

# TLL THE LICENSING LETTER

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## 42 Entertainment Character Properties Reach \$100 Million in Sales of Licensed Merchandise; “Frozen” Debuts at No. 6

The “Frozen effect” is clearly evident on *The Licensing Letter’s* annual list of entertainment/character properties with more than \$100 million in sales in the U.S. and Canada for 2014. The property debuted on the \$100 million-plus in the Top 10, amid robust growth for other platinum properties including Despicable Me/Minions, Teenage Mutant Ninja Turtles, Transformers, Avengers and My Little Pony.

TLL estimates that 42 entertainment properties reached \$100 million or more in retail sales in the U.S. and Canada in 2014, compared to 44 that made the list for 2013.

Retail sales generated by the \$100 million-plus properties in the U.S. and Canada totaled \$16.2 billion in 2014, up from \$16.0 billion in 2013. Only two properties exceeded \$1 billion in U.S./Canada retail sales for the year: classic Mickey & Friends (Disney Junior properties Mickey Mouse Clubhouse and Minnie’s Bow-Tique each have their own licensing programs and are included on the list separately) and Star Wars. Star Wars rose above the \$1 billion mark and ascended to the No. 2 spot in our ranking driven by the start of the long ramp up of activity around the franchise, including the premiere of animated series “Star Wars Rebels” on Disney XD, leading into the December 2015 theatrical release of *Star Wars: The Force Awakens*. These two \$1 billion-plus properties accounted for just 5% of the properties making the list, but 17% of estimated sales generated collectively by properties on the \$100 million-plus list.

In 2013, there were three \$1 billion-plus properties in the U.S. and Canada: Mickey & Friends, Disney Princess and Hello Kitty. The latter two dipped just below the \$1 billion line in 2014, however, as they saw their sales chipped at in part by Disney’s newest sparkly juggernaut, Frozen.

Frozen, a movie that only opened at the box office in late 2013, cracked the \$100 million-plus property list for 2014 with the flash and

force of an Arctic storm, debuting at No. 6 with an estimated \$820 million in domestic licensed merchandise sales. While the demand for Frozen merchandise during the 2013 holiday season was unexpected, catching Disney and retailers off guard, they managed to catch up and expand their selections to hundreds of items by year-end. During 2014, the franchise dominated store shelves and sales.

*Continued on page 3*

### APP APPEAL

## Licensing for Mobile Games Opens Up to New Players

The mobile game licensing paradigm is changing. Although powerful gaming apps like Angry Birds still rule the roost, new players are getting into the game—not just licensees who turn digital properties into non-digital products but also licensors who license their own property for apps and mobile games.

While retail sales of licensed video games/software fell -26.4% to \$2.93 billion from 2013 to 2014, mobile game apps are being eyed as a growth area. The average royalty rate for brands licensed into the category increased to 10.5% in 2014, up from 10.4% in 2013. The increase is driven primarily by film- and sports-based properties, but as the category is diversifying, other property types that typically enjoy higher rates are threatening to skew the equation.

### Notable Digital Debuts of 2015

Although the new players came from a variety of sectors, most of 2015’s debut deals involved licensing of three particular property types:

**Entertainment/Character:** Entertainment properties licensed for mobile games for the first time in 2015 included:

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# ➡ Licensing Ledger

## BRAND ANNOUNCEMENTS FROM BLE

This year's Brand Licensing Europe was dominated by entertainment brands with film extensions, with appearances by retro brands and sports and automotive companies.

- ▶ Disney showcased its upcoming films *The Good Dinosaur*, *Star Wars: The Force Awakens*, Marvel's *Captain America: Civil War* and *The Jungle Book* and two new preschool TV series, "Goldie & Bear" and "The Lion Guard."
- ▶ Rovio is building up a consumer products program for the upcoming *Angry Birds* movie, which will hit the big screen May 2016.
- ▶ Universal Partnerships & Licensing highlighted its blockbuster films *Minions* and *Jurassic World*, as well as the upcoming *The Secret Life of Pets*. Universal plans to refresh its older programs as in anticipation for upcoming sequels *Despicable Me 3* (2017), *Jurassic World* (2018) and *Fast & Furious* (Spring 2017).
- ▶ Hasbro showed off new deals for classic properties Transformers, My Little Pony and Stretch Armstrong.
- ▶ King Features focused on iconic characters Popeye, Betty Boop, and The Phantom, debuting new retro style guides.
- ▶ Mattel and HIT Entertainment featured preschool brands Thomas & Friends, Bob the Builder and Fireman Sam.
- ▶ Activision Publishing showcased the latest sequels to its brands *Skylanders*, *Call of Duty*, *Destiny* and *Guitar Hero*.
- ▶ First-time exhibitors included adidas, A.C. Milan, Arsenal FC, Chelsea FC, FIFA, Automobili Lamborghini and Moto GP.

vertical was Heelys, the skate brand that Sequential acquired and licensed globally to BBC International in 2012. The stars of the active vertical were And1 and Avia with combined growth of 14%, thanks in large part to recent exclusives with Walmart. As usual, the billion-dollar Jessica Simpson brand led growth in the Fashion vertical. Reinforcements are also on the way; Sequential recently acquired Joe's Jeans and will soon merge with Martha Stewart Living Omnimedia.

## ESTATE LICENSING AND THE PUBLIC DOMAIN

The battle over Marilyn Monroe, whose likeness is represented by Authentic Brands Group, continues. The Estate of Marilyn Monroe LLC was hit with a counter-claim from nostalgia merchandiser X One X Movie Archive. The company was dragged into an ongoing suit with Avela, whom the Estate claims violated trademarks by selling merchandise featuring Monroe's likeness without permission. While X One X countered that the Estate does not hold a strong enough claim for trademark rights, given that Monroe is in the public domain, the court is entertaining the viability of a false endorsement claim based in a celebrity's right of publicity. Avela was involved in similar cases with Warner Bros. and Bob Marley, which were largely decided in favor of the rights holders.

## NFL PLAYERS SUE FANDEUEL

Already on the defensive for allegedly running a gambling operation without a license in states such as Nevada and New York, daily fantasy football operators have a new legal problem. A group of NFL players led by Washington receiver Pierre Garcon filed a class action against FanDuel over its unlicensed use of the players' names and images for games and advertising.

## FROZEN FLIES TO NEW HEIGHTS

WestJet rolled out a very special airplane, a Boeing 737 featuring images from "Frozen" on the fuselage, overhead bins, headrests and even bathroom mirrors. While it might be the most striking example so far, "Frozen" is only the latest in a series of deals in which airlines license entertainment properties to create special planes offering branded air travel experiences:

- ▶ EVA Air debuted Hello Kitty Shining Star Jet nonstop flights to Taiwan and other locations in Asia, Paris and the U.S. on specially painted Boeing 777-300ER planes in June;
- ▶ In April, THAI Smile Airways unveiled a special Airbus A-320 airplane featuring Cartoon Network characters for flights in Thailand;
- ▶ Although there were no painted planes, this summer's

specially-branded Thomas & Friends flights on Virgin Atlantic featured in-flight "Thomas" movies and entertainment packs chock full of activity sheets, special edition collectible engines and other goodies.

Entertainment licensed-flights aren't limited to children's properties. In March, Universal Pictures introduced its "Fast & Furious 777" airline service, a roughly 6-month venture with UAE national airline Etihad Airways, timed to start just in advance of the *Furious 7* April 3 film debut.

## EXPLOSIVE GROWTH AT SEQUENTIAL

Sequential Brands had showed Q3 sales for the ages, more than doubling year-over-year revenues from \$10 million to \$23 million—mostly in royalty income. Driving the most growth within the lifestyle



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## Entertainment/Character

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### Frozen Leads Movers

Since Frozen did not appear in our 2013 estimates of \$100 million-plus properties, it is not assigned a percentage gain on this year's list. Nevertheless, it was undoubtedly the fastest growing property of the 42 on the list, with retail sales growing seven-fold. While Frozen is definitely in a class by itself, it was not the only property to post rapid growth. The Despicable Me franchise, including Minions, more than doubled its retail sales in between movie releases (*Despicable Me 2* in 2013 and *Minions* in 2015), reaching an estimated \$267 million in retail sales in the U.S. and Canada last year. Five additional properties grew between 20% and 35%, adding bigger movements to the list than existed in 2013. They were Teenage Mutant Ninja Turtles (No. 5, 20%); Transformers (No. 19, 35%); My Little Pony (No. 26, 32%); Minecraft (No. 28, 33%) and Avengers (No. 29, 35%). In 2013, the fastest growing property on the list, Doc McStuffins, grew 20%.

