

# Katten

Katten Muchin Rosenman LLP

## ENTERTAINMENT AND MEDIA LITIGATION

### Our Clients

Katten's Entertainment and Media Litigation team serves entertainment conglomerates and motion picture studios; independent motion picture, television and new media production and distribution companies; record labels and music publishers; animation creators and producers; trade associations; interactive game developers and publishers; software publishers; international media companies; investors and financiers; and other conventional and cutting-edge ventures involved in the entertainment and media industry.

### Our Services

We offer a full-service, multidisciplinary approach to litigation and dispute resolution in matters involving intellectual property, contract and business torts, and other issues related to the entertainment and media industry.

Our seasoned litigators handle a wide range of matters, including idea submissions and copyright and trademark infringement claims; motion picture and television financing, development, production, distribution and profit participation disputes; defamation and right of privacy claims; artist management and talent agreements; employment; and valuation of motion picture and television libraries.

Katten's Entertainment and Media Litigation team truly understands the business of entertainment and seeks to add value in every scenario, providing thorough risk assessment and pre-litigation advice and strategy to

### RECOGNIZED BY

- *Chambers USA*
  - Media & Entertainment Litigation (California) 2019, 2018
- *The Legal 500 United States*
  - Media and Entertainment 2019, 2018
- *U.S. News – Best Lawyers®* “Best Law Firms”
  - Entertainment Law – Motion Pictures & Television (National, Los Angeles) 2019, 2018; (New York) 2018
  - Entertainment Law – Music (National, Los Angeles) 2019, 2018



help clients avoid litigation, and effective, experienced representation when litigation is unavoidable.

### Our Experience

- Representation of FremantleMedia North America, Inc. in defense of the claims by American Idol creator Simon Fuller that he is contractually entitled to receive an executive producer credit and an executive producer fee in connection with the television series *The X Factor*. Fuller claims that both Fox and FremantleMedia agreed to these demands in the context of the settlement of litigation in the United Kingdom relating to both the original UK *Pop Idol* and *The X Factor* television series.

- Trial counsel for McGraw Hill in an action to stop infringement and counterfeiting of textbooks by major textbook publishers.
- Defense of Scripps Network against a claim that it unlawfully appropriated plaintiff's idea for television shows involving "Man Cave" and "Tree House."
- Representation of E! Entertainment Television in a suit filed against a party in the television industry using the marks "E1" and "E1 Entertainment."
- Representation of NBCUniversal and Pilgrim Films, in a highly significant and publicized case. Larry Montz, a parapsychologist, and Daena Smoller, a publicist, filed a lawsuit claiming plaintiffs had conceived the idea for SyFy's successful reality television series *Ghost Hunters* (and its various spinoffs) produced by Pilgrim Films & Television. Montz and Smoller asserted claims for copyright infringement, breach of implied contract and breach of confidence, among others. The district court dismissed Montz and Smoller's state law claims for breach of implied contract and breach of confidence as preempted by the Copyright Act, 17 U.S.C. § 301(a), *et seq.* Their copyright claim was also dismissed. Montz and Smoller appealed only from the ruling on their claims for breach of implied contract and confidence.
- Representation of clients in a suit alleging copyright infringement and state law claims. Plaintiff Jazan Wild authored a three-part graphic novel, *Carnival of Souls*. He filed suit against defendants NBCUniversal and the producers of the television series *Heroes*, alleging a federal claim for copyright infringement, and state law claims for intentional and negligent interference with prospective economic advantage, unfair competition and unjust enrichment. The US District Court for the Central District of California granted defendants' motion and dismissed plaintiff's copyright infringement claim for lack of substantial similarity, and the state law claims as preempted by the Copyright Act, without leave to amend. Defendants were awarded attorneys' fees. The US Court of Appeals for the Ninth Circuit affirmed.
- Representation of NBCUniversal and Reveille in a copyright infringement suit. Plaintiff, Sonya Latimore, contended that the enormously popular reality television weight-loss competition show *The Biggest Loser* infringed a copyrighted treatment that she wrote. Plaintiff contends that defendants received her treatment and incorporated elements into *The Biggest Loser* without her permission, including the existence of competing teams, contestants living together, the use of hidden microphones and cameras, display of food temptations, use of "celebrity trainers," educating the audience about dieting methods, and weekly eliminations of contestants. This case presented the opportunity for the US Court of Appeals for the Second Circuit to weigh in for the first time on this important issue in the context of the increasingly important reality television competition genre. Following completion of discovery, NBCUniversal/Reveille successfully moved for summary judgment, winning the dismissal of the copyright infringement claim. The court agreed that plaintiff failed to raise a genuine issue of disputed fact that (i) the two works contained protectable elements that were substantially similar and (ii) NBCUniversal/Reveille had access to her treatment. Plaintiff appealed the decision. The Second Circuit affirmed the district court's decision in granting defendants' motion for summary judgment and denying plaintiff cross-motion to conduct additional discovery, "finding no merit in Latimore's remaining arguments."
- Representation of an American home entertainment and production company in prosecuting claims against a motion picture producer for breaching, and the producer's film financier for interfering with, a worldwide exclusive home video distribution agreement for a motion picture.

**"Their dedication to clients stands out - they have experienced attorneys who remain heavily involved in the litigation."**

Chambers USA 2015 (Media & Entertainment Litigation)

- Defense of Summit Entertainment, LLC in First Amendment litigation regarding the Academy Award®-winning motion picture *The Hurt Locker*. In the lawsuit, which was filed just days before *The Hurt Locker* went on to win six Oscars, plaintiff—an Iraq War veteran—claimed that the film was based on his experiences as a bomb disposal expert. He sought damages for the alleged violation of his right of publicity, defamation, invasion of privacy, infliction of emotional distress and other claims. Katten attorneys successfully moved to have the action transferred from New Jersey to California, and filed a special anti-SLAPP motion to strike and to dismiss. All of the claims against Summit were summarily dismissed, and Summit subsequently obtained an award of substantial attorneys' fees.
- Representation of Scripps Networks in a trademark infringement claim related to the television show *Private Chefs of Beverly Hills*. The US District Court ruled that plaintiff had not shown that it would likely win the trademark battle, or that it would be irreparably harmed without a TRO. In its motion for a TRO, plaintiff argued that the Food Network's use of the trademark "Private Chefs" had confused, and would continue to confuse, consumers about the source or affiliation of the show.
- Representation of Universal Pictures against producer Mort Engelberg's claims for unpaid profits from the motion pictures *Smokey and the Bandit* and *Smokey and the Bandit II*, under an unusual third-party beneficiary theory. Allegations include, among other things, breach of written contract, fraud, negligent misrepresentation and violations of California B&P Code Section 17200.
- Representation of legendary recording artists Slash and Duff along with the Guns N' Roses Partnership in an action for trademark infringement against the unauthorized seller of "Historic Guns N Roses" merchandise using the classic artwork and logos from the original band that existed until 1995. The case, which was pending in federal district court in Los Angeles, also included longstanding and complex disputes with former band frontman Axl Rose relating to ownership and control over the legacy Guns N' Roses partnership assets, settled with Katten clients being compensated for the use of their marks.
- Representation of Universal City Studios in connection with profit participation and related claims brought by actor Jack Klugman regarding television series *Quincy, M.E.*
- Representation of defendant in an action alleging fraud and breach of contract for contingent participation brought by actor Kevin Sorbo regarding the series *Hercules*. Prevailed on motion for summary judgment, including favored nations and 12 contract interpretation and accounting claims. Affirmed by California Court of Appeal.