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Creative Lawyering for Growth in the Entertainment Industry

Edited by Cecily Mak & Anne-Marie Pecoraro





>> Cecily Mak

U.S.A.

Cecily Mak is currently the Head of Legal at Flipboard, Inc. in Silicon Valley, CA. Until mid-2012 she was in a long-standing position with Rhapsody International Inc. as the company's Senior Vice President and General Counsel. Mak is a graduate, professor and mentor at the University of California Hastings College of the Law in San Francisco, CA, and co-author of the book, "Music Law in the Digital Age". Mak has been honored by Digital Media Wire as one of their 2011 "25 Executives to Watch in Digital Entertainment" and was nominated as one of Billboard Magazine's Women in Music in December 2011.



>> Anne-Marie Pecoraro

FRANCE

Anne-Marie Pecoraro is a renowned French intellectual property, new technologies and entertainment lawyer. She works as a partner with her clients in the evaluation and defence of their intellectual property rights, and in the management of all projects relating to intellectual properties, whether literary or artistic. Her expertise has been recognized in the professional environment, in the press, and in national and international legal directories, most notably within the new technology and media sectors. As a result of her vast experience in intellectual property and media, Anne-Marie Pecoraro has acquired valuable expertise in strategic communication, ranging from privacy right protection to crisis communication. She acts for numerous talents and key actors in the entertainment field but also for a large range of foreign entities expanding their activities in France.



>> Marianne Lecron

FRANCE

Marianne Lecron is a French-American lawyer member of the Paris Bar. Essentially practicing in Intellectual Property, new technologies and media, she provides legal counselling to companies, non-profit organizations and individuals for the development of their projects and the protection of their assets. Marianne Lecron graduated from the University Paris Panthéon Assas with a Master in Industrial Property Law as well as from HEC Montreal and the University Paris XI in partnership with ESSEC Business School, where she developed extensive skills in management and business law.

Editors' Introduction: Cecily Mak & Anne-Marie Pecoraro



It was at MIDEEM, 2012, when we were invited to and ultimately agreed to co-edit the International Association of Entertainment Lawyers 2013 book. As active members of the IAEL, regular participants and previous speakers at MIDEEM, and generally socially outgoing "can-do" people who liked each other when we first met at an IAEL dinner years ago, it seemed like a natural fit. Further, with Anne-Marie's vibrant and diverse private practice coupled with Cecily's predominantly in-house and academic experiences of recent years, it was immediately evident that we'd bring a certain diversity of perspective, contacts, and vision to the final product. As should be immediately evident when you scan the table of content and review the book's broad range of perspectives, sources, and messages, our suspicions proved to be true.



It has been a fun and collaborative year. We kicked the project off in earnest in early 2012 when we met, naturally, at a talent agency on Sunset Boulevard in Los Angeles, CA. It was hotter than we were accustomed to in our respective homes of Paris and San Francisco, and the City of Angels seemed to welcome us for a dense afternoon of planning. As we parted ways that night to attend parties, dinners, and whatever else we each had underway, we knew that we were starting something good. We have extremely different lives and practices, but we both love our work, our clients, our homes, our families, and our work. There certainly was a lot of common ground for us to work with despite half a world of distance between us, different native languages, and opposing holiday schedules (some of us just don't take an entire month off every summer!). Our spontaneous complicity has not wavered since this memorable day in Hollywood, and we are very proud to present this year's project together.

One thing we did know, we were excited to bring various new and old members of the IAEL together to compile a work many of you will enjoy reading. As entertainment lawyers around the globe, we all know we have a lot to learn from one another.

What draws us to an entertainment law practice? What makes us want to work so hard for our clients – and many of us putting in the same passion and hours as our law school classmates making a king's ransom compared to the average entertainment lawyer's lot? What nourishes our tolerance for the broad spectrum of working substance and style among those who seek out "entertainment lawyers?" What can our value added be for these people who entrust us with their most prized possession, i.e the products of their minds? In thinking these many related questions through, we determined that many of us have these vibrant, tolerant practices because we are inspired by the creativity of our diverse client base. We don't cringe when they come to us with questions with no clear answers, yet an absolute determination to see their dreams come to light. Whether it is the people behind Burning Man pressing us to come up with solutions to their modern, global community problems or the software visionary needing to know what boxes they need to check to avoid getting shut down... the filmmaker who needs to somehow fund a feature film with over one hundred individual contributions...or a photographer with a detailed summary of how certain people can use her works in certain ways. We get a thrill out of the challenges of the "grey areas" of this type of legal practice. We are moved and humbled by their creations. Some of us envy their talents. We all want to support them so that they can do what they do best, with helpful counsel that plays a role in making their crafts a livelihood.

Whether it is software, photography, film, music, gaming, spoken and written works... the creators who are our clients often need our support so that what they create is protected, properly credited, treated, monetized, attributed, and made available in ways that are both aligned with the goals of the creator and the law. On a screen, at a live concert, in a video game, in the latest app, we are the ones behind the scenes who do a lot of the dirty work – and we love it.

A period of crisis as the one we are currently facing stresses the capital importance of creativity in the legal world and how lawyers, both in house and in law firms, can contribute to growth when managing their clients' interests. Creativity is at the centre of entertainment law itself and intellectual property law in general. Entertainment lawyers are thus particularly sensible to this question and how crucial it is in a prosperous Economy. The problem is as follows: how to show creativity in promoting the creativity of others?

Inventive thinking requires breaking old moulds and designing others. Innovation and creativity are crucial at every level of a project, from rough ideas, to the way these will be developed and realised. Now more than ever, novelty is introduced in financing structures (crowd funding as a way of financing new projects), as well as in the way money flows (the European Union is currently working on a Draft Directive on collecting societies and cross border music licensing).

This year's initiative thus proposes a journey through continents and ideas, questioning the *raison d'être* of our profession across different views and practices around the globe. These pages are filled with wildly individual, remarkably diverse, often passionate, yet consistently valuable summaries of how entertainment lawyers are thinking outside of the box to help our clients create, preserve, and monetize their passions. We thank you for supporting us as we support them. Though we may spend a lot of our time behind a screen, in an office, on a phone or airplane, there is a little bit of us all in the awesome works our clients dazzle the world with.