



CARDOZO

Benjamin N. Cardozo School of Law

LARC @ Cardozo Law

---

AEJ Blog

Journal Blogs

---

2-25-2019

## Trademarkers Gonna Trademark: Why Other Artists Should Follow Taylor Swift's Lead

Elyssa Brezel

*Cardozo Arts & Entertainment Law Journal*

Follow this and additional works at: <https://larc.cardozo.yu.edu/aelj-blog>



Part of the [Law Commons](#)

---

### Recommended Citation

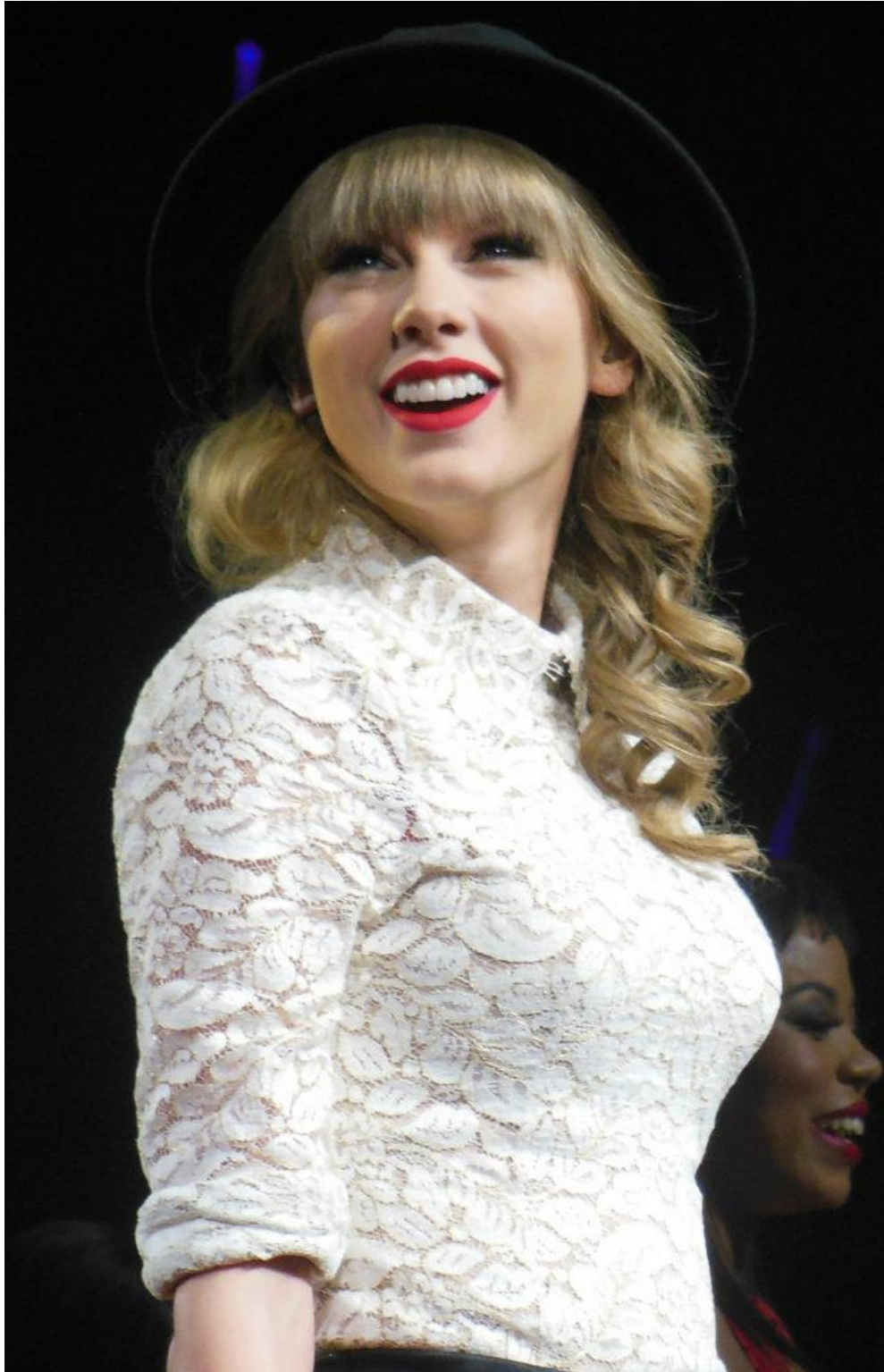
Brezel, Elyssa, "Trademarkers Gonna Trademark: Why Other Artists Should Follow Taylor Swift's Lead" (2019). *AEJ Blog*. 193.

<https://larc.cardozo.yu.edu/aelj-blog/193>

This Article is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in AELJ Blog by an authorized administrator of LARC @ Cardozo Law. For more information, please contact [larc@yu.edu](mailto:larc@yu.edu).

