



what's the harm? the state of the fourth fair use factor

CSUSA Midwinter Meeting

Virtual

February 10, 2022
2:00-3:00pm EDT

Lindsay Edelstein will be moderating the panel, "What's the Harm? The State of the Fourth Fair Use Factor," on February 10, 2022 as part of the Copyright Society of the USA's Midwinter Meeting. The Copyright Society's 2022 Midwinter Meeting will take place virtually on February 8th-11th.

"What's the Harm? The State of the Fourth Fair Use Factor"

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Coined "the single most important element of fair use," the fourth statutory factor – "the effect of the use upon the market for or value of the copyrighted work" – is often overshadowed by the transformative use analysis under the first factor. The past few years, however, have brought renewed attention to the fourth factor, and the various types of "market harm" to be considered in this context.

Does a broad or narrow interpretation of "market harm" further the purposes of the Copyright Act, and have recent decisions, including *Dr. Seuss v. ComicMix*, *Google v. Oracle*, and *Warhol v. Goldsmith*, provide clarity on the inquiry or just further complicate the already-perplexing fair use doctrine? Join our panel of experts as they discuss these questions and other issues related to the fourth fair use factor.

Speakers:

- Jane C. Ginsburg
Morton L. Janklow Professor of Literary & Artistic Property Law, Columbia University School of Law

attorneys

Lindsay R. Edelstein

practice areas

entertainment & ip litigation
intellectual property
trademarks & brands



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- Ravi Sitwala
Associate General Counsel, Hearst
- Karyn A. Temple
Senior Executive Vice President and Global General Counsel, Motion Picture Association
- **Lindsay Edelstein (Moderator)**
Associate, Mitchell Silberberg & Knupp LLP

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