

Transcript of Interview of Tamar Niv Bessinger
on May 27, 2005 on www.meetingsradio.com,
Event Talk with Beth Shubert, “Brain Drain: Intellectual Property and How To Protect It.”

Beth Shubert: Good morning everyone. This is Beth Shubert with Event Talk. It’s Friday, May 27th. Thank you so much for joining us at meetingsradio.com. . . . We don’t want to take for granted as event and meeting designers the value nor the security of the ideas that we submit for potential business on a daily basis. These ideas, concepts, our sources, intellectual property really, are our tools and inventory, and we’ll be discussing today how to protect them. And those of you on the other side of the desk, the folks who request the proposals, should find the legal ramifications of doing so and of how to use the information pretty interesting too. So there is something for everyone today on today’s show, and you can all join the discussion too. Just dial (201) 585-9013.

My guest today is going to be Tamar Niv Bessinger, Esq. of Fross Zelnick Lehrman & Zissu, P.C. They are a top copyright and trademark legal firm based in Manhattan. We’ll have some great info and tips, so come on board as we delve into the world of “brain drain.”

And now to Tamar Niv Bessinger and Intellectual Property.

Shubert: Tamar, how are you today?

Tamar Bessinger: I’m very well, thank you.

Shubert: Good. Thanks for being with us on meetingsradio.com.

Tamar: My pleasure.

Shubert: So tell me, how can meeting and event planners best protect their ideas, whether they are pitching in person, or we’re submitting written proposals to clients? And is intellectual property an actual legal term?

Bessinger: I will start with the second part first. Intellectual Property is an actual legal term, but it encompasses trademarks, copyrights, ideas, patents, and probably a few other things. So we need to be a little more specific when we are talking about protecting ideas.

Shubert: Well, let’s say that I am submitting a proposal, and within that proposal there are concepts, there are ideas, there is theme development. How can we protect that?

Bessinger: Idea submission law itself is actually quite complex. It gets murky in certain areas. Whereas copyright and trademark law are pretty well developed and somewhat predictable, it is hard to predict the outcome of the dispute when it comes to ideas. So one of the basic protections for ideas that’s developed under the law is under state law, and it is usually a contract law theory where, if you share your ideas with someone, they are basically consenting—whether it’s outright verbally telling you, or in writing, or they are just consenting by their conduct—that they won’t use your idea without paying for it first.

But the tricky part is: it is hard to enforce such a contract for a number of reasons. The nuances in the law vary a lot from state to state. For example, does the idea have to be novel or original to be protectable? That depends, and we can get into some detail about the law itself later on. But I think the best thing to do is to avoid getting into a dispute altogether, by following some practical tips.

Shubert: Okay, what are those tips?

Bessinger: First, you need to think about who are you meeting with and making this submission to. Is it a serious prospective client? Or is it just someone who wants to pick your brain, and then use your ideas to do the event themselves, or get their neighbor to do it, or their cousin to do it? And, depending on the answer to that, you can tailor your presentation and adjust the level of detail that you offer, at least in the first meeting or the first proposal. So you have to balance giving a lot of detail to attract the business, and convincing them that you are the one to do it, versus playing it very close to the vest and not giving too much away, until you are convinced that this is a serious customer.

Shubert: Well, that is true, and sometimes it's a fine line to walk. And I have to say, the longer I have been in business, the more I have found that it is best to give them just a few snippets of information, just to entice them. Because it is true, you do have the tendency to pour out all of these great ideas you have, because you are excited about them and you want to show how unique and creative you are. But by doing that, you are basically giving them the blueprints to go and have the event done by someone else if they chose to.

Bill Wulff (producer): There is another point, especially when you are a meeting or event planner and you're an independent. You could have a great proposal for these people. It's scary the levels you are expected to go to, and then you're basically handing off your baby when you do that. You mentioned about how the ideas have to be exclusive. If the idea is tied to a particular theme for that company, would that make it exclusive?

