



COWAN DEBAETS ABRAHAMS
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ELEANOR M. LACKMAN

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Eleanor M. Lackman is a Partner in the firm's Litigation, Copyright and Trademark practices.

Ms. Lackman's litigation practice focuses on IP, entertainment and media disputes venued in federal and state courts at trial and appellate levels, as well as before arbitral and administrative bodies including the American Arbitration Association, World Intellectual Property Organization and the USPTO Trademark Trial and Appeal Board. She has particularly deep experience in media and entertainment IP defense; copyright, trademark, and publicity rights enforcement; and litigation in matters at the intersection of copyright and trademark law and new technology. Representative matters are listed below.

Ms. Lackman's experience combines years of serving as lead counsel on diverse litigation matters for CDAS, with a nearly decade-long foundation of taking integral roles on major cases at some of the largest law firms in the world. Her work on litigation matters has garnered her recognition as a "Super Lawyer" in the category of IP Litigation, and as one of the "Top Women Attorneys in the New York Metro Area" by Super Lawyers, multiple years running. (No more than 5% of Manhattan lawyers are named as "Super Lawyers.")

Ms. Lackman also has been recognized by the respected and client-focused Chambers USA as among just a handful of lawyers ranked as a "Leading Individual" in the field of "Intellectual Property: Trade Mark and Copyright" in New York. Her copyright and trademark practice is comprehensive, covering litigation, enforcement, counseling, licensing and prosecution in a variety of industries. She has particular industry depth in the music, motion picture/television, technology, and fashion industries, where she provides full-service advice on enforcement, licensing, brand strategy, and risk management.

While in law school, Ms. Lackman 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*, Ms. Lackman often writes for outside publications. Recent articles and longer-form publications include:

- Co-Author, Practice Note: *Trademark Litigation: Injunctive Relief*, Practical Law Company, October 2014 (to be continuously 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 2014
- *Expert Q&A on Time-Based Defenses in Copyright Litigation*, Practical Law Intellectual Property & Technology, November 19, 2013

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. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the D.C. Circuit
- Supreme Court of the United States

EDUCATION

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

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- Co-Author, Practice Note: *Copyright Litigation: Injunctive Relief*, Practical Law Company, April 2013 (to be continuously updated)
- Co-Author, Update to MLRC “Discovery Roadmap” (includes revisions for handling litigation in era of e-discovery), February 2013
- *Decoding Rosetta Stone: Trademark Lessons and Unanswered Questions from the Fourth Circuit’s Decision Regarding Google’s Keyword Advertising Program*, Bloomberg BNA’s Patent, Trademark & Copyright Journal, May 25, 2012
- Interview, *Here’s How You Can Protect Your Brand From Copycats*, Forbes, April 24, 2012
- *Attorney-Client Privilege Under U.S. Law*, INTA Bulletin, Vol. 66, No. 5, International Trademark Association, March 2011
- *Factoring in the Public Interest: The Impact of eBay on Injunctive Relief in Copyright Cases*, Bright Ideas (published by the New York State Bar Association’s IP Section), Winter 2010
- *The Silenced Minority*, 21 Cardozo Arts & Ent. L.J. 413 (2003) (Runner-up in 2003 NARAS Entertainment Law Initiative Competition)
- *Slowing Down the Speed of Sound: A Transatlantic Race to Head Off Digital Copyright Infringement*, 13 Fordham Intell. Prop. Media & Ent. L.J. 1161 (2003)

SPEAKING ENGAGEMENTS

Ms. Lackman has been quoted on trademark and copyright matters in publications including *Forbes*, *Variety* and *Law 360*. She also is a frequent lecturer on intellectual property, media and technology issues.

