

# Index

**ACCOUNTS AND ACCOUNTING**  
Audits, provisions, **6B:26, 6B:27**  
Direct to retail license agreements, audit, **6B:26**  
License agreements, accounting provisions, **6B:26**  
definition of terms, **6B:27**  
R royalty Audit report, common nonmonetary findings, **6B:25**

**ACTUAL CONFUSION**  
Lanham Act, Section 32, **12:10**

**ADDITIONAL DESIGN WORK**  
Contracts and agreements, **6:9**

**ADMINISTRATION AND MANAGEMENT**  
Generally, **5A:1 to 5A:24**  
Administration of licensing program, generally, **5A:9**  
Agreements  
    license agreement, **5A:13**  
    manufacturing agreement, **5A:5**  
Application for license, form, **5A:11**  
Approval  
    forms, **5A:14**  
    product approval, **5A:7**  
Compliance, **5A:6**  
Deal memo, **5A:12**  
Development of product, **5A:3**  
Directories, **5A:20**  
Financial administration, **5A:16**  
Forms  
    approval forms, **5A:14**  
    license application, **5A:11**  
    royalty report form, **5A:15**

**ADMINISTRATION AND MANAGEMENT—Cont'd**  
Guide to styles, **5A:4**  
International licensing trade shows, **5A:22**  
Internet, **5A:19**  
Legal administration, **5A:10**  
License  
    agreement, **5A:13**  
    application form, **5A:11**  
Licensing  
    generally, **5A:1 to 5A:24**  
    directories, **5A:20**  
    team, **5A:2**  
    technology, managing programs, **5A:18**  
    trade shows, international, **5A:22**  
Manufacturing agreement, **5A:5**  
Marketing, **5A:8**  
Product  
    approvals, **5A:7**  
    development, **5A:3**  
Prospecting for right property, **5A:17**  
Publications within trade, **5A:20**  
Report of royalty, form, **5A:15**  
Royalty report form, **5A:15**  
Sales, **5A:8**  
Social compliance, **5A:6**  
Style guide, **5A:4**  
Technology, managing licensing programs, **5A:18**  
Trade  
    publications, **5A:20**  
    shows  
        generally, **5A:21**  
        international, **5A:22**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### ADVERTISING

Marketing, Advertising and Promotion (this index)

### AESTHETIC FUNCTIONALITY

Trademarks, **8:10**

### AFRICA

International markets, **1A:7**

### AGENTS

Generally, **6:12 to 6:21**

Agreements with, generally, **6:12 to 6:19**

Compensation, **6:17**

Drafting, generally, **6:13 to 6:19**

Grants, limits on agency grant, **6:14**

Introducer agreements, **6:21**

License agreement generally, **App C**

Limits on agency grant, **6:14**

Owner warranties and indemnification, **6:19**

Payments, **6:17**

Post-termination rights, **6:18**

Responsibilities, **6:16**

Sub-agent license agreement, **App C**

Term, **6:15**

Termination, **6:20**

Warranties, **6:19**

### AMATEUR SPORTS ACT OF 1978

Case law, **12:38**

Causes of action, **12:36 to 12:38**

Elements of cause of action, **12:37**

History, **12:36**

### ANTITRUSTS

Generally, **16:3**

### APPEAL AND REVIEW

Clearing potential properties, **3:2**

Ownership (this index)

### APPLICATION

Copyright application

Pennsylvania, B:5, **App B**

Texas, B:3, **App B**

Virginia, B:4, **App B**

License application form, **5A:11**

Single use trademark application, **App B**

Trademarks, federal registration protection, **8:21**

### APPROVAL

Administration and management of licensing, **5A:7, 5A:14**

Contracts and agreements, **5:29**

Marketing, advertising, and promotion, **5B:11**

### ARBITRARY AND SUGGESTIVE MARKS

Trademarks, **8:3**

### ARGENTINA

Enforcement actions worldwide, **15:3**

Trademarks, protection of foreign marks, **8:60**

### ARTICLES

Trademarks, foreign registration protection, **8:51**

### ARTIFICIAL INTELLIGENCE (AI)

Copyright Office Guidance for AI, **App H**

Impact of artificial intelligence, **12:56**

Infringement enforcement of rights, **11:11**

Utility patents, impact of, **10:6**

### ARTWORK

Contracts and agreements, **5:32**

License agreement, **App C**

### ASIA

International markets, **1A:4**

## INDEX

**ASSIGNMENT**  
Generally, **5:41**  
Imports, U.S. Customs Service, **14:4**

**ATHLETES**  
Promotional agreements, drafting, **6:40**

**ATTORNEYS' FEES**  
Generally, **13:22**

**AUDITS AND AUDITORS**  
Accounting provisions, **6B:26, 6B:27**  
Audit conducted remotely, **6B:9**  
Contracts and agreements, **5:28**  
Credit memo journals, **6B:18**  
Definitions, accounting, **6B:27**  
Extrapolation, **6B:6**  
Fees, recovery of, **6B:7**  
Financial statements, **6B:19**  
Interest on findings, **6B:5**  
Inventory records, **6B:17**  
Ledgers, **6B:19**  
Manufacturing records, **6B:16**  
Monetary findings, **6B:24, 6B:25**  
Non-disclosure agreement, **6B:10**  
Price lists, **6B:21**  
Procedures, **6B:22**  
Product catalogs, **6B:20**  
Purchasing records, **6B:16**  
Records and recording. See Royalties, required information, below  
Recovery of fees, **6B:7**  
Reports, **6B:23 to 6B:24**  
Right to audit, **6B:2, 6B:3**  
Royal audit  
    auditor selection, **6B:12**  
    timing, **6B:11**  
Royalties  
    generally, **6B:1 to 6B:28**  
    accounting provisions, **6B:26, 6B:27**  
    audit conducted remotely, **6B:9**

**AUDITS AND AUDITORS**  
—Cont'd  
Royalties—Cont'd  
    definitions, accounting, **6B:27**  
    information required, licensee generally, **6B:16 to 6B:21**  
    credit memo journals, **6B:18**  
    inventory records, **6B:17**  
    manufacturing records, **6B:16**  
    purchasing records, **6B:16**  
    monetary findings, **6B:24, 6B:25**  
    non-disclosure agreement, **6B:10**  
    procedures, **6B:22**  
    provisions in agreements  
        extrapolation, **6B:6**  
        fees, recovery of, **6B:7**  
        interest on findings, **6B:5**  
        interest on late payments, **6B:8**  
        record keeping, **6B:4**  
        recovery of fees, **6B:7**  
        right to audit, **6B:2, 6B:3**  
    reports, **6B:23 to 6B:24**  
    required information  
        credit memo journals, **6B:18**  
        financial statements, **6B:19**  
        inventory records, **6B:17**  
        ledgers, **6B:19**  
        manufacturing records, **6B:16**  
        price lists, **6B:21**  
        product catalogs, **6B:20**  
        purchasing records, **6B:16**  
        record keeping, **6B:4**  
        tax returns, **6B:19**  
    royal audit  
        auditor selection, **6B:12**  
        preparation, **6B:13**  
        timing, **6B:11**  
    Tax returns, **6B:19**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

<b>AUSTRALIA</b>	<b>CASE LAW—Cont'd</b>
Enforcement actions worldwide, <b>15:4</b>	Infringement, <b>12:35</b>
Trademarks, recent developments in protection, <b>8:71</b>	Lanham Act, <b>12:15, 12:28 to</b> <b>12:31</b>
<b>AUSTRALIA &amp; NEW ZEALAND</b>	Trademark prosecution
International markets, <b>1A:5</b>	case histories, <b>App B</b>
<b>AWARENESS</b>	<i>In re Grand Forest Holdings Incorporated</i> , 78 USPQ2d 1152, <b>App B</b>
Enforcement of rights, <b>11:10</b>	<i>In re Major League Baseball Properties, Inc.</i> Serial Nos. 78183355 and 78183381, <b>App B</b>
<b>BELGIUM</b>	Trademarks, foreign registration
Enforcement actions worldwide, <b>15:5</b>	protection, <b>8:59, 8:68, 8:86,</b> <b>8:95, 8:96</b>
<b>BENELUX</b>	<b>CAUSES OF ACTION</b>
Enforcement actions worldwide, <b>15:5</b>	Generally, <b>12:1 et seq.</b>
<b>BILLBOARD APPROACH</b>	Amateur Sports Act of 1978, <b>12:36 to 12:38</b>
Protection of properties, <b>7:8</b>	Analysis of cases, <b>12:59, 12:60</b>
<b>BOND</b>	Case law, <b>12:63</b>
Ex parte relief, motions for temporary restraining order, <b>13:9</b>	Common law. State and Common Law Causes of Action (this index)
<b>BRAZIL</b>	Copyright infringement, <b>12:32 to</b> <b>12:35</b>
Enforcement actions worldwide, <b>15:6</b>	Counterfeit, <b>12:40</b>
Trademarks (this index)	Cyberspace litigation, <b>12:57,</b> <b>12:58</b>
<b>CANADA</b>	Cybersquatting (this index)
Enforcement actions worldwide, <b>15:7</b>	Imports, <b>14:11 to 14:14</b>
Trademarks (this index)	Infringement, <b>12:42</b>
<b>CANCELLATION OF REGISTRATION</b>	Jurisdiction, <b>12:58</b>
Trademarks, foreign registration protection, <b>8:93</b>	Lanham Act (this index)
<b>CASE LAW</b>	Legislation, <b>12:37 to 12:39</b>
Amateur Sports Act of 1978, <b>12:38</b>	Linking, <b>12:59</b>
Copyright, <b>12:35</b>	Metatags, <b>12:60</b>
Cybersquatting, <b>12:63</b>	Patent infringement, <b>12:42</b>
Federal Trademark Dilution Act, <b>12:18, 12:23</b>	Special legislation protecting specific properties, <b>12:36 to</b> <b>12:39</b>
	Sports, <b>12:36 to 12:38</b>
	State and Common Law Causes of Action (this index)

## INDEX

### **CAUSES OF ACTION—Cont'd**

Statutes  
Amateur Sports Act of 1978,  
**12:36 to 12:38**  
Lanham Act (this index)  
Trademark Counterfeiting Act,  
**12:40**  
Trademark Counterfeiting Act,  
**12:40**

### **CEASE AND DESIST LETTER**

Enforcement of rights, **11:13**

### **CELEBRITY AND CELEBRITIES**

License agreements, sample, **App C**  
Promotional agreements, drafting,  
**6:40**  
Public domain subject matter, **4:10**  
State and common law causes of  
action, **12:54**

### **CHARACTERS' NAMES, PHYSICAL ATTRIBUTES, AND PERSONALITY TRAITS**

Trademarks, **8:6**

### **CHECKLIST**

Complaint, drafting, **13:2**  
License agreements, drafting, **App C**  
Structuring joint venture agreements, **App C**