# Trademarkers Gonna Trademark: Why Other Artists Should Follow Taylor Swift's Lead

BY [ELYSSA BREZEL](#)/ON FEBRUARY 25, 2019



As a leader of the music industry, Taylor Swift is known for taking calculated actions that have ultimately shaped the field for both her contemporaries and successors. Previously, Swift held Apple Music and Spotify accountable for their failures to fairly compensate artists from streaming sales.<sup>[1]</sup> With her recent switch from her longtime label, Big Machine Records, to Universal Music Group, one of the “Big Three” of record labels, Swift took the switch as an opportunity to option the rights to streaming profits for all artists on the label as part of the terms of her new contract.<sup>[2]</sup>

However, one of the stances Swift has taken in recent years has been met with strong criticism. Through her trademarking team, TAS Rights Management, LLC, Swift has taken ownership of key phrases, lyrics, and lines she has made popular through her albums and identity. Swift has filed trademarks for everything from certain expressions such as “Party Like It’s 1989”<sup>[3]</sup> to popular lyrics such as “The old Taylor can’t come to the phone right now” and “Look What You Made Me Do.”<sup>[4]</sup> Swift has even trademarked the names of her cats, “Meredith & Olivia Swift.”<sup>[5]</sup>

In trademarking these phrases, Swift has taken the initiative to prevent others from profiting off her likeness. Her team has cracked down on Etsy sellers for using Swift’s likeness on their products listed for sale.<sup>[6]</sup> Products targeted include clothing, candles, and even cross-stitches that use Swift’s name, lyrics, and image.<sup>[7]</sup> As Swift has a large merchandise presence of her own, it is in her best interest to limit the availability of products that opine her name, likeness, and song lyrics.<sup>[8]</sup>

Other artists should follow Swift’s lead and seek to trademark any lyrics or phrases they popularized. As streaming platforms evolve—and the profitability of musicians becomes less certain—artists should take ownership of their likeness wherever possible.<sup>[9]</sup> For Swift, her trademarks will not make an enormous difference in terms of her general profitability; however, for lesser-known artists, having the rights to their intellectual property can help make their own merchandise lucrative. In an age of online shopping, this may make all the difference. For fans who wish to purchase merchandise with a certain song lyric, this means the only place to turn is to the artist’s official store—not to the Etsy store of an unaffiliated seller.

In seeking out these trademarks, Swift makes a strong case for the purpose of intellectual property. Swift is setting an example for all artists in disallowing others to profit off her name, lyrics, and likeness. As she takes a stand against intellectual theft, Swift shows the world the importance of protecting one’s work and the value of a trademark.

Finally, trademarks also protect consumers. By establishing trademarks, Swift helps fans to know the source of their purchases. Individuals may support artists for reason beyond their music and may admire an artist’s ideologies or principles. When a fan buys merchandise from the artist directly, the fan knows he or she is supporting those certain beliefs with the

purchase. The same cannot be said of a purchase to a random seller who utilizes the artist's likeness but may be supporting an opposite agenda through the profits of such sales. Trademarking helps eliminate such confusion, which ultimately benefits the fans.

Swift has stood up for many causes in the past, such as the #MeToo movement and voter registration.<sup>[10]</sup> Perhaps her next greatest mission is to bring light to the importance of intellectual property.

*Elyssa Brezel is a second-year student at the Benjamin N. Cardozo School of Law. She is a Staff Editor of the Cardozo Arts & Entertainment Law Journal, a member of the Cardozo Civil Rights Clinic, and a fan of Taylor Swift. She looks forward to a career in litigation.*

[1] See Amy X. Wang, *Taylor Swift's New Record Deal Affects Thousands of Other Musicians*, Rolling Stone (Nov. 19, 2018), <https://www.rollingstone.com/music/music-news/taylor-swift-universal-republic-deal-spotify-758102/>.

[2] See *id.*

[3] See *Taylor Swift's list of ridiculous trademarks grows ahead of Reputation album release*, The Telegraph (Sept. 5, 2017), <https://www.telegraph.co.uk/music/artists/taylor-swifts-list-ridiculous-trademarks-grows-ahead-reputation/>.

[4] See Nick Reilly, *Taylor Swift is planning to trademark key phrases from her new album*, NME (Sept. 5, 2017), <https://www.nme.com/news/music/taylor-swift-planning-to-trademark-phrases-from-new-album-2134248>.

[5] See *Taylor Swift trademarks cats' names for new range of projects*, MSN (July 26, 2018), <https://www.msn.com/en-us/entertainment/celebrity/taylor-swift-trademarks-cats-names-for-new-range-of-projects/ar-BBL3vCP?li=AA5a2k>.

[6] See Chris Payne, *It's Taylor Swift v. Taylor Swift Fans on Etsy*, Billboard (Feb. 6, 2015), <https://www.billboard.com/articles/columns/pop-shop/6465325/taylor-swift-etsy-fan-sue-legal>.

[7] See Hazel Cills, *Why Taylor Swift's Etsy Crackdown Feels So Wrong*, Refinery 29 (Feb. 13, 2015), <https://www.refinery29.com/en-us/2015/02/82294/taylor-swift-sues-fan-made-etsy-products>.

[8] See Janelle Okwodu, *Taylor Swift Enters the Merch Game Just in Time for Reputation*, Vogue (Aug. 25, 2017), <https://www.vogue.com/article/taylor-swift-reputation-merch>.

[9] See Maeve McDermott, *The music industry is booming, but artists are losing big with just 12% of the revenue, report claims*, USA Today (Aug. 8, 2018), <https://www.usatoday.com/story/life/music/2018/08/08/music-industry-booming-but-artists-only-get-12-percent-revenue/936711002/>.

[10] See Eliana Dockterman, *'I Was Angry.' Taylor Swift on What Powered Her Sexual Assault Testimony*, TIME (Dec. 6, 2017), <http://time.com/5049659/taylor-swift-interview-person-of-the-year-2017/>. See also Lisa Respers France, *Voter registration reportedly spikes after Taylor Swift post*, CNN (Oct. 9, 2018), <https://www.cnn.com/2018/10/09/entertainment/taylor-swift-voter-registration/index.html>.