

ADVERTISING AND MARKETING LAW

March 20 - 21, 2006 • The Drake Hotel • Chicago

PROGRAM CO-CHAIRS

Mary E. Innis
Partner
Loeb & Loeb LLP
(Chicago)

Rick Kurnit
Partner
Frankfurt Kurnit Klein
& Selz PC
(New York, NY)

Attend this conference and learn from leading lawyers and industry experts the most up-to-the-minute information and practical advice about the latest legal and business developments in this rapidly evolving area of law. Gain valuable insights into:

- Understanding the differences between advertising claims vs. puffery
- How to develop effective strategies for claim substantiation
- Agency/client responsibilities and how to structure indemnification for claims
- Learn the FTC's priorities for 2006
- Best practices in dealing with the NAD, State Attorneys General and the courts
- Advertising over the Internet: adware, spyware and more
- The role of intellectual property in marketing communications
- Legal issues arising from licensing and composing music for commercials
- Effective use of product placements, brand integration and branded entertainment: A how-to guide
- What's new in the law of advertising to children?
- How to stay out of trouble when running a sweepstakes and other promotions

and much more...

A distinguished faculty of leading lawyers and industry experts, including:

Lesley Fair
Federal Trade Commission

Martin Zwerling
National Advertising Division

Dr. Deborah Jay
Field Research Corporation

Judith Finell
Judith Finell MusicServices Inc.

John E. Villafranco
Collier Shannon Scott, PLLC

Linda A. Goldstein
Manatt, Phelps & Phillips, LLP

KEYNOTE ADDRESS

Leonard Glickman
Cassels Brock & Blackwell LLP
(Toronto)

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WHO SHOULD ATTEND

- *Advertising and Marketing Lawyers*
- *Intellectual Property Lawyers*
- *Entertainment/Media Lawyers*
- *Corporate Counsel*
- *Marketing Managers*
- *Brand Managers*
- *Advertising Executives*
- *Sales Directors*
- *Consumer Affairs and Public Relations Managers*
- *Government Regulators*
- *Corporate Executives*

Advertising and marketing law is a constantly evolving field that requires lawyers to draw upon a unique blend of talents to advance the needs of clients. On the one hand, there is the need to be familiar with the substantive law as it relates to the marketing of your clients' products and services. At the same time, lawyers must be careful to understand the business objectives of clients, and not stifle the creative process by establishing unnecessary roadblocks.

Today's advertising lawyers must be able to successfully negotiate a landscape which did not even exist only a few years ago. This includes the complex issues surrounding advertising on the Internet, viral marketing and the requirements of privacy legislation which seem to be in a constant state of evolution. In addition, the explosion in non-traditional forms of advertising, such as branded entertainment and product placement, require the most up-to-the-minute understanding of how these new forms of advertising impact upon your clients' business and business decisions.

To be successful in this field, lawyers must be familiar with a broad array of distinct areas of law, and understand how they interact in order to ensure that clients are in compliance, and are not exposed to financial and other risks. Today, more than ever before, regulators are taking an increasingly active role in monitoring advertising campaigns, and the threat of class action litigation at the hands of disgruntled consumers is very real.

At this conference you will receive, from a select group of acknowledged experts, updates on the latest developments in the law relating to claims substantiation, tips on successful (and legally-compliant) sweepstakes, as well as the latest news from the Federal Trade Commission in such areas as advertising enforcement and the most recent developments in the FTC's consumer protection initiatives.

Insight Information has assembled a faculty of highly sought-after lawyers to reflect current business realities with a focus on delivering the "need to know" information about the top-of-mind issues in advertising and marketing law.

We look forward to sharing this intensive and practical conference with you.

This conference also provides an excellent opportunity to network with your colleagues. Seats will go quickly – register today!

*Delegates will receive a set of original materials as well as online access to conference papers through Insight's **in**CONFERENCE™ that will serve as invaluable reference sources after the program.*

MONDAY

MARCH 20, 2006

8:15 Registration and Continental Breakfast

9:00 Welcoming Remarks from Insight Information

9:05 Co-Chairs' Opening Address

Mary E. Innis

Partner

Loeb & Loeb LLP
(Chicago)

Rick Kurnit

Partner

Frankfurt Kurnit Klein & Selz PC
(New York, NY)

9:15 Is It a Claim or Is It Puffery? Only Her
Hairdresser Knows for Sure

Rick Kurnit

Partner

Frankfurt Kurnit Klein & Selz PC
(New York, NY)

- Identifying a claim
- Defining "puffery"
- Does humor make it puffery?
- Production values and execution may determine whether it is just puffery
- How to manage the approval process

10:00 Coffee Break

10:15 Developing Effective Strategies for Advertising
Claims Substantiation

John E. Villafranco

Member

Collier Shannon Scott, PLLC
(Washington, DC)

- How do you determine when you have a "reasonable basis" for your claims?
- Establishing practical claim substantiation policies
- Best practices in conducting Lanham Act litigation
- Lessons learned

11:00 The Agency/Client Relationship: Ownership and
Indemnification Issues, and More

Lisa C. Rovinsky

Partner

Manatt, Phelps & Phillips, LLP
(New York, NY)

Amy K. Singh

Senior Counsel

**The Entertainment and Intellectual
Property Group, LLC**
(Chicago)

- Identifying the team
- Clarifying the roles
- Facilitating effective communication
- Allocating risk and ensuring indemnification
- Ownership of ideas and concepts
- Ownership of intellectual property
- Responsibility for clearing rights for future use
- Contractual provisions and negotiations