### **CLEARING POTENTIAL PROPERTIES**

Generally, **3:1 et seq.**  
Appeal and review, **3:2**  
Conflicts, **3:8, 3:9**  
Confusion, likelihood of, **3:7**  
Copyright searching, **3:11**  
Fallibilities, **3:10**  
Formal searching by trademark search firm, **3:3**  
Framing research request, **3:4**

### **CLEARING POTENTIAL PROPERTIES—Cont'd**

Investigation, **3:8**  
Likelihood of confusion, **3:7**  
Patent searching, **3:11**  
Potentially conflicting properties, **3:8, 3:9**  
Preliminary review, **3:2**  
Purchase of potentially conflicting properties, **3:9**  
Questions to be addressed, **3:6**  
Research. Trademark researching, below  
Searching, **3:11**  
Trademark researching generally, **3:2 to 3:10**  
analysis of search, generally, **3:5 to 3:10**  
fallibilities, **3:10**  
formal searching by trademark search firm, **3:3**  
framing research request, **3:4**  
investigation of use of potentially conflicting properties, **3:8**  
likelihood of confusion, **3:7**  
preliminary review, **3:2**  
purchase of potentially conflicting properties, **3:9**  
questions to be addressed, **3:6**

### **“COCO-COLA”**

Trademarks, foreign registration protection, **8:41**

### **COLLEGES AND UNIVERSITIES**

Athletes, **2:16**  
License agreement (annotated), collegiate merchandise, **App C**  
Public domain subject matter, **4:12**  
Selection and evaluation of property, **2:16**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### **COMIC STRIPS**

Selection and evaluation of property, **2:10**

### **COMMERCIAL IMPRESSION**

Trademarks, **8:23**

### **COMMON LAW**

State and Common Law Causes of Action (this index)

### **COMPENSATION**

Designer agreements, **6:4**

Licensing agents, **6:17**

Manufacturers' representatives, **6:25**

### **COMPETITION, UNFAIR**

Unfair Competition (this index)

### **COMPLAINT**

Drafting, **13:1, 13:2**

Imports (this index)

### **COMPLETION OF WORK**

Trademarks, foreign registration protection, **8:62**

### **COMPLIANCE**

Ethics and Social Compliance (this index)

Post-trial compliance, **13:23**

### **COMPUTER GAMES**

Selection and evaluation of property, **2:19**

### **CONDITIONS**

Letter or intent, **5:11**

### **CONFIDENTIAL DISCLOSURE AGREEMENT**

License agreement, **App C**

Prelicensing considerations, **5:7**

### **CONFIDENTIAL INFORMATION**

Foreign registration protection (U.K.), confidential information

### **CONFIDENTIAL**

**INFORMATION—Cont'd**  
tion as publicity and privacy rights, **8:76**

### **CONFLICTS**

Clearing potential properties, **3:8, 3:9**

### **CONFUSION, LIKELIHOOD OF**

Clearing potential properties, **3:7**

### **CONFUSION TESTS**

Lanham Act (this index)

### **CONSISTENT RIGHTS**

Contracts and agreements, **5:49**

### **CONSTITUTIONAL LAW**

Pretrial proceedings, **13:13**

State and common law causes of action, **12:52**

### **CONSULTANTS**

Licensing Consultants (this index)

### **CONTINUOUS PROTECTION**

Imports, U.S. Customs Service, **14:4**

### **CONTRACTS AND AGREEMENTS**

Generally, **5:12 to 5:53**

Administration and Management (this index)

Approval, **5:29**

Artwork, **5:32**

Assignability, **5:41**

Athlete promotional agreements, drafting, **6:40**

Audit, **5:28**

Body of the agreement

Generally, **5:14 to 5:16**

Celebrity and athlete promotional agreements, drafting, **6:40**

Consistent rights, **5:49**

Contributions, royalty rate, **5:26**

Copyright protection, **5:35**

Data Privacy, **5:31**

## INDEX

**CONTRACTS AND AGREEMENTS—Cont’d**

- Designer Agreements (this index)
- Direct sales, royalty rate, **5:29**
- Domestic sales, royalty rate, **5:19**
- Drafting
  - athlete promotional agreements, **6:40**
  - celebrity and athlete promotional agreements, **6:40**
- Designer Agreements (this index)
- joint venture agreements, **6:43**
- Licensing Agents (this index)
- Manufacturers’ Representatives (this index)
  - promotional agreements, **6:40**
- Establishing royalty rates, **5:17 to 5:24**
- Execution & Integration, **5:53**
- Exploitation by licensee and marketing and sales reports, **5:39**
- FOB royalty rates, **5:20**
- Force majeure*, **5:52**
- Goodwill, **5:34**
- Governing disputes, **5:46**
- Governing law, **5:46**
- Grant of license, **5:14**
- Indemnification, **5:37**
- Infringements, **5:36**
- Insurance, **5:38**
- Intellectual property protection, **5:35**
- International provisions, **5:47**
- Joint Venture Agreements (this index)
- License agreement, **5:54**
  - wrongful termination, **5:55**
- Licensing Agents (this index)
- Licensing agreements, **App C**
- Manufacturers’ Representatives (this index)
- Marketing contributions, **5:26**

**CONTRACTS AND AGREEMENTS—Cont’d**

- Merchandising-Related Agreements (this index)
- Net sales, definition, **5:25**
- Notice, **5:29, 5:44**
- Obligation, representations and warranties, **5:30**
- Option Agreements (this index)
- Options, **5:15**
- Ownership (this index)
- Parties, relationship of, **5:45**
- Patent protection, **5:35**
- Payments, **5:19, 5:27**
- Post-termination rights and notice, **5:43**
- Preamble, generally, **5:13**
- Prelicensing considerations, **5:7, 5:8**
- Premiums, **5:40**
- Promotional agreements, drafting, **6:40**
  - value, **5:34**
- Promotions, **5:40**
- Quality control, **5:29**
- Relationship of parties, **5:45**
- Review. Title and Ownership (this index)
- Rights ownership, **5:33**
- Royalty provisions, **5:16**
- Royalty rate
  - contributions, **5:26**
  - direct sales, **5:29**
  - domestic sales, **5:19**
  - establishing, **5:17 to 5:24**
  - FOB royalty rates, **5:20**
  - marketing contributions, **5:26**
  - services, rates for, **5:22**
  - split rates, **5:32**
  - sublicensing royalties, **5:23**
  - types, **5:18**
- Samples of quality control, **5:29**
- Security agreement, **5:56**
- Services, royalty rates for, **5:22**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

**CONTRACTS AND AGREEMENTS—Cont'd**  
Settlements, **5:27**  
Severability, **5:50**  
Split royalty rates, **5:24**  
Statements, **5:19**  
Sublicensing  
    generally, **5:41**  
    royalty rate, **5:23**  
Survival of rights, **5:51**  
Termination, **5:42**  
Termination (this index)  
Terms, **5:15**  
Title and Ownership (this index)  
Trademark  
    foreign registration protection, **8:67, 8:91**  
    protection, **5:35**  
Types of royalty rates, **5:18**  
Value and valuation, **5:34**  
Waiver, **5:48**

**CONTRIBUTIONS**  
Merchandising license agreement, establishing royalty rate, **5:26**

**COPYRIGHT**  
Generally, **9:1 et seq.**  
Applicability, **9:2**  
Applications  
    Pennsylvania, B:5, **App B**  
    Texas, B:3, **App B**  
    Virginia, B:4, **App B**  
Case law, **12:35**  
Causes of action, **12:32 to 12:35**  
Clearing potential properties, **3:11**  
Complaint for infringement, **App F**  
Contracts and agreements, **5:35**  
Copyright Office Guidance for AI, **App H**  
Derivative works, **9:10**  
Elements of cause of action, **12:34**  
Fair use doctrine, **9:7**  
Independent creation, **9:9**

**COPYRIGHT—Cont'd**  
Infringement, **12:32 to 12:35**  
Jurisdiction, **12:32**  
Limitations and restrictions, **9:6 to 9:9**  
Notice, **9:4**  
Ownership, **4:11**  
Protection of properties, generally, **7:4 to 7:7, 9:1 et seq.**  
Public domain material, **9:8**  
Registration, effect of, **9:5**  
Statutory formalities, **9:3 to 9:5**  
Statutory subject matter, **9:3**  
Subject matter, statutory, **9:3**  
Trademarks (this index)

**CORPORATE LOGOS**  
Selection and evaluation of property, **2:14**

**COUNTERFEIT**  
Imports, U.S. Customs Service, **14:5, 14:6**  
Trademark Counterfeiting Act (this index)

**CURRENT LAW**  
Generally, **1:10**

**CUSTOMS**  
Enforcement of rights, **11:9**

**CYBERSPACE LITIGATION**  
Causes of action, **12:57, 12:58**  
Jurisdiction, **12:58**

**CYBERSQUATTING**  
Generally, **12:61**  
Anti-cybersquatting legislation, **12:62**  
Case law, **12:63**  
Dispute procedures, **12:64 to 12:67**  
    EBay VeRO program, **12:67**  
    ICANN, **12:65**  
    Legislation, **12:62**  
    Network solutions, **12:64**  
    WIPO, **12:66**

## INDEX

### DAMAGES

Generally, **13:21**

### DEAL MEMO

Administration and management of licensing, **5A:12**  
Advantages, **5:9**  
Licensing, **5:9, 5:11**  
Suggested terms and conditions, **5:11**

### DEATH

Public domain subject matter, deceased celebrities, **4:10**  
Trademarks, names of dead persons, **8:39**

### DEFENSES

Pretrial proceedings, **13:12 to 13:15**  
State and common law causes of action, **12:52**

### DEFINITIONS

Audits, accounting, **6B:27**  
Merchandising, **1:1**

### DERIVATIVE WORKS

Generally, **9:11**  
Copyrights, **9:10**

### DESCRIPTIVE MARKS WITH SECONDARY MEANING

Trademarks, **8:4**

### DESIGNER AGREEMENTS

Generally, **6:2 to 6:11**  
Additional design work, **6:9**  
Compensation, **6:4**  
Drafting, generally, **6:5 to 6:11**  
Indemnification, **6:8**  
License agreement, **App C**  
Likeness, use of designer's name and, **6:11**  
Maintenance of rights, **6:7**  
Minimums to maintain rights, **6:7**  
Name and likeness, use of, **6:11**  
Ownership, **4:4, 6:8**

### DESIGNER AGREEMENTS

—Cont'd  
Required minimums to maintain rights, **6:7**  
Structuring relationship, **6:3**  
Sublicensing rights and provisions, **6:10**  
Term, **6:6**  
Use of designer's name and likeness, **6:11**

### DESIGNER NAMES

Selection and evaluation of property, **2:13**

### DESIGN PATENTS

Generally, **10:2 to 10:4**  
Protection of properties, **7:5, 7:6**

### DESIGNS

Trademarks, **8:42, 8:50, 8:77 to 8:79**

### DESIST

Enforcement of rights, cease and desist letter, **11:13**

### DESTROY OR SUBSTANTIALLY INJURE

Imports, International Trade Commission (ITC), **14:14**

### DEVELOPMENT OF PRODUCT

Administration and management of licensing, **5A:3**

### DIGITAL ASSETS

Generally, **8:8**  
Protectable properties, **8:8**

### DILUTION

Federal Trademark Dilution Act of 1995, **12:16**  
Lanham Act, **12:16**  
State and Common Law Causes of Action (this index)  
Trademarks, state antidilution protection, **8:31, 8:32**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

