



Cowan, DeBaets, Abrahams  
& Sheppard LLP



## Eleanor M. Lackman

PARTNER

Phone: 212 974 7474

Fax: 212 974 8474

Email: [elackman@cdas.com](mailto:elackman@cdas.com)

**Eleanor M. Lackman** is a nationally recognized practitioner in IP, media, and entertainment law. Her practice encompasses media and entertainment defense, copyright and trademark litigation and counseling, and trademark branding, prosecution, and licensing. She is a skilled advocate, having successfully argued and won multiple high-profile federal appeals, preliminary injunction motions, and other motions on the merits, in addition to repeatedly securing victories as lead trial counsel. The media and entertainment industries routinely call on her to draft amicus briefs in the most closely watched cases in the country, while major brand owners in a wide range of industries entrust her with their branding, counseling, licensing, prosecution, and enforcement needs. At CDAS, she co-chairs the Litigation and Trademark practices and sits on the firm’s Executive Committee.

Eleanor has been repeatedly ranked as a leading lawyer by Chambers USA, which has described her as a “very precise,” “very smart” “copyright and trademark law expert” and “an absolutely incredible trademark litigator” who is “very practical and always seems to make the right call.” Variety chose her as the only litigator among its 2016 round-up of “Hollywood’s New Leaders” and has featured her in its “Legal Impact Report.” Law360 twice selected her as among five or fewer “Rising Stars” in media and entertainment law. Euromoney Legal Media Group has selected her as “Best in Copyright” at its Americas Women in Business Law Awards, and Managing IP has chosen her as one of their “Global IP Stars.” She also has been repeatedly named by Super Lawyers as among the “Top 50 Women New York Lawyers” and one of the “Top 100 New York Lawyers.”

Consistent with her brand of being a lawyer who thinks outside of the box on every level, the National Law Journal recently named Eleanor an “Elite Boutique Trailblazer.” From developing creative, cost-effective strategies in litigating and resolving disputes, to advocating for and ensuring diversity in the firm and in the legal profession, forward-thinking clients trust Eleanor to work closely with the business to achieve their goals while strongly advocating for them in the courts, the U.S. Patent & Trademark Office, and arbitral bodies to procure successful results. As part of her commitment to the media, entertainment, sports, and technology industries, Eleanor splits her time between CDAS’s two offices in New York and California, and she is admitted to practice in both states.

She is also very active in the legal bar. Eleanor has served as co-chair of the largest chapter of the Copyright Society of the USA (CSUSA) and is presently serving her second term with the organization as a trustee. Among her frequent speaking engagements and publications, she has given annual IP licensing presentations at the Practising Law Institute (PLI) for more than a decade and for several years has authored continuously maintained practice notes on copyright and trademark injunctions with Practical Law Company. Eleanor has served consecutive terms with the International Trademark Association’s Internet and International Amicus Committees, sits on the Copyright Alliance’s Amicus Committee, is a part of the Board of Advisors to Fordham’s Center on Law and Information Policy, and has been a member of the National Academy of Recording Arts & Sciences for over 15 years.

### 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

New York  
41 Madison Avenue | New York, NY 10010  
Phone: 212 974 7474 / Fax: 212 974 8474

Beverly Hills  
9595 Wilshire Blvd, Suite 900 | Beverly Hills, CA 90212  
Phone: 310 492 4392 / Fax: 310 492 4394

Prior to joining CDAS in 2011, Eleanor worked for some of the largest and most well-recognized law firms in the world, where she executed integral projects on high-profile IP, media, technology, and entertainment matters. While in law school, Eleanor served on and published a note with the Fordham Intellectual Property, Media & Entertainment Law Journal, and she was selected by the Chief Judge of the U.S. District Court for the Southern District of New York to receive the Milton Pollack Fellowship, which funded her work on a project designated and overseen by the Chief Judge.