Recent speaking engagements include:

- “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
- “IP Licensing Issues,” at the “IP in Business Transactions 2014” conference at the Practising Law Institute, January 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
- “Copyright and Trademark Licensing,” Practising Law Institute, August 14, 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
- “Trending Topics in Data Collection and Targeted Marketing,” Social Media Week (February 20, 2013) and IAB (January 23, 2013)
- “Look Before You Tweet (or Post or Pin): Copyright Enforcement (or Not) in Social Media,” Copyright Society of the U.S.A., January 22, 2013
- “TV or Not TV: Legal Challenges for Internet Video Services,” 2012 Copyright & Technology Conference, December 5, 2012
- “Copyright Enforcement on the Edge,” CMJ Music Marathon, 2012 Entertainment Business Law Seminar, October 19, 2012

- “What CMOs Need to Know about Patent, Copyright and Trademark Protection,” ExecSense, May 24, 2012
- “Viacom v. YouTube, on the ‘Safe Harbor’ Provision of the DMCA,” Law Seminars International, May 21, 2012
- “Best Practices in Social Media: Managing Your Brand While Keeping Your Loyal Fans,” Roundtable, INTA Annual Meeting, May 7, 2012
- “Nets of Social Networks: Minimizing Legal Risk in Social Media” as part of Social Media Week 2012, February 16, 2012
- “The New Frontier: Clouds,” North American Entertainment, Sports and Intellectual Property Law Conference, November 12, 2011
- “The Copyright Enforcement Wars: Is a Truce in Sight?” Copyright Society of the U.S.A. Mid-Winter Meeting, February 5, 2010
- “Litigating a Trademark Infringement Dispute,” New York City Bar Association, May 12, 2009

ASSOCIATIONS AND ACTIVITIES

- New York University Polytechnic Institute, Adjunct Professor
- Copyright Society of the U.S.A., Co-Chair, New York Chapter; Past Officer, Past Trustee, former Chair of Membership Committee
- International Trademark Association (INTA), Internet Committee
- Media Law Resource Center (MLRC), Litigation and Copyright & Trademark Committees
- Fordham Center on Law and Information Policy (CLIP), Board of Advisors
- National Academy of Recording Arts & Sciences
- New York City Bar Association, Trademarks and Unfair Competition Committee (2006-2009)

REPRESENTATIVE MATTERS

MEDIA & ENTERTAINMENT DEFENSE

- Handling defense of trademark infringement claim in federal court regarding name of professional sports team.
- Obtained preliminary and permanent injunctions on behalf of film producer in declaratory judgment action against contributor to film who sought to interfere with film’s exploitation; attorneys’ fees and sanctions awarded.
- 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.
- Favorably resolved IP 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 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 game company, obtained significant settlement and public confession of liability from U.S. and internationally based counterfeiters of card game.

- Won injunctive relief on behalf of software company against former customer over unlicensed use of client's software.
- Litigating infringement case on behalf of fashion brand against manufacturer of knock-off apparel.
- Secured domain name from enterprise seeking to pose as performing artist's official fan site.
- On behalf of several clients in music, publishing, entertainment and fashion, successfully enforced trademark and publicity rights against domain name cybersquatters and developers of infringing apps.
- 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 webcasting lawsuits.
- Drafted *amicus* briefs in *WNET v. Aereo* (broadcast television retransmission, U.S. Supreme Court), *Fox Television Stations v. FilmOn X* (broadcast television retransmission, 9th 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).*

GENERAL IP ADVICE & STRATEGY

- Acting as general counsel for author regarding trademark and copyright rights in highly successful young adult books and related motion pictures.
- Advised developer regarding trademark clearance, social media and internet branding, and brand strategy for new hotel and restaurant in Times Square.
- Advising major international fashion design and retail companies on trademark prosecution and brand strategy.
- Provided advice to publisher regarding copyright rights, licensing, and clearance for multimedia-based textbook.
- Overseeing trademark clearance and advice for app company's new game titles.
- Responding to various trademark and branding questions relating to B2B marketing of nutrition/pharmaceutical and financial products and services.
- Negotiated domestic and international coexistence agreements for many clients in the fashion and consumer goods industries.
- Advised start-up and established companies and creators on domestic and international brand development, licensing, tie-ins, due diligence, distribution deals, and strategy.
- Drafted IP policies for U.S. division of European social media company.

*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