



ny court allows use of third-party photo embedding, thanks to instagram's terms of service

Robert H. Rotstein and Timothy M. Carter
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In the past few years, the advent of social media has increasingly tested the bounds of copyright law. The issue of whether "in-line linking" or "embedding" constitutes actionable copyright infringement is no exception.

Early last week, in *Stephanie Sinclair v. Ziff Davis, LLC, and Mashable, Inc.*, 1:18-cv-00790 (SDNY, April 13, 2020), Judge Kimba Wood held that Defendant Mashable did not engage in copyright infringement by embedding of Plaintiff photographer Stephanie Sinclair's photograph "Child, Bride, Mother/Child Marriage in Guatemala" (the "Photograph"). The Court determined that Mashable used the Photograph, which was posted to Sinclair's publicly viewable Instagram account, pursuant to a valid sublicense granted to Instagram by Sinclair. Accordingly, Judge Wood granted Mashable's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) on the grounds that Sinclair failed to state a claim for copyright infringement.

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Robert H. Rotstein

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