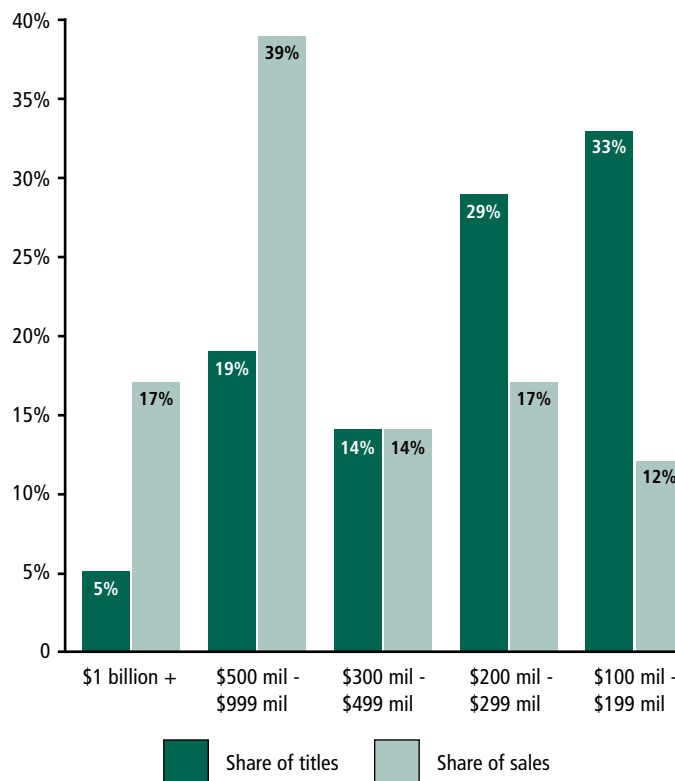
Overall, 22 (52%) of the properties listed in both 2013 and 2014 experienced growth in U.S./Canada retail sales in 2014, 16 (38%) declined and two were flat (Betty Boop and Star Trek). While both year-on-year gains and declines were mostly in the single digits-to-low double digits, there were some dramatic surges and slides. Declines of more than 20% were recorded by Monsters University (No. 11, 22%) and Angry Birds (No. 17, 46%).

Just one other property cracked the list for the time in 2014: How to Train Your Dragon (No. 36, \$153 million). In comparison, 12 new properties hit the list in 2013, expanding the list from 34 properties in 2012 to 44 in 2014.

ESTIMATED RETAIL SALES OF LICENSED MERCHANDISE BASED ON ENTERTAINMENT/CHARACTER PROPERTIES WORLDWIDE, 2014	
PROPERTY	2014 GLOBAL RETAIL SALES (MILLIONS)
Mickey & Friends	\$4,055
Hello Kitty	\$3,803
Winnie the Pooh	\$2,732
Disney Princess	\$2,568
Star Wars	\$2,374
Cars	\$2,025
Spider-Man	\$1,458
Frozen	\$1,397
Peanuts	\$1,194
Angry Birds	\$1,160
Monsters University	\$1,116
Teenage Mutant Ninja Turtles	\$1,026

SOURCE: THE LICENSING LETTER

### SHARE OF TITLES VS. SHARE OF RETAIL SALES FOR \$100 MILLION ENTERTAINMENT/CHARACTER PROPERTIES, U.S. & CANADA, 2014



NOTE: Figures may not add up to 100% due to rounding.  
SOURCE: THE LICENSING LETTER

Several properties that were ranked in 2013 fell off the estimated \$100 million-plus list in 2014, most notably the one year wonder Duck Dynasty.

### Ones to Watch

Several up and coming properties fell just short of the \$100 million U.S./Canada retail sales mark in 2014 and will almost certainly make the 2015 list. The two most prominent examples are Peppa the Pig, which is over \$1 billion in 2014 *global* retail sales but did not launch a major retail campaign in the U.S. until mid-2015, and Paw Patrol, which launched at retail in late 2013 but did not spread far enough or quite fast enough at retail to make the 2014 \$100 million-plus cut-off.

### Bigger Impact of A-List Properties

2014 appeared to be more a story about the increasing dominance of contemporary A-list properties tied to movies, blockbuster toys or both, including Frozen, Teenage Mutant Ninja Turtles, Transformers, Despicable Me/Minions, Avengers, My Little Pony and Minecraft.

While there was one fewer \$1 billion-plus property on the 2014 list, the number and impact of properties with

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**ONCE AGAIN, DISNEY PROPERTIES DOMINATED THE \$100 MILLION-PLUS LIST, WITH 12 PROPERTIES ACCOUNTING FOR 29% OF LISTED PROPERTIES AND 48% OF DOLLAR VALUE OF THE PROPERTIES ON THE LIST.**

\$300 million to \$999 million in U.S./Canada retail sales stayed roughly the same as in 2013. At the lower end of the \$100 million-plus spectrum, however, properties in the \$200 million to \$299 million range accounted for more of the year's business, while properties in the \$100 million to \$199 million range lost ground. The \$200 million to \$299 million segment included 29% of properties on the list, representing 17% of retail sales, compared with 18% of titles/11% of titles in 2013. The \$100 million to \$199 million group included just 33% of titles and 12% of retail sales, compared with 43% titles/17% sales in 2013.

Once again, Disney properties dominated the \$100 million-plus list, with 12 properties accounting for 29% of listed properties and 48% of dollar value of the properties on the list.

### Global Gains

The top entertainment/character properties in the U.S. and Canada registered an additional \$22.7 billion in retail sales outside North America, for a total of \$38.9 billion in estimated global sales retail sales. Sales outside the U.S. and Canada accounted for 58% of this group, the same as in 2013 and much greater than the average of 38% across all licensed properties. As we noted last year, this can be attributed to continuing growth in the performance of major franchise films outside of North America, as well as to a significant increase in the number of media outlets for children's television in both mature and emerging markets globally.

The top global performers from among the U.S./Canada \$100 million club remain Mickey & Friends, Hello Kitty, Disney Princess and Winnie the Pooh. In all, 12 properties in 2014 had retail sales of licensed merchandise of \$1 billion or more worldwide, up from 10 properties in this elite group last year.

The top 12% of properties globally represent 29% of the titles on the list, but account for 64% of retail sales.

### Definitions and Methodology

The overall list reflects the top properties in the U.S. and Canada only and excludes top-performing global properties that have U.S. and Canadian retail sales of less than \$1 million, such as Peppa.

Properties included in this list are broader than those in *TLL's* traditional entertainment/character segment as defined for our annual business-wide estimates. For this analysis, we have included properties that are based on a recognized character(s) and use the strategies associated with an entertainment/character licensing program, as well as the expected TV shows and films. Some properties on

this list would normally be characterized as toy (Barbie, My Little Pony, Lalaloopsy), interactive (Angry Birds, Minecraft, Skylander), or publishing (Peanuts), for example.

The individual property figures are sometimes at variance with publicly reported numbers in company financials or cited by company executives. We look exclusively at consumer products that are licensed to third parties for manufacture and distribution and for which the manufacturer is paying a royalty. It does not include products created through in-house divisions of the licensor rather than through licensing agreements with third parties, or "core" products made by the licensor (e.g., toys for Hasbro- or Mattel-owned properties).

In addition, the numbers reflect retail sales of traditional licensed products but exclude content licensing and nonretail products such as live touring shows, theme park attractions, lotteries and slot machines, cruises and similar ventures.

For those properties that are multimedia, the estimates include all merchandise for the franchise (e.g., tied to film, TV shows, etc.). LEGO cross-licensing deals (e.g., LEGO Star Wars, LEGO Batman) are included under the respective partners' properties (e.g., "LEGO Star Wars" under Star Wars). Subbrands are included along with the master property (e.g., Clone Wars under Star Wars). If individual properties are sometimes licensed as a group (e.g., Batman as part of a multi-property DC Comics), the estimate includes only those products tied to the individual property as specified.

These estimates are developed through a combination of surveys; interviews with licensors, licensees, agents, and retailers; analysis of annual reports, royalty income and data from publicly held companies; store visits; corporate retail sales information; press releases; and news articles. All the licensors that appear on the list were given the opportunity to comment. However, all estimates are by *The Licensing Letter*.

