

Media & Entertainment Group Of The Year: Jenner & Block

By Sarah Martinson

Law360 (February 7, 2022, 2:04 PM EST) -- Jenner & Block LLP won a trademark suit over the MTV reality show "Floribama Shore," successfully defended Chance the Rapper in a contract dispute and blocked online retailers from selling devices that could allegedly hack Nintendo Switch gaming consoles, earning it a spot among Law360's 2021 Media & Entertainment Groups of the Year.

The international firm's core media and entertainment practice has about 20 partners who are located primarily in Los Angeles, as well as New York City, Washington, D.C., Chicago and London, according to the group's co-chairs Andrew Bart and David Singer.

Singer said that what sets Jenner & Block's media and entertainment group apart is its expertise in a wide range of areas in the industry, including music, television, movies, video games, newspapers and tech.

"Another thing that sets us apart from our competitors is our love of these industries in which we practice and our knowledge of the business," Singer said. "Studios and record labels really like working with us because we understand the business environment in which they operate."

Bart added that many firms only have one or two attorneys who are recognized in the media and entertainment industry, while Jenner & Block has eight to 10 well-known lawyers in the field.

"I don't think that there's a firm out there that has the breadth of experience among the partnership that we do," he said.

One of the media and entertainment practice's notable accomplishments in 2021 was beating a beach bar's trademark suit in Florida federal court against its longtime client Viacom Inc., now known as ViacomCBS Inc., over the name of the MTV reality show "Floribama Shore."

The Flora-Bama Lounge, located on the Alabama-Florida state line, hit MTV owner Viacom and the show's producers with the suit in 2019, alleging that the companies knowingly infringed on the bar's 55-year-old trademark.

After a two-year battle, a federal judge tossed the suit in September, concluding that the show didn't violate the bar's trademark rights.



U.S. District Judge Robert L. Hinkle determined that the suit had failed the so-called Rogers test, a long-standing rule that makes it difficult to sue over the use of trademarks in creative works like movies or television shows. The ruling is currently being appealed before the Eleventh Circuit.

Jenner & Block media and entertainment practice co-chair Alison Stein said the victory was a recognition of ViacomCBS's creative efforts. According to court documents, "MTV Florida Shore" is part of the network's "valuable" "Jersey Shore" franchise and was already in its third season, which premiered with nearly one million total viewers, when this suit was filed.

"The court's ruling really solidifies the strong protections of the First Amendment in titles of creative works," Stein said.

Another accomplishment for Jenner & Block's media and entertainment practice was successfully representing Nintendo in two copyright infringement suits filed in May 2020 in Ohio and Washington federal court. Nintendo claimed website operators were selling products created by an anonymous group of hackers that circumvent technological safeguards on the consoles that Nintendo uses to prevent unauthorized access to its software and video games.

In the Ohio case, a federal judge in October 2020 signed off on a \$2 million settlement and ordered for the infringing products to be turned over to Nintendo. The judge also ordered for retailers to transfer the domain names of their game piracy websites to Nintendo.

In the Washington case, a federal judge that same month issued a permanent injunction blocking the website operators from continuing to sell the hacking devices and operating their sites.

Over the summer, the practice scored a victory while defending Chancelor Bennett, known as Chance the Rapper, in Illinois state court by defeating most of a former manager's suit. Patrick Corcoran sued the rapper in November 2020 over termination of their oral management agreement and more than \$2.5 million in allegedly unpaid album commissions.

In July, Cook County Circuit Judge Margaret Brennan dismissed six of Corcoran's claims, including unjust enrichment and implied contract, leaving intact only his claim that he wasn't paid owed commissions. The judge left the door open for Corcoran to amend one of his claims under the Illinois Sales Representative Act.

Judge Brennan also kept in place the rapper's suit against Corcoran, which is currently ongoing in Illinois state court and accuses Corcoran of taking undisclosed kickbacks from potential business opportunities.

According to Jenner & Block, the "case is one of the most high-profile artist-manager disputes in recent years and has received national media attention."

The matter "will continue to be closely watched across the music industry for its implications on other disputes between musical artists and their managers," the firm said.

--Editing by Ellen Johnson.