



## Alan L. Friel

### Representative Experience

#### Advertising, Marketing and Promotions

- Sweepstakes and contests, including complex promotions involving user generated content, audience voting, interactivity, etc.
- Character, trademark, music, photo and clip licensing for advertising.
- Agreements to engage performers, models, celebrities and athletes for commercials, print, personal appearances and endorsements.
- Product placement and branded entertainment agreements and issues, including sponsor-produced programming with associated ad buys.
- Engagement agreements for ad, branding, marketing and promotional services agencies, PR firms and special event planners.
- Create forms and policies and procedures for agencies.
- Work with creative and marketing executives to develop legal-compliant style guides, trademark and marketing materials usage agreements for distributors and resellers and ongoing education and compliance programs.
- Ad copy clearance and compliance review.
- Commercial speech and First Amendment analysis.
- Counsel regarding advertising of gambling and gaming.
- On-Line, privacy and e-mail issues.
- Talent union and guild issues and compliance.
- Co-promotion, co-branding, co-marketing and cross linking agreements.
- Media buy and barter agreements and engagements of media planners and buyers.
- Ad sales agreements for and with cable networks, independent TV stations, Web Sites, interactive game publishers, portals and mobile media.
- Sponsorship agreements of all kinds including concerts, events, charities, sports, adver-games, NASCAR teams, etc.
- Counsel regarding direct marketing legal issues (including Deceptive Mail Prevention and Enforcement Act, Telephone Consumer Protection Act and FCC rules, FTC Do Not Call registry and telemarketing rules, spam issues, state unsolicited fax and proposed do not mail laws).
- Counsel clients regarding UT and MI non-solicitation registries for minors.
- Advise regarding SMS/mobile interactivity (including TCPA, Can Spam and pay to play lottery/sweepstakes laws)
- Counsel regarding claims verification and comparative advertising.
- Alcoholic beverage sponsorship requirements.
- Children's advertising requirements and response to CARU complaints.
- Advertising and IP liability insurance issues.
- Engagements of production companies.
- Coupon, gift certificate, gift card, stored value card and rebate regulatory compliance.
- FCC, FDA and FTC regulatory compliance issues.
- BATF alcoholic beverage label clearance.
- FDA label and labeling compliance reviews.
- Buzz, street, word-of-mouth and viral advertising risk reduction counsel.
- Counsel regarding recommendation marketing programs.
- Counsel direct response video distributor regarding continuity programs, prenotification negative option rule, and the unordered merchandise statute.
- Arrangements with charitable organizations and cause-based marketing initiatives.
- Counsel regarding use of testimonials.
- Advise clients regarding recalls and corrective advertising.
- Draft agreements and policies and procedures regarding direct sales programs for cosmetics and consumer products companies.
- Infomercial production, clearance and distribution.
- Proper giving of notices and use of disclaimers, including in online advertising.
- Outside general counsel to trade associations: Promax/BDA (studio, broadcast and cable and radio marketing and promotions professionals) and Association of Electronic Interactive Marketers / MI6 (game industry)

## Animation

- Animation production studio, producer services and post-production services agreements.
- Options for and acquisitions of literary properties.
- Co-production, co-financing and split rights agreements.
- Motion picture sales agency and distribution agreements.
- Voice-over and above and below the line talent agreements.
- Guild compliance and assumption agreements.
- Network and cable license agreements.
- Script, story board and final av clearance.
- Acquisition of animation motion technology from developer.