Bessinger: That's a good point. If it's tied a particular theme, that would make it a little more original and would weigh in favor of the originality of that idea. Again, there is nothing foolproof here, so keep in mind all of the practical ways in which you can hopefully prevent this person from running away with your ideas without paying you for it.

Wulff: Well, under Sarbanes-Oxley, a lot of people right now are being forced to get proposals. How do you handle yourself? I guess I am trying to get to the point here that there is a lot more proposal gathering going on right now than there was before, and it is only going to get more, and that the abuse is going to get worse.

Bessinger: Right. Well I think the thing you want to do there is to think about putting some language up front in your proposal that notifies the recipient that these ideas and proposals are your property, and you are only sharing them with the recipient because you are offering your services in connection with these ideas. And this kind of notice can have a lot details or very little. It just depends on what you're comfortable with, because you don't want to drive the client away with a lot legalese. But you do want to get across some very basic points.

There are basically four things that you can include. First, state that the ideas in this proposal belong to me and are only being offered to you for use if you pay for them, and so you can consider whether to hire us to produce the event. Second, the ideas and concepts in this proposal are confidential, and using them without payment or without executing the contract is prohibited. The third thing you want to say is, you cannot use these ideas on your own without my permission or without paying me for them. The fourth item is to include “copyright” or the copyright symbol, with the name of the business and the year.

Shubert: That’s kind of what I do on my proposals. And to tell you the truth, I didn’t use to do it on very simple proposals, but now I do it on everything. And it is in a little box at the beginning of anything that I submit. It is basically a five line description, and if anybody wants to know how I word it, I’ll share it with you. I will read you a little bit of what I have, and see what you think of it.

“The descriptions and ideas set forth in this proposal are the property and creative concepts of Evention, Inc. and proprietary to Evention, Inc. Unauthorized use or disclosure is prohibited. These materials are submitted to determine if the recipients wish to hire Evention, Inc. to produce the concepts stated herein. All elements are subject to availability upon receipt of the signed contract and deposit.” And then I have a copyright 2005 Evention, Inc. The only thing I don’t include in there is the pay to play.

Bessinger: I think that is a great basis. You might not need to say the part about “this is proprietary to Evention, Inc.” because you have already said it’s your property. That is basically duplicative. But you could say this proposal is confidential, and then after you say unauthorized use or disclosure is prohibited, you might want to add, by reviewing this proposal, you agree to compensate Evention, Inc. if you use any of these ideas. Or something of that nature.

Now, you are putting in all of these concepts in the hopes that you are deterring this prospective client from running away with your ideas. It’s not as if you could just march into court and wave this document around and actually get some relief, and the court would say, “stop using their ideas and pay them \$3000 for stealing them.”

Shubert: That is the assumption. That is the reason for putting the copyright notice in. Why wouldn’t the court recognize that as some kind of agreement?

Bessinger: Well it gets complicated there, because as I said, the law for idea submission is actually kind of murky. It varies from state to state, and you can’t always get the relief that you want. What you’re doing first of all is trying to deter the client from stealing your ideas to begin with. Then by having it in writing, let’s say they do take it and you go to a lawyer, you have to [ask], how is the law going to work for me in this case? How much of my idea did these people take, and what level of detail did I provide? What was said at the meeting, and what did the writing proposal include, and what did the written notice include? You have to analyze that and see if you think a court would imply or read that as a contract between you and prospective client and actually enforce something.

And where you would start is maybe just sending a letter to the people who took the ideas and saying, "This is how we see the law and you took something of mine, and I think you should pay me for it." Then try to negotiate a solution. Pretty much the last thing you want to do is end up in a litigation about this. Let's say your whole proposal was for a \$150,000 worth of services and they took maybe 10% of your ideas, so that's worth maybe worth \$15,000. Now, by the time you get through filing the complaint and having some initial discovery, you've spent \$15,000 in the first three months, and the litigation could drag on for years and years.

So you have to balance an assertive approach, by saying, "Look, I insist that you pay me for my ideas, and the law supports me." And then you have as a back-up, if you don't come to the table, I am going to have to take further action. But if you threaten that, and then you do nothing, you lose your leverage. So this is all the business and negotiation of having the law behind you, but hopefully you won't have to march in there and use it.

