



COWAN DEBAETS ABRAHAMS
& SHEPPARD LLP



SCOTT J. SHOLDER

ASSOCIATE

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Scott J. Sholder's practice focuses on litigation, counseling, and dispute resolution in entertainment, media, and intellectual property law. Mr. Sholder represents and advises clients across various industries in copyright, trademark, false advertising, unfair competition, right-of-publicity, domain name, and commercial disputes.

Prior to working at Cowan, DeBaets, Abrahams & Sheppard LLP, Mr. Sholder was a litigation associate in the New York office of Paul, Weiss, Rifkind, Wharton & Garrison, where he focused on cases arising in the areas of commercial contracts, intellectual property, false advertising, and internal and government investigations. Notable matters there included representing a major television network in a contract and copyright dispute concerning the ownership of a hit reality show, representing hair care product manufacturers in a false advertising dispute concerning the phrase "sold only in salons," and representing one of the major music performing rights organizations in "rate court" disputes.

Before joining Paul Weiss, Mr. Sholder served as a judicial law clerk to the Honorable Peter G. Sheridan, U.S.D.J., in the United States District Court for the District of New Jersey, and to the Honorable Leonard I. Garth, U.S.C.J., in the United States Court of Appeals for the Third Circuit.

PRACTICES

- Advertising and Marketing
- Copyright
- Litigation
- Trademarks and Brands

INDUSTRY SECTORS

- Digital Media
- Film
- Music
- Photography / Arts / Design
- Television (Traditional to Broadband)

BAR ADMISSIONS

- New York
- New Jersey
- U.S. District Court, District of N.J.
- U.S. District Court, Southern District of N.Y.
- U.S. District Court, Eastern District of N.Y.
- U.S. Court of Appeals, Third Circuit

PUBLICATIONS

- 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
- "What's in a Name?": *A Paradigm Shift from Press-Enterprise to Time, Place, and Manner Restrictions When Considering Release of Juror-Identifying Information in Criminal Trials*, 36 AM. J. CRIM.L. 97 (2009)
- *Speak No Evil: MGM v. Grokster's Potential Free Speech Implications in the Wake of the Inducement Standard and Secondary Liability for Expression*, 37 SETON HALL L. REV. 799 (2007)
- "Photo Prints Are Expressive Works Entitled to First Amendment Protection," *Intellectual Property Magazine* (July 6, 2015) (co-authored with Nancy Wolff)
- "Video Game Cases May Break New Right-Of-Publicity Ground," *Law360 Expert Analysis* (July/August 2014)

ASSOCIATIONS AND ACTIVITIES

- Copyright Society of the USA
- New York City Bar Association, Copyright & Literary Property Committee
- ABA Section of Intellectual Property
- AIPLA
- New York State Bar Association

EDUCATION

- Seton Hall University School of Law, J.D., 2007, Valedictorian, Executive Editor of the Seton Hall Law Review, Vice President of the Jewish Law Society
- American University, B.A., Journalism, 2004

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REPRESENTATIVE MATTERS

Copyright and Trademark Litigation

- Defending famous music star in a high-profile copyright infringement claim involving a record company's logo.
- Defending major sports league and member team in a trademark dispute concerning the member team's name.
- Defending Manhattan hotel owners and investors against trademark infringement claims brought by Nashville restaurant.
- Defending owners and operators of various pop culture news websites against copyright infringement claims by paparazzi photograph aggregators.
- Representing online travel booking website in trademark infringement action against competitor using website's registered marks as search engine advertising keywords.
- Defended software developer in copyright infringement action relating to 3-D modeling apps; reached favorable settlement.
- Secured transfer of venue from California to New York in copyright infringement case resulting in favorable settlement.
- Secured favorable settlement on behalf of estate of legendary experimental jazz artist whose musical compositions were being exploited without permission or compensation.

Digital Media, Media Defense, and Domain Name Disputes

- Providing counseling and legal defense on behalf of major social media and online news outlets against various copyright, defamation, and false light claims, including responding to claim letters, settlement negotiations, and litigation defense.
- Securing removal of infringing user-generated content on social media websites such as YouTube and Facebook through use of DMCA takedown procedures.
- Representing online content producers in disputes concerning linking of content.
- Defending operator of popular consumer complaints website against defamation claims.
- Secured dismissal with prejudice of federal and state lawsuits against major media company asserting claims of false light, infliction of emotional distress, and tortious interference in connection with online articles and radio/video interviews.
- Securing the transfer of infringing domain names from cybersquatters on behalf of music artists, television/film talent, photographers, game designers, and fashion designers through UDRP procedures.

Right-of-Publicity and Privacy Disputes

- Secured dismissal of a right-of-publicity claim against a fine art photographer by subjects of photographs, and affirmance by the New York Appellate Division First Department.
- Reached a favorable settlement for major stock content licensor in a lawsuit dealing with improper end uses of a photograph depicting the plaintiff which had been submitted with a falsified model release.
- Secured dismissal of right-of-publicity, breach-of-contract, and fraud claims against a photographer when photographs of model appeared on adult websites in violation of EULAs and without knowledge of the photographer.
- Handling disputes concerning model releases in connection with digital image licensing.

False Advertising, Unfair Competition, and Trade Secret Cases

- Defeated a class certification motion in a false advertising case against hair care product manufacturers over the phrase "sold only in salons";

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- U.S. District Court, Eastern District of N.Y.
- U.S. Court of Appeals, Third Circuit

secured affirmation of district court's ruling on appeal to the Second Circuit.*

- Reached a favorable settlement for a manufacturer of home steam shower products against a competitor utilizing "bait and switch" sales techniques online.
- Represented website operator in suing former employee who removed proprietary information and trade secrets upon departure from the company; reached favorable settlement.

General Media and Entertainment Litigation and Counseling

- Providing counseling and advice and engaging in settlement negotiations on behalf of film, digital media, and television producers dealing with various contract disputes with co-producers, financiers, directors, editors, and talent.
- Providing counseling and advice, and settling disputes concerning various commercial contract claims, including over unpaid commissions, fees, and royalties, improper termination, and unfulfilled advertising and marketing commitments.
- Secured partial dismissal and favorable settlement of breach-of-contract claims of former employee against website operator.
- Secured favorable settlement on behalf of publishing company involved in arbitration concerning the valuation of a minority member's interest in an LLC.
- Pursued breach of contract claims on behalf of recording artist against former publicist, resulting in favorable settlement.
- Representing various media and entertainment companies in connection with third-party subpoenas for the production of documents and depositions.

General IP Advice and Strategy

- Conducting trademark searches, clearance, and risk assessments.
- Registering trademarks with USPTO.
- Providing counseling in connection with various copyright issues, including assessing public domain status of works, fair use of copyrighted works, and protectability of new works.

Amicus Briefs in Copyright Cases

- WNET v. Aereo (legality of broadcast television retransmission over the Internet, U.S. Supreme Court; briefs during certiorari and merits stage on behalf of Copyright Alliance).
- Authors Guild v. HathiTrust (legality of mass digital book scanning, Second Circuit; on behalf of fifteen associations of independent authors' organizations).

SPEAKING ENGAGEMENTS

- Panelist, "Careers in Soft IP" (ABCNY)
- Panelist, "Copyright Basics" (ABCNY)
- Panelist, "Copyright Litigation Hot Topics," ABCNY New Federal Law Clerks' Seminar (ABCNY)
- Moderator, "Entertainment Litigation Strategies" (CMJ)

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