



Michael Garfinkel

Partner

LOS ANGELES CHAIR, INTELLECTUAL PROPERTY AND TECHNOLOGY

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Michael Garfinkel is an entertainment and media litigator with more than 30 years' experience navigating his clients' most challenging issues. He represents studios, production companies, talent agencies, advertising agencies and artists in matters involving intricate industry-specific agreements, trademark, copyright and right of publicity disputes, trade secrets and defamation. In addition, Michael also represents a variety of clients in commercial litigation including limited liability company and partnership disputes and consumer class action defense.

Michael's long-view approach, hands-on manner and problem solving skills have resulted in enduring client relationships. He relentlessly pursues his clients' goals, whether through pre-dispute advice, creative resolution or, when necessary, arbitration, trial and on appeal. Michael is recognized in Chambers USA as among the top Media and Entertainment Litigators in California, where he is described by clients as "extremely knowledgeable and reliable," "always very quick," "efficient," and "very accessible and attracts lots of respect in the industry."

- Litigation, Arbitration and Investigations
- Intellectual Property and Technology

- Media, Sport and Entertainment

REPRESENTATIVE CASES:

- *Hansen Cold Storage Construction v. Cold Systems, Inc.:* Obtained a jury verdict in federal court against a competitor for trademark infringement and cyberpiracy under the Anti-Cybersquatting Consumer Protection Act. Obtained a judgment for the maximum allowable statutory damages and attorneys' fees based on a finding that the case is exceptional, and an injunction mandating the transfer all infringing domains and prohibiting it and its owner from engaging in any similar practices in the future.
- *Shapiro v. Lawrence:* Defending multiple Grammy Award-winning songwriter and music producer Philip Lawrence from a lawsuit seeking a percentage fee based on Lawrence's sale of his catalog including songs co-written with and recorded by Bruno Mars.
- *Marvin Peart v. Spyglass Media Group, et al:* Defended Spyglass Media Group, Lantern Capital Partners and Lantern Asset Management from claims brought by Marvin Peart seeking over \$100 million in damages in connection with the acquisition by Lantern Entertainment (now Spyglass) of substantially all of The Weinstein Company assets in bankruptcy. Obtained summary judgment in favor of Spyglass on all 10 contract, fraud and other claims, and summary adjudication of all claims except contract

claims against the Lantern entities.

- Defended a prolific producer/writer/director and a prominent attorney in an arbitration brought by the attorney's former law firm seeking millions in percentage fees on overall deals claimed to have been substantially negotiated or entered into by the artist before he terminated the law firm and followed the attorney to another law firm. After the arbitration was completed but before the arbitrator issued an award, obtained a favorable settlement resolving all claims.
- *Hulavision v. NBCUniversal, Hulu, LLC*: Defended NBC Universal Media, LLC in a trade secrets action in connection with the creation of hulu.com. Case dismissed in the Superior Court of California, County of Los Angeles after JAMS arbitration.
- *Lenhoff Enterprises, Inc. v. United Talent Agency, Inc., International Creative Management Partners, LLC*: Obtained dismissal on behalf of ICM Partners of an antitrust and unfair competition action challenging the practice of television packaging brought before the United States District Court for the Central District of California by a competing talent agency. Dismissal affirmed by the Ninth Circuit.
- *Kibler v. Hall, et al*: Defended William Morris Endeavor Entertainment (WME), agent for rapper Logic, in a Lanham Act and unfair competition action brought in the United States District Court for the Eastern District of Michigan by a turntablist known as DJ Logic. Obtained summary judgment in WME's favor and affirmance by the Sixth Circuit. Opposed the plaintiff's petition for a *writ of certiorari* which was denied by the United States Supreme Court.
- *Parandian v. Lotus Producciones*: Defended the producer of Lollapalooza Chile in a breach of contract action in United States District Court for the Northern District of California seeking millions of dollars and a 20% stake in the festival in perpetuity. Negotiated a settlement on extremely favorable terms for Lotus.
- *Cross v. Facebook, Inc.*: Lead right of publicity counsel defending against claims arising from critical speech made about plaintiff on Facebook. California Court of Appeal granted anti-SLAPP motion in its entirety.
- *Allcroft v. Gullane Entertainment, Ltd*: Represented the creator of *Thomas the Tank Engine and Friends* in an AAA arbitration and related New York state court action seeking compensation and credits under a development and production agreement.
- *Malik v. International Coffee & Tea, LLC, d/b/a The Coffee Bean & Tea Leaf*: Defended The Coffee Bean & Tea Leaf in a purported class action pending before the Superior Court of California, Orange County alleging violations of California's Unfair Competition Law and Automatic Purchase Renewals Law in connection with online subscription sales.