Shubert: It really comes down to what is it worth, and you do have to juggle how much you want to risk losing the client. But on the flip side, if the client has that little respect for you as a professional, and does not view your ideas or concepts as intellectual property or as your inventory . . . which is really for someone in the service business very often your ideas are your inventory. Somebody would not walk into the warehouse of a furniture store and take a couch without paying for, but they don't necessarily view ideas and creativity in the same manner. So it is a fine line to walk, but I would hope that there would be wording that would offer some legal protection. And I suspect that the more people include copyright notices in their proposals, the more it may become normal, the more clients may realize we are serious about protecting our assets, which sometimes are simply ideas, and so forth.

Wulff: I also think the bonus that might help here is that in the age of procurement departments getting involved, there are standards of professionalism that expose the company to increased liability from our end, that they would be preventing it. There may be an individual who says, "I don't understand that idea." But I have a feeling that if you take your documentation to procurement official of the company, they might be far more professional in this area, and say, "this company submitted this idea, they did copyright it, they did protect it. As a procurement official and representative of this company, I have to advise you as the individual that you are jeopardizing our company now." Nobody wants that.

Shubert: That is very possible, because of procurement, people are coming at this, not from an event perspective, but from a business and tactical and strategic planning perspective, and they may have different standards.

Wulff: It may actually work out to your benefit.

Shubert: It may.

Bessinger: I hope that that is true. There are two points I want to make there. First of all, you could even take this a step further. If you are dealing with big company, and they are used to signing contracts and things like that, it may make sense to have them sign some kind of agreement. Make it very brief, but have them acknowledge the terms that you have put in this

notice. That these are your ideas and your proposals. But have them acknowledge that with a signature, and they're promising not to share them and not to use them without paying for them.

Shubert: So then instead of putting it as a copyright notice on the proposal, perhaps you say that first they sign off, and then you send the actual proposal.

Bessinger: Right, and you could even do that—let's say you are having a face-to-face meeting—before you get into the details, you could say “look, I just would like for you to sign this acknowledgement that these ideas I am sharing with you are for this purpose, they're confidential...etc., etc.” Sort of put that in front of them, and hopefully they will sign it. If they have a big issue with it, you would have to judge whether that is something you would need to do at that moment. If it is that important to you? Or is it more important to get the pitch done?

Shubert: Is it sometimes a factor what's original and how somebody interprets that? Let me give you an example: “Viva Las Vegas” is a very popular theme right now, not necessarily original. It's a phrase that was coined in a movie in the 50's with Elvis, and a lot of people are doing various Vegas themes. What if you submitted a proposal with that theme, and inside the proposal was an original concept, like we are going to do a team building event, and every team has to come up with their own gambling game. Maybe that is a concept that no one has done before. And your client goes and they do their own Vegas theme somewhere else, and they happen to include this idea of coming up with our own gambling game. So what is considered by a court in that case to be original, the whole theme, or just the game concept?

Bessinger: That's a very question, and that's really an example of how every case is different. If you were in California, I would say that the state law would be more favorable to the event planner who proposed this idea. Even though Viva Las Vegas isn't so original, in California, it doesn't have to necessarily be that novel or original to the person who is receiving the idea. Whereas, if you're in New York, you might not have such a favorable view by a court, because the New York courts more often say, if this idea wasn't original or novel to the person who received it, we won't protect it. So the answer, unfortunately, is something lawyers have to say a lot: it really depends.

Shubert: Yeah, you lawyers you know. No offense.

Bessinger: None taken.

Wulff: You bring up an interesting point, the fact that in California, that I guess they are probably used to dealing a lot more with intellectual property rights, because of the movie industry. And I was wondering whether that has an effect on it, versus other parts of the country. You wouldn't go with this in Illinois or Ohio maybe.

Bessinger: Right. The law is much more well developed in California and New York because of the entertainment industry. There are just more cases out there for you to judge what the status of the law is, whereas in the rest of the country, there is very little. So they would look to the laws of California and New York for some guidance in that case.