## Entertainment, Media and Music

- Development, production and distribution business and legal affairs for television and feature film.
- Create development and production form agreements and review and revise production manuals and procedures with respect to legal issues, including all forms for a national cable network. Ongoing training of in-house personnel.
- Assist cable network in development of deal structures and agreements for first foray into scripted programming.
- Survey standards and practices of basic cable networks and assist new cable network in development of its own S&P.
- Literary rights option and purchase agreements (buyer and seller side).
- Life rights agreements.
- Collaboration arrangements.
- Producer, performer, writer, director and below-the-line agreements.
- Production legal (including talent deals and content, location, prop and script clearance) for feature films of all budgets; documentary films; DTV; network, cable and PBS television series and MOWs; music videos; and industrials.
- Production and post-production services agreements.
- Contingent and deferred compensation arrangements, including bonuses and defined proceeds participations.
- Representation of television series creators / executive producers.
- Counsel regarding talent unions and guilds, including "double breasting," signatory status, minimums, Taft-Hartley, compliance, assumption agreements, and guild arbitrations.
- Completion bond agreements.
- Financing arrangements.
- Co-development, co-production and split rights arrangements.
- Sales agency agreements.
- Distribution agreements.
- Collection account agreements.
- Negative pickups.
- Network, cable, PBS and pay-per-view license agreements.
- Mobile media distribution arrangements.
- Content trial and network carriage deals for cable, satellite and IPTV.
- Television block time and station broadcast management agreements.
- Ad sales agreements for cable networks and independent stations.
- Licensing of audiovisual production and distribution rights to national sports league's games.
- Bidder and seller side M&A due diligence "special counsel" regarding intellectual property and entertainment and guild issues, including the purchase of film libraries, music libraries and regarding the sales of BMG, MGM, Polygram, Marvel Comics and Vivendi Universal Entertainment. Draft or assist in the drafting of purchase agreements and related IP assignments. Give MCLE presentations on this topic, including before the Sports and Entertainment Committee of the NY Bar Association.
- Negotiation of donation of film library to UCLA Archives and major endowment to UCLA Film School.
- Counsel talent agencies, including regarding agency agreements, licensing, regulatory and guild compliance and arbitration of commission disputes.
- Counsel talent managers regarding structure of engagements and services and avoiding violation of the Talent Agencies Act.
- Complex clip and music clearance for music-driven documentary films and Web Sites.
- Content license agreements of all sorts.
- Counsel regarding federal regulations regarding paid product placement and with respect to children's programming.

- Served as entertainment and merchandising expert on studio's outside litigation team regarding suit regarding merchandise rights and participations.
- Music master use, mechanical and synchronization licenses, agreements with performance rights societies and compulsory sound recording license compliance.
- Music composer agreements.
- Advise bankruptcy trustee of record label with respect to day-to-day legal matters.
- Counsel karaoke company regarding licensing matters.
- Advise regarding Payola Act.
- Create and maintain loan out companies for talent.
- Create LLCs and other entities for project development and production purposes and complete private placements and other financings to fund project(s).
- E&O insurance issues.
- Counsel motion picture studios, television networks and digital media companies regarding how to address and define pay-per-view, NPPV, on-demand, Internet, interactive media, iTV, IPTV, ETV, SMS, PVRs, P2P, MPEG, mobile media, on-line, digital transmission and other technology-related matters. Publish and teach in the area of media-technology convergence.
- If-come and attachment agreements.
- Advise regarding California 7 year rule and minimum compensation to obtain injunctive relief, each as applied to talent agreements.

### **Intellectual Property**

- Chain-of-title review, due diligence and clean-up.
- Work-for-hire and invention rights assignment agreements.
- License agreements of all sorts.
- Assignments and quit claims.
- Right of privacy and of publicity issues, including regarding use of CGI images of deceased celebrities in a feature film and in ancillary market applications and use of performer and composer names in connection with marketing of ring tones and ring backs.
- Created some of the first license agreements with record labels, music publishers and performance rights societies for interactive, Internet and wireless media.
- Counsel with respect to on-line and off-line privacy issues, including California law, COPPA, HIPAA and Gramm-Leah-Bliley.
- Instruct companies on how to create and maintain copyright, trademark and patent registration, administration and protection programs and policies; option and rights tracking systems; IP audits; and procedures to protect trade secrets and confidential information and avoid third party infringement.
- Counsel client regarding how to minimize risk of infringement claims in creating trade dress for pet food packaging that plays off of elements associated with breakfast cereals.
- Counsel regarding scope of parody and other fair use issues.
- Created and operated on-Line and off-Line anti-piracy programs that have resulted in changes to ISP and eBay policies and procedures, arrests and prosecutions of intentional and chronic offenders, and the reform of "innocent" fan clubs and Web Sites.
- Develop limited, revocable licenses, and policies and procedures, for use of content on fan sites.
- Work with investigators, litigators and law enforcement to build cases against infringers and pirates.
- Advise jewelry design and manufacturing company on creation of intellectual property program and regarding distribution arrangements.
- Counsel designer of home accessories regarding copyright, trademark and design patent issues relating to elements from architectural works and works of applied art and regarding rights of publicity with respect to architects and artists that inspired accessory products and counsel regarding related licensing issues.
- Develop studio's vendor intellectual property protection and confidentiality agreement, and policy and procedures, regarding pre-release access to film elements.
- Create vendor confidentiality, IP protection, IT security and conflicts of interest policies and codes of conduct.
- Coordinate client trademark clearance, registration and enforcement efforts.
- Inter-company intellectual property agreements.
- Develop corporate blog policies

