

Kimberly Herman

Partner

617 338 2943

kherman@sullivanlaw.com



Kim is a corporate attorney with a focus on contract negotiation and intellectual property. She leads Sullivan's Intellectual Property, Technology and Media & Entertainment Groups. Her practice spans the United States, Europe, Asia and the Middle East. Kim's practice is varied and extensive and includes advising clients on numerous issues relating to licensing, copyrights, trademarks, patents and trade secrets. She also has specialized expertise in business strategy and negotiating in-bound and out-bound transactions and drafting related agreements for a wide range of commercial deals and litigation settlements in the media and entertainment, software (including open source, SaaS and business software platforms) and life sciences industries.

Kim is also well-versed in providing legal advice concerning the ever-changing state and federal laws applicable to online sports betting, online gambling and fantasy sports including the representation of a billion-dollar multi-national gaming and lottery services company in connection with its licensed content deals. Kim's gaming clients include IGT, Bally's Corporation and Novomatic.

On any given day, Kim may go from working on a film production agreement for a streaming platform in the morning to a clinical trial agreement for a life sciences or medical device company in the afternoon to evaluating state gaming regulations in the evening.

In the last few years, Kim has acted as the General Counsel for a Series D funded technology company Hydration Labs (Bevi, the bottle-less water dispenser that delivers personalized flavor) and most recently as the VP and Deputy General Counsel for Bally's digital entertainment and technology division Bally's Interactive, where she managed the legal function for Bally's North American online sports betting business. At Bally's, Kim provided legal counsel concerning all regulatory and legal issues involving the company's licensed and regulated product offerings, including supporting the company's compliance team on interpreting regulatory and licensing guidelines and communications with state regulators. Kim also managed a wide range of litigation and transactional matters for Bally's involving patents, copyrights, trademarks and brand content and was across many major league sports partnerships with the likes of the NBA, MLB, MiLB and the NHL. As a result, Kim has become well-versed in juggling the multitude of legal issues that GCs

Capabilities

- Anti-Counterfeiting - Software
- Art & Museum Law
- Copyright
- Content Clearance
- Esports & Gaming
- Hi-Tech
- Intellectual Property
- IP Litigation
- Licensing
- Life Sciences
- Life Sciences Industry
- Media & Entertainment
- Media, Entertainment & Publishing
- Privacy & Data Security
- Software Anti-Piracy and Litigation
- Sports
- Trademarks
- Commercial & Technology Transactions

and other in-house counsel face on a daily basis. This experience has reinforced her ability to provide innovative and efficient solutions to her clients.

Kim currently serves as outside general counsel and main point of contact for Skillsright, Inc., a nonprofit coalition of the country's top employers and their CEOs with a mission of driving a skills-first movement for a more equitable and inclusive future workforce. In 2020, Kim was a member of the Sullivan team that advised, along with longtime Sullivan client Bain & Company, on the non-profit's formation, branding and launch.

In particular, Kim's practice focuses on structuring and negotiating complex commercial transactions dealing with media and entertainment (including representation of clients in the news, documentary, motion picture and cable network industries), First Amendment and privacy issues, gaming, sanctioned gambling and e-sports, software, music and art on behalf of leading media, entertainment, technology and consumer-products companies, as well as filmmakers, project financiers, artists, museums and art galleries. This representation extends to Kim assisting her clients in exploiting their brands, content and programming into different markets and entertainment distribution platforms through a variety of licensing, merchandising, publishing, sponsorship, agency and endorsement deals.

With respect to Kim's work in the media and entertainment space, she reviews film and other content for distribution on all types of platforms including premium cable, streaming services such as Netflix and Hulu, film festivals, YouTube, Instagram, Facebook, Snapchat, websites and native video platforms. Kim works collaboratively with clients to provide tailored recommendations to reduce risk and overcome obstacles to publication. She drafts and reviews releases, licenses and permissions, and she issues copyright fair use opinions for insureds and others.

Kim also advises companies, content creators, advertising agencies, and technology platforms on the development, training, commercialization and governance of artificial intelligence systems, including AI-enabled recommendation engines, generative AI applications, data licensing, intellectual property ownership, copyright and trade secret protection, confidentiality, AI training datasets, and the use of historical creative and business intelligence to develop proprietary AI products.