Shubert: But you definitely recommend copyright registration.

Bessinger: Well, let me talk about what copyright really is in this context, because that is actually a different context.

What we have been talking about right now is idea submission law. That is based on state law and judge made law. Every case adds to the precedent and adds to the body of law. Copyright law is actually based in constitutional law, and then there is a federal copyright statute out there that congress passed. What it does is protect the expression of an idea. So, if you have something that is fixed in a tangible medium, like it is written down on paper, or it's a photograph, a drawing, a painting, or recording, then copyright will protect it. It doesn't protect the underlying idea.

Shubert: It doesn't?

Bessinger: No, it does not. So if you have a story, that's a fairytale story. For example, Cinderella is now in the public domain, but let's say you thought of it, and the idea, the poor little girl, and fairy godmother, and the prince and the ball—that whole theme is *not* protected by copyright. When you actually write the story, and that expression of exactly the words that you use, and the way you put them together, that would be protected by copyright. So, you could have this incredible narrative and it is very detailed . . . very creative, and you're going to integrate it in a theme for a party, you're going to have a fairytale theme at a black tie event. Copyright law would protect against someone photocopying your detailed proposal or actually copying all the details of it the way that you express it, or for word for word. But what it doesn't protect is the idea of a fairytale theme for an evening party.

Shubert: Interesting.

Bessinger: So as far as copyright registration, you don't actually need to register a copyright on a work to have copyright rights. As soon as you scratch on a piece of paper and do your creative design, you have copyright. What you need to do if you want to sue, if you want to initiate a lawsuit—and it would be federal court, because it's a federal statute—you then need to go to the copyright office and fill out a form and get a registration. The timing of when you get the registration will affect your ability to get damages or attorney fees. But other than that, you really don't need to go out and copyright everything you have.

You might want to think about getting a copyright registration for your website, because you don't want someone to rip that off. But, other than that, in this context for idea submission and proposals, it doesn't really necessitate getting a copyright registration. If you do want to do it, it's something that is pretty easy to get started on yourself, because there is a good website. It's www.copyright.gov, it's the official Library of Congress Copyright website. It's pretty inexpensive to file on your own, and the forms are pretty easy, and there are directions. If you do decide to do something like that, it's pretty easy to do.

Shubert: Okay, and how about trademark versus copyright, is there a legal distinction?

Bessinger: Yes, trademark law is also based in the federal statute, and that protects your name, your trade name, your mark for your product or service, or even a slogan. And again, you can have rights just by using that mark in commerce, using it in your business.

If you want to register your trademark, you can also do that, because that gives you certain presumptions under the law, if you do get into a dispute. You get a presumption of the validity of your mark and nationwide rights for using your mark. You don't necessarily have to file for trademark application. It is a little more expensive and perhaps a little more complicated to get a trademark registration, so I think probably more people tend to use attorneys for that, but you certainly could also do that yourself.

If you are just starting your business, it makes a lot of sense to have a trademark search done before you finalize the name and use it. What that means is you can look through the database of the registered or pending applications from the trademark office just to make sure that no one has something very similar in your line of business, and that way, you can avert any conflict you would have gotten into. And then you could apply to register it, and that would give everyone out there the knowledge of, hey, I am using this name. So when they do a search, they will see your name and hopefully keep some distance from you. Even if you have been using the business name for awhile, you might want to do a search just to see what's out there, to see what potential conflicts exists. To see if other people are trying to encroach on your name, and they started later. Maybe you can say, go away, keep some distance from me, because you are in my industry, your name is very close to mine, and I think people are going to be confused. The whole point of trademark law is to avoid confusion. This name, "oh, I know, that's that particular business, and different from that other business with a different name." The conflict starts when people are confused and they think there is an association between two businesses, or that your services are actually coming from the other guy, or you're sponsoring them and you're affiliated somehow.

