

Haynes Boone Wins Precedent-Setting Decision in Dispute Over Influencer's Social Media Accounts

January 17, 2024 Joseph Lawlor, Tiffany Cooke, Richard Rochford, Michael Lambert

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A team of Haynes Boone intellectual property litigators earned a precedent-setting victory regarding ownership of social media accounts in the United States Court of Appeals for the Second Circuit on Wednesday, Jan. 17. This decision is the first on the issue of social media account ownership by a federal appellate court.

Partners [Joe Lawlor](#), [Tiffany Cooke](#), [Richard Rochford](#) and Associate [Michael Lambert](#) represented social media influencer Hayley Paige Gutman, a wedding dress designer known for her appearances on TLC's "Say Yes to the Dress" with well over 1 million followers on Pinterest and Instagram. Her former employer, JLM Couture, Inc., attempted to claim ownership of her accounts and her name.

While a district court issued a preliminary injunction awarding JLM control of the accounts based on a subjective six-factor social media account ownership test, the Second Circuit rejected that test and vacated the order. The court sided with Haynes Boone's argument that ownership should be determined "like any other form of property," by first determining who owned the account at the moment of its creation and then evaluating whether that owner sold or transferred the account.

"When Gutman created the disputed accounts, any associated property rights belonged to someone. And if she created them using her personal information and for her personal use, then those rights belonged to her, no matter how the disputed accounts may have been used later," the court [ruled](#). "... The fact that Gutman transferred some or all of her rights in particular content posted on the disputed accounts does not by itself support an inference that she transferred ownership of the disputed accounts themselves. Nor should it ordinarily matter to the question of ownership whether an account owner permits others to assist in managing the account, or whether one or the other party holds itself out as owning it."

Lawlor sees this as a vital decision and victory for the future of similar cases, which are certain to be prevalent in an age of increasing use of influencer and digital marketing.

"We are thrilled for Ms. Gutman that the Second Circuit vacated the preliminary injunctions that forced her to turn over her social media accounts to her former employer and locked her out of the wedding dress industry," Lawlor said. "Influencers and brands have been working under a cloud of uncertainty, because prior to today, no Federal Circuit Court had provided a framework for determining competing claims to social media account ownership."

The Court also vacated the five-year non-compete entered against Gutman by the District Court. New York law requires non-competes to be "reasonable in duration" and "necessary to protect the employer's legitimate interests."

“This is a win not just for Ms. Gutman, but for others that are subject to these improper restrictions,” Lawlor said. “We’re hopeful that Ms. Gutman will soon be able to return to doing what she loves—designing wedding dresses and connecting with her followers on social media.”

The case now goes back to United States District Court for the Southern District of New York for consideration following the Second Circuit’s ruling.

About Haynes Boone

Founded in 1970, Haynes Boone provides a full spectrum of legal services across multiple sectors, including energy, financial services, private equity and technology. The firm’s 700-plus lawyers practice in 19 offices in California, Colorado, Illinois, New York, North Carolina, Texas, Virginia and Washington, D.C., as well as London, Mexico City and Shanghai. Haynes Boone was recognized in the 2022 BTI Consulting Group’s A-Team report, which identified firms commended by in-house counsel for superior client service, and it was ranked 21st in The American Lawyer’s 2023 Diversity Scorecard, which evaluated 228 participating firms by the diversity of their attorney populations. For more information, visit haynesboone.com.