## AWARDS AND RECOGNITIONS

- “Leading Lawyer,” Intellectual Property: Trade Mark and Copyright, *Chambers USA*, 2014-2018
- *The New York Law Journal* “Elite Boutique Trailblazer,” 2018
- *Managing IP*, 2018 “IP Star”
- “Best Lawyer, Copyright Law,” *Best Lawyers in America* 2017-2019
- “Best Lawyer, Trademark Law,” *Best Lawyers in America* 2019
- “Top 50: Women New York – Metro,” *Super Lawyers®*, 2017-2018
- “Top 100: 2018 New York – Metro,” *Super Lawyers®*, 2018
- Selected for “Legal Impact Report,” *Variety*, 2017
- “Best in Copyright,” 2017 *LMG 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

## 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:

- Author, [Cartwheeling Through Copyright Law: “Star Athletica, L.L.C. v. Varsity Brands, Inc.”: The Supreme Court Leaves as Many Open Questions as It Provides Answers About the Viability and Scope of Copyright Protection for Fashion Designs](#), *The Trademark Reporter*, Nov.-Dec. 2017
- Co-author (with Practical Law Company), *Practice Notes, Trademark Litigation: Injunctive Relief and Copyright Litigation: Injunctive Relief*, both published by Practical Law Company (continuously updated)
- Co-Author (with [Nancy E. Wolff](#), [Joshua B. Sessler](#) and [Scott J. Sholder](#)) [Trends and Developments USA, Chambers Global Practice Guides Trade Marks 2018](#)
- [Give Me A “C” \(in a Circle\): Cheerleader Uniforms at High Court](#), *Law360*, May 10, 2016
- [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
- Co-Author, Practice Note: *Copyright Litigation: Injunctive Relief*, Practical Law Company, April 2013 (annually updated)

## 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
- “[The Supreme Court on Aereo and the Future of TV](#),” On Point (NPR – National Public Radio), April 23, 2014

## 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

## REPRESENTATIVE MATTERS

### *MEDIA & ENTERTAINMENT DEFENSE*

- Argued, briefed, and won two appeals 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.
- Won motion to dismiss photography infringement claim against online media company; appeal dismissed.
- Successfully resolved or won dismissal of dozens of photography claims against media companies.
- Defended leading analytics company against claims of breach of contract and trademark infringement, resulting in favorable settlement.
- Won summary judgment and appeal in defending against copyright and contract claims asserted against famous rap artist concerning record label logo.
- Retained by Authors Guild to represent author in defending against preliminary injunction motion seeking to enjoin use of term for book titles; preliminary injunction denied.
- Defended book-writer in copyright infringement lawsuit involving hit Broadway musical, *Spider-Man: Turn Off The Dark*.
- Won dismissal of defamation and related claims against online media company.
- 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, sports, 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.
- Won injunctive relief on behalf of software company against financial institution over unlicensed use of client's software.
- Obtained preliminary injunction, summary judgment, and significant monetary award on behalf of estate of famous illustrator against unauthorized reproductions and loss of works.
- Procured nine-figure settlement for client in copyright infringement dispute.
- Serving as outside counsel for enforcement of IP rights on behalf of several major sports leagues.
- Represented major music company in trademark infringement action with concurrent TTAB proceeding, including dismissal of defenses, rejection of early motions, and favorable resolution.
- Successfully resolved claims of copyright infringement asserted against prominent fashion brands.
- Defending against trademark infringement claim against major e-commerce company; results include forcing withdrawal of preliminary injunction motion.
- Obtained settlement on behalf of major record label for underpayment of royalties on music samples.
- Litigating multiple cases on behalf of applicants and opposers before the Trademark Trial and Appeal Board, including engaging in oral hearing before the Board.
- Developed and successfully executed strategy for pursuing infringers and diluters of famous trademark.
- 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

- Counseled major music industry association on online music usage issues.
- Represented music company in conjunction with subpoena and deposition in *Flo & Eddie v. SiriusXM* litigation.
- Drafted *amicus* briefs on behalf of industry organizations in *VHT v. Zillow* (online photography use; 9th Circuit); *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.
- Counseled major social media platform on music licensing issues.
- 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.
- Developed international brand rollout and protection for multi-product offering for household goods.
- 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.



- Advising estate of creator of rainbow flag on media, co-branding, and other rights agreements.
- 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 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