Shubert: Well that is similar to what happen to me and that is actually how I met Tamar, was that my company, which is 15 years old, which is Evention, Inc. One of my clients actually called me to say that they had gone online . . . and found a company that they thought was us. It was Evention.com, and it took three or four conversations with this other company before the other company admitted that, "well no, we're not Evention Inc., we're Evention Marketing," or something like that. When I called the other company, they answered the phone, "Evention," and their letterhead said Evention and on and on. The guy was based in Manhattan, and we service the whole country, but predominately the tri-state area, and we are based in Northern New Jersey. So we went after him, because he had usurped not only a name that was similar to ours, but our domain name, and had a similar type of business in our backyard. We went after him, and I will say that Tamar's firm was very successful in making the guy change the name of their company, and give up the domain and on and on. So it is a very important issue, in the sense that someone can take a name that they say legally is not exactly the same as yours, but in fact, if it is similar enough and causes confusion, and they are operating in the same arena, you may be able to make them change, especially if you were there first.

Bessinger: You summarized the status of the law very well.

Shubert: Oh thanks. Are there other pitfalls in doing certain proposals that just open yourself up to legal issues and to idea stealing?

Bessinger: I think so. First of all, you want to make sure that when you pitch an idea, it has actually been solicited from you. If you blurt something out to someone at a party, you are pretty much, under some circumstances, and depending on all the factors, giving up rights to that idea, because they didn't ask you for it. You didn't get a chance to say, this is confidential, and you are going to have to pay me for this. You want to be careful before blurting out your ideas, or even making unsolicited submissions. If you hear that so and so is going to throw big party, and you don't know them, and you don't have any connection, and you just sort of either cold call or send something in the mail to them, really, at that point, you cannot have too many expectations about what they are going do with [your ideas]. They shouldn't take it, and certainly there are legal theories that you can propose or push for that would still protect your ideas, but you are weakening your position.

Shubert: I think that is why a lot of movie studios now will not accept unsolicited scripts, because they don't want people to come back, and saying, "well, I sent you that idea ten years ago, and maybe it subliminally got into your mind." And yet the director or the screenwriter might say, "no way, I don't even remember getting your script." But I think that was a problem in the movie industry and also in the publishing industry and that is why it is very hard to send an unsolicited script or book proposal.

Bessinger: That's true, and unfortunately because there have been lawsuits—depending on your prospective, whether baseless or not—it's gotten the larger companies much more defensive, and a lot of times they won't even look at unsolicited submissions. But in the event planning industry, I don't know if that is the case. They might actually look at your stuff. If it's a corporation and you hear they need someone for a big party, they may open up your proposal and read it.

Shubert: They might, but as you said, you are then weakening your case against taking an action against them if they use that idea without doing it through you.

Wulff: But you know it sounds like . . . it's critical that you document the fact that they solicited your proposals and you just didn't send it. You got to keep that as part of your archives

Bessinger: That's true, it's always good to keep all your records and have everything in writing. That is always helpful. The other thing that I wanted to add, as far as the way you make yourself vulnerable when you submit a written proposal, is to make sure you have the right to everything you are putting in your proposal. You have to have the rights to the intellectual property of others, if you are proposing them for a theme. For example, if there is some kind of T.V. theme, and you want put up posters from *Sex And The City*, you think, "oh that would be so great, it's so hot right now...I'll put that up." Well, that show may not be producing any episodes, but it's on DVDs, it's syndicated, and somebody owns that. So you want to be really careful about who you think is going to end up seeing your proposal and seeing your posters, because you don't want to be on the receiving end of a demand letter for copyright infringement.

Shubert: That's very important. I can't tell you how many clients have asked us to do things like that, or let's do a *Sex And The City* theme, but let's use the real poster and related material, and let's get look-a-likes and what not. Or they want some sort of Disney theme, which I won't do, because Disney is notorious for going after people who are infringing on their rights. Sometimes it's a matter of tweaking a theme, so that it is similar to *Sex And The City*, or whatever the popular item is, but it is not quite a duplication.

Bessinger: Right, and you don't want to have people associate it necessarily with *Sex And The City*, because you come into a sort of a false representation, a trademark type problem, where people think "oh...*Sex And The City* or HBO is sponsoring this. This is great, they approved this."