**LICENSOR SHARE OF ESTIMATED RETAIL SALES OF LICENSED MERCHANDISE BASED ON ENTERTAINMENT/CHARACTER PROPERTIES, U.S. & CANADA, 2014**

LICENSOR	SHARE
Disney (including Pixar, Marvel, Lucasfilm)	48%
Nickelodeon	8%
Mattel	5%
Warner (including DC)	5%
Hasbro	3%
Cartoon Network	2%
Other	29%

SOURCE: THE LICENSING LETTER

## ESTIMATED RETAIL SALES OF LICENSED MERCHANDISE BASED ON \$100 MILLION+ ENTERTAINMENT/CHARACTER PROPERTIES, 2014

PROPERTY	LICENSOR	2013 RETAIL SALES, U.S. AND CANADA	CHANGE IN RETAIL SALES, U.S. AND CANADA, 2013-2014	2014 RETAIL SALES, U.S. AND CANADA	2013 RETAIL SALES OUTSIDE U.S. AND CANADA	CHANGE IN RETAIL SALES, U.S. AND CANADA, 2013-2014	2014 RETAIL SALES OUTSIDE U.S. AND CANADA	2013 GLOBAL RETAIL SALES	2014 GLOBAL RETAIL SALES CHANGE	2014 GLOBAL RETAIL SALES	2014 SHARE FOR U.S./ CANADA
Mickey & Friends	Disney	\$1,587	1%	\$1,603	\$2,381	3%	\$2,452	\$3,968	2%	\$4,055	40%
Star Wars	Disney	\$990	9%	\$1,079	\$1,210	7%	\$1,295	\$2,200	8%	\$2,374	45%
Disney Princess	Disney	\$1,154	-14%	\$992	\$1,731	-9%	\$1,575	\$2,885	-5%	\$2,568	39%
Hello Kitty	Sanrio	\$1,048	-8%	\$964	\$2,811	1%	\$2,839	\$3,859	-1%	\$3,803	25%
Teenage Mutant Ninja Turtles	Nickelodeon	\$750	20%	\$900	\$100	26%	\$126	\$850	21%	\$1,026	88%
Frozen	Disney	First appearance	n/a	\$820	n/a	n/a	\$577	n/a	n/a	\$1,397	59%
Winnie the Pooh	Disney	\$836	-2%	\$819	\$1,972	-3%	\$1,913	\$2,808	-3%	\$2,732	30%
Cars	Disney	\$800	-10%	\$720	\$1,500	-13%	\$1,305	\$2,300	-12%	\$2,025	36%
WWE	WWE	\$560	-2%	\$549	\$235	-3%	\$228	\$796	-2%	\$777	71%
Sesame Street	Sesame Workshop	\$600	-11%	\$534	\$323	-9%	\$294	\$923	-10%	\$828	64%
Monsters University	Disney	\$600	-22%	\$468	\$900	-28%	\$648	\$1,500	-26%	\$1,116	42%
Spider-Man	Disney	\$400	8%	\$432	\$933	10%	\$1,026	\$1,333	9%	\$1,458	30%
Batman	Warner	\$348	19%	\$414	\$146	12%	\$164	\$494	17%	\$578	72%
Peanuts	Iconix	\$350	3%	\$361	\$817	2%	\$833	\$1,167	2%	\$1,194	30%
Thomas the Tank Engine	Mattel	\$348	1%	\$351	\$578	1%	\$584	\$926	1%	\$935	38%
Angry Birds	Rovio	\$572	-46%	\$309	\$1,309	-25%	\$982	\$1,882	-31%	\$1,291	24%
Skylanders	Activision	\$300	-1%	\$297	\$200	-1%	\$198	\$500	-1%	\$495	60%
Despicable Me/ Minions	Universal	\$130	105%	\$267	\$240	67%	\$401	\$370	80%	\$667	40%
Transformers	Hasbro	\$189	35%	\$255	\$115	35%	\$155	\$304	35%	\$410	62%
Monster High	Mattel	\$243	4%	\$253	\$78	5%	\$82	\$321	4%	\$335	76%
Betty Boop	King Features	\$227	0%	\$227	\$461	0%	\$461	\$687	0%	\$688	33%
SpongeBob SquarePants	Nickelodeon	\$200	7%	\$214	\$500	6%	\$530	\$700	6%	\$744	29%
Ben 10	Cartoon Network	\$234	-10%	\$211	\$470	0%	\$470	\$704	-3%	\$681	31%
Looney Tunes	Warner	\$208	1%	\$210	\$410	2%	\$418	\$617	2%	\$628	33%
My Little Pony	Hasbro	\$155	32%	\$205	\$157	28%	\$201	\$312	30%	\$406	50%
Power Rangers	Saban	\$207	-2%	\$203	\$126	-2%	\$123	\$333	-2%	\$326	62%
Minecraft	Mojang	\$150	33%	\$200	\$150	38%	\$207	\$300	36%	\$407	49%
Avengers	Disney	\$146	35%	\$197	\$179	33%	\$238	\$325	34%	\$435	45%
Doc McStuffins	Disney	\$186	5%	\$195	\$114	1%	\$115	\$300	3%	\$310	63%
Superman	Warner	\$173	12%	\$194	\$104	7%	\$111	\$277	10%	\$305	64%
Dora the Explorer	Nickelodeon	\$200	-4%	\$192	\$600	0%	\$600	\$800	-1%	\$792	24%
Barbie	Mattel	\$211	-9%	\$192	\$176	-10%	\$158	\$387	-9%	\$350	55%
Simpsons	Fox	\$169	9%	\$184	\$204	1%	\$206	\$373	5%	\$390	47%
Minnie's Bow-Tique	Disney	\$175	4%	\$182	\$175	4%	\$182	\$350	4%	\$364	50%
Sofia the First	Disney	\$193	-9%	\$176	\$82	-5%	\$78	\$275	-8%	\$254	69%
How to Train Your Dragon	DreamWorks Animation	First appearance	n/a	\$153	n/a	n/a	\$147	n/a	n/a	\$300	51%
Mickey Mouse Clubhouse	Disney	\$125	4%	\$130	\$125	4%	\$130	\$250	4%	\$260	50%
Pokemon	Pokemon Co.	\$115	9%	\$125	\$191	6%	\$202	\$306	7%	\$328	38%
Star Trek	CBS	\$124	0%	\$124	\$24	0%	\$24	\$148	0%	\$148	84%
Adventure Time	Cartoon Network	\$105	8%	\$113	\$35	10%	\$39	\$140	9%	\$152	75%
Garfield	Paws Inc.	\$125	-12%	\$110	\$306	5%	\$321	\$431	0%	\$431	26%
Lalaloopsy	MGA	\$100	5%	\$105	\$25	15%	\$29	\$125	7%	\$134	79%
<b>TOTAL</b>		<b>\$15,233</b>		<b>\$16,228</b>	<b>\$22,193</b>		<b>\$22,668</b>	<b>\$37,526</b>		<b>\$38,897</b>	

NOTES: Figures are for retail sales of all licensed merchandise for calendar year 2014. Does not include: Content licensing such as DVDs; products created through in-house divisions rather than through licensing agreements with third parties (e.g., toys at Mattel or Hasbro or Pokemon video games from Nintendo); or nonretail products such as touring shows, theme park attractions, cruises, gambling/lotteries, and the like.

SOURCE: THE LICENSING LETTER



## Licensing for Mobile Games

Continued from page 1

- ▶ Classic cartoon characters Popeye and Betty Boop (King Features);
- ▶ TV shows no longer broadcast such as “Dexter” (licensed by Showtime and CBS Consumer Products for a hidden object game) and “Sons of Anarchy” (licensed by Fox Digital Entertainment to Orpheus Interactive for an interactive game); and
- ▶ Game shows such as “Two Tribes” licensed by BBC Two for an app.

**Publishing:** First-time publishing properties licensed for mobile game and apps included:

- ▶ Kids’ book classics such as Roald Dahl’s Twits translated into an app for the first time under an arrangement among Penguin, Aardman Digital and the author’s estate;
- ▶ Comic book heroes such as Flash Gordon and Phantom (King Features); and
- ▶ Vintage best-selling novels like Ken Follet’s “Pillars of the Earth” (Daedalic Entertainment).

**Celebrities:** Celebrities taking the plunge into mobile games in 2015 came from a range of backgrounds, including digital celebrities such as YouTube sensation PewDiePie who released his first video game on Apple’s App Store and Google Play. The music sector was also represented by, among others, Motorhead (Haemimont Games), Shakira (Rovio) and Britney Spears (Glu Mobile).