CREDENTIALS

Admissions

- California

Recognitions

- *Chambers USA*
2021 - Band 3, California Media & Entertainment: Litigation
2018-20 - Band 3, California Media & Entertainment: Litigation
- *The Legal 500 United States*
2021 - Recommended, Media and Entertainment: Litigation
- Nominated, Los Angeles Business Journal, "Leaders in Law," 2020
- Selected, *Variety*, "Legal Impact Report," 2019
- *Los Angeles Business Journal's* ,Top Litigator and Trial Lawyer, 2019

Education

- J.D., University of California at Los Angeles School of Law 1991
- B.A., University of Michigan 1988
with distinction

Courts

- All California state courts
- Supreme Court of the United States
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Sixth Circuit
- United States District Court for the Central District of California
- United States District Court for the Eastern District of Michigan
- United States District Court for the Northern District of California

Memberships

- Los Angeles Copyright Society, Member
 - Board of Trustees, Trustee-At-Large, (2015 – 2017)

CIVIC AND CHARITABLE

Michael has a long history of leadership within the Anti-Defamation League, one of the world's preeminent civil rights and anti-hate organizations. Michael currently serves as Vice Chair and a member of the Executive Committee for the Pacific Southwest Region and an ADL National Commissioner. Michael previously served as Vice Chair of the Pacific Southwest Region from 2014 through 2016 and has served as a chair or member of the dinner committee for the ADL's annual entertainment industry gala for more than a decade, honoring among others Steven Spielberg, Jeffrey Katzenberg, Ben Silverman, and Roma Downey and Mark Burnett.

INSIGHTS

Publications

- Co-author, "Entitlement to Post-Termination Percentage Fees," *Los Angeles Lawyer: Entertainment Law Issue*, (May 2021)
- Author, "Video games are cheated out of 1st amendment rights," *Law360* (October 3, 2018)
- Author, "Entertainment lawyers are not above the law," *The Daily Journal*, (October 24, 2013)
- Co-author, "Bada Bing: Jersey Boys Restore Some Common Sense to Copyright Fair Use," *The Wrap*, (April 1, 2013)
- Author, "Copyright, Trademark Claims Lurk Where Filmmakers Least Expect Them," *The Wrap*, (July 30, 2012)
- Author, "That's Hot' (as in Stolen): *Paris Hilton v. Hallmark Cards on Right of Publicity Law*," *Daily Journal*, (September 7, 2010)

Events

- Speaker, "Talent Agency Compliance and Regulations," (January 18, 2018, July 18, 2017)
- Speaker, "Socially Acceptable Media: Protected or Fair Use of Other's IP in Production and Promotion," (August 18, 2016)
- Speaker, "Are We Clear? Balancing IP Rights and the First Amendment," (February 23, 2016)
- Speaker, "Socially Acceptable Media, Part II: Right of Publicity," (December 10, 2015)
- Speaker, "Socially Acceptable Media, Part I: Trademark & Copyright," (November 12, 2015)
- Speaker, "When Is A Use Fair or Protected? Inclusion of Other's Intellectual Property Rights in Your Production," (May 5, 2015)
- Speaker, "What Every Entertainment Lawyer Should Know About the Talent Agencies Act,"
- Panelist, "LACBA Entertainment Law and Intellectual Property Section," (January 22, 2014)
- Speaker, "Who Wants To Be A Millionaire?: *Celador v. Disney*," (August 29, 2013)
- Speaker, "Best Practices: Talent Agency Commission After Termination," Association of Talent Agents, (June 6, 2013)
- Speaker, "When Is A Use Fair or Protected? Inclusion of Other's Intellectual Property Rights in Your Production," (June 5, 2012)
- Speaker, "Keeping Your Eye on the Ball: Applying IP Fundamentals to Programming Clearance," (March 14, 2012)
- Speaker, "Best Practices: Talent Agency Commission After Termination," Association of Talent Agents, (August 10, 2011)

