



rogers revisited: balancing brand owner interests and content creators' first amendment rights under the lanham act

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1:00 PM PDT

Event Sponsor: Los Angeles Copyright Society

Karin Pagnanelli will be speaking on the panel, "Rogers Revisited: Balancing Brand Owner Interests and Content Creators' First Amendment Rights Under the Lanham Act," on October 12, 2022 for the Los Angeles Copyright Society.

Event Details:

Content creators use brands, both real and fictional, to help tell stories. They might include real-world trademarks to make a story feel more authentic. Or they may employ iconic marks to establish a location, recreate a bygone era, or delineate a character's extravagant or pedestrian tastes. The Devil, after all, does wear Prada. In an influential 1989 decision, *Rogers v. Grimaldi*, the Second Circuit held that where a trademark is used in the title of an expressive work like a film or television show, the First Amendment requires that courts strike a more speech-protective balance than that afforded under the standard likelihood-of-confusion multifactor test. The ensuing three decades have seen *Rogers* adopted in various forms in at least five circuits, including the Ninth Circuit, and applied in situations where a trademark is used in the body (and not necessarily the title) of an expressive work, including in cases involving videogames, greeting cards, and novelty products like pet toys.

Two experienced IP litigators—**Karin Pagnanelli of Mitchell Silberberg & Knupp** and Susan Kohlmann of Jenner & Block—join us to chart the twists and turns of the Rogers test with reference to some recent decisions involving, among other things, military videogames and an oyster bar and tavern perched on the Florida-Alabama line. We hope you can join us.

attorneys

Karin Pagnanelli

practice areas

entertainment & ip litigation
intellectual property



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