Shubert: But what if you have people who do take-offs? Like *The Sopranos*, which is very popular, but I have seen ads locally for dinner theater for the "Soap-ranos." It is very clear that the Italian characters involved are supposed to be like the *The Sopranos*, that in fact they are marketing to fans of *The Sopranos*, but they are changing one letter to do a performance that is similar. Does that really protect them?

Bessinger: Well, we have the First Amendment which protects free expressions, performances, artistic expressions, and parody. For items that are artistic, you have a pretty wide range of protection. You have some kind of buffer sometimes. You're always taking risks. It is sort of a continuum of risk, and with a performance, there is probably a much larger buffer. Even with an impersonator. Because although people do have rights of publicity, and they could maybe bring a right of publicity claim, against you

Shubert: What is that?

Bessinger: It is again under state law, and it is most developed in California and New York. Where people might claim you are taking their identity and using it to your advantage, and you're making it seem as if they sponsored this, or they are affiliated with it. But it is based not on a trademark but on their identity, because they are famous.

Shubert: Let's say a Neil Diamond look-a-like? Is that legal to use?

Bessinger: I think because it is a performance, there is a much wider range that you have there, because of the First Amendment. And if it's really clear that it is kind of a parody, you may be making fun of it, so that's social commentary, which will give it even wider latitude.

I think it is less of a problem for impersonators or for performances than when you are actually using trademarks that could belong to someone. Whether you're doing a 70's theme, and it's products in the seventies, they may have staged a come-back, they may be selling that product at Target. So you want to be careful about having a big poster with some old product on it, if someone actually owns it right now, and is using it.

Shubert: Really?

Bessinger: I would look into that. You could go to the USPTO, the United States Patent and Trademark Office website which is at www.uspto.gov. You could do a search and you could search identical marks, you could search similar marks, and that could give you an idea of whether someone currently owns the mark. It is not foolproof, because people can have rights without owning a registration or an application. But, certainly, if you have an idea that something might actually be in use and be owned by someone, and you look it up and find it there, then you know perhaps you should use something else, or perhaps you should seek permission to use it.

Shubert: Well it sounds to me like there is a very fine line in all of this, and as you said early on, the laws are little bit murky. I think it really comes down to taking every possible protective measure you can when submitting your ideas and proposals, and then trying to have a dialogue with your client. Then, if that doesn't work, seeing what's worth pursuing. Now, how about cybersquatters and other takers of concepts and domain names?

Bessinger: As far as cybersquatters, first of all, most people use their business name as their domain name. If you can do that, that's great. If you can't, it's good to choose a name that's easy to spell and is somewhat suggestive of your business, because then people will be able to find it easily. And dot.com names are obviously best, because I think people tend to type those in as a default, so they are more likely to find you. A descriptive word in a domain name may get you a higher level in a search result, which is the opposite advice I would give you in choosing a trademark, which should be more unique and arbitrary. But your domain name should be somewhat descriptive and suggestive.

If you find that someone has taken your business name and they have it as a domain name, you may be able to commence a UDRP proceeding, which is a pretty simple process where you put a complaint in, and you might be able to get it back, if the person has registered it and is using it in bad faith. It depends if you can prove that you have trademark rights, if it's a unique name, if you have been using it, and you have developed goodwill. But sometimes you might not be able to get the name you want, just because you can't prove that you are the only one who should have it. As far as Event.com, no one can really say, "I own that as a trademark," because it is so descriptive and generic for the business. So in that case, if you are looking for a new name, and you want to find one that works for you, you might find cybersquatters out there who are just warehousing all these great names that are descriptive or suggestive, and you can try to negotiate with them. If you go to a registrar and you look for a name, and it says that this is registered, but, is also says, "do you want to make an offer to buy it." That is often how it comes up.

Shubert: Aren't there laws now that really kind of squashed a lot of cybersquatting?

Bessinger: Absolutely. If it is a name that is a trademark and you can prove that it belongs to you, then that's the sort of traditional cybersquatting, where you can bring a UDRP proceeding or even or even a proceeding in court.

