

SATTERLEE STEPHENS BURKE & BURKE LLP

## PRACTICE AREAS

Banking  
 Bankruptcy  
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**Media Law**  
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## Media Law

For over 100 years, Satterlee Stephens Burke & Burke has enjoyed a national reputation for expertise and leadership in the practice of media law. Today, our firm regularly counsels and handles litigation, transactions, and regulatory matters for a wide variety of companies from emerging software companies, online advertisers and their advertising agencies, e-commerce providers and Internet content providers to blue-chip media entities and media insurers.

Our publishing clients include many of the nation's most prominent book, magazine, newspaper, trade, financial, computer software, database, product information, and electronic publishers. In the area of telecommunications, we have represented the four principal television networks, a leading international news service, large multi-media conglomerates, television production companies, cable companies, and local television and radio broadcasters. Our clients in the area of advertising include large and small advertising agencies and advertisers.

The Satterlee Stephens Burke & Burke media law department includes a corps of accomplished trial lawyers, with extensive trial and appellate experience in actions involving copyright, trademark and trade dress, libel defense, reporters' rights, unfair competition, rights of privacy and publicity, false advertising, and contractual disputes.

Our firm has been lead counsel in landmark cases:

- Defending the right of scholars to make "fair use" of previously unpublished primary source materials in biographies and historical works;
- Establishing the scope of copyright protection accorded to reference works and computerized data bases;
- Delineating the rights of novelists to use real people as characters in fictional works;
- Originating novel theories of libel defense that have become established canons of First Amendment Law;
- Protecting from disclosure the confidential notes of journalists subpoenaed in civil and criminal cases;
- Obtaining access for reporters and photographers to closed proceedings and sealed documents;
- Defining the scope of actions based on the use of "sound-alikes" or "look-alikes" in advertising;
- Delineating the extent to which an artist or performer has a legally protectible interest in a distinctive personal "style";
- Clarifying the interrelationship among the Copyright Act, the Lanham Act, and United States antitrust laws;
- Defending advertisers and their agencies accused of false advertising and establishing the scope of false advertising claims;
- Establishing the scope of media insurance policies;

•Litigating the standard for protecting the anonymity of "posters" on Internet websites;

Leading media law cases that we have handled in recent years include:

J.D. Salinger v. Random House (copyright)

Random House v. Gold (publishing)

Glickman v. Howard Stern (libel)

Wright v. Warner Books (copyright)

New Era v. Henry Holt & Co. (copyright)

Lonetree v. Henry Holt & Co. (First Amendment)

Midler v. Ford Motor Company and Young & Rubicam, Inc. (right of publicity)

Mitch Ryder v. Molson Breweries and Lintas (right of publicity)

Wilford Brimley v. Ogilvy & Mather (right of publicity)

Branch v. Ogilvy & Mather (copyright; unfair competition)

Andretti v. Rolex Watch (right of publicity)

In the Matter of LaCava (press access to closed criminal hearing)

Cory v. Nintendo (right of publicity)

Branford Marsalis v. Saatchi & Saatchi (right of publicity)

CK Co. v. Saatchi & Saatchi and Burger King (copyright; unfair competition)

Coopersmith v. Gold (press access to sealed judicial records)

CBS v. Viacom (copyright, contract)

DeCosta v. Viacom (trademark)

ABC v. Warner Wolf and CBS (entertainment contract)

Financial Information, Inc. v. Moody's (copyright)

Corsearch v. Thomson & Thomson (copyright, antitrust)

Autoinfo v. Hollander and Thomson Publ. Co. (antitrust)

Gruner + Jahr v. Meredith Corp. (trademark)

Considine v. Meredith Corp. (copyright, contract)

U.S. Naval Inst. v. Charter Communications (copyright)

GMT Productions, Inc. v. Cablevision of NYC (trademark)

Meeropol v. Nizer (libel, copyright)

Eiman v. Soldier of Fortune (First Amendment)

Hotchner v. Castillo-Puche (libel)

Cardillo v. Doubleday (libel)

People v. Gambino (reporters' rights)

Klepcko v. Gannett Co. (libel)

Doubleday v. Curtis (publishing)

Ottinger v. The Journal News (anonymous Internet speech)

Hile v. Doubleday (libel)

Lehman v. Adweek (libel)

Hicks v. Casablanca Records (right of publicity)

New Testament Miss. Fellowship v. E.P. Dutton (libel)

Cianci v. New Times (libel)

James Earl Ray v. Time Inc. (libel)

Selchow & Richter v. Book-of-the-Month Club (trademark)

Hyperlaw v. West (copyright in databases)

as well as the Roots copyright cases and the Blood and Money libel and privacy cases.

An important aspect of our practice is the prevention of litigation through prepublication or prebroadcast review of news stories, book manuscripts, advertisements, and television programs.

We are accustomed to working together with reporters, editors, and producers on a tight deadline whenever the need arises, day or night. We assist in the review of substantiation and in the assessment of legal risks. We see our role as facilitating the speedy publication of aggressive, informative, responsible journalism. We work with journalists to publish the news in a way that can withstand legal challenge, if tested -- without watering down stories or shying away from controversy.