## **Interactive Games**

- Outside counsel to game publishers and developers, including mobile, PC, platform and MMO games.
- Development agreements and publishing arrangements.
- Rights acquisition and clearance.
- Talent agreements.
- Music licenses.
- Employee and contractor agreements.
- Licensing of rights from films to games and from games to films.
- Counsel regarding virtual property / currency issues and the secondary market.
- End user license agreements, privacy policies and DMCA notice and take down procedures.
- Acquisition of game technology and game developers.
- In-game advertising issues and arrangements.
- Counsel regarding Entertainment Software Rating Board issues.

## **Internet, Mobile Media and eCommerce**

- Web Site development agreements, including projects in excess of \$15 Million.
- Web Site terms of use, end user license agreements, user codes of conduct and related policies and forms.
- Privacy and security policies and regulatory compliance.
- Counsel regarding click-wrap and browse-wrap enforceability.
- Policies and procedures to comply with the Child On-Line Privacy Protection Act, and CAN SPAM, to create complaint programs that qualifies for the Digital Millennium Copyright Act "safe harbor" and with regard other laws and regulations.
- eCommerce legal compliance including return policies, Mail Order Rule and sales tax issues.
- Counsel e-tailers regarding recurring billing and continuity payment programs, Fair Billing Credit Act, and Electronic Funds Transfer Act.
- eCommerce fulfillment and payment processing arrangements.
- eCommerce affiliate agreements.
- On-Line community forum policies and user posting submission agreements and counsel regarding maintaining CDA immunity.
- Internet radio and podcasting rights clearance and compliance.
- Digital music distribution (downloads and streaming) arrangements.
- Negotiated early agreements with SAG, WGA and DGA for made-for-Internet content, which agreements were the forerunner of the current standard agreements. Negotiate waivers and variances to the standard agreements.
- Work with insurance brokers to obtain broad Web Site and multimedia insurance coverage.
- Linking agreements and policies.
- Counsel entertainment Web Sites and a well known entertainment cable channel on scope of 1st Amendment news and public interest fair use.
- Advise single sponsor advertisement Web Sites on commercial speech restrictions and scope of First Amendment protection regarding various proposed programming.
- Counsel game / contest Web Sites, targeting young adults and children for marketing purposes, regarding structure and legal compliance, including privacy, safety and marketing issues.
- Advise multiple eCommerce Web Sites.
- Counsel on-line auction Web Sites on how to structure merely as a "venue" for third party transactions and thereby attempt to avoid state regulations of auctioneers.
- Help structure B2B exchange sites to minimize operator liability.
- Advise investment information Web Site on notices and disclaimers to minimize liability.
- Advise user generated content and social networking sites on ways to minimize third party liability, provide proper privacy disclosures and fit within infringement safe harbors.
- Counsel regarding guarding against hackers, viruses, bomb, worms, Easter eggs, bots, spiders, scrapers, etc. and enforcement against infringers and regarding linking, framing and metatags.
- On-Line sweepstakes and contest rules, procedures and regulatory compliance.
- Domain name disputes and acquisitions (usually through a third-party front).
- Rights clearance and training of in-house staff regarding rights clearance issues.
- Network service provider, site hosting and operator, co-location, edge network, distributed network, IP transit, content management and data center agreements.
- Bandwidth reseller agreements.

- Wireless network content distribution agreements.
- Advise major cellular telco regarding a variety of content and related issues.
- Advise mobile media music distribution company.
- Placement and distribution agreements with portals, ISPs and broadband providers.
- Co-branded Web Site agreements and co-promotion arrangements.
- On-Line advertising agreements of all kinds, including barter.
- Content syndication arrangements.
- Application Service Provider ("ASP") agreements.
- Structure on-line pay-per-view content arrangements.
- Review and revise corporate Internet, data security, privacy, and computer and email use policies and best practices, including employee and vendor agreements.
- Counsel regarding intellectual property, privacy and technology issues regarding the acquisition of iVillage.
- Counsel regarding CAN SPAM and related issues regarding the acquisition of a major e-marketing firm.
- Counsel Web Site client on compliance with data breach disclosure laws following security breach.
- Counsel client with regard to the Electronic Communications Privacy Act / Stored Communications Act.
- Advise clients regarding CARU Privacy "safe harbor" certification and other Web Site privacy certification programs.
- Counsel regarding use of competitor marks as paid search terms.

