband company on statutory licensing provisions.
- Advised media client on rights issues pertaining to "over-the-top" television offerings.
- Represented litigants in cutting-edge copyright and trademark cases, including *Cartoon Network LP v. CSC Holdings, Inc.* ("Cablevision") (copyright issues arising from offering of "remote-storage DVR," 2d Circuit, S.D.N.Y.); *Tiffany (NJ) Inc. v. eBay Inc.* (secondary liability relating to counterfeiting on websites, 2d Circuit, S.D.N.Y.); *U.S. v. ASCAP (In re MobiTV)* (copyright fees for mobile streaming, 2d Circuit); and *Diarama Trading Co. v. J. Walter Thompson* (tacking of trademark rights, 2d Circuit).*
- Represented *amicus* parties in appeals involving complex copyright issues, including *U.S. v. ASCAP (In re Yahoo!)* (copyright rights arising from downloads, U.S. Supreme Court, 2d Circuit); *Capitol*

Records, Inc. v. Thomas (“making available” right in context of digital downloading, D. Minn.); and *Capitol Records, Inc. v. Naxos of America, Inc.* (common law copyright for music, N.Y. Court of Appeals).*

IP COUNSELING & STRATEGY

- Led global trademark clearance, prosecution and re-branding project for spin-off of division of leading hotel and resort company.
- Conducted trademark due diligence and counseling for new tagline for major international alcoholic beverage company.
- Acting as outside intellectual property counsel for highly successful e-commerce start-up companies, including developing global brand strategy, clearing trademarks, advising on licenses and other IP contracts, due diligence, and enforcing trademark rights.
- Acting as general counsel for author regarding trademark and copyright rights in highly successful young adult books and related motion pictures.
- Handling trademark portfolios and counseling on international brand expansion for prominent e-commerce companies, celebrities and fashion brands.
- Advised developer regarding trademark clearance, social media and online branding, and brand strategy for new hotel and restaurant in Times Square.
- Counseling on global brand strategy and trademark prosecution for international accounting standards organization.
- Advising major international fashion design and retail companies on trademark prosecution and brand strategy.
- Provided advice to publisher regarding copyright rights, music licensing, and clearance for multimedia-based textbook.
- Negotiated domestic and international coexistence agreements for many clients in the fashion and consumer goods industries

**Denotes matters handled prior to joining CDAS.*

EMPLOYMENT

- Cowan DeBaets Abrahams & Sheppard LLP, 2011-Present
- Hogan Lovells US LLP, 2009-2011
- Arnold & Porter LLP, 2005-2009
- Loeb & Loeb LLP, 2003-2005