### LICENSING LAW

## Unlicensed Use of Trademark Brands in Video Games

- ▶ EA shows Bell Helicopters in its *Battlefield 3* video game
- ▶ Activision depicts the “Delta Force” logo in *Call of Duty: Modern Warfare 3*
- ▶ In Sony’s *Gran Turismo 6*, race cars pass under a bridge displaying the Virag trademark

Video games look and feel more realistic when they depict brands from real-life. But using a trademark brand without a license can also result in liability for infringement. The good news for game designers and bad news for trademark owners is that the First Amendment allows for unlicensed use of trademarks in video games. But limits apply. Here’s a rundown of the rules.

### Rule 1: Video Games Are “Expressive Works” Protected by First Amendment

In a 2011 case called *Brown v. Entertainment Merchants Assn.*, the U.S. Supreme Court settled a decades-old controversy by ruling that First Amendment protections for “expressive works” like books, films and plays also apply to video games. Such protections include using a third party’s trademark without infringement. Like other protected works, video games use character, plot, dialog, music and “other familiar literary devices” to communicate ideas, the Court reasoned.

### Rule 2: Unlicensed Use of Trademark Can’t Cause Consumer Confusion

Showing that a particular video game is a creative work is the start, not the end of the analysis. That’s because the First Amendment protection is not absolute. Unlicensed use of a trademark for a video game is *not* protected if it does more to cause consumer confusion than to promote free expression.

### Rule 3: Use Must Pass “Rogers Test”

How do courts determine whether particular uses are protected? Answer: By applying a test first set out in a

1989 case called *Rogers v. Grimaldi*. The Rogers test has two prongs:

1. **Use Must Be ‘Artistically Relevant’:** First, the game producer must prove that its use of the mark is “artistically relevant” to the work. This is easy. “The threshold for artistic relevance is anything more than zero,” according to one court. Just making a game more realistic is enough to meet the burden.
2. **Use Can’t Be ‘Explicitly Misleading’:** Once relevance is established, the burden shifts to the trademark owner to show that the use was “explicitly misleading as to the source or content of the work.” This is an extremely difficult burden to meet. Essentially, the owner must show that the use was meant to deceive consumers into thinking the owner approved or endorsed the use.

### The Rules in Real-Life

In practice, the First Amendment protection for unlicensed use of trademarks in video games has proven to be very robust. Thus, of the 6 major video game trademark infringement lawsuits filed since *Brown*, 5 have been decided in favor of game producers; the other case was settled without a final ruling.

### Practical Pointers

Trademark owners need to be aware that suing a video game for an infringing use is a steep hill to climb. As for game producers, they should recognize that while they do have the First Amendment on their side, just being sued for infringement can be costly. Accordingly, producers need to exercise caution before using other company’s marks in their games without a license and not simply rely on the First Amendment as a shield.

### Caveat: Much Riskier to Use Celebrities without a License

Game producers also need to be aware that the First Amendment protection that applies to unlicensed use of

a trademark is much weaker when the use involves the name, image or likeness of a *person*. *Exhibit B*: The recent spate of lawsuits by pro and college athletes against EA.

For more about the laws governing unlicensed use of an individual's so called "right of publicity," see the February 16, 2015 issue of *TLL*.

VIDEO GAMES IN COURT		
CASE	ALLEGED TM INFRINGEMENT	OUTCOME
Virag, SRL v. Sony Computer Entertainment America, LLC (2015)	Sony's <i>Gran Turismo 5</i> and <i>6</i> driver simulation game shows race cars on famous European Manza racetrack passing under bridge displaying trademark of Italian commercial flooring company Virag.	<p><b>Sony wins</b></p> <ol style="list-style-type: none"> <li>1. Game is expressive work protected by First Amendment, not just a simulation, because it includes plot, characters and music;</li> <li>2. Use artistically relevant to create realism because Virag bridge is signature element of Manza track Sony was trying to recreate;</li> <li>3. Mere use of mark without authorization not enough to show use explicitly misleading.</li> </ol>
Mil-Spec Monkey, Inc. v. Activision Blizzard, Inc. (2014)	Activision includes real-life "angry monkey" military patch that players can unlock in multi-player edition of <i>Call of Duty: Ghosts</i> game.	<p><b>Activision wins</b></p> <ol style="list-style-type: none"> <li>1. Game is expressive work protected by First Amendment;</li> <li>2. Use of patch adds realism and promotes the authenticity and feeling of personal identity Activision is trying to create;</li> <li>3. Use not explicitly misleading because game packaging is clear as to patch's source and origin.</li> </ol>
Novalogic, Inc. v. Activision Blizzard (2013)	Novalogic asks federal court to issue order preventing Activision from using its trademark "Delta Force" logo in the <i>Call of Duty: Modern Warfare 3</i> game.	<p><b>Activision wins</b></p> <ol style="list-style-type: none"> <li>1. Game is expressive work protected by First Amendment because;</li> <li>2. Use of "Delta Force" name and logo has artistic relevance because it adds to authenticity;</li> <li>3. Use not explicitly misleading because "Delta Force" name and mark have an established and well-known meaning within the public realm that predates Activision's use.</li> </ol>
Rebellion Devs. Ltd. v. Stardock Entertainment, Inc. (2013)	Stardock releases a game called <i>Sins of a Solar Empire: Rebellion</i> . Since it's the fourth of a series, the game is referred to as simply <i>Rebellion</i> .	<p><b>Stardock wins</b></p> <ol style="list-style-type: none"> <li>1. Game is expressive work protected by First Amendment;</li> <li>2. Use of "Rebellion" in title has artistic relevance because game is about a rebellion and rebel force;</li> <li>3. Although it does cause some brand confusion, merely including the name "Rebellion" in game title isn't explicitly misleading or proof of Stardock's intent to imply that Rebellion endorsed or sponsored game.</li> </ol>
Electronic Arts, Inc. v. Textron, Inc. (2012)	EA asks court to issue judgment declaring that depicting Bell Helicopters in <i>Battlefield 3</i> game is not infringement; Textron sues claiming use is infringement.	<p><b>No final decision issued</b></p> <p>Parties settle after court refuses to dismiss Textron's infringement claim because it's "plausible," that consumers might think that Textron provided EA expertise and knowledge to "create its realistic simulations," of Bell Helicopters in game.</p>
Dillinger, LLC v. Electronic Arts, Inc. (2011)	EA uses "Dillinger" and "Modern Dillinger" as names of Tommy gun weapons in <i>Godfather I</i> and <i>II</i> video games. (Use of "Godfather" is licensed.)	<p><b>EA wins</b></p> <ol style="list-style-type: none"> <li>1. Game is expressive work protected by First Amendment;</li> <li>2. Use of Dillinger name to refer to weapons artistically relevant to plotline of games and appropriate because Dillinger was known to prefer Tommy guns as his weapon of choice;</li> <li>3. No evidence that use is explicitly misleading or that it confused or misled consumers.</li> </ol>
E.S.S. Entertainment 2000, Inc. v. Rock Star Videos, Inc. (2008)*	Owner of LA gentleman's club called The Play Pen claims that Rock Star's depiction of strip club called "The Pig Pen" with a similar logo in the fictionalized version of LA used in <i>Grand Theft Auto: San Andreas</i> game is infringement.	<p><b>Rock Star wins</b></p> <ol style="list-style-type: none"> <li>1. Inclusion of Pig Pen artistically relevant because it furthers goal of creating a "cartoon-style" parody of East LA;</li> <li>2. Mere use of name and logo is not explicitly misleading; and</li> <li>3. Use doesn't cause confusion because a "reasonable consumer," wouldn't think that a company that owned a strip club in LA would produce a "technologically sophisticated video game."</li> </ol>

\* Even though it was decided 3 years before *Brown*, the *Rock Star* case is relevant because it uses the *Rogers* test to determine if the First Amendment protects unlicensed use of a trademark in a video game.

