



# Lindsay Korotkin

PARTNER

Lindsay serves as an advisor to companies and creators in the fashion & retail; art, media & entertainment; and technology industries. As a Partner in the firm's Intellectual Property department, she helps brands and creators protect and monetize their most valuable assets.



## Industries

Consumer Products  
Fashion & Retail Law  
Media & Entertainment  
Nonprofits & Associations  
Sports

## Practices

Advertising & Promotions  
Complex Litigation  
Copyright  
Trademark

## Education

Benjamin N. Cardozo School of Law, JD, cum laude;  
Head de novo Editor, Cardozo Law Review, 2013  
Barnard College, BA, magna cum laude; department  
honors; Nancy Hoffman Award; Aileen Mejia Pratt  
Arts Grant, 2006

## Offices

New York

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Lindsay's practice focuses on trademark, trade dress, copyright, right of publicity, and art market litigation, prosecution, and transactions. She represents and counsels clients ranging from Fortune 10 companies to individuals and family businesses across a wide array of industries, including: fashion, beauty & retail; art, media, publishing, music & entertainment; food, alcoholic beverage & health; architecture, interior design & real estate; and technology, among others.

## Litigation

Lindsay represents clients in connection with trademark, copyright, and design patent infringement, trademark dilution, defamation, breach of contract, and other related claims in federal and state court, as well as issues of trademark and copyright registrability at the Trademark Trial and Appeal Board and Copyright Office Review Board. She also works closely with foreign counsel to oversee her clients' foreign disputes and to coordinate claims and defenses when those disputes span around the world.

- Successfully represented the Alexander Wang fashion house and designer Alexander Wang in defense of copyright infringement claims, winning at the motion to dismiss stage before the district court, and, after oral argument, obtaining affirmance from the Ninth Circuit. *Jangle Vision, LLC v. Alexander Wang Inc. et al.*, No. 2:21-cv-09964, Dkt. 43 (June 3, 2022), *aff'd*, No. 22-55642, 2023 WL 7042518 (9th Cir. Oct. 26, 2023) (argued).
- Key team member in the four-year long defense of athleisure brand **RBX Active** in a bet-the-company litigation brought by two well-known global athletic brands. Achieved numerous discovery victories, including: successfully piercing privilege under the crime-fraud exception based on a finding of trademark fraud on the U.S. Patent and Trademark Office, *adidas America, Inc. v. TRB Acquisitions LLC*, No. 3:15-CV-2113-SI, 2018 WL 4600291 (D. Or. Sept. 25, 2018); and obtaining court orders waiving attorney client privilege and work product under Federal Rule of Evidence 612 due to 30(b)(6) witnesses' review of privileged documents to prepare for depositions, *adidas America, Inc. v. TRB Acquisitions LLC*, 324 F.R.D. 389 (D. Or. 2017). These evidentiary opinions are now cited in trademark treatises in connection with teaching best practices.

Represented technology and entertainment company in defense of copyright infringement claims based on alleged digital distribution (streaming, rental, and sales) of the films *Austin Powers*, *After the Rain*, *Commander Hamilton*, and *Drop Dead Gorgeous*. Obtained early dismissal of the contributory, vicarious, and foreign law copyright infringement claims. *Hartmann v. Amazon.com, Inc.*, No. 20 CIV. 4928 (PAE), 2021 WL 3683510 (S.D.N.Y. Aug. 19, 2021).

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- Represented media company BuzzFeed, Inc. in defense of copyright infringement and Digital Millennium Copyright Act (DMCA) claims on appeal at the Second Circuit.
  - Represented wine and spirits company W.J. Deutsch & Sons Ltd. in a defense of trade dress infringement and dilution claims regarding whiskey bottles.
  - Successfully asserted trademark infringement claims on behalf of renowned fashion college Fashion Institute of Design & Merchandising (FIDM) against competing school that was infringing on its federally registered and incontestable name; case settled favorably and infringing school rebranded.
  - Advised global sportswear brand in successfully terminating a license agreement on favorable terms and without costly litigation during the height of the covid-19 pandemic.
  - Served as trademark TTAB co-counsel and successfully defended a web services company against reverse confusion trademark infringement claims in the telecommunications space.

## Prosecution and Counseling

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In the prosecution space, Lindsay helps clients obtain trademark and copyright registrations and manages worldwide IP portfolios in an array of fields, including for one of the largest companies in the world. She also provides day-to-day counseling and advice on issues including trademark, copyright, moral rights, and right of publicity protection and enforceability, in addition to performing high-volume global trademark clearances for names, logos, and designs.