- Panelist, "The Business of the Business," The Steed Symposium, Loyola Marymount University, (April 15, 2011)
- Panelist, "Who is Suing Whom?," CalCPA 2010 Entertainment Industry Conference, (June 16, 2010)

NEWS

Media Mentions

- "Variety's 2019 Legal Impact Report," *Variety*, April 2019
- "9th Circ. Won't Revive Talent Agency's Antitrust Suit," *Law360*, April 2, 2018
- "Hollywood's Big Talent Agencies Score Major Win In Legal Battle Over Packaging," *Deadline*, March 30, 2018
- "DLA Piper continues growth in Los Angeles with expansion of Media, Sport and Entertainment practice," January 29, 2018
- "DLA Piper's Lateral Hiring Tear Continues," *The American Lawyer*, (January 30, 2018)
- "DLA Piper Media Practice Adds 2 Partners in LA," *Law360*, (January 30, 2018)
- "Trek asks court to dismiss Farley trademark suit," *Bicycle Retailer and Industry News*, (November 14, 2017)
- "6th Circuit: Trademark Claims By Disc Jockey Against Rapper, Others Fail," *Lexis Legal News*, (December 15, 2016)
- "DJ Not Known Enough To Sue Rapper Over TM, Says 6th Circ.," *Law360*, (December 14, 2016)
- "Hollywood Talent Agency Seeks 'Take 4' On Antitrust Suit," *Law360*, (May 3, 2016)
- "Hollywood Talent Agencies UTA, ICM Beat Antitrust Claims," *Law360*, (April 20, 2016)
- "Talent Agencies Beat Lawsuit Claiming Conspiracy in Scripted Television Market," *The Hollywood Reporter, Esq.*, (April 20, 2016)
- "UTA & ICM Partners Win Dismissal Of Anti-Packaging Suit From Boutique Agency," *Deadline Hollywood*, (April 20, 2016)
- "Hollywood Talent Agencies UTA, ICM Beat Antitrust Claims," *Law360*, (April 20, 2016)
- "UTA & ICM Partners Score Win In Anti-Packaging Suit From Boutique Agency," *Deadline Hollywood*, (December 17, 2015)
- "ICM Partners Slams 'Conspiracy' Claims By Boutique Agency In Anti-Packaging Suit; UTA Seeks Dismissal Too – Update," *Deadline Hollywood*, (November 9, 2015)
- "UTA & ICM Accused of Forming TV 'Cartel' with WME & CAA In New Complaint from Boutique Agency," *Deadline Hollywood*, (October 2, 2015)
- "Calif. Talent Agency's TV Antitrust Suit Pared, For Now," *Law360*, (September 21, 2015)
- "Hollywood Agencies Escape Antitrust Claim Over TV Packaging Fees in Poaching Lawsuit," *The Hollywood Reporter, Esq.*, (September 18, 2015)
- "Talent Agencies Fight Allegations of Herding TV Clients By Deception," *The Hollywood Reporter, Esq.*, (August 26, 2015)
- "UTA & ICM Get Antitrust Claim Dropped in Anti-Packaging Lawsuit," *Deadline Hollywood*, (September 18, 2015)
- "ICM Wants Lit Agency Poaching Antitrust Suit Tossed; UTA Also Defendant," *Deadline Hollywood*, (August 11, 2015)
- "Entertainment Luminaries Among Those Feting Roma Downey and Mark Burnett," Anti-Defamation League, (May 09, 2014)
- "WME Brings Lawsuit Against Scripps Over Commissions," *The Hollywood Reporter, Esq.*, (June 17, 2013)
- "Anti-Defamation League honors Dreamworks CEO Katzenberg," *Daily Journal*, (May 17, 2013)