

A Man Walks into a Bar... And Fair Use Is Found

November 5, 2019 – The TMCA

by Sarah Robertson

It is no secret about the proliferation of copyright lawsuits that have been filed over the past four years over the unauthorized use of photos online, many against media companies that seek to shield themselves from liability with a fair use defense. A large number of these suits (over 1,600 at last count) have been brought by New York-based plaintiff's lawyer Richard Liebowitz. A photo use lawsuit filed in August 2018, which was the subject of a recent decision on a motion to dismiss, Yang v. Mic Networks, Inc., is no exception.

In that case, a photographer by the name of Stephen Yang took a photo of an executive by the name of Dan Rochkind in a Manhattan bar. The New York Post licensed the photo for use as part of a piece that it ran on April 12, 2017 about Rochkind's dating experiences under the title "Why I Don't Date Hot Women Anymore."

For reasons that can be readily gleaned from its title, the story engendered significant criticism. Mic Networks covered the criticism in its own next day story "Twitter is skewering the 'New York Post' for a piece on why a man 'won't date hot women'" in its Mic online publication. As part of its piece, Mic included a screenshot of the New York Post article and the upper half of the licensed photo as it appeared as part of the Post's original story.

Related People

- Sarah Robertson

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation



Twitter is skewering the 'New York Post' for a piece on why a man "won't date hot women"

He spent the better part of his 30s going on up to three dates a week, courting 20-something blond models, but eventually realized that dating the prettiest young things had its drawbacks — he found them flighty, selfish and vapid.

“Beautiful women who get a fair amount of attention get full of themselves,” he says. “Eventually, I was dreading getting dinner with them because they couldn’t carry a conversation.”

According to new research, Rochkind’s ideas about sexy bikini babes are correct.

ard University,

After unsuccessfully demanding payment for publishing his photo, Yang sued Mic in the Southern District of New York for copyright infringement. Mic filed [a motion to dismiss](#),

