



Toby Butterfield

PARTNER



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Toby Butterfield is a Partner in Moses Singer's Litigation and Intellectual Property, Entertainment/Media & Technology practice groups. He has over 30 years of experience litigating and counseling on copyright, trademark, defamation, software and digital media, and commercial matters. His clients include media and entertainment companies, motion picture and theater producers, major brand owners, technology companies and designers of luxury goods, software and technology products.

Toby's recent work includes litigating licensing and related disputes on behalf of owners of copyright, trademark and related technology rights in the software, consumer goods, and electronics industries. He recently successfully represented a software publisher in a large royalty dispute; a motion picture distributor in defense of copyright infringement claims; and various Broadway producers in successfully resolving disputes with investors, organizations and underlying rights owners. He successfully defended off-Broadway and worldwide theatre producers in a music rights dispute leading to a jury trial of the \$125 million claim. He also litigated for and defended various "over the top" TV broadcasters in copyright and related disputes with numerous foreign and domestic television channels. Toby also defended a group of on-line pharmacies in a large case concerning false advertising, trademark, fraud and RICO claims concerning alleged grey market goods. He has defended various book publishers, magazine publishers, motion picture distributors and producers in various large copyright litigations; and he obtained a fair use dismissal of copyright infringement claims against theater producers concerning a parody play. He has represented AMS Osram Sylvania, Microsoft, Viacom, ASCAP, The New York Times, Blue Man Group, Cirque du Soleil, JetBlue, Joan Jett, and Simon & Schuster. He has successfully litigated all manner of other claims for and against film producers and distributors, theater producers, technology and software companies, and professional sports leagues and teams. He has obtained injunctions and seizure orders against counterfeiters, for example for magazine publishers and for well-known producers of a variety of children's TV programming. He regularly counsels IP owners and performs pre-publication and pre-broadcast review of content for publishers of books, motion pictures, newspapers, magazines, documentaries, theatrical productions and advertising copy.

One of Toby's favorite matters is the jury trial that he handled for Blue Man Group in a

Practices / Industries

- Intellectual Property
- Litigation
- Technology
- Entertainment & Media
- Intellectual Property, Entertainment/Media & Technology
- Consumer/Luxury Goods
- Complex Commercial Litigation
- Entertainment Litigation
- Intellectual Property Litigation
- Digital Assets
- Antitrust Litigation
- AI & Data Law
- Section 1782

music rights dispute several years ago: the plaintiff claimed to be owed \$125 million in royalties for rights he claimed to own in music used in live performances over decades. Toby and his team handled the defense of the case for all parties from when the first claim letter arrived through jury trial. They won summary dismissal of nearly all claims, and resolved the only remaining claim via a settlement involving the insurer. Toby recently advised Schirmer Theatrical, part of music publisher Wise Music Corporation, concerning a dispute with commercial Broadway producers over music rights for a production in development, clearing his client's rights in the disputed title and music. Toby also recently represented Italian software manufacturer, Zextras S.r.L in litigation against its U.S. distributor Synacor Corporation in *Zextras S.r.L. v. Synacor*, pending in the United States District Court for the Southern District of New York. The case, which settled while our client's motion for summary judgment was pending, concerned claims for copyright infringement, breach of contract and related claims for unpaid royalties owed by defendant for worldwide distribution of our client's software. Toby represents Mansueto Ventures, publisher of Inc. Magazine and Fast Company Magazine, concerning worldwide protection of its trademarks and other rights, including infringement litigation against counterfeiters based in India, and in defense of a libel case brought by the subject of an article in one of its magazines, amongst other matters.

Toby writes and speaks frequently for bar associations and industry organizations. He is Lecturer in Law at Columbia Law School, where he has taught a seminar on Social Media Law and Regulation since 2014 with Kai Falkenberg, US General Counsel for The Guardian Newspapers. For many years, he co-chaired and moderated at the Entertainment Business Law Seminar during the annual CMJ Music Festival at NYU (now called MONDO.NYC). He has lectured at AIPLA's annual national conference and to PLI on copyright fair use, and authored the first chapter of Counseling Content Providers in the Digital Age on defamation for the New York State Bar Association, also with Kai Falkenberg. His articles on Fair Use, Copyright Termination, the Digital Millennium Copyright Act and other hot topics have been published by the Copyright Society of the USA, ABA's Landslide magazine, Media Law Resource Center and other bar associations and publications, and regularly appear in Moses Singer's IP Newsletter. He has lectured at legal and television industry conferences all over the world, and taught Media and Entertainment Law at Cardozo Law School.