In addition to her broad media and entertainment practice, Kim provides strategic legal counsel tailored specifically to the music industry. She guides musicians and music publishers through complex licensing negotiations, master and sync agreements, publishing contracts, and royalty arrangements. Drawing on her deep expertise in intellectual property law, Kim helps clients safeguard their creative works, maximize revenue opportunities across formats and territories and navigate the interplay between rights, contracts and evolving distribution platforms.

Kim advises Sundial Media Group LLC, Refinery29 and its affiliates on pre-production review of online content, including social media posts, digital marketing campaigns and website materials.

Kim works with Sundial Media Group LLC in connection with its advertising campaigns in sectors from tech to tacos. Kim ensures compliance with intellectual property laws, advertising regulations and platform-specific guidelines, helping this client mitigate risks and safeguard its brand reputation.

Kim works closely with social media influencers and brands, providing guidance on influencer agreements, disclosures and compliance with Federal Trade Commission (FTC) guidelines. Her practice spans industries such as technology, entertainment, consumer goods and healthcare, where she provides practical solutions to navigate complex legal and regulatory landscapes in the fast-paced digital space.

Kim conducts audits and provides strategic counseling to assist clients in identifying, protecting and exploiting key intellectual property assets and represents clients in a wide variety of trademark and copyright enforcement and defense matters. In addition, she advises clients in responding to claims of infringement of adversely held trademarks and copyrights, prepares and responds to cease and desist letters regarding the same, and provides advice on litigation, litigation settlements and mediation.

Kim is experienced in the unique challenges posed by Government Contracts that federal agencies routinely award such as Cooperative Research and Development Agreements (CRADAs) and Technology Transfer Agreements. She has significant experience negotiating these agreements and advising contracting companies on the risks involved and how to protect intellectual property. Selecting the right agreement isn't a simple endeavor because it involves many factors including the nature of what the contracting party is supplying and how the Government will use it.

Kim also provides comprehensive guidance on managing cyber breach events, from preparation and response to recovery. She advises clients on navigating state, federal, and international breach notification requirements, regulatory reporting obligations, privacy compliance, and contractual reviews. Kim helps clients mitigate litigation risks and enhance compliance frameworks to recover and strengthen their resilience after an incident.

Kim has been ranked in *World Trademark Review 1000*, *The World's Leading Trademark Professionals* each year since 2015. Clients describe her as "incredibly responsive" and "always looking out for your company's interest." She has also been recognized in the WTR's *Global Leaders Guide*, which identifies the "best of the best" in trademark practice. In 2021, Kim was named a "Go To IP Lawyer" by *Massachusetts Lawyers Weekly*.

Kim is a guest speaker at Northeastern University in Boston, where she speaks on developments in intellectual property law, copyright, fair use and First Amendment issues. She completed the courses "Museums and the Law;" "Museum Exhibition Content Development;" "History of Museums;" and "Collections Management: Issues and Solutions" at Harvard University.

Education

- Western New England College School of Law (J.D.)
- Northeastern University (B.A., *cum laude*)

Bar & Court Admissions

- Massachusetts
- U.S. District Court, District of Massachusetts
- United States Court of Appeals for the Federal Circuit

Professional Qualifications

- Executive Committee, Riverside Community Care
- Member, International Masters of Gaming Law
- International Trademark Association
- Computer Law Association
- Massachusetts Bar Association
- Boston Bar Association
- Licensing Executives Society (U.S.A. and Canada), Inc.
- International Association of Privacy Professionals (IAPP)
- Academic Committee, International Trademark Association, 2010-2011
- Member, American Intellectual Property Law Association (AIPLA)

Awards & Honors

- *World Trademark Review Global Leader* (2024)
- *World Trademark Review 1000*, The World's Leading Trademark Professionals (2015-2026)
- *Best Lawyers in America*® (2024)
- *Boston Magazine Top Lawyers*, Corporate Law (2021)
- *Boston Magazine Top Lawyers*, Intellectual Property Rights (2025)
- *Massachusetts Lawyers Weekly*, "Go To" Lawyer, Intellectual Property (2021)
- *World Trademark Review*, Global Leaders Guide (2021)

Community Engagement

- Board Member, Needham Steps Up
- Executive Committee Board Member, Riverside Community Care, Inc.