12:00 Networking Lunch

1:00 Keynote Speaker: If I Had a Million Dollars –
The Use of Music in Advertising

Leonard Glickman

Partner

Cassels Brock & Blackwell LLP
(Toronto)

1:30 Alternative Strategies for Dealing With the NAD,
State Attorneys General and the Courts

Ross M. Weisman

Partner

Kirkland & Ellis LLP
(Chicago)

Martin Zwerling

Assistant Director

National Advertising Division
(New York, NY)

- The realities of the NAD's approach to advertising substantiation
- How does the NAD review process work?
- A review of recent NAD decisions and case reports – what are the emerging trends?
- Enforcement trends with the state AGs and the courts

2:15 Refreshment Break

2:30 What's on the Horizon? Latest Developments From the FTC

Lesley Fair

Senior Attorney, Division of Advertising Practices
Federal Trade Commission
(Washington, DC)

Hugh Latimer

Partner
Wiley Rein & Fielding LLP
(Washington, DC)

- A preview of the FTC's priorities for 2006
- Recent enforcement trends at the FTC and the state Attorneys General
- How to minimize the likelihood of being investigated
- Understanding the in's and out's of investigations and settlement procedures
- Targeting allegedly deceptive claims against multiple advertisers: weight loss claims (Operation Big Fat Lie), anti-aging claims, and more
- Utilizing large consumer redress settlements to target advertisers making similar claims
- Combating cross-border fraud by cooperating with foreign regulatory agencies – Canada, Mexico and others
- Filing *amicus* briefs expressing concerns about proposed class action settlements

3:30 The Use of Surveys in Advertising: Tips and Traps

Paul R. Garcia

Partner
Kirkland & Ellis LLP
(Chicago)

Dr. Deborah Jay

President and CEO
Field Research Corporation
(San Francisco)

- How to determine when to use surveys
- Effective strategies for structuring surveys
- How to work with the survey company

4:15 Key Issues in Advertising Over the Internet

Joseph J. Lewczak

Partner
Davis & Gilbert LLP
(New York, NY)

Karen Klein

Vice President, Legal
Orbitz, LLC
(Chicago)

- Adware and spyware
- Latest developments with the CAN SPAM Act
- State "Do Not E-Mail" registries
- Search engine marketing
- Privacy and security on the Net
- Viral marketing
- Internet gambling

5:00 Conference Adjourns for the Day

TUESDAY

MARCH 21, 2006

9:00 Co-Chairs' Opening Remarks

9:15 Overcoming Intellectual Property and Marketing Communications Challenges

Rick Kurnit

Partner
Frankfurt Kurnit Klein & Selz PC
(New York, NY)

- Copyright and the management of fair use
- Trademarks and the use of other's trademarks
- The explosion of right of publicity claims
- Claims based on confusion about association

10:00 Managing Legal Issues Arising from Licensing and Composing Music for Commercials

Brian G. Murphy

Partner
Frankfurt Kurnit Klein & Selz PC
(New York, NY)

Judith Finell

President
Judith Finell MusicServices Inc.
(Scarsdale, NY)

- Licensing issues
 - what are the major deal terms for music licenses?
 - when do you need to get the performer's consent?
 - what provisions should be included in a music license?
 - what are the union issues?
- Composing original music
 - how does the manner in which music is really produced today raise novel and difficult legal issues?
 - how do you protect yourself against copyright claims and sound-alike claims?
 - what would be included in an agreement with a music house?

10:45 Coffee Break

11:00 A Practical Guide to Product Placement, Brand Integration and Branded Entertainment

Linda A. Goldstein

Partner

Manatt, Phelps & Phillips, LLP
(New York, NY)

- Are the old rules of claim substantiation applicable to product placements?
- What role are the regulators playing in monitoring product placements?
- Sources of potential legal exposure, and strategies for risk minimization

11:45 The Business of Sponsorship: Practical Considerations When Entering Into Sponsorship Agreements

Mary E. Innis

Partner

Loeb & Loeb LLP
(Chicago)

- Brand building through event leveraging
- Business goals and concerns in sponsorship agreements
- Key items to address in sponsorship agreements
- Risks and rewards
- Lessons learned

12:30 Networking Lunch

1:45 Latest Developments in Marketing to Children: Advertising and Obesity, Effective Programs for Complying with COPPA and CARU, and More

Lauren Lynch Flick

Partner

Pillsbury Winthrop Shaw Pittman LLP
(Washington, DC)

- How are the rules governing advertising to children different from those for traditional advertising?
- A guide to the key rules under COPPA, and how they are interpreted by CARU
- The special case of privacy rules relating to children
- Product placements and sponsorships in programming targeted to children

2:30 Refreshment Break

2:45 The Do's and Don'ts of Negotiating and Drafting Talent and Celebrity Endorsement Contracts

Brian Lee Heidelberger

Partner

Winston & Strawn LLP
(Chicago)

- Key elements of talent and celebrity endorsement contracts
- Non-binding memoranda vs. binding deal memoranda vs. formal contract: how to know which one to use and why
- Using a client's talent to deliver a message
- Understanding pass-through rights
- How to draft a morals clause for immoral clients

3:30 How to Avoid the Pitfalls in Sweepstakes and Other Promotions

Stephen P. Durschlag

Partner

Winston & Strawn LLP
(Chicago)

- How to avoid the pitfalls in planning sweepstakes, contests and other games of chance
- Key elements of sweepstakes legislation
- Enforcement provisions and civil penalties

4:15 Co-Chairs' Remarks and Conference Adjourns

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You will earn a maximum of 15 CPE hours for attending this conference. There are no prerequisites for this intermediate level course.

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