Toby served as President of MLRC's Defense Counsel Section, and chaired both its Executive Committee and Media Copyright and Trademark Committee. He chaired the New York City Bar Association's Committees on Entertainment Law and on State Courts of Superior Jurisdiction; chaired WNYC Radio's Community Advisory Board; and served as Administrator of the New York State Supreme Court Screening Panel for Democratic Party judicial candidates in New York County. He has been listed as a Superlawyer for more than 15 years, and selected as one of the Lawdragon 500 Leading Litigators in America, in the inaugural Lawdragon List of 500 Leading Global IP Lawyers.

Toby has produced authoritative videos on topics including IP Legislation, recent court decisions, grey market goods and trademark overview, emerging copyright trends, copyright and fair use, and breach of fiduciary duty. The videos can be viewed [here](#). Toby was most recently interviewed for the nationally syndicated show Price of Business, in a segment titled "Entertainment Law is More Than What You See on TV," which can be accessed [here](#).

Prior results do not guarantee a similar outcome.



Education

- Inns of Court School of Law
 - Bar Exam
- New York University School of Law (LL.M.)
- Christ Church, Oxford University (B.A., *(Hons:)*)

Bar/Court Admissions

- New York
- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

Professional Affiliations

- Treasurer, Media Law Resource Center's Defense Counsel Section
- Co-Chair, Media Law Resource Center's Media Copyright and Trademark Committee
- Former chair, New York City Bar's Entertainment Law Committee
- Member, NYS Bar Association's Communications and Media Committees
- Former chair, New York City Bar's Committee on State Courts of Superior Jurisdiction
- Member, AIPLA, NYSBA, Copyright Society of the USA.

Recognition

- 2026 Lawdragon 500 Leading Global Litigators
- Legal 500 New York Elite, Intellectual Property, 2026
- 2026 Lawdragon 500 Leading Global Entertainment, Sports & Media Lawyer
- 2026 Lawdragon 500 Leading Litigators in America
- 2025 Lawdragon 500 Leading Global Entertainment, Sports & Media Lawyer
- 2025 Lawdragon 500 Leading Litigators, IP, Litigation, Entertainment, Media & Technology.
- Best Lawyers: 2020, 2021, 2023, 2024, 2025, 2026
- Super Lawyers: 2007-2025

Presentations

- "How to Go Where Angels Fear to Tread: Fair Use of Copyright, Trademark and Rights of Publicity," New York Women in Film & Television, October 2022
- "Telehealth: IP, Data Use and Data Sharing" Digital Health Webinar Series: Session 4, March 2021
- "COVID-19 Legal and Other Concerns for International Owners of Businesses in the United States", May 2020
- "Key Survival Strategies for Small Firms and Related Businesses: Government Loans, Remote Working and Employment Policies" New York City Bar, May 2020

- 2020 Copyright Society of the USA Conference, February 2020
- "Being Smart about Artificial Intelligence from Content Creation to Creative Marketing in the Music and Entertainment Industries." MONDO.NYC's Music Tech & Law Symposium, October 2019
- New York City Bar Association's Committee on Trademarks and Unfair Competition, May 2019

Publications

June 26, 2026

Toby Butterfield, Rebecca Diamond, and Allan Grauberd Wrote an Article Titled, "Even Limitation of Liability Clauses Have Limitations," Which was Published in the NYLJ

May 29, 2026

Toby Butterfield and Liberty McAteer Authored an Article Titled, "Using AI-Generated Actors and Models is Creating New Legal Issues."