We also provide libel and intellectual property counseling to some of the nation's largest book publishers and mass market magazines, as well as many smaller publishers and periodicals. Over the years, we have vetted thousands of book manuscripts and magazine articles. Similarly, newspapers, broadcasters and producers call upon us to review news stories and television programs before they are published or broadcast.

Our advertising clients also seek our assistance with prepublication and prebroadcast review. We help our clients navigate through the confusing array of FTC regulations relating to both print and broadcast media. We also assist them in determining what kinds of substantiation they need to back up aggressive and controversial advertisements and commercials.

As a result of our many years of experience in this specialized area of practice, we are able to provide our domestic and international media clients with particularly knowledgeable and practical counseling. We also strive to keep our clients informed of new court decisions, pending legislation, and regulatory developments that may affect their activities.

Our media law attorneys are skilled in negotiating and drafting agreements relating to virtually every aspect of intellectual property. We have handled transactions ranging from movie contracts to sophisticated software and database licensing agreements -- from limited partnerships in theatrical productions to multi-million dollar book deals -- from advertising contracts to mergers and acquisitions of corporations in the media industry. Our corporate and tax departments also provide assistance in structuring transactions to enhance the economic benefits to our clients.

We work with our media clients to help them develop successful marketing policies that maximize profits, while complying with the antitrust laws. We assist with a complex array of state and federal regulatory matters for media entities. We also have

expertise on such highly specialized issues as the obligations of interstate media firms to pay or collect state and local taxes.

We assist our domestic and foreign media clients with their copyright, trademark, and service mark needs in the United States. We help clients select a mark; investigate the use of similar marks by others; undertake and maintain federal and state registrations of marks; and initiate and defend opposition and cancellation proceedings in the Patent and Trademark Office. We also negotiate and draft licensing agreements and transfers of marks and copyrights, and handle infringement claims in courts throughout the country.

The move to electronic digital delivery of information represents the most revolutionary change in publishing since Gutenberg. As new media have evolved, so has the firm's practice. Today, the firm is a leader in handling innovative transactions, litigation, and regulatory matters for pioneering companies that are reinventing the way information is communicated.

Satterlee Stephens Burke & Burke is now, on a daily basis, solving challenging legal problems involving media that did not even exist just a few years ago. For example, recently we have:

- Developed agreements for sophisticated Website operators and content providers;
- Counseled clients regarding the copyright and right of publicity issues raised by digital scanning and morphing of images;
- Litigated to successful conclusions several cases involving the electronic piracy of valuable databases on CD-ROM;
- Counseled clients regarding the enforceability of online "click-through" agreements;
- Developed user licenses and privacy policies for web sites;
- Counseled advertisers and agencies concerning the legal risks associated with advertising on the Internet;
- Offered advice on the international trademark implications of choosing domain names for internet sites;
- Developed a standardized agreement for museums to license images of collections to CD-ROM developers;
- Advised clients regarding the antitrust issues raised by licensing (and refusing to license) one-of-a-kind databases to on-line services;
- Instructed clients on how to clear the rights to music, still photography, text, and video, for inclusion in a multimedia publication;
- Worked with clients confronted with federal government regulations restricting the sale of encryption software to buyers outside the U.S.;
- Handled litigations over conflicting domain names on the Internet;
- Resolved disputes with freelancers concerning the on-line use of magazine articles and illustrations originally published in print form;
- Won a landmark case for a major network regarding the rights to royalties from re-transmission on cable systems of broadcast programs;
- Assisted newspapers with the legal issues associated with launching new paperless e-news editions;
- Organized and counseled a unique fax publication service;

- Litigated the issue of whether cable services have a First Amendment right to exercise some control over the content of programs cablecast on "public access" channels;
- Helped launch many Internet start-up companies;
- Handled landmark litigation regarding the copyrightability of databases.

We are actively engaged in devising new forms of agreements to protect our clients' interests and to provide the flexibility necessary to cope with the fast-changing nature of the media. For information providers, we have prepared multimedia; and Website development contracts, joint venture agreements with software publishers, and database license agreements. Our information age clients have included leading universities, financial data companies, product information publishers, e-commerce providers, online advertisers and Internet "dot com" start-ups, as well as more traditional media entities such as print publishers and broadcasters.

For software companies, we have provided license agreements (favorable to the licensor), independent contractor agreements with programmers, advice concerning the legality of programs that "piggyback" on other publishers' programs, copyright and trademark registration services, and counseling on the termination of long-term software development contracts.

For corporations of all kinds, we have prepared software development agreements, software license agreements (favorable to the licensee), facilities management agreements, software consultant agreements, outsourcing agreements, and contracts for transportation and installation of mainframe computers.

Our attorneys are frequently asked to address industry groups on subjects ranging from libel in cyberspace to protecting images transmitted on the information superhighway. Several are members of professional societies that are at the forefront of identifying and solving the legal problems presented by the new media.

We have particular expertise in assisting companies in making the transition from traditional media to new media.

Our ability to provide solutions for our new media clients grows out of the firm's long history in representing traditional publishing and broadcasting clients in a variety of matters.

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