<b>DIRECT MARKETING</b>	<b>DWAYNE JOHNSON AKA “THE ROCK”</b>
Generally, <b>5B:8</b>	Ownership considerations, <b>4:8</b>
<b>DIRECTORIES</b>	<b>eBAY VERO PROGRAM</b>
Administration and management of licensing, <b>5A:20</b>	Cybersquatting, <b>12:67</b>
<b>DIRECT SALES</b>	<b>EMPLOYEE AND EMPLOYMENT AGREEMENTS</b>
Merchandising license agreement, royalty rates, <b>5:21</b>	Ownership, review of contracts and agreements, <b>4:3</b>
<b>DISCLOSURE</b>	<b>ENFORCEMENT</b>
Confidential disclosure agreement, license agreement, <b>App C</b>	Generally, <b>11:1 et seq.</b>
<b>DISTINCTIVE ORNAMENTATION PROPERTIES</b>	Awareness, <b>11:10</b>
Selection and evaluation of property, <b>2:6</b>	Cease and desist letter, <b>11:13</b>
<b>DOMESTIC INDUSTRY</b>	Customs registrations, <b>11:9</b>
Imports, International Trade Commission (ITC), <b>14:13</b>	Desist, cease and desist letter, <b>11:13</b>
<b>DOMESTIC SALES</b>	Foreign countries
Merchandising license agreement, royalty rates, <b>5:19</b>	trademarks, registration protection, <b>8:53, 8:90</b>
<b>DRAFTING</b>	U.S. and foreign customs registrations, <b>11:9</b>
Complaint, <b>13:1, 13:2</b>	worldwide actions, below
Designer Agreements (this index)	Infringement (this index)
Joint venture agreements, <b>6:43</b>	Investigation of sources of infringement, <b>11:4 to 11:6</b>
Licensing Agents (this index)	Letters, cease and desist, <b>11:13</b>
Manufacturers’ Representatives (this index)	Litigation, generally, <b>11:14</b>
Merchandising license agreements, <b>App C</b>	Policy considerations, <b>11:2</b>
Promotional agreements, <b>6:40</b>	Prevention, infringement, <b>11:7 to 11:10</b>
<b>DURATION</b>	Private investigators, <b>11:5</b>
Manufacturer’s representative agreement, <b>6:30</b>	Public awareness campaigns, <b>11:10</b>
<b>DUTIES OF MANUFACTURERS’ REPRESENTATIVES</b>	Registrations, <b>11:9</b>
Generally, <b>6:32</b>	Rights, generally, <b>11:1 et seq.</b>
	Selective enforcement, <b>11:2</b>
	Sting operations, <b>11:6</b>
	Technological approaches, <b>11:8</b>
	Trademarks, foreign registration protection, <b>8:53, 8:90</b>
	U.S. and foreign customs registrations, <b>11:9</b>

## INDEX

### **ENFORCEMENT—Cont'd**

Worldwide actions  
generally, **15:1 et seq.**  
Argentina, **15:3**  
Australia, **15:4**  
Belgium, **15:5**  
Benelux, **15:5**  
Brazil, **15:6**  
Canada, **15:7**  
Finland, **15:8**  
France, **15:9**  
Germany, **15:10**  
Greece, **15:30**  
Hong Kong, **15:11**  
Ireland, **15:12**  
Italy, **15:13**  
Japan, **15:14**  
Korea, Republic of, **15:15**  
Luxembourg, **15:5**  
Mexico, **15:16**  
Netherlands, **15:5**  
New Zealand, **15:17**  
Norway, **15:18**  
Philippines, **15:19**  
Portugal, **15:20**  
Republic of Korea, **15:15**  
Saudi Arabia, **15:21**  
South Africa, **15:22**  
Spain, **15:23**  
Survey of jurisdictions, generally, **15:2 to 15:29**  
Sweden, **15:24**  
Taiwan, **15:25**  
Thailand, **15:26**  
United Kingdom, **15:27**  
Uruguay, **15:28**  
Venezuela, **15:29**

### **ENTERTAINERS**

Selection and evaluation of property, **2:12**

### **EQUITABLE DEFENSES**

Pretrial proceedings, **13:15**

### **ETHICS AND SOCIAL COMPLIANCE**

Generally, **6A:1**  
Administration and management of licensing, **5A:6**  
BSR report, **6A:3**  
Ensuring social compliance, **6A:2**

### **EUROPE**

International markets, **1A:3**

### **EVALUATION OF PROPERTY**

Selection and Evaluation of Property (this index)

### **EVIDENCE**

Lanham Act, Section 32, actual confusion, **12:10**  
Showing requirement, **13:18, 13:19**

### **EXCEPTIONS, EXCLUSIONS, AND EXEMPTIONS**

Imports, U.S. Customs Service, **14:5, 14:6**

### **EXCLUSIVITY**

Manufacturer's representative agreement, **6:29**

### **EX PARTE RELIEF**

Generally, **13:3 to 13:10**  
Bond, posting of, **13:9**  
Hardships, balance of, **13:7**  
Irreparable harm, **13:6**  
Motions for temporary restraining order generally, **13:4 to 13:10**  
hardships, balance of, **13:7**  
irreparable harm, **13:6**  
posting of bond, **13:9**  
public interest, **13:8**  
showing requirement, generally, **13:4 to 13:8**  
success on the merits, **13:5**

### Order

show cause order, litigation form, **App F**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### **EX PARTE RELIEF—Cont'd**

Order—Cont'd  
    temporary restraining order,  
    below  
Posting of bond, **13:9**  
Public interest, **13:8**  
Restraining order. Motions for  
    temporary restraining order,  
    above  
Show cause order, litigation form,  
    **App F**  
Showing requirement. Motions for  
    temporary restraining order,  
    above  
Success on the merits, **13:5**  
Temporary restraining order  
    litigation form, **App F**  
    motions for temporary restraining  
    order, above

### **EXPERT WITNESSES**

Trademarks, foreign registration  
    protection, **8:33 to 8:36**  
Trial, **13:19**

### **EXPIRED COPYRIGHTS**

Ownership, public domain subject  
    matter, **4:11**

### **EXPLOITATION BY LICENSEE AND MARKETING AND SALES REPORTS**

Contracts and agreements, **5:39**

### **FAIR USE**

Copyrights, **9:7**  
Pretrial proceedings, **13:14**

### **FALLIBILITIES**

Clearing potential properties, **3:10**

### **FALSE ADVERTISING**

Lanham Act, Section 43(a), **12:31**

### **“FAMOUS”**

Canada, trademarks, foreign  
    registration protection, **8:55**

### **FANCIFUL WORDS WITH NO MEANING**

Trademarks, foreign registration  
    protection, **8:37**

### **FASHION PROPERTIES**

Selection and evaluation of prop-  
    erty, **2:4**

### **FEDERAL GOVERNMENT**

Trademarks (this index)

### **FEDERAL TRADEMARK DILUTION ACT**

Generally, **12:16 to 12:23**  
Case law, **12:18, 12:23**  
Historical background, **12:16**  
Trademark Dilution Revision Act  
    of 2006, **12:19**

### **FEES**

Attorneys' fees, **13:22**  
Audits, recovery of, **6B:7**

### **FINANCIAL ADMINISTRATION**

Generally, **5A:16**

### **FINANCIAL STATEMENTS**

Audits, **6B:19**

### **FINLAND**

Enforcement actions worldwide,  
    **15:8**  
Trademarks, revisions to Finnish  
    trade marks act, **8:83**

### **FINNISH TRADE MARK ACT**

Foreign registration protection,  
    **8:83**

### **FIRST AMENDMENT**

Pretrial proceedings, **13:13**  
State and common law causes of  
    action, right of publicity,  
    **12:52**

### **FIRST USE**

Trademarks, **8:15**

## INDEX

**FOB ROYALTY RATES**  
Merchandise license agreement, **5:20**

**FORCE MAJEURE**  
Contracts and agreements, **5:52**

**FOREIGN COUNTRIES**  
See also International Acts and Matters (this index)  
Enforcement (this index)  
Imports (this index)  
Trademarks (this index)

**FORMAL SEARCHING**  
Clearing potential properties, **3:3**

**FORMS**  
Administration and Management (this index)  
Consulting agreement, **App D**  
License agreements, **App C**  
Licensee manufacturer form, **App D**  
Licensing proposal by prospective licensee, **App D**  
Licensor, **App E**  
style guide, **App E**  
Litigation, **App F**  
Trademark prosecution  
single use trademark application, **App B**

**FRAGMENTATION**  
Prelicensing considerations, **5:3**

**FRAMING RESEARCH REQUEST**  
Clearing potential properties, **3:4**

**FRANCE**  
Enforcement actions worldwide, **15:9**  
Trademarks, New Trademark Act adoption, **8:65**

**FUNCTIONAL ARTICLES**  
Trademarks, foreign registration protection, **8:51**

**FUNCTIONAL SUBJECT MATTER**  
Trademarks, **8:9, 8:10**

**FUNCTIONAL USE**  
Ownership, **4:12**

**FUNDS FOR MARKETING**  
Marketing, advertising, and promotion, **5B:9**

**FUTURE PROSPECTIVE**  
Generally, **1:12**

**GENERICNESS**  
Trademarks, **8:12**

**GERMANY**  
Enforcement actions worldwide, **15:10**

**GOODWILL**  
Contracts and agreements, **5:34**

**GOVERNING LAW & DISPUTES**  
Contracts and agreements, **5:46**

**GOVERNMENTAL BODIES**  
Selection and evaluation of property, **2:18**

**GRAY MARKET GOODS**  
Ownership, **16:1**  
U.S. Customs Service, exclusion, **14:6**

**GREECE**  
Enforcement actions worldwide, **15:30**

**GREETING CARDS**  
Selection and evaluation of property, **2:11**

**GUIDES**  
Administration and management, style guide, **5A:4**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### **HANDHELD GAMES**