March 25, 2026

Supreme Court Decision Rewrites the Rules for Third Parties Accused of Contributing to Copyright Infringement by Their Customers

November 11, 2024

The Evolution of Entertainment and IP Law: An Interview with Toby Butterfield in Lawdragon's Lawyer Limelights

May 6, 2024

Court of Appeals Rejects Special Rules for Ownership of Social Media Accounts

February 6, 2024

"The End is Nigh?": IP Protection for Characters in "Steamboat Willie" After Copyright Expiration

November 6, 2023

Preserving "No Claim to Government Works": Court Shields Non-Commercial Law Sharing from Copyright Infringement Claim

Moses Singer Client Alert

October 11, 2023

Federal Court Upholds Copyright Office Refusal to Register AI Output

September 1, 2023

New York Appeals Court Rejects Visual Artist's Claim Based on Concealment of Artwork

Westlaw

June 8, 2023

Supreme Court Limits Doctrine Protecting Use of Others' Trademarks in Expressive Works

May 18, 2023

A Fair Use Holding for the Books

February 9, 2023

“Metabirkins” NFT Trial Tests Multiple Legal Theories

July 20, 2022

Metaverse: The Domain Name Trademark Clash, Reincarnated? Hermès v. Rothschild Court Makes a Preliminary Decision

May 10, 2021

Why Real Estate Companies Need Better Data Protection

Commercial Observer

May 5, 2021

New York City Tenant Data Privacy Act Imposes New Data Use Restrictions on Landlords

April 8, 2021

Courts Issue Multiple Decisions Restating Scope of Copyright Fair Use

January 25, 2021

Recent Corona Relief Act Includes Updates to Trademark and Copyright Laws

December 18, 2020

New York State Expands Right of Publicity Protections, Including to Deceased Persons

May 4, 2020

Supreme Court Eases Path for Trademark Owners to Recover Infringers’ Profits

May 1, 2020

Small Business Administration and New York City Loan Programs

March 11, 2020

Led Zeppelin Wins Appeal in ‘Stairway to Heaven’ Copyright Lawsuit

November 12, 2019

U.S. Government Seeks Public Comments on Updating Laws Governing Artificial Intelligence

February 4, 2019

Supreme Court Asked to Decide Copyright Protection for Software Program Interfaces*

November 5, 2018

Mission Product Holdings v. Tempnology Heads to Supreme Court for Trademark Bankruptcy Ruling

October 19, 2018

Moving Beyond Transformativeness: How Courts Evaluate the Purposes and Character of Secondary Uses

Journal of the Copyright Society of the USA

June 11, 2018

Social Media and the First Amendment: the Implications of the Court's Decision in Knight First Amendment Institute v. Trump

April 12, 2018

California Appeals Court Dismisses Olivia de Havilland's "Feud" with FX

March 12, 2018

Federal Appeals Court Restates Copyright Fair Use Standard

February 23, 2018

Court Decides Linking to Content Online May Constitute Copyright Infringement

Representative Matters

Among the many litigations and proceedings handled by Mr. Butterfield, he has successfully:

- Represented Italian software manufacturer, Zextras S.r.L in litigation against its US distributor Synacor Corporation. Zextras S.r.L. v. Synacor, now settled, was pending in the United States District Court for the Southern District of New York. The case concerned claims for copyright infringement, breach of contract and related claims for unpaid royalties owed to our client by defendant for its worldwide distribution of our client's software. The case settled at a mediation while our client's motion for summary judgment was pending.
- Represented Mansueto Ventures, publisher of Inc. Magazine and Fast Company Magazine, concerning worldwide protection of its trademarks and other rights, including infringement litigation against counterfeiters based in India, and in defense of a libel case brought by the subject of an article in one of its magazines, amongst other matters.
- Defended Blue Man Group from claims by a former band member and co-composer who disputed royalties paid to him from the "Blue Man Group" show. Secured a dismissal of the majority of his claims at the outset in a ruling that was affirmed on appeal. Won granting summary judgment dismissing the remaining claim for breach of fiduciary duty. *Pai v. Blue Man Group Publishing*, 2018 WL 1363410 (N.Y. Co. March 16, 2018). The ruling garnered numerous news reports.
- Represented Magazine Publishers Association as amicus in litigation concerning the legality of "framing" under the Copyright Act.
- Represented heir in dispute over bequest of copyrighted works by deceased well-known dramatist.
- Represented television producer in disputes concerning worldwide use of format of television series.

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Videos

IP Legislation

Pai vs. Blue Man Group

Grey Market Goods & Trademark Overview

Emerging Copyright Trends

Copyright/Fair Use

Breach of Fiduciary Duty