

M.C. Sungaila in Bloomberg Law on 'Monkey Selfie' Rehearing

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PRACTICES Appellate, Litigation

Bloomberg Law turned to Mary-Christine Sungaila, a partner and appellate litigator with Haynes Boone, to help dissect the latest legal battle involving a primate's rights under federal copyright law.

The case involves Naruto, a crested black macaque living on a wildlife reserve in Indonesia, who snapped famous "monkey selfies" in 2011 while smiling into a camera. Naruto took the photos using a camera that nature photographer David Slater had set up in the monkey's reserve habitat. Slater published the photos in a book called [Wildlife Personalities](#), which drew widespread media attention. *Wikimedia Commons* and *Techdirt* then hosted the images in their publications, despite Slater's objections that the primate should own the copyright.

Now, lawyers representing Naruto may get a second chance to argue that Naruto has rights under federal copyright law. A judge on the 9th U.S. Circuit Court of Appeals has asked the full court to consider rehearing the case. This could raise larger issues beyond ownership of the photograph – including whether animals can sue.

As Sungaila told *Bloomberg Law*, the judge's request for a rehearing is novel. She explained that when a judge makes such a request, it is called a "sua sponte" action, meaning the judge is acting of his or her own accord rather than at a litigant's request.

"Sua sponte calls are more likely to occur where ... there is a published panel decision with a dissent or strong concurrence and where the legal issue in the case is significant, previously unsettled, novel or cutting edge," Sungaila said.

If the full court rehears the case, it could weigh whether non-human animals can be litigants in different kinds of cases, such as ones involving environmental or animal rights law. For example, the appeals court has called into question whether People for the Ethical Treatment of Animals (PETA) could act on Naruto's behalf.

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