SOURCE: THE LICENSING LETTER

# Licensing News

## Properties Available Or Recently Assigned, U.S.

PROPERTY	DESCRIPTION	CATEGORIES AVAILABLE	LICENSING CONTACT
<b>Bloomers!</b>	Kid's health lifestyle brand that started in schools in Southern California.	Accessories, apparel, gifts, snacks, toys	Jim Rippin, Licensing Management Intl. of LA
<b>Hollywood Vampires (The)</b>	Collective of 70s rock stars revived by Alice Cooper, Johnny Depp, Aerosmith's Joe Perry and producer Bob Ezrin. Album released 9/11, followed by two live performances in Hollywood and Brazil.	Apparel, collectibles, wall art	Lisa Streff, Epic Rights Barry Drinkwater, Global Merchandising Services
<b>Khrastian Howell</b>	Color and pattern designer whose products are featured in Bloomingdales, Van Maur, Target, Home Goods, TJ Maxx, Staples and more.	Lifestyle	Melissa Schulz, Ideaologie
<b>Marvin Gaye</b>	American soul singer, musician and writer dubbed the Prince of Motown. Rights include name, image, likeness, signatures and characterizations.	All	Lisa Soboslai, Corbis Entertainment
<b>Peeps</b>	Just Born properties also include Peeps, Hot Tamales, Mike & Ike and Goldenberg's Peanut Chews confectionery brands.	All	Michelle McLaughlin, Brand Activation Consulting
<b>Star Trek (2017 series)</b>	Classic sci-fi franchise's new series debuts on CBS's digital service. Unrelated to 2016 film from Paramount.	All	Elizabeth Kalodner, CBS Consumer Products

## Licenses Recently Granted, U.S.

PROPERTY	GRANTED TO	PRODUCTS MANUFACTURED	GRANTED BY
<b>5 Seconds of Summer</b>	Acco Brands	Stationery	Bravado Intl. Group Merchandising Services
<b>Amylee Weeks</b>	Christian Brands	Bible covers, bookmarks, cards, magnets, posters	MHS Licensing + Consulting
<b>Batman</b>	SG Companies*	Sleepwear (children's)	Warner Bros. Consumer Products
<b>Batman vs. Superman</b>			
<b>Bee Posh</b>	SG Companies	Sleepwear (girls')	Redesign Studio
<b>Buck Wear</b>	River's Edge Products	Mugs	MHS Licensing + Consulting
<b>Build-A-Bear Workshop</b>	Praim Group	Chocolate bars, gifts	Brand Activation Consulting
<b>Celescence</b>	Wolverine Worldwide	Shoes (children's)	Genius Brands Intl.
<b>Chinese Laundry</b>	SG Companies	Footwear (children's, women's)	IQ License
<b>DC Super Friends</b>	SG Companies*	Sleepwear (children's)	Warner Bros. Consumer Products
<b>DC Super Hero Girls</b>			
<b>Dr. Seuss</b>	Petco	Pet accessories	Dr. Seuss Enterprises
<b>Draper James</b>	Votivo div. Grace Management Group	Candles	Draper James
<b>Empire</b>	Hood By Air	Dresses, glassware, key chains, shorts, sweatshirts, tops	20th Century Fox Consumer Products
<b>Franklin the Turtle</b>	PercyVites/Percy 3DMedia	Personalized e-cards, personalized invitations	Corus Entertainment/Nelvana Enterprises
<b>Garfield</b>	Boss Creations Intl.	Promotional toys	Paws, Inc.
	Deep Eyewear	Eyewear	
	MJC Intl. Group	Sleepwear	
<b>Grumpy Cat</b>	Random House/Golden Books Young Readers Group	Books	A Weird Movie
<b>Hallmark</b>	Verigold	Jewelry	Hallmark Licensing
<b>Harajuku Lovers</b>	Petco	Pet accessories, pet apparel	United Talent Agency
<b>Hart Schaffner Marx</b>	Prodigy Brands	Footwear (men's), hosiery (men's)	Authentic Brands Group
<b>Hello Kitty</b>	Ju-Ju-Be	Diaper bags	Sanrio
<b>James Meger</b>	River's Edge Products	Wall decor	MHS Licensing + Consulting
<b>John Lennon</b>	Junk Food Clothing	Fleece, hoodies, loungewear, t-shirts	Epic Rights
<b>Justice League</b>	SG Companies*	Sleepwear (children's)	Warner Bros. Consumer Products
<b>Kenneth Cole</b>	Men's Wearhouse (The)	Tailored clothing	Kenneth Cole Productions
<b>Kong: King of the Apes</b>	C-Life Group	Fashion apparel, fleece, swimwear, t-shirts	41 Entertainment (41e)
<b>LEGO DC Super Heros</b>	SG Companies	Sleepwear (children's)	LEGO Systems
<b>LEGO Star Wars</b>			
<b>Lionel Richie</b>	Impulse!	Barware, candles, dinnerware, home accessories, serveware	Bravado Intl. Group Merchandising Services
<b>Looney Tunes</b>	SG Companies*	Sleepwear (children's)	Warner Bros. Consumer Products
<b>Marcus Mariota</b>	Upper Deck Collectibles & Upper Deck Authenticated	Autographed memorabilia	GT Sports Marketing
<b>My Little Pony</b>	Sony Music Entertainment	Music	Hasbro
<b>Naomi Campbell</b>	Yamamay div. Pianoforte Group	Lingerie	Creative Artists Agency (CAA)
<b>New York Botanical Garden (The)</b>	Erwin Pearl	Earrings, jewelry, necklaces, scarves, sunglasses, totes	Jewel Branding & Licensing
<b>NFL</b>	Victory Tailgate	Tailgating kits	NFL
<b>Patrick Reid O'Brien</b>	Downeast Concepts/Cape Shore	Magnets, mugs	MHS Licensing + Consulting

\*Extension or renewal.

Continued on page 9



## Licensing News *Continued from page 8*

PROPERTY	GRANTED TO	PRODUCTS MANUFACTURED	GRANTED BY
Peanuts	PBTeen div. Williams-Sonoma	Bedding, home goods, pajamas, pillows, wall art	Iconix Brand Group
Playboy	Heaven Hill Distilleries	Rum	Playboy Enterprises
Scooby-Doo	Freshman Guitars/Access All Areas Distribution SG Companies*	Musical instruments Sleepwear (children's)	Warner Bros. Consumer Products
Sesame Street	Ape Entertainment	Comic books (print & digital)	Sesame Workshop
Sophie the Giraffe	Kissy Kissy/Tatiana & Co.	Accessories (infants'), apparel (infants'), layette, towels (infants')	DeLiSo S.A.S.
Star Trek	Ugg Since 1974	Boots	CBS Consumer Products
Steven Universe	Bioworld Merchandising Mighty Fine	Accessories, apparel Accessories (men's, juniors'), apparel (men's, juniors')	Cartoon Network Enterprises, Hot Topic
Supergirl	SG Companies*	Sleepwear (children's)	Warner Bros. Consumer Products
Superman			
Terry Doughty	River's Edge Products	Wall decor	MHS Licensing + Consulting
TKO	Ambrosia Fashion Group	Activewear (women's), loungewear (women's)	IQ License
Tokidoki	Ju-Ju-Be	Diaper bags	tokidoki
Williamsburg	Counter Art	Coasters, mats, serveware	Colonial Williamsburg Foundation
Wonder Woman	SG Companies*	Sleepwear (children's)	Warner Bros. Consumer Products
WWE	SG Companies	Footwear (children's), sleepwear (children's)	World Wrestling Entertainment (WWE)