Selection and evaluation of property, **2:19**

### **HARDSHIPS, BALANCE OF**

Ex parte relief, **13:7**

### **HEARINGS**

International Trade Commission (ITC), **14:16**

### **HISTORY OF LICENSING**

Beginning, **1:2**

1940s, **1:3**

1950s, **1:4**

1960s, **1:5**

1970s, **1:6**

1980s, **1:7**

1990s, **1:8**

21st century, **1:9**

### **HONG KONG**

Enforcement actions worldwide, **15:11**

Trademarks, recent developments in protection, **8:81**

### **“HSBC”**

Trademarks, foreign registration protection, **8:40**

### **ICANN**

Cybersquatting, **12:65**

### **IDENTIFICATION**

Prelicensing considerations, **5:5**

Trademarks, **8:16**

### **IMAGES OR LIKENESSES**

Trademarks, foreign registration protection, **8:43 to 8:45**

### **IMPORTS**

Generally, **14:1 et seq.**

Assignment, **14:4**

Cause of action, **14:11 to 14:14**

Competition, unfair, **14:11**

Complaint. International Trade Commission (ITC), below

### **IMPORTS—Cont’d**

Continuous protection, **14:4**

Counterfeit goods, **14:5, 14:6**

Destroy or substantially injure, **14:14**

Domestic industry, **14:13**

Efficiently run domestic industry, existence of, **14:13**

Enforcement of rights, U.S. and foreign customs registrations, **11:9**

Exclusion, **14:5, 14:6**

Gray market goods, exclusion of, **14:6**

Hearings, **14:16**

In rem jurisdiction, **14:9**

International Trade Commission (ITC)

generally, **14:7 to 14:17**

complaint

generally, **14:10 to 14:14**

articles, importation of, **14:12**

cause of action, **14:11 to 14:14**

destroy or substantially injure, **14:14**

efficiently run domestic industry, existence of, **14:13**

preparing, generally, **14:10 to 14:14**

procedural requirements, **14:10**

sale of imported articles, **14:12**

unfair methods of competition, **14:11**

hearings, **14:16**

in rem jurisdiction, **14:9**

litigation advantages, **14:8, 14:9**

prehearing procedures, **14:15**

relief, **14:17**

speedy trial, **14:8**

statutes, **14:7**

Jurisdiction, **14:9**

## INDEX

### **IMPORTS—Cont'd**

Litigation advantages, **14:8, 14:9**  
Prehearing procedures, **14:15**  
Recordation as prerequisite, **14:3**  
Registration, **11:9**  
Renewal, **14:4**  
Sale of imported articles, **14:12**  
Speedy trial, **14:8**  
Statutes, **14:2, 14:7**  
Substantially injure, **14:14**  
Unfair methods of competition, **14:11**  
U.S. Customs Service  
generally, **14:2 to 14:6**  
assignment, **14:4**  
continuous protection, **14:4**  
excluding infringing and  
counterfeit goods, **14:5, 14:6**  
gray market goods, exclusion  
of, **14:6**  
recordation as prerequisite, **14:3**  
renewal, **14:4**  
statutes, **14:2**

### **INDEMNIFICATION**

Contracts and agreements, **5:37**  
Designer agreements, **6:8**  
Licensing agents, **6:19**  
Manufacturer's representative  
agreement, **6:35**

### **INDEPENDENT CREATION**

Copyrights, **9:9**

### **INDIVIDUAL AGREEMENTS**

Professional athletes, **4:6**

### **INDONESIA**

Trademarks, foreign registration  
protection, **8:61**

### **INDUSTRIAL DESIGN ACT**

Trademarks, foreign registration  
protection, **8:50**

### **INFLUENCERS**

Selection and evaluation of prop-  
erty, **2:12**

### **INFRINGEMENT**

Case law, **12:35**  
Causes of action, **12:32 to 12:35, 12:42**  
Complaint, **App F**  
Contracts and agreements, **5:36**  
Elements of cause of action, **12:34**  
Enforcement of rights  
actions against, **11:12 to 11:14**  
artificial intelligence, **11:11**  
detection of infringing products, **11:3**  
investigation of sources, **11:4 to 11:6**  
prevention, **11:7 to 11:10**  
Foreign registration protection, **8:96**  
Imports (this index)  
Jurisdiction, **12:32**  
Lanham Act (this index)  
State and common law causes of  
action, **12:44**

### **INITIAL USE**

Trademarks, **8:13, 8:14**

### **INJUNCTION**

Generally, **13:20**  
Defenses to motion for prelimi-  
nary injunction, **13:12 to 13:15**  
Motion for preliminary injunction, **13:11**

### **INNOVATIVE PROMOTIONS**

Generally, **5B:5**

### **IN REM JURISDICTION**

International Trade Commission  
(ITC), **14:9**

### **INSURANCE**

Contracts and agreements, **5:38**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### INTELLECTUAL PROPERTY PROTECTION

Contracts and agreements, **5:35**  
Trademarks (this index)

### INTENT

Lanham Act, **12:11**  
Letter of Intent (this index)  
Merchandising license agreements, **App C**

### INTEREST

Audits, **6B:5**

### INTERNATIONAL ACTS AND MATTERS

Administration and management of licensing, international licensing trade shows, **5A:22**  
Breakdown of registered merchandising marks by international class, **App A**  
Enforcement Actions Worldwide (this index)  
International legislation and statutes, **App I**  
Trademarks, foreign registration protection, **8:35**

### INTERNATIONAL MARKETS

Africa, **1A:7**  
Asia, **1A:4**  
Australia & New Zealand, **1A:5**  
Europe, **1A:3**  
International scope, **1A:2**  
Latin America, **1A:6**

### INTERNATIONAL SUB-AGENT

License agreement, **App C**

### INTERNATIONAL TRADE COMMISSION (ITC)

Complaint with, **App F**  
Imports (this index)

### INTERNET

Administration and management of licensing, **5A:19**

### INTRODUCER AGREEMENTS

Agents, **6:21**

### INVENTORY

Audits, records, **6B:17**

### INVESTIGATION

Clearing potential properties, **3:8**  
Enforcement of rights, **11:4 to 11:6**

### IRELAND

Enforcement actions worldwide, **15:12**

### IRREPARABLE HARM

Ex parte relief, **13:6**

### ITALIAN TRADEMARK ACT

Generally, **8:69**

### ITALY

Enforcement actions worldwide, **15:13**  
Trademarks, revisions to Italian trademark act, **8:69**

### JAPAN

Enforcement actions worldwide, **15:14**  
Trademarks (this index)

### “JERRY LEWIS”

Trademarks, foreign registration protection, **8:43**

### “JESSICA SIMPSON”

Trademarks, names of living persons, **8:38**

### “JIMI HENDRIX”

Trademarks foreign registration protection, **8:44**

### JOINT VENTURE AGREEMENTS

Checklist for structuring, **App C**  
Drafting, **6:43**  
License agreement, **App C**  
Ownership, **4:5**

## INDEX

### JUDGMENT

Pretrial proceedings, motion for summary judgment, **13:16**

### JUDICIAL DEVELOPMENTS

Trademarks, foreign registration protection, **8:87**

### JURISDICTION

Copyright, **12:32**

Cyberspace litigation, **12:58**

Infringement, **12:32**

International Trade Commission (ITC), **14:9**

Lanham Act, **12:3**

### KOREA

Copyright protection, foreign registration protection, **8:56**

Enforcement actions worldwide, **15:15**

Trademarks, foreign registration protection

generally, **8:56 to 8:59**

intellectual property protection, generally, **8:56 to 8:59**

Madrid protocol, **8:58**

recent court decisions, **8:59**

treties, **8:58**

unfair competition, **8:57**

### LANHAM ACT

Generally, **12:2 to 12:31**

Actual confusion, evidence of, **12:10**

Advertising, Section 43(a), **12:31**

Case law, **12:15, 12:28 to 12:31**

Competition, unfair, **12:31**

Confusion tests. Federal trademark infringement, Section 32, below

Dilution. Federal Trademark Dilution Act (this index)

Evidence of actual confusion, **12:10**

False advertising, Section 43(a), **12:31**

### LANHAM ACT—Cont'd

Federal Trademark Dilution Act of 1995 (this index)

Federal trademark infringement, Section 32

generally, **12:4 to 12:15**

case law, **12:15**

likelihood of confusion tests

generally, **12:6 to 12:13**

evidence of actual confusion, **12:10**

intent of defendant, **12:11**

proximity of products, **12:9**

quality of defendant's products, **12:12**

similarity, degree of, **12:8**

sophistication of buyer, **12:13**

strength of mark, **12:7**

registration test, **12:5**

remedies, **12:14**

statutorily required elements, **12:4**

Infringement

federal trademark infringement, Section 32, below

unregistered trademark, Section 43(a), **12:29**

Intent of defendant, **12:11**

Jurisdiction, **12:3**

Likelihood of confusion tests.

Federal trademark infringement, Section 32, above

Plaintiff's standing, Section 43(a), **12:26**

Proximity of products, **12:9**

Quality of defendant's products, **12:12**

Registration, infringement of unregistered trademark, **12:29**

Registration test, **12:5**

Remedies, **12:14**

Sales, sophistication of buyer, **12:13**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### LANHAM ACT—Cont'd

Section 43(a)  
generally, **12:24 to 12:31**  
advertising, **12:31**  
case law, **12:28 to 12:31**  
element of cause of action,  
**12:25 to 12:27**  
false advertising, **12:31**  
history, **12:24**  
infringement of unregistered  
trademark, **12:29**  
plaintiff's standing, **12:26**  
trade dress and product  
configuration, **12:30**  
unfair competition, **12:31**  
use by defendant, **12:27**  
Similarity, degree of, **12:8**  
Sophistication of buyer, **12:13**  
Standing to sue, **12:26**  
Strength of mark, **12:7**  
Tests. Federal trademark infringement, Section 32, above  
Trade dress and product configuration, Section 43(a),  
**12:30**  
Trademark Dilution Revision Act of 2006, **12:19**  
Unfair competition, Section 43(a),  
**12:31**

### LATIN AMERICA

International markets, **1A:6**

### LEAGUE AGREEMENTS

Professional athletes, review of contracts and agreements, **4:6**

### LEDGERS

Audits, **6B:19**

### LEGAL ADMINISTRATION

Administration and management of licensing, **5A:10**

### LEGAL CONSIDERATIONS

Marketing, advertising, and promotion, **5B:10**

### LEGISLATION

Causes of action, **12:36 to 12:39**  
Cybersquatting, **12:62**  
Statutes (this index)  
Trademarks, foreign registration protection, **8:70, 8:87**

### LETTER OF INTENT

Licensing, **5:9, 5:11**  
Suggested terms and conditions, **5:11**

### LETTERS

Cease and desist letter, enforcement of rights, **11:13**  
Letter of Intent (this index)

### LICENSE AGREEMENT

Breach, **5:54**  
Wrongful termination, **5:55**

### LICENSING

Accounting provisions, **6B:26**  
definition of terms, **6B:26**  
Administration and management, **5A:1 to 5A:24**  
Agreements  
generally, **5A:13, App C**  
Agents (this index)  
Application form, **5A:11**  
Directories, **5A:20**  
Direct to retail, audit, **6B:28**  
Licensing team, **5A:2**  
Patents, **10:7**  
Technology, glossary, **5:9**  
Terminating a licensee, **5A:23**  
Wrongful termination actions, **5A:24**

### LICENSING CONSULTANTS

Generally, **6:22, 6:36**  
Compensation, **6:38**  
Forms, **App D**  
Making the relationship work, **6:39**  
Role, **6:37**