Matters

Media, Entertainment and Copyright Matters

- Representing Goldberg-Polin Ltd in connection with its publishing agreement with Random House for *When We See You Again*, including key publishing rights, commercial terms and related author interests.
- Serving as pre-production clearance counsel to Blanchard House in connection with true-crime podcast productions, advising on defamation, privacy, intellectual property, rights clearance and related media risk management issues.
- Represents the media and publishing interests of Lynn Roy, the mother of Conrad Roy III, whose former girlfriend was convicted by the Massachusetts Supreme Judicial Court in connection with her role in the texting-suicide of Conrad. The HBO documentary *I Love You, Now Die: The Commonwealth v. Michelle Carter* is a two-part documentary that treats difficult questions about social media, mental health and the use of technology and whether someone can be held liable for causing the suicide of another. See here: <https://www.hbo.com/documentaries/i-love-you-now-die-the-commonwealth-v-michelle-carter>.
- Successfully represented the estate of a world-renowned Israeli artist Menashe Kadishman in a copyright infringement dispute against a global television network for its unauthorized use of the artist's magnum opus *Shalekhet (Fallen*

Leaves) in the network's wildly popular television series. She also represents street artists in connection with misappropriation of their works by big businesses, including evaluation of whether the Visual Artists Rights Act may offer protection. She also recently settled a copyright dispute against NBCUniversal for its use of her client's recognized street art in a popular television series.

- Represented an Italian movie director in a matter involving clearance and use of a depiction of Marilyn Monroe owned by the Andy Warhol Foundation.
- Represents a number of well-known film directors, including Oscar winner Errol Morris, with respect to film copyright clearance and title matters. In addition, she represents investors and filmmakers in connection with the adaptation of books into feature films.
- Represents a rights holder in connection with the works of master mystery writer John Bellairs.
- Provides counsel to media and other content publishers in the areas of trademark, copyright clearance and fair use, and frequently conducts pre-publication and pre-broadcast content reviews for television, cable and Internet networks. Kim regularly conducts pre-publication reviews of content on the following platforms: Facebook, Instagram, Snapchat, Twitter, YouTube and others.
- Provides advice to magazine publishing companies, television networks and content publishers on editorial issues, privacy and publicity rights, defamation, fair use and other potential litigation matters. Advises clients on content and manner of advertising in print and on product packaging to assess risks and avoid litigation.
- Regularly provides advice and counseling to entertainment and media clients, including television and film production companies; film and television producers; on-air talent; as well as investors, developers and licensees of film, television, music and Internet content.
- Drafts and negotiates music licensing agreements, talent agreements, event production agreements, including live event contracts, life story rights agreements and other entertainment-related contracts.
- Advises multimedia companies in drafting and negotiating production and distribution agreements, syndication agreements, insertion orders as well as sponsorships and endorsement agreements relating to both traditional and online distribution of content.
- Represents companies in the United States and Europe including independent production companies with the licensing and distribution of content via Internet broadcasting, streaming video, music on-demand and interactive television, including VOD. Also negotiates manager, performer and producer agreements for film and video projects.

Gaming and Online Activities

- Recently represented Challengegame Esports GmbH (CME), a provider of one of the most sophisticated eSport matchmaking and tournament platforms, in its acquisition of US-based platform provider, eSports Hero Inc., and also advised CME in connection with a strategic investment in the company by eSports Mogul (ESM), an ASX-listed eSports media company, as well as a multi-year licensing agreement with ESM for the Asia-Pacific region.
- Provides advice relating to compliance with the ever-changing state and federal laws in the United States regarding Internet gaming including the representation of a billion-dollar multi-national gaming and lottery services company in connection with its licensed content deals.

- Represents a leading gaming technology and services company with respect to various copyright and rights clearance issues related to use of musical compositions on certain of its electronic devices.
- Assists clients in developing, implementing and administering all aspects of promotions, including auctions, contests, and sweepstakes. Drafts promotion rules to protect clients' interests and reviews advertisements such as direct mail, websites and banner advertisements related to promotions.
- Represents clients in the development and commercialization of mobile apps through Facebook, Apple, Google Play and other social media sites.
- Represents consumer products companies in connection with credit card processing activities and gift card initiatives related to the sale of goods online and through mobile apps.
- Reviews advertisements and advises on unfair and deceptive trade practices. Counsels clients on compliance issues relating to the Federal Trade Commission as well as state and other regulatory laws.