## International Properties Available or Recently Assigned

PROPERTY	DESCRIPTION	CATEGORIES AVAILABLE	LICENSING CONTACT
5 Seconds of Summer	Australian pop punk band. Latest album topped charts in five countries, including the U.S., U.K. and Australia. Touring worldwide 2016.	All (Worldwide)	Alex Mitchell, Bravado Intl. Group Merchandising Services
Antiques Road Trip	TV show stars antiques experts who travel across the country, competing to make a profit at auction.	Board games, gifts, stationery, video games (U.K.)	Charlotte Hargreave, Hargreaves Entertainment Group (HEG)
Candy Crush Saga	Mobile puzzle-match game with millions of players worldwide. Acquired with \$5.9 billion purchase of King Digital, whose leadership will remain.	All (Worldwide)	Ashley Maily, Activision
Cartland	Project based on the legacy of romance fiction writer Barbara Cartland, who sold nearly one billion books worldwide.	All (Worldwide)	Sondra Contino, Lawless Entertainment
David Brent: Life on the Road	Film directed, written by and starring Ricky Gervais as The Office's Brent, now a traveling salesman. Release August 2016.	Apparel, gifts, novelties, stationery (Worldwide)	Hannah Mungo, Entertainment One (eOne) U.K.
DIY SOS	British home improvement TV show with 16 year run and record ratings in which a team of builders and designers renovate homes for those in need.	Apparel, garden, publishing, textiles, tools, toys (Worldwide)	Rob Wijeratna, Rocket Licensing
emoji	Trademarks to the word "emoji" and custom portfolio of almost 1,000 icons.	All (Worldwide)	Bernhard Haberfelner, Bavaria Media GmbH
Grizzly Adams	Mountain man and trainer of grizzly bears known for his adventures in California's Sierra Nevada mountains.	All (Worldwide)	Harry Abrams, Abrams Artists Agency
Iftah Ya Simsim	Arabic version of children's educational program Sesame Street.	All (UAE, GCC countries, Middle East) All (Saudi Arabia)	Fayez Weiss Al Sabbagh, Ink ALC Feras Adel Al Maddah, Headline Communication
Keith Kimberlin	Puppy and kitten photography. New agency also represents Belen Esteban, Terelu Campos, Boris Izaguirre, Kiko Matamoros, Ylenia, La Liga, Munich, and Kokonuzz.	All (Spain)	Ivan Marco, Marcrom Licensing
Maya the Bee	German book-based TV series stars a young bee and her adventures outside the hive.	All (Nordics)	Jape Kantola, Screening Agency
Nitro Circus	Action sports entertainment brand previously sold out multiple tours in the U.K.; will perform in London again Feb. 2016.	Apparel, mobile game apps, publishing, toys, video games (U.K., Eire)	Gayle Tarrant, Lisle Intl. Licensing
PEZ Candy	Classic confectionary brand famous for its character-topped candy dispensers.	Apparel, food, gifts, health & beauty aids, home decor, toys (North America)	Lisa Marks, Lisa Marks Associates (LMA)
Return of the Dodger	TV property with a twist on the story of Oliver Twist and the Artful Dodger, set in 1890s London. Seeking co-production partners.	All (Worldwide)	Cathy Malatesta, Lawless Entertainment
TOBOT	Korean boys' action TV series and top-selling action-toy in Korea.	All (Worldwide)	Bernd Conrad, m4e AG
Todd Snyder	High-end men's wear label. Acquisition includes Tailgate, a vintage collegiate sportswear line.	All (Worldwide)	Simon Nankervis, American Eagle Outfitters
Tough Mudder	Obstacle challenge designed by British Special Forces embodies values of teamwork, personal achievement and philanthropy.	Apparel, fitness equipment & accessories, publishing, sporting goods (U.K.)	Vickie O'Malley, Rockpool Licensing
University of Mississippi	Also known as Ole Miss, the public university stocks merchandise at nearly 4,000 different retailers.	All (Worldwide; 10 yrs.)	Cory Moss, Collegiate Licensing Co. (CLC)
University of Nebraska	Merchandise for public research university sells at more than 3,900 retailers nationwide. Marks include the Huskers.	All (Worldwide; 6 yrs.)	
WOW# Turnowsky	Tel Aviv design brand from the Turnowsky Design House. Known for creativity and innovation, work is featured in major retailers in over 40 countries.	All (Europe) All (North America)	Maria Strid, Art Ask Agency Steven Heller, Brand Liaison (The)

\*Extension or renewal.

*Continued on page 10*

## Licensing News *Continued from page 9*

### International Licenses Recently Granted

PROPERTY	GRANTED TO	PRODUCTS MANUFACTURED	GRANTED BY
20th Century Fox	Al Ahli Holding Group (AAHG)	Theme parks (Dubai; opens 2018)	20th Century Fox Consumer Products
5 Seconds of Summer	Blueprint Collections	Back-to-school, stationery (U.K.)	Bravado Intl. Group Merchandising Services
	British Audio Industries Ltd.	Audio accessories, headphones (Europe, Australia)	
	BrownTrout Publishers	Calendars (North America)	
	Coco Creative	Folders, towels (Japan)	
	Danilo Promotions Ltd.	Calendars (Worldwide, excl. North America)	
	Dreamtex	Bedding, bedding accessories (U.K., Scandinavia, Benelux)	
	Ecell Global Ltd.	Mobile phone cases (Worldwide, online only)	
	GB Eye Ltd.	Accessories, posters (Worldwide, excl. North America)	
	Pyramid Intl.		
	Trends International	Posters (North America)	
7UP	Anya Hindmarch	Clutch bags (Worldwide)	Brand Central
Aerosmith	Legends Socks	Socks (Worldwide)	Epic Rights
	Ramazataz.com Ltd.	Bandanas, buttons, patches (Worldwide)	
Amylee Weeks	Designs Combined	Christmas stockings, pillows, totes (U.S., Canada)	MHS Licensing + Consulting
Arsenal FC	Paul Lamond Games	Games (U.K.)	Arsenal Football Club
Audrey Jeanne Roberts	Laural Home	Bedding, shower curtains (U.S., Canada)	MHS Licensing + Consulting
Barbie	Mango	Apparel (children's; Europe, Russia, Eastern Europe, Middle East)	Mattel
Blazing Team	Hasbro	Yo-yos (U.S., selected markets; 2016)	Guangdong Alpha Animation & Culture Co. Ltd.
Build-A-Bear Workshop	Spin Master	Activity sets, craft kits (Worldwide, 2017)	Brand Activation Consulting
Cartoon Network	LINE Corp.	Digital content (Japan, Thailand, Indonesia, Taiwan, Korea, Malaysia, Singapore, Hong Kong, Vietnam, India)	Turner Broadcasting System Asia Pacific
CBGB	Ramazataz.com Ltd.	Bandanas, buttons, patches (Worldwide)	Epic Rights
Christine Adolph	Christian Brands	Bookmarks, magnets, message cards, posters (Worldwide)	MHS Licensing + Consulting
	Prima Design	Trays (U.S., Canada)	
	Prima Marketing	Gold foil rub-ons (Worldwide)	
Corbert Gauthier	Heritage House '76	Greeting cards (Worldwide)	
Cottage Life	Abbott Collection	Gardening accessories, glassware, home decor, serveware (Canada)	Licensing Shop (The)
	Bebbington Industries	Cleaning products (Canada)	
	Orange Crate Food Co. div. Premier Gifts*	Cereal boxes, hot chocolate mixes, pancake mixes (Canada)	
	Pearl & Daisy Natural Soap Co.	Body wash, soap (Canada)	
Danger Mouse	China Industries Ltd. t/a WOW! Stuff	Gifts (U.K.)	FremantleMedia U.K.
Def Leppard	Ramazataz.com Ltd.	Bandanas, buttons, patches (Worldwide)	Epic Rights
Doctor Who	Black Milk Clothing	Apparel (Australia)	BBC Worldwide
emoji	Dreamtex	Bedding, housewares (U.K.)	Global Merchandising Services Ltd.
	Gemma Intl.	Gift wrap, greeting cards (U.K.)	
	International Greetings Plc	Stationery (U.K.)	
Ever After High	Animoca Brands	Mobile game apps (Worldwide)	Mattel
Forbes	WorldFone Ltd.	Mobile service (voice & data plans; Worldwide)	Forbes Media
Garfield	AG Event	Live events (Turkey)	Gamma Medya
	Avante Textil S.A. de C.V.	Pajamas, sweatshirts, t-shirts (Mexico)	P&L Global Network
	Cardex Europa Kft.	Gift bags, gift wrap, greeting cards, postcards, wall calendars (Hungary, Romania)	Plus Licens
	Cerealitalia Industrie Dolciarie S.r.l.	Easter eggs (Italy, Malta, San Marino, Switzerland, Vatican City)	BIC Licensing
	Cybird Co.	Digital content (Japan)	Tohokushinsha Film Corp.
	Falabella S.A.	Nightwear, robes, slippers (Columbia)	Mary Hume dba Keystone Marketing
	Five Mile Press	Coloring books (Argentina, ANZ, Brazil, China, Denmark, Finland, France, Germany, Greece, Hong Kong, Hungary, Italy, Malaysia, Netherlands, Norway, Paraguay, Poland, Singapore, South Africa, Spain, Taiwan, U.K.)	Global Licensing Ltd.
	Hermes Press	Books (Worldwide)	King Features Syndicate
	Loeb Uitgevers B.V.	Coloring & activity books (Belgium, Luxembourg, Netherlands)	BN Licensing B.V.
	MCM Group	Activity centers (China)	Medialink Entertainment (Far East) Ltd.
Peter Alexander div. Just Group	Apparel (Australia)	Global Licensing Ltd.	
Saga Falabella	Night shirts, pajamas, robes, slippers (Peru)	Mary Hume dba Keystone Marketing	

\*Extension or renewal.