## INDEX

**LICENSING REPRESENTATIVES**  
Generally, **6:22**  
Making the relationship work, **6:39**

**LICENSING TRADE SHOWS**  
Administration and management of licensing, **5A:21, 5A:22**

**LIKELIHOOD OF CONFUSION**  
Clearing potential properties, **3:7**  
Lanham Act (this index)

**LIKENESS**  
Designer agreements, **6:11**  
Trademarks, foreign registration protection, **8:43 to 8:45**

**LIMITATIONS AND RESTRICTIONS**  
Copyrights, **9:6 to 9:9**  
Licensing agents, limits on agency grant, **6:14**

**LINKING**  
Causes of action, **12:59**

**LITERARY TITLES OF SINGLE WORKS**  
Trademarks, **8:5**

**LITIGATION**  
Generally, **13:1 et seq.**  
Attorneys' fees, **13:22**  
Causes of action, **12:57, 12:58**  
Checklist for drafting complaint, **13:2**  
Complaints, drafting, **13:1, 13:2**  
Damages, **13:21**  
Drafting complaint, **13:1, 13:2**  
Enforcement (this index)  
Ex Parte Relief (this index)  
Fees, attorneys', **13:22**  
Forms, **App F**  
Injunctive relief, **13:20**  
International Trade Commission (ITC), **14:8, 14:9**

**LITIGATION—Cont'd**  
Post-trial compliance, **13:23**  
Pretrial Proceedings (this index)  
Relief, generally, **13:20 to 13:22**  
Trial (this index)

**LONG FORM**  
License agreement, **App C**

**LUXUMBOURG**  
Enforcement actions worldwide, **15:5**

**MADRID PROTOCOL**  
Trademarks, foreign registration protection, **8:58**

**MAINTENANCE OF RIGHTS**  
Designer agreements, **6:7**  
Trademarks (this index)

**MANAGEMENT OF LICENSES**  
Administration and Management (this index)

**MANUFACTURERS' REPRESENTATIVES**  
Generally, **6:23**  
Agreements  
generally, **6:27**  
compensation, **6:34**  
duties, **6:32**  
exclusivity of agreement, **6:29**  
form, **App D**  
indemnification, **6:35**  
payment, **6:33**  
post-termination compensation, **6:34**  
responsibilities, **6:32**  
scope of agreement, **6:28**  
termination of agreement, **6:31**  
term of agreement, **6:30**  
Code of conduct, **App D**  
Compensation, **6:25, 6:34**  
Duration of agreement, **6:30**  
Duties of representative, **6:32**  
Exclusivity of agreement, **6:29**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

<b>MANUFACTURERS' REPRESENTATIVES</b> —Cont'd Indemnification, <b>6:35</b> Payment, <b>6:33</b> Post-termination compensation, <b>6:34</b> Responsibilities, <b>6:32</b> Role, <b>6:24</b> Scope of agreement, <b>6:28</b> Termination of agreement, <b>6:31</b> Term of agreement, <b>6:30</b>	<b>MARKETING, ADVERTISING, AND PROMOTION</b> —Cont'd Premium promotions, <b>5B:6</b> Public relations, effective use, <b>5B:4</b> Role in licensing, <b>5B:3</b> Selection and evaluation of property, advertising, <b>2:15</b> Social media, <b>5B:7</b> Use of public relations, <b>5B:4</b>
<b>MANUFACTURING</b> Agreement, administration and management of licensing, <b>5A:5</b> Licensee manufacturer form, <b>App D</b> Records, audits, <b>6B:16</b>	<b>MARKETING FUNDS</b> Marketing, advertising, and promotion of licensed products, <b>5B:9</b>
<b>"MARILYN MONROE"</b> Trademarks, names of dead persons, <b>8:39</b>	<b>MARKET STUDIES</b> Selection and evaluation of property, <b>2:28</b>
<b>MARKETING, ADVERTISING, AND PROMOTION</b> Generally, <b>5B:1 to 5B:11</b> Administration and management of licensing, <b>5A:8</b> Advertising programs, generally, <b>5B:3</b> Approvals, <b>5B:11</b> Direct marketing, <b>5B:8</b> Drafting promotional agreements, <b>6:40</b> Effective use of public relations, <b>5B:4</b> Funds for marketing, <b>5B:9</b> Innovative promotions, <b>5B:5</b> Lanham Act, Section 43(a), advertising, <b>12:31</b> Legal considerations, <b>5B:10</b> Marketing funds, <b>5B:9</b> Mechandising license agreement, royalty rate, <b>5:26</b>	<b>MEMORANDUM</b> Deal memo, <b>5:9, 5:11</b>
	<b>MERCHANDISING-RELATED AGREEMENTS</b> Designer Agreement (this index) License agreements generally, <b>App C</b> Licensing Agents (this index) Licensing Consultants (this index)
	<b>METATAGS</b> Causes of action, <b>12:60</b>
	<b>MEXICO</b> Enforcement actions worldwide, <b>15:16</b>
	<b>"MICKEY MOUSE"</b> Trademarks, foreign registration protection, <b>8:45</b>
	<b>MISAPPROPRIATION OF PROPERTY</b> State and common law causes of action, <b>12:47</b>
	<b>MISUSE</b> Trademarks, <b>8:19</b>

## INDEX

**MODERN LAW**  
Generally, **1:10**

**MONITORING USE**  
Trademarks, **8:19**

**MOTION PICTURES**  
Ownership, review of contracts and agreements, **4:7**  
Selection and evaluation of property, **2:8**

**MOTIONS**  
Defenses to motion for preliminary injunction, **13:12 to 13:15**  
Ex Parte Relief (this index)  
Preliminary injunction, **13:11**  
Summary judgment, **13:16**

**NAME**  
Designer agreements, **6:11**  
Trademarks, **8:6, 8:38 to 8:40**

**NATIONAL BRANDS**  
Selection and evaluation of property, **2:14**

**NATIONAL LAW**  
Trademarks, foreign registration protection, **8:34**

**NETHERLANDS**  
Enforcement actions worldwide, **15:5**

**NET SALES**  
Definition, contracts and agreements, **5:25**

**NETWORK SOLUTIONS**  
Cybersquatting, **12:64**

**NEW DESIGNS**  
Patents, **10:2**

**NEW TRADEMARK ACT**  
Generally, **8:65**

**NEW TRADE MARKS ACT**  
Generally, **8:84, 8:85**

**NEW ZEALAND**  
Enforcement actions worldwide, **15:17**  
Trademarks, recent developments in protection, **8:62**

**NFTS**  
Generally, **8:8**  
Protectable properties, **8:8**

**NON-DISCLOSURE AGREEMENT**  
Prelicensing considerations, **5:7**

**NON-FUNGIBLE TOKENS**  
Generally, **8:8**  
Protectable properties  
NFTs, **8:8**

**NONPROFIT ORGANIZATIONS**  
Selection and evaluation of property, **2:18**

**NORWAY**  
Enforcement actions worldwide, **15:18**

**NOTICE**  
Contracts and agreements, **5:29, 5:43, 5:44**  
Copyrights, **9:4**  
Trademarks, **8:18**

**ONGOING USE**  
Trademarks, **8:17**

**OPTION AGREEMENTS**  
License agreement, **App C**  
Prelicensing considerations, **5:8**

**OPTIONS**  
Contracts and agreements, **5:15**

**ORDER**  
Ex Parte Relief (this index)

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

<b>ORIGINAL DESIGNS</b> Patents, <b>10:2</b>	<b>PERSONIFICATION PROPERTIES</b> Selection and evaluation of property, <b>2:5</b>
<b>ORNAMENTATION</b> Patents, <b>10:2</b> Selection and evaluation of property, <b>2:6</b> Trademarks (this index)	<b>PHILIPPINES</b> Enforcement actions worldwide, <b>15:19</b> Trademarks, recent court decisions on copyright infringement and well-known marks, <b>8:96</b>
<b>OWNERSHIP</b> Title and Ownership (this index)	
<b>PARTIES</b> Contracts and agreements, <b>5:45</b>	<b>PHYSICAL ATTRIBUTES</b> Trademarks, <b>8:6</b>
<b>PATENTS</b> Generally, <b>10:1 et seq.</b> Applicability, <b>10:3</b> Causes of action, <b>12:42</b> Clearing potential properties, <b>3:11</b> Contracts and agreements, <b>5:35</b> Design patents, <b>7:5, 10:2 to 10:4</b> Infringement, <b>12:42</b> Licensing issues, <b>10:7</b> New designs, <b>10:2</b> Original designs, <b>10:2</b> Ornamental designs, <b>10:2</b> Protection of properties, generally, <b>10:1 et seq.</b> Three-dimensional characters, <b>10:3</b> Unfair competition overlap copyright, <b>7:7</b> Utility patents, <b>10:5</b>	<b>“PICASSO SKETCH”</b> Trademarks, foreign registration protection, <b>8:42</b>
<b>PAYMENTS</b> Contracts and agreements, <b>5:19</b> Licensing agents, <b>6:17</b> Manufacturer's representative agreement, <b>6:33</b>	<b>POPULARITY OF MERCHANDISING</b> Generally, <b>1:11</b>
<b>PENNSYLVANIA</b> Copyright application, B:5, <b>App B</b>	<b>POPULARITY PROPERTIES</b> Selection and evaluation of property, <b>2:3</b>
<b>PERSONALITY TRAITS</b> Trademarks, <b>8:6</b>	<b>PORTUGAL</b> Enforcement actions worldwide, <b>15:20</b>
	<b>POST-REGISTRATION CONSIDERATIONS</b> Trademarks, federal registration protection, <b>8:27</b>
	<b>POST TERMINATION COMPENSATION</b> Manufacturer's representative agreement, <b>6:34</b>
	<b>POST-TERMINATION RIGHTS</b> Licensing agents, <b>6:18</b> Notice, <b>5:43</b>
	<b>POST-TRIAL COMPLIANCE</b> Generally, <b>13:23</b>

## INDEX

**POTENTIALLY CONFLICTING PROPERTIES**  
Trademark researching, **3:8, 3:9**

**PRACTICE OF TRADE**  
Trademarks, federal registration protection, **8:26**

**PREHEARING PROCEDURES**  
International Trade Commission (ITC), **14:15**

**PRELICENSING CONSIDERATIONS**  
Generally, **5:2 to 5:8**  
Carefully planning program, **5:4**  
Contracts and agreements, **5:7, 5:8**  
Disclosure, **5:7**  
Fragmentation, **5:3**  
Identification of plan and goals, **5:2 to 5:4**  
Identification of responsible personnel, **5:5**  
Non-disclosure agreement, **5:7**  
Option agreement, **5:8**  
Responsible personnel, **5:5**  
Worldwide coordination, **5:6**

**PRELIMINARY INJUNCTION**  
Defenses, **13:12 to 13:15**  
Motion, **13:11**

**PRELIMINARY REVIEW**  
Clearing potential properties, **3:2**

**PREMIUM PROMOTIONS**  
Generally, **5B:6**

**PREMIUMS**  
Contracts and agreements, **5:40**

**PRETRIAL PROCEEDINGS**  
Generally, **13:11 to 13:16**  
Constitutional law, **13:13**  
Defenses to motion for preliminary injunction, **13:12 to 13:15**  
Equitable defenses, **13:15**

