

# Roger L. Zissu

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## Overview

**“The internet may be changing the practice of copyright and trademark law, but it hasn’t changed the basic rules. Today you can learn more quickly who is infringing marks and copyrights. The guy in Akron can’t hide what he or she is doing the way they did before the internet. And the old rules still apply. You can’t legally copy anything on the internet that you couldn’t copy before the internet.”**

From winning at trial the landmark fair use case *Harper & Row Publishers, Inc. v. Nation Enterprises, Inc.*, to protecting Tarzan and other intellectual property rights of Tarzan creator and fiction writer Edgar Rice Burroughs, Roger Zissu is one of the country’s best-known copyright and trademark lawyers. His more than 50 years of practice includes representing both plaintiffs and defendants in precedent-setting cases that have defined work made for hire, the rights of joint authors, and the granting of electronic book publication rights under the current Copyright Act.

Roger’s cases have also included ownership disputes and infringement of iconic literary and graphic characters, motion pictures, television programs, literary works (fiction and non-fiction), music, and artworks. These include *Milne v. Stephen Slesinger, Inc.*, where the Ninth Circuit upheld the Milne 1983 re-grant to Slesinger of Winnie the Pooh merchandising rights and rejected the attempt by Disney, Clare Milne, and the illustrator of the Pooh stories to terminate A.A. Milne’s 1930 grant of such rights to Slesinger under the termination provisions of the Copyright Act. He advises on a broad range of copyright, unfair competition, and trademark issues, including matters involving scientific, instructional, and educational testing materials as well as concurrent trademark use agreements. Roger also has prepared and negotiated contracts and licensing in myriad areas, including corporate sales and acquisitions of copyright and trademark rights, author/publisher agreements, commissioned artworks, and the purchase and sale of works of art.

## Representative Experience

Beyond the reported decisions listed above, Roger has worked on the following matters:

- *Random House, Inc. v. Rosetta Books LLC*, 283 F.3d 490 (2d Cir. 2002) –In first litigated e-books copyright ownership dispute, won affirmance for authors Kurt Vonnegut, William Styron and Robert Parker of district court’s denial of Random House’s motion to preliminarily enjoin their rights to exercise e-book rights. Court held that grant to Random House of rights to print, publish and sell hard copy editions did not encompass electronic publishing rights.
- *Felice v. Children’s Television Workshop and Muppets, Inc.*, (79 Civ. 844) (S.D.N.Y. 1982) (Judge Broderick) (unreported)– Won trial upholding defendants’ use of their own Sesame Street characters on children’s belts, rejecting plaintiff’s claims for trade secret violation arising out of idea disclosures.
- *International Union (UAW) v. National Caucus of Labor Committees v. Lyndon LaRouche, et al.*, 525 F.2d 323 (2nd Cir. 1975) – In trademark infringement and unfair competition action, won affirmance of district court’s exercise of discretion in refusing to allow defendants to transcribe a deposition of UAW officers by audio taping instead of with a court stenographer, in view of record of harassing and bizarre behavior of National Caucus of Labor Committee defendants. Second Circuit declined to follow opinion by D.C. Circuit Judge Bazelon on same point.

## Education

Harvard Law School (LLB, *cum laude*, 1963)

Member, Harvard Legal Aid Bureau

Dartmouth College (AB, *summa cum laude*, 1960)

*Phi Beta Kappa*; Rufus Choate Scholar

University of Paris, Sorbonne and Institut d’Etudes Politiques (, 1959)

## Admissions

### Bar Admissions

New York

### Court Admissions

U.S. Supreme Court

U.S. Court of Appeals, Federal Circuit

U.S. Court of Appeals, 2nd Circuit

U.S. Court of Appeals, 9th Circuit

U.S. District Court, Eastern, New York

U.S. District Court, Southern, New York

## Focus

- Entertainment Properties
- Celebrities, Bands & Athletes

## Services

- Copyright
- Trademark
- Litigation

## Associations

### Professional

- Copyright Society of the U.S.A. (President, 1992-1994; Trustee, 1981, 1983-1986, 1988; Treasurer, 1988-1989; Vice President, 1990-1992)
- New York City Bar Association (Chairman, Committee on Copyright and Literary Property, 1989-1992; Member, 1970-1973 and 1986-1992; Committee on the Judiciary, 1995-1998, Interim member, 2003-2008)
- American Bar Association (Member, Section of Patent, Trademark and Copyright Law; Committee on Authors, 1968-1971 and 1985-1989; Forum Committee on the Entertainment and Sports Industries, 1985; Chairman, Subcommittee on Individual Rights Arising Out of Joint Authorship, 1988-1989)
- Federal Bar Council
- New York State Bar Association

### Community

- Volunteer Lawyers for the Arts (Board Member, 1987-1990)

### Recognition

November 2016, Copyright Society of USA's Forty Sixth Annual Donald C. Brace Memorial Lecture, Expanding Fair Use: The Trouble With Parody, The Case For Satire, published Spring 2017 Journal of Copyright Society, Vol. 64, No. 2 at 165

Recipient of Twelfth Annual American Inns of Court Professionalism Award in the Second Circuit, 2013

*Chambers USA* 2003-2018 Leading Individual; 2019 Senior Statesperson

*The Best Lawyers in America*© 2021 (30th consecutive year in both the Copyright Law and Litigation-Intellectual Property categories)

*New York Metro Super Lawyers*® 2016-20, and Top 100 in 2007, 2011

*The Legal 500 U.S.*

*World Trademark Review* Global Leader 2020-21

*World Trademark Review* 1000 (Gold)

*Managing Intellectual Property* IP Stars

*Who's Who in American Law*

*Who's Who in America*

*Who's Who Legal: Trademarks* Global Leader 2020

### Decisions

- DC Comics v. Towle
- Institute for the Development of Earth Awareness v. People for the Ethical Treatment of Animals
- Missing Cougar Co. v. Edgar Rice Burroughs, Inc.
- Superman Copyright Termination Litigation
- Polar Bear Productions, Inc. v. Timex Corp.
- Video-Cinema-Films, Inc. v. Lloyd E. Rigler-Lawrence E. Deutsch Found.
- Milne v. Stephen Slesinger, Inc.
- Hogarth v. Edgar Rice Burroughs, Inc.
- American First Run Studios v. Edgar Rice Burroughs, Inc.
- Times Mirror Magazines, Inc. v. Field & Stream Licenses Co.



- Atlas v. DC Comics
- Burroughs v. MGM
- Lynch Jones & Ryan v. Standard & Poor's
- Playboy Enterprises v. Dumas
- National Basketball Association v. Motorola
- EFS Marketing, Inc. v. Russ Berrie & Co.
- Cordon Art B.V. v. Walker
- Novus Group, Inc. v. Dean Witter, Discover & Co.
- Weissman v. Freeman
- Harper & Row Publishers, Inc. v. Nation Enterprises, Inc.
- DC Comics, Inc. v. Filmtation Associates, Inc.

## **Languages**

French

## **Clerkship**

- Law Clerk to Hon. John F. Dooling, Jr., U.S. District Judge, Eastern District of New York, 1963-1965