*Continued on page 11*

## Licensing News *Continued from page 10*

PROPERTY	GRANTED TO	PRODUCTS MANUFACTURED	GRANTED BY
<b>Garfield</b>	Somerbond	Nightwear, t-shirts, underwear (U.K., Eire)	Bulldog Licensing
	Toys Pelucia	Area rugs, backpacks, cushions, pillows, plush & soft toys (Brazil)	BR Licensing
	Uitgeverij De Leeuw	Wall calendars (Belgium, Luxembourg, Netherlands)	BN Licensing B.V.
	Wiesner Worldwide Kreations Pvt. Ltd.	Apparel, footwear (India)	AI Licensing India Private Ltd.
<b>Hateful Eight (The)</b>	National Entertainment Collectibles Association (NECA)	Action figures (Worldwide)	Weinstein Co.
<b>Hautman Brothers</b>	Design Works Crafts	Calendar craft kits (Worldwide)	MHS Licensing + Consulting
	Plaid Enterprises	Craft sewing kits (Worldwide)	
<b>Hummingbird Bakery</b>	Scoop Designs div. Intl. Greetings Plc	Baking equipment, baking mixes, cupcake accessories, giftware (U.K.)	Beanstalk (U.K.)
<b>James Meger</b>	Cobble Hill Puzzle Co. div Outset Media	Puzzles (Worldwide)	MHS Licensing + Consulting
<b>Joseph Kimberling</b>	Legacy Publishing Group	Greeting cards (Worldwide)	
<b>Judy Buswell</b>	Christian Brands	Bookmarks, magnets, message cards, posters (Worldwide)	
<b>Kathy Hatch</b>	Designs Combined	Aprons, kitchen towels, trays, wine totes (U.S., Canada)	
	Streamline Art & Frame	Canvas wraps, prints (Canada)	
<b>Kim Norlien</b>	Evergreen Enterprises	Flags (Worldwide)	
	Independent Can Co.	Decorative tins (U.S., Canada)	
	Manual Woodworkers & Weavers	Tapestries, throws (U.S., Canada)	
	Thirstystone Resources	Coasters (U.S., Canada)	
	York Wallcoverings & RoomMates	Wallpaper borders (Worldwide)	
<b>Laura Ashley</b>	Upper Canada Soap	Wellness products (U.S., Canada)	Laura Ashley
<b>Liverpool FC</b>	Paul Lamond Games	Games (U.K.)	Liverpool Football Club
<b>Louise Carey</b>	Crown Point Graphics	Bookmarks, greeting cards, list pads, memo pads (U.S., Canada)	MHS Licensing + Consulting
	Laural Home	Dog beds, feeding mats (U.S., Canada)	
	Prima Design	Trays (U.S., Canada)	
	Streamline Art & Frame	Canvas wraps, prints (Canada)	
	Stupell Industries	Wall decor (U.S., Canada)	
<b>Lynn Sanchelli</b>	Streamline Art & Frame	Canvas wraps, prints (Canada)	
<b>Manchester United</b>	Heroes Footwear	Footwear (Worldwide)	Manchester United Merchandising
<b>Marcie St Clair</b>	Creative Co-op	Wall decor (U.S., Canada)	MHS Licensing + Consulting
<b>Margaritaville</b>	Yankee Candle	Air fresheners, candles, gift sets, home fragrance (U.S., Canada)	Margaritaville Holdings
<b>Naruto Shippuden</b>	Banpresto Co. Ltd. div. Bandai Namco	Collectible figures (U.S., Canada)	Viz Media
	Buckle-Down	Accessories, belts (U.S., Canada)	
	Cryptozoic Entertainment	Card games (U.S., Canada)	
	Great Eastern Entertainment	Headbands (U.S., Canada)	
	Just Funky	Shower curtains (U.S., Canada)	
	Scorpio Posters	Posters (U.S., Canada)	
<b>Olive Oyl</b>	Peter Alexander div. Just Group	Sleepwear (Australia)	Merchantwise
<b>Original Penguin</b>	Black Label Clothing div. Dayang Group China	Formal attire (men's), suits, tailored clothing (men's), ties (U.K., Ireland, Europe)	Perry Ellis Intl. Europe Ltd./PEI Licensing
<b>Penny Dreadful</b>	Midverse Studios	Mobile apps (Worldwide)	CBS Consumer Products
<b>Plants vs. Zombies</b>	ConAgra Foods	Ketchup, popcorn (Mexico)	PopCap Games
<b>Playboy</b>	Good Worth & Co.	Ashtrays, headwear, keys, money clips, pins, skateboards, socks, t-shirts (U.S., Australia, Japan)	Playboy Enterprises
	Supreme*	Hooded sweatshirts, jackets, sweatpants (U.S., U.K., Japan)	
<b>Popeye</b>	Peter Alexander div. Just Group	Sleepwear (Australia)	Merchantwise
<b>Terry Doughty</b>	Design Works Crafts	Calendar craft kits (Worldwide)	MHS Licensing + Consulting
	Streamline Art & Frame	Canvas wraps, prints (Canada)	
	SunsOut	Puzzles (North America)	
	York Wallcoverings & RoomMates	Wallpaper borders (Worldwide)	
<b>Tina Higgins</b>	Laural Home	Bedding, shower curtains, table linens, towels (U.S., Canada)	
	Raz Imports	Home decor, wall decor (Worldwide)	
<b>Tom &amp; Jerry</b>	Puma North America	Sportswear (Worldwide, select countries)	Warner Bros. Consumer Products (EMEA)
<b>Victoria Schultz</b>	Streamline Art & Frame	Canvas wraps, prints (Canada)	MHS Licensing + Consulting
	SunsOut	Puzzles (North America)	
<b>World of Eric Carle (The)</b>	Leg Avenue	Costumes (infants', toddlers'; U.S., Canada)	Joester Loria Group

\*Extension or renewal.



## contacts & connections

Contacts & Connections is an alphabetical listing of the licensing companies in this issue.

**20th Century Fox Consumer Products**, Jeffrey Godsick, President, 310-369-0751, jeffrey.godsick@fox.com, P. 10.

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**A Weird Movie**, Ben Lashes, Founder, 206-229-6223, benlashes@gmail.com, P. 8.

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**Activision**, Ashley Maily, VP & Head Global Licensing/Partnerships, 310-255-2058, ashley.maily@activision.com, P. 9.

**Ambrosia Fashion Group**, Steven Oshatz, SVP Junior Division, 212-268-9030, P. 9.

**American Eagle Outfitters**, Simon Nankervis, COO, 412-432-3300, nankerviss@ae.com, P. 9.

**Ape Entertainment**, Brent Erwin, COO, 817-841-8447, berwin@ape-entertainment.com, P. 9.

**Authentic Brands Group**, Jamie Salter, Chairman & CEO, 212-760-2412, jsalter@abg-nyc.com, P. 8.

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- Yamamay div. Pianoforte Group**, Emanuele Zecchin, Corporate Group Head, info@inticom.it, P. 8.

ESTATE LICENSING

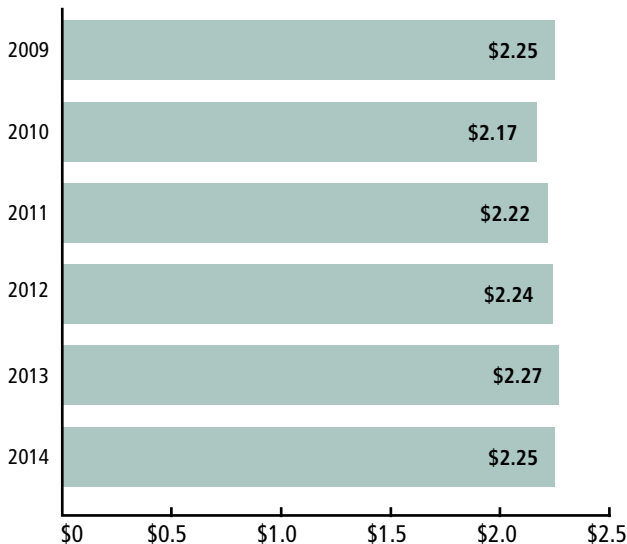
### The State of Estates

Licensing of deceased celebrities made up 2.3% of all licensing revenue in 2014. After gaining 1.3% in 2013, estate-based sales fell 1.0% in 2014 to \$2.25 billion. Retail success in was largely limited to a couple of dominant properties, notably Marilyn Monroe and Bob Marley. The key to success? One licensing consultant during *TLL's Annual Licensing Business Survey* conducted earlier this year gave the example of, "the Marilyn business," as "incredibly successful in reinventing itself and staying fresh and in the public eye." In particular, the "Lil' Marilyn" and the Norma Jean promotional campaigns for Maybelline were fresh drivers for Monroe's growth. Bob Marley, meanwhile, launched a new line of hemp apparel and announced new food and even marijuana lines for 2015.