**PRETRIAL PROCEEDINGS**  
—Cont'd  
Fair use, **13:14**  
First amendment rights, **13:13**  
Injunction (this index)  
Judgment, motion for summary judgment, **13:16**  
Motion (this index)  
Preliminary injunction  
defenses to motion for preliminary injunction, **13:12 to 13:15**  
motion for preliminary injunction, **13:11**  
Summary judgment, motion for, **13:16**

**PRICE LISTS**  
Audits, **6B:21**

**PRIOR REGISTRATIONS**  
Trademarks, federal registration protection, **8:24**

**PRIVACY RIGHTS**  
Confidential information as publicity and privacy rights, foreign registration protection (U.K.), **8:76**

**PRIVATE INVESTIGATORS**  
Enforcement of rights, **11:5**

**PRIVATE LABEL BRANDS**  
Selection and evaluation of property, **2:21**

**PRODUCT APPROVALS**  
Administration and management of licensing, **5A:7**

**PRODUCT CATALOGS**  
Audits, **6B:20**

**PRODUCT DEVELOPMENT**  
Administration and management of licensing, **5A:3**

**PRODUCT LIABILITY**  
Ownership, **16:2**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### PROFESSIONAL ATHLETES

Ownership, review of contracts and agreements, **4:6**

### PROFESSIONAL SPORTS

Selection and evaluation of property, **2:17**

### PROMOTIONS AND PROMOTIONAL

Contracts and agreements, **5:40**

License agreements, sample, **App C**

Marketing, Advertising, and Promotion (this index)

Trademarks, **8:25**

Value, **5:34**

### PROPRIETARY RIGHTS

Ownership, public domain subject matter, **4:13**

### PROTECTION OF PROPERTIES

Generally, **7:1 et seq.**

Billboard approach, **7:8**

Competition, unfair, **7:7**

Considerations affecting protection sought, **7:9**

Copyrights (this index)

Design patents, **7:5, 7:6**

Establishing foundation, **7:10**

Imports (this index)

Infringement. Imports (this index)

Interrelationship of various legal theories, generally, **7:2 to 7:7**

Patents (this index)

Simultaneous reliance on several legal theories, generally, **7:3 to 7:7**

Trademarks (this index)

Unfair competition, **7:7**

### PROXIMITY OF PRODUCTS

Lanham Act, Section 32, **12:9**

### PUBLICATIONS

Administration and management of licensing, **5A:20**

### PUBLICATIONS—Cont'd

Selection and evaluation of property, **2:10**

Trademarks, foreign registration protection, **8:92**

### PUBLIC AWARENESS

#### CAMPAIGNS

Enforcement of rights, **11:10**

### PUBLIC DOMAIN

Copyrights, **9:8**

Ownership (this index)

### PUBLIC INTEREST

Motions for temporary restraining order, **13:8**

### PUBLICITY

Confidential information as publicity and privacy rights, foreign registration protection (U.K.), **8:76**

Right of publicity license agreement, **App C**

Rights, impact of artificial intelligence, **12:56**

Selected state right of publicity statutes, **App G**

State and Common Law Causes of Action (this index)

### PUBLIC RELATIONS

Marketing, advertising, and promotion, **5B:4**

### PURCHASING

Records, audits, **6B:16**

### QUALITY CONTROL

Contracts and agreements, **5:29**

Trademarks, **8:11**

### QUALITY OF PRODUCTS

Lanham Act, Section 32, **12:12**

### QUESTIONS TO BE ADDRESSED

Clearing potential properties, **3:6**

## INDEX

**RADIO**  
Selection and evaluation of property, **2:9**

**RECORDS AND RECORDING**  
Audits (this index)  
Imports, U.S. Customs Service, **14:3**  
Trademarks, foreign registration protection, **8:64, 8:91**

**REGISTERED MERCHANDISING MARKS**  
Breakdown of registered merchandising marks by international class, **App A**

**REGISTRATION**  
Copyrights, **9:5**  
Enforcement of rights, U.S. and foreign customs, **11:9**  
Lanham Act  
Section 32, **12:5**  
Section 43(a), **12:29**  
Trademarks (this index)

**RENEWAL**  
Imports, U.S. Customs Service, **14:4**

**REPORTS AND REPORTING**  
Administration and management, form for reporting royalty, **5A:15**  
Audits, **6B:23 to 6B:24**  
Ethics and social compliance, BSR report, **6A:3**

**REPRESENTATIVES**  
Licensing representatives, **6:22, 6:39**  
Manufacturers' Representatives (this index)

**REPUBLIC OF KOREA**  
Enforcement actions, **15:15**

**REPUTATION**  
Trademarks, foreign registration protection, **8:53**

**RESEARCH**  
Clearing Potential Properties (this index)

**RESPONSIBILITIES**  
Licensing agents, **6:16**  
Manufacturer's representative, **6:32**

**RESPONSIBLE PERSONNEL**  
Prelicensing considerations, **5:5**

**RESTRAINING ORDER**  
Ex Parte Relief (this index)

**RETAIL LICENSE AGREEMENTS**  
Sample, **App C**

**REVISIONS**  
Trademarks, foreign registration protection, **8:69, 8:82, 8:83**

**ROYALTIES**  
Administration and management, form for reporting royalty, **5A:15**  
Audits (this index)  
Contracts and agreements, **5:16**

**SALES**  
Administration and management of licensing, **5A:8**  
Clearing potential properties, **3:9**  
Imports, International Trade Commission (ITC), **14:12**  
Lanham Act, Section 32, **12:13**  
Net sales, definition, **5:25**

**SAUDI ARABIA**  
Enforcement actions worldwide, **15:21**

**SECONDARY MEANING**  
Trademarks, **8:4**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

**SECURITY AGREEMENT**  
Generally, **5:56**

**SELECTED STATE RIGHT OF PUBLICITY STATUTES**  
Generally, **App G**

**SELECTION AND EVALUATION OF PROPERTY**  
Generally, **2:1 et seq.**  
Advertising campaigns, **2:15**  
Art, **2:22**  
Classic v. entertainment properties, **2:20**  
Colleges and universities, **2:16**  
Comic strips, **2:10**  
Computer games, **2:19**  
Corporate logos, **2:14**  
Designer names, **2:13**  
Distinctive ornamentation properties, **2:6**  
Entertainers, **2:12**  
Fashion properties, **2:4**  
Food and beverages, **2:23**  
Governmental bodies, **2:18**  
Greeting cards, **2:11**  
Handheld games, **2:19**  
Marketing, advertising, and promotion, **2:15**  
Market studies, **2:28**  
Motion pictures, **2:8**  
Music, **2:24**  
National brands, **2:14**  
Nonprofit organizations, **2:18**  
Ornamentation, **2:6**  
Personification properties, **2:5**  
Popularity properties, **2:3**  
Private label brands, **2:21**  
Professional sports, **2:17**  
Publications, **2:10**  
Radio, **2:9**  
Selecting, generally, **2:25**  
Sources of properties generally, **2:7 to 2:21**

**SELECTION AND EVALUATION OF PROPERTY—Cont'd**  
Sources of properties—Cont'd  
advertising campaigns, **2:15**  
colleges and universities, **2:16**  
comic strips, **2:10**  
computer, video and handheld games, **2:19**  
corporate logos, **2:14**  
designer names, **2:13**  
entertainers, **2:12**  
greeting cards, **2:11**  
motion pictures, **2:8**  
national brands, **2:14**  
nonprofit organizations, **2:18**  
professional sports, **2:17**  
publications, **2:10**  
radio, **2:9**  
stationery products, **2:11**  
television, **2:9**  
Special considerations in evaluating potential, **2:26**  
Sports, **2:17**  
Stationery products, **2:11**  
Status properties, **2:4**  
Television, **2:9**  
Video games, **2:19**

**SELECTIVE ENFORCEMENT**  
Generally, **11:2**

**SERVICES**  
Royalty rate, **5:22**

**SEVERABILITY**  
Contracts and agreements, **5:50**

**SHORT FORM**  
License agreement, **App C**

**SHOW CAUSE ORDER**  
Litigation form, **App F**

**SHOWING**  
Evidentiary, **13:18, 13:19**

## INDEX

**SHOWING—Cont'd**  
Ex Parte Relief (this index)

**SIMILARITY, DEGREE OF**  
Lanham Act, Section 32, **12:8**

**SIMULTANEOUS RELIANCE**  
Protection of Properties (this index)

**SINGLE USE TRADEMARK APPLICATION**  
Trademark and copyright prosecution, **App B**

**SINGLE WORKS**  
Trademarks, **8:5**

**SOCIAL COMPLIANCE**  
Ethics and Social Compliance (this index)

**SOCIAL MEDIA**  
Generally, **5B:7**

**SOPHISTICATION OF BUYER**  
Lanham Act, Section 32, **12:13**

**SOUTH AFRICA**  
Enforcement actions, **15:22**  
Trademarks (this index)

**SPAIN**  
Enforcement actions, **15:23**  
Trademarks, recent legislative developments, **8:70**

**SPEEDY TRIAL**  
Imports, International Trade Commission (ITC), **14:8**

**SPLIT ROYALTY RATE**  
Contracts and agreements, **5:24**

**SPORTS**  
Amateur Sports Act of 1978, **12:36 to 12:38**  
Causes of action, **12:36 to 12:38**  
Ownership, **4:6**  
Professional athletes, **4:6**  
Professional sports, **2:17**

**SPORTS—Cont'd**  
Selection and evaluation of property, **2:17**

**SPORTS LEAGUE LICENSE AGREEMENTS**  
NIL, **App C**  
Sample, **App C**

**STANDING TO SUE**  
Lanham Act, Section 43(a), **12:26**

**STATE**  
Antidilution laws, **8:31, 8:32, 12:45**  
Copyright application  
Pennsylvania, B:5, **App B**  
Texas, B:3, **App B**  
Virginia, B:4, **App B**  
Registration protection, **8:28 to 8:30**  
Selected state right of publicity statutes, **App G**  
State and Common Law Causes of Action (this index)  
Trademark offices, **8:30**

**STATE AND COMMON LAW CAUSES OF ACTION**  
Celebrity rights, **12:54**  
Constitutional law, **12:52**  
Defenses, **12:52**  
Dilution  
Federal Trademark Dilution Act, below  
State Antidilution Laws, **12:45**  
First Amendment defenses, **12:52**  
Infringement, **12:44**  
Misappropriation of property, **12:47**  
Publicity, right of generally, **12:48 to 12:55**  
elements of cause of action, **12:51**  
First Amendment defenses, **12:52**  
general comment, **12:55**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