### **Merchandising, Publishing and Consumer and Industrial Products**

- Developed form consumer products merchandise licensing, publishing, premium promotions, licensing agent and/or manufacturing agreements for multiple companies. Negotiate and document these types of agreements on both sides.
- Master toy license agreements with Mattel and with Hasbro and have advised small and large toy companies with respect to licensing issues and agreements.
- Advise regarding restriction on transshipments, scope of permitted distribution channels, the gray market and the Treaty of Rome.
- Development of "no sweatshop" clauses and policies.
- Work with local counsel regarding application of foreign law (e.g., Section 89b German Commercial Code requiring post-term compensation to distributors, local labor laws, etc.).
- Consignment and services agreements, distribution and sales representative agreements.
- Warehousing and shipping agreements.
- Publishing agreements (both writer and publisher side).
- Writer collaboration and ghost writer agreements.
- Comic book publishing agreements.
- Location-based entertainment projects, including theme park rides and theme restaurants.
- Branded retail store license arrangements.
- Rights clearance, acquisition, and protection.
- Represent apparel companies regarding the acquisition of celebrity names for product line, trademark issues and manufacturing and distribution arrangements.
- Overseas manufacturing and import agreements for a variety of products, including regulated products.
- Private label distribution agreements.
- Product warranty matters.
- Toll manufacturing agreements.

### **Technology**

- Digital distribution agreements, including Web Site/portal affiliations, hosting, IP transit services, distributed network, co-location, P2P networks and mobile media.
- Data storage arrangements.
- Data security issues.
- E&O, service interruption and virus insurance matters.
- Software license agreements.
- Software license and trade secret protection audits and compliance programs.
- Software development agreements (including offshore arrangements).
- Software distribution agreements.
- Source code escrow agreements.
- Service level guarantee issues.

- Shrink-wrap, browse-wrap and click-wrap licenses.
- Medical device development, licensing and distribution agreements
- Co-branding, co-marketing and co-distribution agreements.
- OEM agreements.
- Outsourcing agreements.
- Reseller agreements.
- Co-development arrangements.
- Hardware sales and lease agreements.
- Technology consulting services agreements.
- Work-for-hire and invention assignment agreements.
- Copyright, trademark and patent right assignments.
- Counsel clients regarding ownership and licensing issues regarding works that combine technology and traditional media.
- Closed and open Beta test agreements and policies.

### **Transactional and General Corporate**

- Counsel clients regarding corporation, partnership and limited liability company formation, structuring and initial capitalization.
- Assisting in drafting, and counsel regarding, business plans and financing solicitation documents.
- Company-side counsel for a variety of private placements (up and down round).
- Lead outside counsel for major studio's interactive game unit's acquisition of a game development company.
- Lead counsel in equity and debt restructuring and follow-on additional financing of an Interpublic Group affiliate.
- Lead counsel in the acquisition of an independent television station.
- Secured and unsecured debt arrangements.
- Joint venture and strategic alliance agreements.
- Engagements of investment bankers, consultants, financial advisors and finders.
- Counsel regarding development of organizational structure, risk management and insurance programs.
- Multiple executive compensation arrangements (company and executive side) -- dozens in excess of \$250k per annum, several in excess of \$1M per annum and many with significant equity participation and/or performance bonuses and with golden parachutes.
- Review of international arbitration treaty signatory status and local law regarding enforceability of arbitration to avoid local judicial systems regarding dispute resolution of international agreements.
- Counsel regarding salary reductions, layoffs (including WARN Act) and severance arrangements.
- Negotiate forced departure of founders (both company side and founders side) in several private companies.
- Vendor, services, manufacturing, distribution and sales agreements of all sorts.
- Non-disclosure, non-solicit, non-circumvent and non-compete issues and agreements.
- Independent contractor engagements and issues.
- General corporate counsel, including governance and record keeping.
- Advise trade associations and other non-profits, including regarding creation of subsidiary and related entities
- Coordinate and work with the Firm's securities, labor and tax lawyers regarding complex issues.
- Development of codes of conduct / ethics for employees, vendors, manufacturers, etc.
- Advise regarding contracting with minors and age of majority issues.