

MARKETING & ADVERTISING

OVERVIEW

We have broad experience in providing a full spectrum of legal support across all aspects of advertising and marketing matters, from ideation to production and publication, dispute resolution, and everything in between, including all things digital and social. Our members have been on the front lines of the new media age and are pioneers in social media marketing, helping craft best-in-class social media policies and training and working side-by-side with industry leaders to develop industry standards and guidelines.

Our clients include national and global retail, food, consumer product, hospitality, media, insurance, banking, and agency leaders who count on us to help them build successful campaigns, secure talent, music, and intellectual property rights, execute lawful contests, sweepstakes, and other promotions, and work with influencers and marketing partners. What truly sets us apart – and sets our clients up for success – is our practical, real-world approach based on decades of experience, including in-house and in government, which enables us not only to identify and manage against regulatory and competitive risks, but to do so in a way that makes our clients smarter for the next time. We believe in informed decision-making and provide our clients with the tools and insights to confidently make risk assessments and build continuous learning into their organizational DNA in ways that are creative, strategic, and cost-efficient.

Areas of focus include:

- ADA compliance
- Advertising production
- Advertising and media agency agreements
- Autorenewal/negative option programs and ROSCA
- Cause marketing, charitable promotions, and commercial co-venturer arrangements
- Claim substantiation, including FTC, FDA, EPA, and USDA compliance
- Comparative advertising, including sales price advertising
- Content claims

- Contests, sweepstakes, giveaways, and loyalty programs
- Digital and social media marketing
- Email, SMS, and telemarketing (CAN-SPAM, TCPA, and DNC)
- Entertainment and sports sponsorships and brand integrations
- Environmental marketing and the Green Guides
- Geographic origin claims
- Influencer marketing, native advertising, and the FTC Endorsement Guides
- Intellectual property, including avoiding claims and protecting assets
- Labeling, including FPLA, FHSMA and Prop. 65
- Lanham Act
- Litigation and self-regulatory disputes, including BBB National Programs (NAD)
- Made in USA claims
- Marketing to children (CARU)
- Music creation and licensing
- Privacy and data security
- SAG-AFTRA
- Talent agreements

Additionally, we have a dedicated and experienced global team based in the UK, which deals with regulatory requirements, product safety, composition, labeling and advertising issues. The team is acutely aware of the potential for reputational risk issues to arise and factors this into its approach where appropriate. The UK team also advises and deals with Brexit-related issues, including dealing with new “administrative requirements” and the impact on packaging and labeling for products.

MEET THE TEAM



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RELATED PRACTICE AREAS

- Sports & Entertainment
- Media & First Amendment
- Retail & Consumer Products
- Food & Agribusiness
- Food & Beverage
- Hotels and Hospitality
- Data Privacy & Security
- Employment & Labor
- Business Speech
- Intellectual Property and Technology Disputes

EXPERIENCE

- Developed and implemented social media policies for multiple clients across the globe
- Provide legal support on all types of media buys, both online and offline, including native advertising/sponsored content, targeted advertising campaigns, and value-added/complex media buys

- Assisted clients with successfully constructing and administering countless contests, sweepstakes, and other promotions
- Audited labels and advertising claims for entire beverage portfolio
- Negotiated and managed endorsement relationships with scores of athletes and celebrities, including compliance with the SAG-AFTRA Commercials Contract as needed
- Licensed music from every major label and publisher and commissioned original music by multiple high-profile artists
- Negotiated high-profile sponsorships with TV programs, major motion pictures, video games, and online programming
- Successfully resolved numerous claims by SAG-AFTRA under the Commercials Contract
- Counseled on and defended claims involving defamation, trade libel/business disparagement, and similar claims arising from content across a variety of online and offline platforms
- Advised on relations with the Advertising Standards Authority investigation involving paid promotion using social media influencers
- Advise clients in relation to template advertising agreements
- Advising real estate development clients in relation to advertising agreements with various brands and retailers
- Advised client on an alleged breach of the Advertising Standards Authority code of practice relating to a YouTube video
- Provided advice on advertising and media joint venture
- Advised on marketing and sales policies and procedures
- Acted for various retailers and food producers, including defeating California Prop. 65-based claims, defeating a class certification in a nationwide consumer protection/false labeling case, and successfully resolving an FTC investigation
- Provide full-spectrum review of products in product development phase, including avoiding copyright and trademark infringement claims, complying with product regulatory and safety requirements, and ensuring products are properly labeled and all marketing and advertising claims are substantiated
- Successfully defended numerous consumer class action claims, including labeling and marketing of food products as “Natural,” “No Preservatives,” “Non-GMO,” “Organic,” and

numerous other environmental, health, content and geographic origin claims, structure-function claims for vitamin supplement products, and substantiation of effectiveness claims for other health, fitness and personal care products

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