Software and Hardware Deals

- Represents software clients in the United States and around the world in connection with the drafting and negotiation of a wide array of commercial contracts including Tier 1 customer agreements, VAR/OEM/distributor agreements, master services agreements, subcontract agreements, alliance partner agreements, offshore IT and development outsourcing agreements, hosting agreements and data access agreements with companies such as The Home Depot, Inc., The Neiman Marcus Group, Tiffany and Company, Visa International Service, ExxonMobil Global Services Company, Fujitsu America, Inc., PayPal, Inc., Supervalu, Inc., IBM, Hewlett Packard Company, 7-Eleven, Inc., Best Buy Purchasing LLC, Target Corporation and Walgreen Co.
- Handles the negotiation of numerous multi-million dollar software deals for clients involving complex agreements for technology and emerging company vendors including license and technology-transfer agreements, distribution, manufacturing, co-packing, supply, development and joint venture agreements.
- Advises business development executives on strategies for commercializing software products and establishing national and international distribution. Strategies include inbound and outbound licensing, sales representative programs and the use of OEMs, resellers and strategic partners.
- Represents Skillsright, Inc., a startup non-profit organization, as outside general counsel, including in negotiating and drafting master services agreements, SaaS agreements, software and technology licensing agreements and non-disclosure agreements.
- Establishes strategic alliances and partnerships for the development of new software and hardware products and expansion of existing product lines. Drafts and reviews proposals, evaluates potential partners in conjunction with clients and assists clients in selecting the best partners to achieve their goals.
- Advises clients as to the benefits and drawbacks of using open-source software. Conducts open-source compliance audits and establishes open-source use policies and procedures.
- Represents a billion dollar multi-national gaming and lottery services company in connection with a wide array of software, hardware and distribution deals.

Trademark and Domain Names Matters

- Manages worldwide trademark portfolios of several internationally known brands.
- Manages the worldwide trademark portfolios of Bally's Corporation and Bain & Company, among others, including in connection with defensive and offensive

enforcement proceedings in the United States and abroad.

- Routinely engaging in cease and desist campaigns for a global youth media company that includes print, event, music, online, television, and feature film divisions that operate in more than 30 countries, in connection with enforcement of its trademarks, and routinely filing oppositions in support of such campaigns.
- Represents companies in connection with the preparation and negotiation of trademark and brand licensing agreements as well as product development agreements.
- Handles numerous Internet-related transactions including domain name acquisition and litigation (including UDRP proceedings); online contests and agreements involving co-branding; joint site development; website hosting; website development; content licensing and development; and copyright litigation and advice with emphasis on the application of the Digital Millennium Copyright Act.

Life Sciences and Healthcare Matters

- Represents companies in the biotechnology, pharmaceutical and medical device industries with a particular focus on structuring and negotiating complex licensing agreements including, but not limited to, joint venture agreements, clinical trial agreements, contract manufacturing agreements and strategic alliances.
- Represented an Israeli company developing a blood test to diagnose early-stage lung cancer in connection with the negotiation and drafting of a joint research and development agreement focused on the development and commercialization of protein biomarker-based diagnostics.
- Represented a company dedicated to the design, development, manufacturing and marketing of products for the treatment of spinal disorders in negotiating an exclusive worldwide license with the Cleveland Clinic for an innovative robotic-assisted, percutaneous, interbody spinal fusion technology.
- Represented a company in negotiating an exclusive license with Xenova, Ltd., a U.K.-based biopharmaceutical company focused on the development of novel drugs to treat cancer.
- Represented a multinational life sciences company in a misappropriation of trade secrets case under the “inevitable disclosure” doctrine in connection with the unauthorized disclosure of trade secret information obtained during licensing negotiations.
- Advised a developer of neonatal and prenatal screening software in a dispute with former employee concerning ownership of intellectual property, including source code.
- Represented a major manufacturer of spectroscopy-detection equipment in a patent infringement action in the U.S. District Court for the Eastern District of Tennessee. Successfully negotiated a \$10 million settlement.

Mergers & Acquisitions

- Represented ChallengeMe Esports GmbH (CME), a provider of one of the most sophisticated eSport matchmaking and tournament platforms, in its acquisition of US-based platform provider, eSports Hero Inc.; also advised CME in connection with a strategic investment in the company by eSports Mogul (ESM), an ASX-listed eSports media company, as well as a multi-year licensing agreement with ESM for the Asia-Pacific region.