Shubert: What does UDRP stand for?

Bessinger: Uniform Dispute Resolution Policy, and that is the policy that ICANN and WIPO have come up, and that all the registrars subscribe to. So anyone who registers a domain name is subject to these regulations and rules. So if you serve a UDRP complaint, they have to answer, and if they don't answer, they default and they lose the domain name, and the registrar has to transfer it to you.

Shubert: How about the use of video, movie and things you can go and rent on a daily basis? I have clients who want to show this at events. They want to use a clip from *The Godfather* to introduce the big honcho at the company. I am just using this as an example. I know that when you look at these videos, there is specifically some kind of a disclaimer in the beginning, or a copyright notification that says it is only for private showing, not public viewing. But are there legal ways to use copyrighted material? I suppose you could get permission from the producer, movie studio or whatever. Are there other ways of doing it quickly when you don't have time to go through that process?

Bessinger: That is very limited. I would suggest that if you really wanted to do it, you did seek permission from the publisher. There are fair use exceptions to copyright infringement, so you may notice on the news, they may show copyrighted material, because there's sort of a defense that if it's for educational or political, first amendment based reasons, you can use a little clips and snippets of whatever the copyrighted material is, but only enough to evoke the whole, not more than necessary. Again this is on a continuum. And if it's for a commercial reason, let's say a for-profit business holding a for-profit event, and you show five minutes of *The Godfather*, I would say, you're in trouble there if they find out about it. So I'm sorry that's probably not the answer you wanted to hear. But that's what the law is, and you're better off thinking of another creative idea than getting sued.

Shubert: That's been my assumption. So I try to talk clients against doing this. I advise against this, it's not legal to do this, especially in a public event where there might be press coverage. I wouldn't put you in jeopardy. If you choose to do this on your own, god bless you.

Wulff: This is done in meetings all the time, for example showing a clip from *Frasier*. They take a risk. They are not charging admission. These are just attendees of the company. Is that okay?

Bessinger: It all depends on how much they're showing, and what's the purpose of the meeting. Is it educational? Maybe if it's to educate people or to make a political statement, or even just to use just enough to evoke the episode, maybe twenty seconds. It's very, very hard to say. Also, you're running a smaller risk if so few people are attending, very few people know about it. It's not likely to come to the attention of the copyright owner.

Shubert: You never know. If it's an opening sessions and 3500 people are in attendance, the opening session of a special event.

Bessinger: I think that would be a much higher exposure. The thing about copyright is . . . if I were the owner of the copyright, I would send a letter to say, "stop doing this" and if they didn't stop, then you initiate a law suit. They could get an injunction to prevent you from doing it in the

future, and if you did it again, you would be in contempt of court, which you don't want to be. Or they might be able to get some small amount of damages. Damages aren't huge in copyright, but as you know, being involved in a legal dispute is sometimes worse than the actual damages that come from the wrong.

Shubert: The cost of litigation is very high usually. Well, the music industry has addressed this with BMI and ASCAPP, and dues that you're supposed to be paying for music that you play in a public forum or event. They've really gotten organized to protect their assets, if you will. And I suspect that as the event and meeting professions are seen as professions. .. I mean we've already seen on T.V., they are real jobs, they are important and critical. Every week on *The Apprentice*, there's an event to plan. I'm sure that as our industries grow and become more professional within themselves and continue to have trade shows and trade organizations, the public and our client bases will also see us as more professional. And I think they'll steal less, will take less, will understand how we make our living, and I think it might get easier for us. We'll see.

I want to thank you for being with us today, Tamar. We really appreciate it. I think you gave us a lot of great tips.

Bessinger: Great, you're very welcome, my pleasure.

Shubert: And how can people reach you if they'd like to pursue this subject with you?

Bessinger: They can look us up on frosszelnick.com. Our firm number and all our contact information is there.

Shubert: And you're based in Manhattan, at United Nations Plaza. This is Beth Shubert at meetingsradio.com. Have a great weekend everyone, and a relaxing Memorial Day. And remember, if you're going to do it, then do it right.