



2021 RISING STAR

Shanti Sadtler Conway

Kirkland & Ellis LLP's Shanti Sadtler Conway has fended off multiple high-profile copyright lawsuits against Epic Games Inc. over dance moves used in its video games, including challenges from rappers, college athletes and YouTube personalities, earning her a spot among the media law practitioners under age 40 honored by Law360 as Rising Stars.

The biggest case of her career:

Conway said that of the many major matters she has handled, she considers her biggest case to be the successful defense of Nike in a challenge to its iconic "jumpman logo," which features a silhouette of Michael Jordan leaping for a basket with a ball in his hand. In the suit, photographer Jacobus Rentmeester claimed that Nike had restaged his

1984 photograph of Jordan, which ran in Life magazine, to create the logo.

The U.S. District Court for the District of Oregon dismissed the case in 2015. In 2018, the Ninth Circuit ruled that the lower court was right to dismiss the case, saying that the image of the logo did not borrow enough from Rentmeester's original to be subject to copyright protection.

Conway told Law360 that the case not only had huge financial stakes for the client, given that Rentmeester was seeking all profits derived from the logo, but that it also had important implications for copyright law.

"There were some issues in the Ninth Circuit that weren't that clear in the existing case law, and we worked really hard to do a deep dive into copyright law for all of the briefings,"

she said. "The result was that we got a decision from the Ninth Circuit that really clarified the law on substantial similarity, and that decision became the primary substantial similarity decision in the Ninth Circuit."

The U.S. Supreme Court refused to hear the case in 2019.

Her other notable cases:

Keeping Conway busy recently have been multiple cases on behalf of Epic Games over suits claiming that the company's video games violated copyright by including signature dance moves, including a suit by University of Maryland basketball players Jaylen Brantley and Jared Nickens alleging that the game Fortnite copied the "running man" dance they claimed to have popularized.

"Having a background in the arts gave me an inherent interest in this [media & entertainment] space."

Other cases include challenges by actor Alfonso Ribeiro, rappers 2 Milly and BlocBoy JB, and YouTube personas the “Backpack Kid” and the “Orange Shirt Kid” over the use of various dance moves, and a lawsuit against Epic brought by saxophonist Leo Pellegrino, whose musical group played on a track for Beyoncé Knowles, over a “signature move” he uses when performing.

The cases are “both interrelated and also very different,” Conway said, explaining that they each had some overlap, but also presented particular challenges, especially around jurisdiction, that the team had to tackle.

Conway, who was a dancer through college, was one of a handful of attorneys who had written about the intersection of dance and copyright law before the cases against Epic — most of which have since been dismissed or withdrawn — garnered national attention.

“It was very gratifying,” she said, “both from the perspective that we now have some more case law [addressing this] and also because it was exciting to have that victory for the client. ... This is such a big issue in video games.”

Her proudest moment as an attorney:

Despite her recent string of high-profile successes, Conway said the moment she is most proud of as an attorney came early in her career: A pro bono victory in 2011 that was also her first experience being lead counsel in a trial.

The case, she said, was an adversarial asylum proceeding in which Conway handled the full trial, and won a victory for the client.

“That was an extremely hard-fought case for an extremely hard-fought client,” she said. “And having that experience of not only having the personal victory after having put in so much work, but the excitement and gratitude and huge relief that the client felt ... I was very proud.”

Conway has continued to do similar pro bono work through Kirkland’s asylum program, with a particular focus on individuals who are HIV-positive or part of the LGBTQ community. She has a 100% success rate, according to the firm.

She also serves on the board of directors at Immigration Equality, a nonprofit dedicated to supporting HIV-positive and LGBTQ immigrants.

How she got into media law:

Conway said her background as a dancer and as an English and journalism double major made media and entertainment law a logical fit for her.

“Having a background in the arts gave me an inherent interest in this space,” she said. “I didn’t know that this was what I was going to wind up doing as a lawyer, but it’s wonderful

that it worked out that way. I feel like if you can combine your interests and your work, that’s a very fortunate situation to be in.”

What she expects to see in media law:

Conway expects that she and attorneys like her will continue to see the effects of new technology shape their clients’ platforms and business models — and in turn affect attorneys’ practices.

“It’s the same core law, but then you have to apply it to a totally new situation, and that’s where you get, I think, so many interesting decisions,” she said. “I think we see that already.”

It’s something that Conway said she finds interesting about her work, and it presents opportunities for the law to advance and move forward as it tries to address new situations and different sets of facts.

“I think we’re going to see more of that,” she said.

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