



## Lindsay Korotkin

ASSOCIATE

Lindsay is an Associate in Arent Fox's Intellectual Property department, where she helps companies protect and monetize their most valuable assets.



### Industries

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

### Practices

Advertising & Promotions  
Complex Litigation  
Copyright  
Corporate & Securities  
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 intellectual property litigation, prosecution, transactions, and counseling. She represents and counsels clients ranging from Fortune 500 companies to individuals across a wide array of industries, including: fashion & beauty; media, publishing, music & entertainment; food & alcoholic beverage; health; architecture, interior design & real estate; and technology, among others.

Lindsay is a relentless advocate for her clients and particularly excels at crafting and executing novel strategies and creative solutions in both litigation and litigation-avoidance alike. While she is effective at resolving disputes early, she is also a go-to lawyer for bet-the-company litigations. In connection with those cases, Lindsay routinely leans on her prosecution and transactional skills to develop game-changing litigation strategies and defenses that litigators without those experiences often do not see.

Lindsay also has expertise in the growing intersection of fraud, unfair competition, big data, and intellectual property. In connection with that work, she has advised clients on the applicability of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, and has successfully shut down numerous fraudulent internet and telephone scams that were harming clients' IP and goodwill.

Prior to law, she worked in the contemporary art world managing high-value collections and advising artists, galleries, and nonprofit organizations. With deep roots in the arts, Lindsay brings a creative approach to her legal practice and is known for thinking outside of the box to deliver clients big wins and unprecedented results.

## Client Work

### Litigation

In the litigation space, Lindsay handles all stages of trademark, copyright, and patent litigation in federal court and before the Trademark Trial and Appeal Board.

Litigation Experience:

She was a 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.

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She obtained a favorable settlement for a defendant in the footwear space after asserting vigorous defenses against the plaintiff's novel trade dress claims. The Second Circuit later affirmed a finding that the plaintiff's trade dress was invalid for the same reasons asserted in the district court action.

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She served as trademark TTAB co-counsel in successfully defending a web services company in connection with reverse confusion trademark infringement claims in the telecommunications space.

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She successfully asserted trademark and copyright claims on behalf of a client in the SaaS industry against an infringing competitor.

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She successfully asserted various claims on behalf of a designer to shut down a damaging and defamatory third party website.

#### Current Representations:

— Actively representing a spirits company in defense of trade dress infringement and dilution claims regarding whiskey bottles.

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Actively representing a media company in defense of copyright infringement and Digital Millennium Copyright Act ("DMCA") claims on appeal at the Second Circuit.

#### Prosecution

In the prosecution space, she assists clients in procuring trademark and copyright registrations and manages worldwide IP portfolios in an array of fields. She also provides day-to-day advice on issues including rights clearance, moral rights, and litigation-avoidance in digital and traditional media and retail environments.

#### Transactions

In the transactional space, Lindsay has extensive experience drafting and negotiating IP licenses, joint venture agreements, advertising services agreements, publishing agreements, releases, production agreements, and settlement and co-existence agreements.

#### Pro Bono

Lindsay maintains an active pro bono practice representing artists, including through general copyright counseling and defense, and by drafting, reviewing, and negotiating agreements such as gallery representation, consignment, and services agreements.

## Previous Work

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Before joining Arent Fox, Lindsay worked at a boutique intellectual property law firm in New York City. She also served as a Junior Law Clerk for the Hon. Jack B. Weinstein at the United States District Court for the Eastern District of New York.

## Professional Activities

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- Copyright Committee, New York Intellectual Property Association (NYIPLA)
- American Alliance of Museums
- International Trademark Association (INTA), The Trademark Reporter Committee Member
- The Bread Bakers Guild of America, Member
- 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)
- Ladas Memorial Award, INTA, Judge
- American Mock Trial Association, Iona College Mock Trial Tournament, Judge

## Publications and Presentations

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### Publications:

- *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:

- 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)

## Life Beyond the Law

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Outside of the office, Lindsay may be found baking artisanal breads and trekking trails.

## Bar Admissions

New York

New Jersey

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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