**STATE AND COMMON LAW**  
**CAUSES OF ACTION**  
**—Cont’d**  
Publicity, right of—Cont’d  
    history, **12:49**  
    impact of artificial intelligence, **12:56**  
    statutory protection, **12:50**  
    survivability, **12:53**  
    transfer of celebrity rights, **12:54**  
Shop Safe Act, **12:42**  
State Antidilution Laws, **12:45**  
State Trademark Infringement, **12:44**  
    Survivability, **12:53**  
Trademark  
    Federal Trademark Dilution Act, above  
    State Trademark Infringement, **12:44**  
    United Kingdom, common law passing off protection for merchandising, **8:73**  
Transfer of celebrity rights, **12:54**  
Unfair competition, **12:46**

**STATEMENTS**  
Contracts and agreements, **5:19**

**STATIONERY PRODUCTS**  
Selection and evaluation of property, **2:11**

**STATUS PROPERTIES**  
Selection and evaluation of property, **2:4**

**STATUTES**  
Causes of action, **12:36 to 12:39, 12:40**  
    Copyrights, **9:3 to 9:5**  
    Imports, **14:2, 14:7**  
    Lanham Act (this index)  
    Selected state right of publicity statutes, **App G**

**STATUTES—Cont’d**  
State and Common Law Causes of Action (this index)  
Trademarks (this index)

**STATUTORY SUBJECT MATTER**  
Copyrights, **9:3**

**STING OPERATIONS**  
Enforcement of rights, **11:6**

**STOP COUNTERFEITING IN MANUFACTURED GOODS ACT**  
Generally, **12:41**

**STRENGTH OF MARK**  
Lanham Act, Section 32, **12:7**

**STYLE GUIDE**  
Administration and management of licensing, **5A:4**

**SUB-AGENT**  
License agreement, **App C**

**SUBJECT MATTER**  
Copyrights, **9:3**  
Trademarks, **8:9, 8:10**

**SUBLICENSING**  
Generally, **5:41**  
Designer agreements, **6:10**  
Royalties, **5:23**

**SUBSTANTIALLY INJURE**  
Imports, International Trade Commission (ITC), **14:14**

**SUCCESS ON THE MERITS**  
Ex parte relief, motions for temporary restraining order, **13:5**

**SUGGESTIVE MARKS**  
Generally, **8:3**

**SUMMARY JUDGMENT**  
Motion, **13:16**

## INDEX

### **SURVEYS**

Enforcement (this index)  
Trademarks, **8:33 to 8:36, 13:18**

### **SURVIVAL**

Contracts and agreements, **5:51**  
State and common law causes of  
action, **12:53**

### **SWEDEN**

Enforcement actions worldwide,  
**15:24**  
Trademarks, revisions to Swedish  
Trademark Act, **8:82**

### **SWEDISH TRADEMARK ACT**

Revisions, **8:82**

### **TAIWAN**

Enforcement actions worldwide,  
**15:25**  
Trademarks (this index)

### **TANGIBLE AND INTANGIBLE ASSETS**

Generally, **8:8**  
Protection of rights, **8:8**

### **TAXATION**

Audits, **6B:19**

### **TEAM AGREEMENTS**

Ownership, professional athletes,  
review of contracts and  
agreements, **4:6**

### **TECHNOLOGY**

Enforcement, **11:8**  
Managing licensing programs,  
**5A:18**

### **TELEVISION**

Ownership, review of contracts  
and agreements, **4:7**  
Selection and evaluation of prop-  
erty, **2:9**

### **TEMPORARY RESTRAINING ORDER**

Ex Parte Relief (this index)

### **TERMINATION**

Agreement, license termination,  
**App C**  
Licensee, **5A:23**  
License termination agreement,  
**App C**  
Manufacturer's representative  
agreement, **6:31**

### **TERM OF AGREEMENT**

Manufacturer's representative  
agreement, **6:30**

### **TERM SHEETS**

Licensing agreements, **App C**

### **TESTS**

Lanham Act (this index)

### **TEXAS**

Copyright application, **B:3, App B**

### **THAILAND**

Enforcement actions worldwide,  
**15:26**

### **“THE ROCK” AKA DWAYNE JOHNSON**

Ownership considerations, **4:8**

### **THREE-DIMENSIONAL CHARACTERS**

Patents, **10:3**

### **TITLE AND OWNERSHIP**

Generally, **4:1 et seq.**  
Antitrusts, **16:3**  
Appeal and review. Review of  
contracts and agreements,  
below  
Celebrities, deceased, **4:10**  
Colleges and universities, **4:12**  
Contracts and agreements  
merchandising license, **5:25**  
review of, below  
Copyrights, expired, **4:11**  
Deceased celebrities, **4:10**  
Designer agreements, **4:4, 6:8**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

**TITLE AND OWNERSHIP**  
—Cont'd  
Developing proprietary rights, **4:13**  
Employee and employment agreements, **4:3**  
Expired copyrights, **4:11**  
Functional use of college and university names, **4:12**  
Gray market goods, **16:1**  
Individual agreements, professional athletes, **4:6**  
Joint venture agreements, **4:5**  
League agreements, professional athletes, **4:6**  
Licensing agents, **6:19**  
Literary titles of single works, **8:5**  
Motion picture and television agreements, **4:7**  
Product liability, **16:2**  
Professional athletes, **4:6**  
Proprietary rights, **4:13**  
Public domain subject matter generally, **4:9 to 4:13**  
deceased celebrities, **4:10**  
developing proprietary rights, **4:13**  
expired copyrights, **4:11**  
functional use of college and university names, **4:12**  
proprietary rights, developing, **4:13**  
Review of contracts and agreements  
Generally, **4:2 to 4:7**  
designer agreements, **4:4**  
employee and employment agreements, **4:3**  
individual agreements, professional athletes, **4:6**  
joint venture agreements, **4:5**  
league agreements, professional athletes, **4:6**  
motion picture and television agreements, **4:7**

**TITLE AND OWNERSHIP**  
—Cont'd  
Review of contracts and agreements—Cont'd  
professional athletes, **4:6**  
team agreements, professional athletes, **4:6**  
Special situations, generally, **4:8 to 4:13**  
Sports, **4:6**  
Team agreements, professional athletes, **4:6**  
Television, **4:7**  
"The Rock" aka Dwayne Johnson, **4:8**  
Trademarks, literary titles of single works, **8:5**

**TOY LICENSE AGREEMENTS**  
Sample, **App C**

**TRADE DRESS AND PRODUCT CONFIGURATION**  
Lanham Act, Section 43(a), **12:30**

**TRADEMARK COUNTERFEITING ACT**  
Causes of action, **12:40**  
Stop Counterfeiting in Manufactured Goods Act, **12:41**

**TRADEMARK DILUTION REVISION ACT OF 2006**  
Generally, **12:19**

**TRADEMARKS**  
Generally, **8:1 et seq.**  
Act No. 17.011, Regulatory Decree No. 34/99 for enforcement of foreign registration protection, Uruguay, **8:90**  
Act No. 17.011 of September 25, 1998, foreign registration protection, Uruguay, **8:89**  
Adoption and initial use, **8:13, 8:14**

## INDEX

**TRADEMARKS—Cont'd**

- Aesthetic functionality, **8:10**
- Application, **8:21**
- Arbitrary and suggestive marks, **8:3**
- Argentina, protection of foreign marks, **8:60**
- Articles, **8:51**
- Australia, recent developments in protection, **8:71**
- Brazil. Foreign registration protection, below
- Breakdown of registered merchandising marks by international class, **App A**
- Canada. Foreign registration protection, below
- Cancellation of registration, **8:93**
- Case law, **8:59, 8:68, 8:86, 8:95, 8:96**
- Characters' names, physical attributes, and personality traits, **8:6**
- Clearing Potential Properties (this index)
- “Coco-Cola,” **8:41**
- Commercial impression created by property, **8:23**
- Common law passing off protection for merchandising, U.K., **8:73**
- Community or national registration, United Kingdom, **8:80**
- Community unregistered design right, U.K. registration protection, **8:79**
- Competition, unfair, **8:57**
- Complaint for infringement, **App F**
- Completion required for grant of copyright, foreign works, **8:64**
- Confidential information as publicity and privacy rights, U.K. registration protection, **8:76**

**TRADEMARKS—Cont'd**

- Contracts and agreements, **5:35, 8:67, 8:91**
- Copyright
  - foreign registration protection
  - Brazil, **8:66**
  - Canada, **8:50**
  - Indonesia, protection of U.S. copyright, **8:61**
  - Korea, **8:56**
  - Philippines, recent court decisions on copyright infringement and well-known marks, **8:96**
  - Taiwan, grant of copyright upon completion, **8:63**
- United Kingdom, **8:75**
- Death, names of dead persons, **8:39**
- Descriptive marks with secondary meaning, **8:4**
- Designs, **8:42, 8:50, 8:77 to 8:79**
- Developing use program, **8:14**
- Dilution, **8:31, 8:32**
- Enforcement, **8:53, 8:90**
- Establishing rights, generally, **8:13 to 8:19**
- Experts, **8:33 to 8:36**
- Famous marks, **8:55**
- Fanciful words with no meaning, **8:37**
- Federal registration protection generally, **8:20 to 8:27**
  - application, **8:21**
  - ornamentation rejections, overcoming
  - generally, **8:22 to 8:26**
  - commercial impression created by property, **8:23**
  - practice of trade, **8:26**
  - prior registrations, **8:24**
  - promotion of property, **8:25**
- post-registration considerations, **8:27**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### TRADEMARKS—Cont'd

Federal Trademark Dilution Act  
(this index)  
Finland, revisions to Finnish Trade Marks Act, **8:83**  
Finnish Trademarks Act, **8:83**  
First use by licensees, potential problems arising from, **8:15**  
Foreign  
marks, **8:60**  
registration protection  
generally, **8:33 to 8:96**  
Argentina, protection of foreign marks, **8:60**  
Australia, recent developments in protection, **8:71**  
bases for protection, generally, **8:37 to 8:45**  
Brazil  
case law, **8:68**  
copyright, **8:66**  
trademark license agreements, **8:67**  
Canada  
generally, **8:49 to 8:55**  
controlled licensing, generally, **8:49**  
Copyright Act, **8:50**  
developments in merchandising protection, **8:52**  
famous marks, **8:55**  
functional articles, **8:51**  
Industrial Design Act, **8:50**  
registration of merchandising marks as trademarks, **8:54**  
reputation needed to enforce unregistered trademark rights, **8:53**  
“Coco-Cola,” **8:41**  
copyright, above  
designs, **8:42**

### TRADEMARKS—Cont'd

Foreign—Cont'd  
registration protection—Cont'd  
experts, survey of, **8:33 to 8:36**  
fanciful words with no meaning, **8:37**  
Finland, revisions to Finnish Trade Marks Act, **8:83**  
France, New Trademark Act adoption, **8:65**  
Hong Kong, recent developments in protection, **8:81**  
“HSBC,” names of companies, **8:40**  
images or likenesses of characters, **8:45**  
dead persons, **8:44**  
living persons, **8:43**  
Indonesia, protection of U.S. copyright, **8:61**  
international conventions, **8:35**  
Italy, revisions to Italian Trademark Act, **8:69**  
Japan  
case law, **8:95**  
recent developments in laws, **8:94**  
“Jerry Lewis,” images or likenesses of living persons, **8:43**  
“Jessica Simpson,” names of living persons, **8:38**  
“Jimi Hendrix,” images or likenesses of dead persons, **8:44**  
Korea (this index)  
“Marilyn Monroe,” names of dead persons, **8:39**  
“Mickey Mouse,” images or likenesses of characters, **8:45**  
names of companies, **8:40**