## Transactions

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In the transactional space, Lindsay has extensive experience drafting and negotiating a wide array of agreements across industries, including IP licenses, joint venture agreements, gallery representation and consignment agreements, advertising services agreements, book publishing agreements, releases, production agreements, non-disclosure agreements (NDAs), and settlement and co-existence agreements. She also advises artists, creative professionals, property owners, and real estate developers on the applicability of and compliance with the Visual Artists Rights Act (VARA), 17 U.S.C. § 106(a), including in connection with site-specific artwork.

## Previous Work

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Before joining ArentFox Schiff, Lindsay served as a Junior Law Clerk for the Honorable Jack B. Weinstein at the United States District Court for the Eastern District of New York. Prior to law, she worked in the contemporary art world, managing high-value collections and advising artists, galleries, and nonprofit organizations.

## Professional Activities

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- Advisory Board Member, The Center for Art Law
- Fellow, Legal Council on Legal Diversity
- International Trademark Association (INTA), Famous Marks Committee Member
- Ladas Memorial Award, INTA, Judge
- American Mock Trial Association, Iona College Mock Trial Tournament, Judge
- ABA Committee 106 – Patent Litigation, *Ad Hoc* Subcommittee Member, 2013: prepared and submitted a report and recommendation to the United States House of Representatives on Section 3(a) of H.R. 3309 (a bill designed to, among other things, alter and elevate pleading requirements

for patent litigation actions)

## Publications, Presentations, and Recognitions

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### Publications

- *Making Waves: Navigating the Tide of Artistic Freedom and Trademark Protections in the Vans v. MSCHF Case*, JD Supra, February 1, 2024
- *Reflecting on the Interplay Between Real Estate and Intellectual Property in 2023 - Landmark Trademark Cases and Copyright Conundrums*, JD Supra, January 18, 2024
- *Hey! That's My Move! Ninth Circuit Remands Choreography Copyright Fortnite Case*, JD Supra, December 27, 2023
- *Painting Over Controversy: Navigating VARA and Controversial Canvases*, JD Supra, September 14, 2023
- *Updated DMCA Exemptions Are a Win for the Automotive Industry. Could Higher Education Be Next?*, JD Supra, December 10, 2021
- *Supreme Court Case to Watch: When and How Copyright Registrations Can Be Invalidated for Inaccuracies*, JD Supra, June 11, 2021
- *A Blow to Pop Art: Andy Warhol's Prince Series Not a 'Fair Use' of Lynn Goldsmith's Photograph*, JD Supra, April 15, 2021
- *Ninth Circuit: Computer Fraud and Abuse Act Doesn't Block Public Profile Data Scraping*, Arent Fox Perspectives, September 25, 2019
- *Supreme Court: Copyright Registration Required to Bring Suit*, Lexology, March 18, 2019
- *Finding Reality in the Right of Publicity*, ENTERTAINMENT, PUBLISHING AND THE ARTS HANDBOOK, (West 2014 ed.).
- *Introduction to China Re-Rising: Innovation and Collaboration for a Successful Twenty-First Century*, 2013 CARDOZO L. REV. DE NOVO 76.
- *Finding Reality in the Right of Publicity*, 2013 CARDOZO L. REV. DE NOVO 268.

### Presentations

- Speaker, "Art & Copyright Law Clinic", The Center for Art Law, November 13, 2024 (Virtual)
- Speaker, "Litigation and Damages Implications of Trademark Searching and Clearance", Confidential Client CLE, November 8, 2024 (Virtual)
- Moderator/Panelist, "Harmonizing IP Strategies with Corporate ESG Goals: Opportunities and Challenges", Global IP ConfEx, October 23, 2024 (New York, NY)
- Speaker, "Copyright Law and Artificial Intelligence: Considerations for Visual Artists & Appropriation Art", Barnard College of Columbia University, February 26, 2024 (New York, NY)
- Panelist, "Beers and Careers!", Copyright Society of the USA (CSUSA), January 25, 2018 (New York, NY)
- Moderator, "Speaking the Language of Your Clients: The Advertising Industry", NYIPLA, March 23, 2017 (New York, NY)
- Moderator, "Speaking the Language of Your Clients: The Music Industry", NYIPLA, September 26, 2016 (New York, NY)

### Recognitions

- *Best Lawyers: Ones to Watch*, Intellectual Property Law (2023-2024)

## Life Beyond the Law

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Outside of the office, Lindsay enjoys collecting art, hiking, growing food, and spending time with family.

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## **Bar Admissions**

New York

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## **Court Admissions**

US District Court, Southern District of New York

US District Court, Eastern District of New York

US District Court, District of New Jersey

US Court of Appeals, 2nd Circuit

US Court of Appeals, 9th Circuit