•

Represented PayPal Media Network in its acquisition by PayPal, a division of eBay, Inc.

-

Manages intellectual property diligence for clients' acquisition and divestiture activities as well as financings and credit facilities.

Client Highlights

Nonprofit Network Drives Skills-First Movement for a More Equitable and Inclusive Future Workforce

Sullivan acts as outside general counsel for Skillsright, Inc., a nonprofit coalition of the country's top employers and their CEOs with a mission of driving a skills-first movement to unlock career opportunities for talent without four-year degrees, for a more equitable and inclusive future workforce. Sullivan handles a wide range of matters including obtaining the organization's nonprofit (Internal Revenue Code Section 501(c)(3)) status, advising on a variety of legal issues associated with the organization's work, negotiating intellectual property rights, drafting employment offers and dealing with related employment and benefits issues, overseeing all contracting issues and advising on corporate governance.

Viewpoints

July 17, 2024

Companies Turn to Trade Secret, Patent, Copyright to Mitigate Risks from FTC Non-Compete Ban

February 10, 2021

The CASE Act Promises Copyright Infringement Remedies for Content Creators: But Will It Deliver?

Sullivan Client Alert

December 2, 2020

U.S. Trademark Fees to Increase Effective January 2, 2021

Sullivan Client Alert

May 31, 2020

Intellectual Property Right Assignments Q&A: U.S.

Thomson Reuters Practical Law

April 28, 2020

Supreme Court Rules Willfulness Not Required for Profits Awards in Trademark Infringement Cases

Sullivan Client Alert

News

February 2, 2026

Intellectual Property Group Earns Repeat Recognition in WTR 1000 Rankings

November 25, 2025

Sullivan & Worcester Attorneys Named to 2025 Top Lawyers List by Boston Magazine

January 30, 2025

Sullivan & Worcester's Intellectual Property Group Honored in WTR 1000 2025 Rankings

December 19, 2024

Kimberly Herman Selected to Join The IP Lawyers as the Exclusively Recommended Attorney in Massachusetts

June 5, 2024

Sullivan's Kimberly Herman Recognized as Global Leader by World Trademark Review

May 28, 2024

How to Protect Your Clients From New Scams Targeting US Trademark Applicants

May 16, 2024

Kimberly Herman: Crafting Tailored Solutions for Client Success

February 7, 2024

Sullivan & Worcester's Intellectual Property Group Ranked in WTR 1000 2024

August 17, 2023

43 Sullivan & Worcester Attorneys Listed in Best Lawyers in America® 2024 Edition

February 7, 2023

Sullivan & Worcester's Intellectual Property Group Ranked in WTR 1000

March 1, 2022

Kimberly Herman and IP Practice Ranked in World Trademark Review 1000

November 24, 2021

Sullivan Attorneys Named to 2021 Top Lawyers List by Boston Magazine

September 27, 2021

Kimberly Herman Recognized as a 2021 "Go To Lawyer" by Massachusetts Lawyers Weekly

July 28, 2021

Kimberly Herman Recognized as World Trademark Review Global Leader 2021

February 15, 2021

Sullivan Ranked in World Trademark Review 1000

September 18, 2020

How to Handle Endorser Outrage – Lessons From Kanye’s Twitter Dispute

August 11, 2020

Fed. Circ. Asks Amazon, Customers To Answer Rehearing Bid

June 17, 2020

Amazon's IP Win Shields Customers From Follow-Up Suits

March 25, 2020

Copyright sublicense need not be express, 1st Circuit rules

February 14, 2020

Kimberly Herman Ranked in World Trademark Review 1000

September 24, 2018

IP Partner, Kimberly Herman, Ranked in World Trademark Review 1000

March 20, 2018

Sullivan & Worcester’s Kim Herman Leads New Software Anti-Piracy Practice

Events

June 19, 2024

Workgroup Legal Summer 2024

Wallacespace Clerkenwell, London

March 12-14, 2024

How to Thrive – Junior Lawyers to Senior Lawyers

London, Wallacespace Clerkenwell

November 9, 2023

"What Should the GC Do?!"

Workgroup Legal Autumn 2023

May 16-18, 2022

Addressing the Complexity of License Compliance

Compliance and Piracy Summit 2022

November 9, 2021

Transforming Compliance and Piracy Programs for 2022 and Beyond

Compliance and Piracy Summit 2021