

Advertising + Marketing

Our firm grew up with the advertising industry, from its earliest beginnings through every stage of its exponential growth. We have been witness to, and a key participant in, the evolution of advertising and marketing law and the remarkable proliferation of related industries that now form the vast marketing ecosystem. From advertising agencies to major brands, from content creators to tech-forward digital platforms, whether our clients are global publicly traded companies or two-person startups, they depend on us to help achieve their business goals, protect their rights and minimize their legal risks.

Practical Guidance

Most of our advertising and marketing attorneys are devoted to the day-to-day legal needs of businesses that create or use sophisticated advertising and marketing practices, and we are involved in every phase of their businesses. We represent agencies of all types, brands in all product categories, and every sort of data-driven service and platform.

Many of these businesses are in newly emerging categories, where the legal framework is not yet clearly defined and clear and actionable guidance may not be readily available. We advise them on best practices we have identified — based on long and deep industry experience — that have achieved widespread acceptance in the field. Our legal and business-forward solutions inevitably become integral components of our clients' business processes and action plans.

On Top of the Issues

As clients confront the accelerating pace of change in marketing and advertising, we help them resolve the issues — both macro and micro — that affect their ability to compete. From demographic targeting to data analytics to disruptive new technologies, we respond to novel challenges and turn them to our clients' advantage. We help protect their brands, products and services from all manner of threats — competitive, regulatory, reputational — using advertising law as a potent tool in defense of market share.

Representative Matters

- Represented a multinational video game and digital entertainment company in a seminal case before the FTC focused on the advertising of a new portable video game player and its interplay with third-party software video games. The case involved statements that pushed the boundary of what constitutes a real claim and the question of whether advertising agency employees must disclose their material connection to the agency and its client when they promote a client's products on social media.
- Representing a global beer manufacturer in advertising and alcoholic beverage-specific matters, including counseling the brand and its advertising agencies, preparing terms for consumer offers, reviewing creative and promotional concepts and establishing policies for compliance with state-specific alcoholic beverage trade practices and tied-house laws.
- Partnered with a major fashion retailer on its global influencer and user-generated content social media promotions and drafted internal and external influencer marketing policies for use across international offices.

- Advised a major automobile company in developing and implementing a marketing strategy for online pre-sale and reservation programs to promote the launch of new product lines. Routinely provided guidance for structuring and marketing retail sales events, including financing, lease, and cash-back offers, and special promotional programs, including limited offers, cash-back initiatives, contests and sweepstakes, to ensure compliance with appropriate state and federal laws.
- Advised a top broadcaster in the launch of its new streaming service. The campaign was reliant on trial offers, auto renewals and negative option sales practices. Compliance with federal and state laws and appropriate disclosures were required throughout the consumer sales cycle.
- Represented an advertising agency in negotiations with SAG-AFTRA in the use of union talent engaged by Commercials Contract third-party signatories in order to protect the rights of non-union advertising agencies and their clients and to have more control over the SAG-AFTRA productions in which they are engaged. Convinced SAG-AFTRA to remove the offending provisions which led to a letter of adherence enabling the agency to maintain involvement in SAG-AFTRA productions.