## INDEX

**TRADEMARKS—Cont'd**  
Foreign—Cont'd  
    registration protection—Cont'd  
        names of—Cont'd  
            dead persons, **8:39**  
            living persons, **8:38**  
        national law, **8:34**  
    New Zealand, recent  
        developments in protec-  
        tion, **8:62**  
    Philippines, recent court deci-  
        sions on copyright  
        infringement and well-  
        known marks, **8:96**  
    "Picasso Sketch," designs,  
        **8:42**  
    procedural recommendations,  
        **8:36**  
    South Africa  
        case law, **8:86**  
        New Trademark Act, **8:84**,  
            **8:85**  
        recent developments in  
        protection, **8:85**  
    Spain, recent legislative  
        developments, **8:70**  
    special considerations, **8:48**  
    statutes, below  
    survey of experts, **8:33 to**  
        **8:36**  
    Sweden, revisions to Swedish  
        Trademark Act, **8:82**  
    Taiwan  
        grant of copyright upon  
        completion, **8:63**  
        recordation of registered  
        user required, **8:64**  
    United Kingdom  
        common law passing off  
        protection for  
        merchandising, **8:73**  
        community or national  
        registration?, **8:80**  
        community unregistered  
        design right, **8:79**

**TRADEMARKS—Cont'd**  
Foreign—Cont'd  
    registration protection—Cont'd  
        United Kingdom—Cont'd  
            confidential information as  
            publicity and privacy  
            rights, **8:76**  
        copyright protection for  
        merchandising, **8:75**  
        design protection and  
        trademark registra-  
        tions compared, **8:78**  
        designs protection for  
        merchandising, **8:77**  
    recent developments in  
    protection, **8:72 et**  
        **seq.**  
    registered trademarks  
        protection for  
        merchandising, **8:74**  
    United Kingdom, inadequate  
    quality control, **8:48**  
    Uruguay (this index)  
    U.S. government attempts to  
    foster protection, **8:47**  
    varying use requirements,  
        **8:46**  
    Venezuela, recent judicial and  
    legislative develop-  
    ments, **8:87**  
    "XEROX," fanciful words  
    with no meaning, **8:37**  
    Foreign works, **8:63**  
    France, New Trademark Act adop-  
    tion, **8:65**  
    Functional  
        articles, **8:51**  
        subject matter, **8:9, 8:10**  
    Genericness, **8:12**  
    Hong Kong, recent developments  
    in protection, **8:81**  
    "HSBC," names of companies,  
        **8:40**  
    Identifying and distinguishing  
    function, **8:16**  
    Images or likenesses, **8:43 to 8:45**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### TRADEMARKS—Cont'd

Indonesia, protection of U.S. copyright, **8:61**  
Industrial Design Act, **8:50**  
Infringement, **8:96**  
Initial use, **8:13, 8:14**  
Intellectual property protection, **8:56 to 8:59**  
International conventions, **8:35**  
Italian Trademark Act, **8:69**  
Italy, revisions to Italian Trademark Act, **8:69**  
Japan. Foreign registration protection, above  
“Jerry Lewis,” images or likenesses of living persons, **8:43**  
“Jessica Simpson,” names of living persons, **8:38**  
“Jimi Hendrix,” images or likenesses of dead persons, **8:44**  
Judicial developments, **8:87**  
Korea (this index)  
Lanham Act (this index)  
Legislation, **8:70, 8:87**  
License agreement, **App C**  
Likenesses, **8:43 to 8:45**  
Literary titles of single works, **8:5**  
Madrid protocol, **8:58**  
Maintaining rights, generally, **8:13 to 8:19**  
“Marilyn Monroe,” names of dead persons, **8:39**  
“Mickey Mouse,” images or likenesses of characters, **8:45**  
Misuse, **8:19**  
Monitoring use, **8:19**  
Names, **8:6, 8:38, 8:39, 8:40**  
National law, **8:34**  
New Trademark Act  
    France, **8:65**  
    South Africa, **8:84, 8:85**  
New Zealand, recent developments in protection, **8:62**  
Notices, **8:18**  
Ongoing use, **8:17**

### TRADEMARKS—Cont'd

Ornamentation, properties used solely as, **8:7**  
Ornamentation rejections, overcoming. Federal registration protection, above  
Personality traits, **8:6**  
Philippines, recent court decisions on copyright infringement and well-known marks, **8:96**  
Physical attributes, **8:6**  
“Picasso Sketch,” designs, **8:42**  
Post-registration considerations, **8:27**  
Practice of trade, **8:26**  
Prior registrations, **8:24**  
Privacy rights, confidential information as, **8:76**  
Procedural recommendations, **8:36**  
Promotion of property, **8:25**  
Prosecution  
    case history of *In re Grand Forest Holdings Incorporated*, 78 USPQ2d 1152, **App B**  
    case history of *In re Major League Baseball Properties, Inc.* Serial Nos. 78183355 and 78183381, **App B**  
    single use trademark application, **App B**  
Protection of properties, generally, **8:1 et seq.**  
Publication, **8:92**  
Publicity and privacy rights, confidential information as, **8:76**  
Quality control  
    licensing without, **8:11**  
    risk of inadequacy, **8:48**  
Records and recording, **8:64, 8:91**  
Registration  
    foreign registration protection, above

## INDEX

### TRADEMARKS—Cont'd

Registration—Cont'd  
state  
    registration protection, **8:28 to 8:30**  
    trademark offices, **8:30**  
Regulatory Decree No. 34/99 for enforcement of Act No. 17.011, **8:90**  
Reputation needed to enforce unregistered trademark rights, **8:53**  
Revisions, **8:69, 8:82, 8:83**  
Secondary meaning, **8:4**  
Single works, **8:5**  
South Africa. Foreign registration protection, above  
Spain, recent legislative developments, **8:70**  
State  
    antidilution protection, **8:31, 8:32**  
    causes of action. State and Common Law Causes of Action (this index)  
    registration protection, **8:28 to 8:30**  
    trademark offices, **8:30**  
Statutes  
    Federal Trademark Dilution Act (this index)  
    foreign registration protection  
        Canada  
            Copyright Act, **8:50**  
            Industrial Design Act, **8:50**  
        Finland, revisions to Finnish Trade Marks Act, **8:83**  
        France, New Trademark Act adoption, **8:65**  
        Italy, revisions to Italian Trademark Act, **8:69**  
        South Africa, New Trade Marks Act, **8:84, 8:85**  
        Sweden, revisions to Swedish Trademark Act, **8:82**

### TRADEMARKS—Cont'd

Statutes—Cont'd  
    foreign registration protection  
        —Cont'd  
        Uruguay, Act No. 17.011 of September 25, 1998, **8:89**  
    Trademark Counterfeiting Act, **12:40, 12:41**  
    Trademark Dilution Revision Act of 2006, **12:19**  
Subject matter, **8:9, 8:10**  
Suggestive marks, **8:3**  
Survey of experts, foreign registration protection, **8:33 to 8:36**  
Surveys, **13:18**  
Sweden, revisions to Swedish Trademark Act, **8:82**  
Swedish Trademark Act, **8:82**  
Taiwan. Foreign registration protection, above  
Titles, literary, **8:5**  
Treaties, **8:58**  
Unfair competition, **8:57**  
United Kingdom. Foreign registration protection, above  
United Kingdom, inadequate quality control, **8:48**  
Unlicensed use, **8:19**  
Uruguay (this index)  
U.S. copyright, **8:61**  
U.S. government attempts to foster protection, **8:47**  
Utilitarian functionality, **8:9**  
Varying use requirements, **8:46**  
Venezuela, recent judicial and legislative developments, **8:87**  
Well-known marks, **8:96**  
"XEROX," fanciful words with no meaning, **8:37**

### TRADE PUBLICATIONS

Administration and management of licensing, **5A:20**

## THE LAW OF MERCHANDISE AND CHARACTER LICENSING

### TRADE SHOWS

Administration and management of licensing, **5A:21, 5A:22**

### TRANSFER OF CELEBRITY RIGHTS

State and common law causes of action, **12:54**

### TREATIES

Trademarks, **8:58**

### TRIAL

Generally, **13:17 to 13:19**

Evidentiary showings required, **13:18, 13:19**

Expert witnesses, **13:19**

Showing requirement, **13:18, 13:19**

Surveys, trademark, **13:18**

Trademark surveys, **13:18**

Witnesses, expert, **13:19**

### UNFAIR COMPETITION

Complaint, litigation form, **App F**  
International Trade Commission (ITC), **14:11**

Korea, **8:57**

Lanham Act, Section 43(a), **12:31**

Patent/copyright and unfair competition overlap, **7:7**

State and common law causes of action, **12:46**

### UNITED KINGDOM

Enforcement actions worldwide, **15:27**

Foreign trademark registration protection, **8:48**

Recent developments in trademark protection, **8:72 et seq.**

Trademarks, foreign registration protection, **8:48**

### UNLICENSED USE

Trademarks, **8:19**

### URUGUAY

Enforcement actions worldwide, **15:28**

Enforcement of Act No. 17.011, Regulatory Decree No. 34/99 for, **8:90**

Trademarks

generally, **8:88 to 8:93**

Act No. 17.011, Regulatory Decree No. 34/99 for enforcement of, **8:90**

Act No. 17.011 of September 25, 1998, **8:89**

cancellation of registration, **8:93**

procedure for recordal of license agreements, **8:91**

publication, **8:92**

Regulatory Decree No. 34/99 for enforcement of Act No. 17.011, **8:90**

### U.S. CUSTOMS SERVICE

Imports (this index)

### USE OF PUBLIC RELATIONS

Marketing, advertising, and promotion, **5B:4**

### UTILITARIAN FUNCTIONALITY

Trademarks, **8:9**

### UTILITY PATENTS

Generally, **10:5**

Impact of artificial intelligence on patents, **10:6**

### VALUE AND VALUATION

Promotional value, **5:34**

### VENEZUELA

Enforcement actions worldwide, **15:29**

Trademarks, recent judicial and legislative developments, **8:87**

## INDEX

### **VIDEO GAMES**

Selection and evaluation of property, **2:19**

### **VIRGINIA**

Copyright application, **B:4, App B**

### **WAIVER**

Contracts and agreements, **5:48**

### **WARRANTIES**

Licensing agents, **6:19**

### **WELL-KNOWN MARKS**

Philippines, recent court decisions, **8:96**

### **WIPO**

Cybersquatting, **12:66**

### **WITNESSES**

Expert witnesses, **13:19**

### **WORLDWIDE COORDINATION**

Prelicensing considerations, **5:6**

### **“XEROX”**

Trademarks, fanciful words with no meaning, **8:37**

