



Lauren Emerson co-chairs the Trademark and Copyright Practice Group at Leason Ellis where she helps clients establish and enforce intellectual property rights. Lauren counsels household names and new ventures alike across a diverse array of industries including consumer products, fashion, payment technology, energy, telecom, medical devices, retail, software, automotive, and food and beverage. She has developed a niche publishing practice working primarily with individual authors. She also advises several non-profit organizations. Lauren has significant experience managing global trademark portfolios, crafting complex rights agreements, tackling thorny prosecution issues in China, and representing clients before the Trademark Trial and Appeal Board. Federal litigation highlights include cases pertaining to film, architecture, toy sprinklers, sippy cups, romance novels, and in-dash navigation systems.



Sudipta Rao
Head, Rights Creation, Legal Brand Protection, Novartis Services, Inc.

Sudipta (Su) is Head of Rights Creation at Novartis. An innovative cross-functional position which integrates trademark creation, legal clearance of IP assets with market and name safety studies necessary for new drug approvals. The role is critical to securing and protecting global IP rights and gaining health authority acceptances and involves leading drug pipeline projects across all Novartis therapeutic areas.

Su was previously the Global Head of Trademarks, Oncology at Novartis. Su has over 15 years of in-house experience at multinational pharmaceutical companies, such as Pfizer and Wyeth. Prior to her in-house experience, Su was in private practice where she litigated trademark and copyright cases, handled trademark prosecution, transactions, and managed multinational client portfolios in a variety of industries at several NY law firms. Su received her law degree from Benjamin N. Cardozo School of Law and is admitted to practice in NY and NJ.



Bryan Davidson is the VP, Business & Legal Affairs at iHeartMedia, heading up all things legal and deal making for iHeart's podcast network by structuring and negotiating original content agreements for podcasts and related productions. Bryan has led the charge on over 400 deals in his year+ at iHeart thus far. Since 2023, Bryan has also acted as "Of Counsel" for Bebry Law, a general counsel solution for brand-forward marketing, consumer products, licensing and talent companies, supporting a variety of clients- athletes, artists, marketing agencies, consumer product brands, and sporting event companies among them - with various intellectual property, business, sports/entertainment and licensing matters.

Prior to iHeart, Bryan spent 3 years as a Business Affairs executive at Autograph, Tom Brady's Web-3/NFT platform, with a focus on talent and corporate partnerships - including those with ESPN/Disney, NBA, PGA Tour, Devin Booker, Tiger Woods, Derek Jeter, and The Weeknd, among others. Bryan also spent 4 years as in-house counsel at Authentic Brands Group, working on numerous licensing and intellectual property matters across ABG's prestigious and global brand portfolio- including spearheading deals for Shaquille O'Neal, Muhammad Ali, Sports Illustrated, Elvis Presley, Nautica, and more. Bryan began his career working in Business Affairs at the boutique brand and marketing agency starpower, where he represented various brand clients in their different talent and marketing initiatives.

Licensed in New York, Bryan earned his J.D. from the Syracuse University College of Law, with a concentration in Entertainment and Sports Law. He previously earned a B.S. in Sport Management from Syracuse University as well. Go Orange!

Cheryl Wang

NYIPLA SPEAKER BIO JUNE 2025



Cheryl Wang started out in fashion law as in-house counsel at the NY-based luxury jewelry company, David Yurman, where she was responsible for their global IP portfolio and brand protection program. She later served as Associate General Counsel & IP attorney at the German footwear company, Birkenstock. Cheryl was responsible for all legal matters in the North America & LATAM region, with a particular focus on intellectual property and brand protection. Most recently, she joined Party City, a costume & party goods company. She served as the resident expert for AI, in addition to handling commercial and IP matters worldwide. Her responsibilities included managing the IP portfolio and negotiating licenses with iconic entertainment & media brands such as Universal Studios, BBC, Microsoft, Disney and Marvel, etc.



How Not to Be Copy-Wrong With Copyright

NYIPLA

Hot Topics in Trademark and Copyright Law

June 26, 2025



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Let's Talk About Copyright **Myths**

What Does Copyright Protect?

- Copyright protects **original works of authorship** that are **fixed** in a tangible medium of expression

How Does Infringement Work?

- Ownership of a valid copyright
- Copying of protected elements
 - Copying can be proven by direct or indirect evidence (e.g. access and probative similarity)
 - Unlawful appropriation – substantial similarity test

How Long Does Protection Last?

- This can be tricky to calculate because there are a number of variables – but there are rules.
- For works created on or after January 1, 1978: life of the author + 70 years.
- For works-for-hire created on or after January 1, 1978: 95 years from publication or 120 years from creation, whichever period is shorter.



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Let's Talk About **Works Made For Hire**

What is a Work Made For Hire?

- Although the general rule is that the person who creates the work is its author and copyright owner, there are exceptions for two types of “works made for hire.”
 - A work made for hire is a work prepared by an employee within the scope of his or her employment, or
 - A work specially ordered or commissioned in certain specific circumstances.
- In these situations, the author and copyright owner is the employer or commissioning party.

What is a Work Made For Hire?

- Section 101 of the Copyright Act defines a “work made for hire” as:
 - A. A work prepared by an employee within the scope of his or her employment; or
 - B. A work specially ordered or commissioned for use provided that it fits into one of these categories:
 1. as a contribution to a collective work,
 2. as a part of a motion picture or other audiovisual work,
 3. as a translation,
 4. as a supplementary work,
 5. as a compilation,
 6. as an instructional text,
 7. as a test,
 8. as answer material for a test, or
 9. as an atlas – AND
- Provided that the parties signed a written indicating that the work will be considered a work made for hire before the work was created.
- If you fail to satisfy these criteria, you likely have an implied license.



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Let's Talk About **Fair Use**

What is Fair Use?

- [T]he fair use of a copyrighted work, . . . for purposes such as criticism, comment, news reporting, teaching . . . , scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—
 1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
 2. The nature of the copyrighted work;
 3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
 4. The effect of the use upon the potential market for or value of the copyrighted work.

17 U.S.C. § 107.



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Let's Talk About **Registration**

How Does Registration Work?

- Registration is not a pre-requisite for ownership.
- Reasons to Register Your Work:
 - Required for **litigation** based on United States works
 - Allows for recovery of **statutory damages** (if you register before the infringement or within three months of publication)
 - **Attorney's fees** (if you register before the infringement or within three months of publication)
 - Creates statutory **presumptions** of ownership and validity (if you file within 5 years of publication)
 - Creates a **public record** of your rights (to a certain extent)



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Let's Talk About Assignments, Licenses and Clearing Rights

What is in the “Bundle of Rights?”

- The right to reproduce the copyrighted work.
- The right to make derivative works.
- The right to distribute copyrighted works to the public.
- The right to perform, publicly, certain works.
- The right to display, publicly, certain works.

17 U.S.C. § 106

Some Licensing Considerations

- **Who** is allowed to use the work(s)?
- **What** work(s) are covered by the license?
- **When?** How long does the license last?
- **Where** can the work(s) be used?
- **How** can the work be used?
 - Commercially?
 - Internally?
 - For one particular product?
 - Can you modify the work(s)?

Let's Talk About **How Not to Be Copy-Wrong**

Thank you

