

# LICENSE

EXCLUSIVE

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# Superheroes

How Tim Rothwell and Bruno Maglione have worked seamlessly to create Marvel Entertainment's consumer products universe

## Doll Wars

Who will emerge victorious among Barbie, Bratz, and Disney Princesses?

Exclusive interviews with Mattel Brands' **Neil Friedman**, WBCP's **Brad Globe**, and Twentieth Century Fox' **Elie Dekel**



# Columnists

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**Michèle Gerber** headed the U.S. women's licenses for Lanvin SA and was the founding agent for licensed business joan vass USA. As vice president of the Liberman Foundation, she also is active in the world of art. She writes about art and fashion for LICENSE.

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**Bob Jenkins** spent more than 20 years in the international television business before turning to business journalism five years ago. He is the international editor of LICENSE, and contributes to several other trade magazines.

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**Jonathan Asher** founded the New York office of Dragon Rouge ([www.dragonrouge-usa.com](http://www.dragonrouge-usa.com)), a privately owned brand design agency. He has 20-plus years' experience in consumer goods marketing.

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**Christopher Nash** has been a project director for NPD Europe for the last year. Some of the clients he works with include Mattel, BBCWorldwide, and Corgi.

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**Jay Asher** is one of the founding partners of Brandgenuity, and has assisted manufacturers in targeting and acquiring licensed properties in the corporate, entertainment, and designer fields.

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**Deborah Kelson** is the director of brand management and Brandgenuity, and has a decade of consumer marketing experience. She worked on the award-winning LeapPad learning system at LeapFrog.

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**Jonathan Faber** is the president of CMG Worldwide, and the creator and professor of "The Right of Publicity" at IU School of Law-Indianapolis. He frequently serves as an expert witness in litigation involving valuations, transactions, and unauthorized uses of intellectual property.

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**Joshua Kaufman** is a partner in the law firm of Venable, LLP, and chair of its licensing and copyright group. Based in Washington, D.C., he is a frequent speaker and an adjunct professor of law at American University Law School.

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**Nancy Jeffries** is the former editor-in-chief of Soap & Cosmetics magazine and Global Cosmetic Industry. She has written for and produced both books and magazines on women's health, beauty and fragrance, photography, and the visual arts.

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# Stars for Sale

Celebs look to leverage their names, images and likenesses for big bucks.

BY JONATHAN FABER

Since the news broke of Muhammad Ali selling the commercial rights to his name and likeness for \$50 million, many people have been asking why he did it (aside from the “fifty million good reasons”).

Developments such as the Ali transaction are perhaps inevitable and probably a good thing for the industry overall in that they provide a measurable benchmark in a secretive industry for the value of celebrity intellectual property rights, and they also demonstrate one way of exploiting, transferring, or utilizing those assets. At the same time, who could forget the words of Marilyn Monroe: “Hollywood is a place where they’ll pay you \$1,000 for a kiss and 50 cents for your soul.”

If “soul” were to include commercial rights (and some lawyers might argue it does), then that 50 cents would have yielded a phenomenal ROI. Because many celebrities function as brands unto themselves these days, Monroe’s words reflect a prescient awareness of how celebrities are commoditized, but that does not automatically have to transmit a negative connotation. Astute celebrities acknowledge this reality, even if they then opt to resist commercial activities.

It wasn’t long ago that most celebrities eschewed advertising for fear that it suggested they were not in demand or they needed the money, even though many personalities quietly did advertising overseas, far away from the U.S. market. Tolerance levels increased and the unflattering implications eroded. Today there is little drawback to such activities, other than the ever-present challenge of managing potential overexposure. Even Robert DeNiro advertises for American Express, though his deal involved, as a primary component, funding for his Tribeca Film Festival.

The Ali deal was reported as a payment of \$50 million in exchange for 80 percent of the commercial rights to Ali’s name and image, and a right to require a total buyout after five years. These transactions typically are based on name and image rights, as well as trademarks surrounding the personality, but even that description perhaps raises as many questions as it answers.

What really is in play is the right to exploit the name and image in commercial endeavors, which could include everything from merchandise, advertising, and endorsements to life rights for movies, theater, and documentaries, and potentially even related intellectual property interests such as access to copyrighted images owned by the personality. With the noted exception for possible copyright and trademark elements, the primary subject matter of these transactions is the Right of Publicity.

The Right of Publicity generally is defined as the right of a person to control the commercial use of his or her name, image

or likeness. A disorienting aspect of the Right of Publicity is that it is a doctrine still in its nascent stages. The same can be said of the celebrity licensing industry to some degree, considering the tectonic changes taking place.

These changes will bring more headlines like the Muhammad Ali sale. The industry will continue moving toward consolidation and content acquisition, the forces of which have been swept through other sectors of the entertainment industry at a dizzying pace in recent years. Actually, the industry has been shifting for a while now, as evidenced by David Bowie receiving in 1997 a reported \$55 million through the issue of a 10-year “Bowie bond,” which was collateralized by future royalties from his back catalog of music.

Securitization differs from outright purchase, but it does represent an alternative approach to the intellectual property surrounding celebrities. In addition, outright sale, transfer, or securitization are not the only ways to extract value from an intellectual property asset and celebrity brand—and they aren’t automatically the most profitable, either. Just think of George Foreman and his nifty grill, for which Salton Inc. reportedly paid Foreman approximately \$150 million since 1999 in relation to that product line and the exclusive rights in perpetuity to use his name and likeness in the home appliance category.

As the George Foreman grill demonstrates, an effective way to extract value from personality-based intellectual property is to develop a company or product line that utilizes the star’s

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**“Hollywood is a place where they’ll pay you \$1,000 for a kiss and 50 cents for your soul.”**

**-Marilyn Monroe**

public recognition without making the product completely dependent on the celebrity to support and push it. For example, Sammy Hagar, solo artist and former singer of Van Halen, developed the Cabo Wabo tequila line over the last 10 years, which is an effective combination of the right personality supporting a product that aligns with the celebrity’s image. His line now is considered one of the top tequila brands—though not the biggest—reportedly shipping 200,000 cases a year.

When the pairing of celebrity and product is done effectively, the results can be impressive. Placing the emphasis on the product itself minimizes the risk of overexposure while diversifying the interests and assets of the personality. The trick is finding a natural pairing that the consuming public will regard as intuitive. Clearly, a Sammy Hagar tequila line probably works better than a Martha Stewart tequila line (or Sammy Hagar linens, for that matter). Presumably then, image-appropriate partnering and strategic brand development will be a key component in recouping the investment that has been made in Ali’s commercial rights. ©