

Jason Bloom in Bloomberg Law: BuzzFeed's Loss in Photo Case Affirmed by Second Circuit

August 21, 2020 Jason Bloom

PRACTICES Intellectual Property, Copyright

Haynes Boone Partner [Jason Bloom](#) talked with *Bloomberg Law* about a recent ruling by the U.S. Court of Appeals for the Second Circuit that found BuzzFeed Inc. liable under the Digital Millennium Copyright Act for altering a photographer's credit for a picture and publishing the photo in an article without permission.

Here is an excerpt:

BuzzFeed published an article about a discrimination lawsuit against New York City that included a picture taken by freelance photographer Gregory Mango and licensed to the New York Post. A BuzzFeed reporter downloaded the photo from the New York Post website, edited Mango's credit to refer to the subject's law firm, and used the picture in the article.

The central question turned on whether the DMCA requires a defendant to know that altering the photo credit would lead to future third-party infringement. Addressing the issue for the first time, the Second Circuit said such evidence isn't required.

The court also rejected BuzzFeed's argument that Mango's credit can't constitute CMI because the New York Post—not Mango, personally—attached the credit to the Post's photo. This could add to the number of situations where DMCA claims are viable, some attorneys said.

"When there's already copyright infringement, it just adds a little bit to it," Jason Bloom, chief of the copyright practice group at Haynes Boone said. "But in those cases where copyright infringement is harder to prove, it could be another avenue for a claim where one might not otherwise exist."

To read the full article, click [here](#).