

## MIDWINTER MEETING 2024

**JANUARY 26-28, 2024**

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### *Detailed Agenda – Session 2*

#### **Navigating the Legal Pitfalls of Social Media: How to Advise Clients on the Use of Content in Social Media Platforms**

*January 27, 2024 | 10:30 AM – 11:30 AM PST*

This panel will focus on copyright and licensing pitfalls arising from the use of social media platforms. The panelists will discuss topics such as music agreements between music rights administrators and the platforms, embedding, and how content can be used in compliance with sometimes-murky platform terms.

#### **Speakers:**

- Maddy Batliboi  
*Global Head of Music Legal | META*
- Shannon Green Global  
*General Counsel | Anomaly*
- Hannah E. Taylor  
*Partner | Frankfurt Kurnit Klein & Selz*

#### **Introduction (2 minutes)**

**Hannah Taylor** (Frankfurt Kurnit Klein & Selz) introduces the speakers, provides a high-level roadmap of the program, and explains the session's focus: IP pitfalls arising from the use of social media platforms, including music on platforms, embedding, and big social media IP cases.

#### **Topic 1: Use of Photos on Social Media (35 minutes)**

**Hannah Taylor** (Frankfurt Kurnit Klein & Selz) will provide the background on how copyright issues arising from use of third-party photographs on social media continue to arise. Hannah will also speak about recent copyright cases reviewing ownership of photographs taken and posted on social media.

**Supporting written material:** <https://advertisinglaw.fkks.com/post/102i6or/cellphone-photo-etiquette-do-you-mind-taking-our-picture-sure-but-i-own-the>

**Maddy Batliboi** (Meta) will speak about copyright issues presented by using HTML code (an embed code) to incorporate content (including photography) from another website rather than uploading a copy of that content directly to the server that hosts the developer's website.

**Supporting written materials:** <https://ipandmedialaw.fkks.com/post/102illj/the-server-test-survives-in-the-ninth-circuit-at-least-for-now>

**Shannon Green** (Anomaly) will speak about the use of photos as part of memes, and the IP risks that come when third party content (including film clips, audio, and photography) is used as part of this popular internet post format.

**Supporting written materials:**

- <https://casetext.com/case/griner-v-king>
- <https://advertisinglaw.fkks.com/post/102fgq4/miss-vanjie-miss-vanjie-what-rupauls-drag-race-can-teach-us-about-fair-use-un>

**Hannah Taylor** will then talk about the common law invasion of privacy, Lanham Act claims of false endorsement and false advertising, conversion, and right of publicity claims that come from using photos of celebrities on social media without consent.

**Supporting written materials:**

- <https://casetext.com/case/jackson-v-kogan>
- <https://casetext.com/case/frankel-v-tiktok-inc>

**Shannon Green** will then talk about the IP risk that comes from using old creative or assets in new social media campaigns.

**Supporting written materials:** <https://law.justia.com/cases/california/court-of-appeal/2018/b279490.html>

## **Topic 2: Use of Music on Social Media (13 minutes)**

**Hannah Taylor** provides background on the use of music in social media.

**Maddy Batliboi** (Meta) then explains the social media platform terms and how music is cleared for personal as well as commercial use. She will cover some of the recent cases where parties have been sued for IP claims over alleged misuse of the platform's music offerings.

**Supporting written materials:**

- [https://www.facebook.com/legal/music\\_guidelines](https://www.facebook.com/legal/music_guidelines)
- <https://ads.tiktok.com/business/creativecenter/music/pc/en#:~:text=Commercial%20Music%20Library%20Guidelines>
- <https://storage.courtlistener.com/recap/gov.uscourts.cacd.892628/gov.uscourts.cacd.892628.1.0.pdf>
- [https://www.pacermonitor.com/public/filings/D334KFZY/Sony\\_Music\\_Entertainment\\_et\\_al\\_v\\_OFRA\\_Cosmetics\\_LLC\\_et\\_al\\_flsdce-23-62073\\_0001.0.pdf](https://www.pacermonitor.com/public/filings/D334KFZY/Sony_Music_Entertainment_et_al_v_OFRA_Cosmetics_LLC_et_al_flsdce-23-62073_0001.0.pdf)

## **Conclusion (5 minutes)**

- The whole panel will discuss common themes and give concluding remarks and takeaways.



**Questions from the audience (*5 minutes*)**