

## Lambert in Texas Lawbook: Social Media Influencer's Texas Lawsuit Against Rival Could Pave the Way for Future Copyright Cases

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**PRACTICES** Intellectual Property Litigation, Intellectual Property

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Haynes Boone Associate [Michael Lambert](#) spoke with *The Texas Lawbook* after a social media influencer filed a novel lawsuit in the federal Western District of Texas against a competitor she alleges copied her beige aesthetic to market home decor and fashion products is likely to become an influencer of plaintiffs.

Lambert, who practices primarily in the Western District of Texas, said it's notably difficult to get DMCA claims past the summary judgment stage, which will come next for Gifford and Sheil. For a DMCA claim to succeed, Gifford must prove that Sheil intentionally removed copyright management information to conceal infringement. Lambert said he had a DMCA case before another judge in the Western District that survived the motion to dismiss but not the motion for summary judgment.

"There was clearly removal of copyright management information, but we weren't able to show that he intended to do it," Lambert said.

One of the more unusual aspects of Gifford's lawsuit is her vicarious copyright infringement claim, Lambert said. Gifford argues that Sheil should be held liable for the infringement committed by her followers. Typically, vicarious liability claims focus on a third-party infringer, as seen in the famous lawsuits the music industry waged against file-sharing service Napster.

"Napster was held liable for vicarious copyright infringement because, essentially, they were allowing users to infringe on other people's rights. Here, it's a little bit different because the vicarious claim is trying to hold Sheil liable for infringement of people that look at her posts, her followers essentially, which is unorthodox and something I've never really seen before," Lambert said.

To read the full article from *The Texas Lawbook*, click [here](#).