Even for the most prolifically licensed stars, most revenue comes not from consumer products, but recorded music sales or promotional partnerships, as demonstrated by *Forbes'* ranking of the top-earning 13 celebrities in 2015.

And now technological developments are opening up new avenues in experiential licensing that offer additional revenue streams. Singer and actress Whitney Houston will take the stage again next year, albeit in hologram form. Behind the effort is Hologram USA, which, in partnership with Houston's estate, will also distribute content online via FilmOn.com and syndicate to all major digital outlets online, on satellite and cable. The live show will open at a major U.S. venue and tour the world. Hologram USA previously announced plans to create shows with the estates of Patsy Cline, Buddy Holly and Liberace.

**RETAIL SALES OF LICENSED MERCHANDISE, BASED ON ESTATE PROPERTIES, U.S. AND CANADA, 2009-2014**  
(Retail Sales in Billions)



SOURCE: THE LICENSING LETTER

RETAILERS

### Aéropostale Seeks to Raise Cash with International Licensing

Teen specialty retailer Aéropostale, struggling to turn around sagging sales domestically under threat of delisting from the New York Stock Exchange, is expanding through retail and product licensing deals. The chain plans to expand its operations in Asia and the EMEA region with two new licensing deals. Over the next five years, Robinson Department Store Public Company plans to open approximately 40 standalone and shop-in-shop Aéropostale locations in Thailand, while Q and A Retail Company will open approximately 40 standalone stores in Egypt. Last month, the retailer opened its first store in Ireland with licensee Shuz 4 U International Ltd. They plan to open 10 stores in Ireland over the next five years.

In India, Aéropostale is launching its maiden store in India with drones and a music festival a day ahead of the opening of the store at Select CityWalk mall in Delhi, under license from Arvind Lifestyle Brands. The drones mark the first such brand promotion in India.

In product licensing, Aéropostale recently made a deal with Himatsingka America, which will design, manufacture and distribute home textiles such as bedding and bath linens using the Aéropostale label department stores, big box retailers and wholesale channels across North America.

Aéropostale, well known in the U.S. for its successful in-licensing deal with digital fashion celeb Bethany Mota, closed 23 stores in its fiscal second quarter, ended Aug. 27. While struggling, the chain has narrowed its losses. It posted a net loss of \$43.7 million for the most recent quarter, compared to \$63.8 million a year earlier, and a net loss of \$88.9 million for the first half, compared to \$140.6 million net loss in the first half of fiscal 2014. Quarterly sales slumped 17% to \$326.9 million. First half sales were off 18%, at \$645.5 million.

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## RETAIL

## Entertainment, Sports Licensed Goods Lead Black Friday Deals

Hot holiday properties Frozen and Star Wars, and collegiate and NFL licensed merchandise decked the halls of many retailers on one of the biggest shopping days of the year.

Some of the nation's largest retailers moved to control the flow of information about their Black Friday promotions by "leaking" their own Thanksgiving weekend ad circulars well in advance of the holiday. While stores once unveiled the deals with hefty circulars in ad-laden Thanksgiving Day newspapers, that practice has become somewhat of a relic as shopping websites built their business around early publication of leaked ads and the retailers themselves expanded shopping hours to Thanksgiving Day. In addition, Black Friday has lost its distinction of being the heaviest shopping day of the season, which in recent years has often gone to a weekend day closer to Christmas.

Some retailers including Costco, The Home Depot, Ikea, Sam's Club and Nordstrom (did not even put up its holiday decorations until the Friday) remained closed on Thanksgiving Day and started sales Friday. But a majority of mass merchants and department stores were open for at least part of the actual holiday, with many opening in the evening, despite some consumer backlash.

During the week before Thanksgiving Target, Walmart and others began publishing their Thanksgiving and Black Friday sales prices, including discounts on a wide array of licensed merchandise. Many of the sales began before shoppers had a chance to digest their turkey, with consumers able to grab licensed goods based on Frozen, Star Wars, Paw Patrol, Minions and Thomas the Tank Engine as well as collegiate and NFL licensed merchandise at many stores.

### A sampling of Black Friday deals on licensed merchandise includes:

- ▶ Target's buy one-get one for 50% off deals began at 6 p.m. on Thanksgiving and included an exclusive Star Wars Hero Series action figure set, Minecraft collection pack and TMNT Battle Shell figures. Other hefty discounts were offered on Minions, WWE, Avengers and Paw Patrol action figures; Paw Patrol and Star Wars pajamas; Star Wars and Frozen luggage; and a Huffy Frozen sleigh bike.
- ▶ At deadline, Kmart had not published its Black Friday promotions, but consumers were to be able to shop deals from 6 a.m. to 5 p.m. on Thanksgiving. Kmart's flyer of Thanksgiving deals included Frozen and Star Wars plush pillows and hooded towels (both \$8.99, regularly \$12.99); Star Wars and Avengers action figures (\$4.99, regularly \$12.99 to \$14.99); and a Frozen Quad ride-on for \$59.99 (discounted from \$99.99).
- ▶ Sears, which was open for Black Friday at 6 p.m. on Thanksgiving, also used Star Wars as a featured Black Friday property. It offered Star Wars clothing at a 60% discount, in addition to discounts on Star Wars bedding and accessories. Juvy plush pillows

in Star Wars, Frozen and Minions designs were \$8.99 (regular price \$19.99). Other licensed brand deals at Sears included 40% off NFL team sports apparel and discounts of more than 50% on its Outdoor Life brand men's apparel.

- ▶ Toys 'R' Us made its Black Friday steals available beginning at 5 p.m. on Thursday, with half off featured items including: Paw Patrol Rescue Training Center and Paw Patrol Little Artist Tabletop; Thomas the Tank Engine toys from Fisher-Price and Trackmaster; Star Wars, Frozen, Minions and Paw Patrol art sets; Teenage Mutant Ninja Turtles plush; Minions Movie Deluxe mini figure set; and Star Wars and Marvel play sets.
- ▶ Regional department store chain Bon-Ton's 72 page circular offered 50% discounts on Mattel and Fisher-Price toys including Disney and Thomas the Tank Engine licensed items, and a host of college and professional sports licensed merchandise, including NFL team apparel from G-III at 50% off; collegiate fleece from Champion and J. America at \$19.99 (regular price \$50-\$55); and collegiate and pro football licensed Crock-Pot slow cookers for \$39.97 (regular price \$75).
- ▶ Walmart Stores were open for Black Friday at 6 p.m. on Thanksgiving and offered Black Friday prices all day on Thanksgiving. Two sample pages of the circular released briefly by Walmart on Nov. 11 showed big discounts on licensed sports video games FIFA '16, NBA2K16 and Madden '16, which will be offered at \$27 each (regular price \$59.88).

Despite consumer grumbling about the commercialization of holidays, a new poll from NPD Group and CivicScience identified something they hate even more: Crowds, which topped a new survey of the "Top 5 Things People Hate Most about Holiday Shopping". Nevertheless, traditional deep discounts were expected to keep stores crowded on Black Friday, and possibly on Thanksgiving night as well.

## DIGITAL ENTERTAINMENT

## Visions of the Future from Stream Con

This Halloween, New York saw its first digital content and creator convention: Stream Con NYC. The East Coast alternative to VidCon welcomed thousands of digital content fans, creators and professionals as they negotiated the future of branding and content consumption—and, of course, the implications for licensing.

Celebrities from social media, and the new entertainment formats they are developing, are no longer a niche market. While digital stars make their mark across all age groups, for millennials and Gen Z they are fast becoming

*Continued on page 18*



Continued from page 17

the only *real* celebrities. As *TLL* reported in February, digital stars are more influential, engaging and relatable than their traditional counterparts—and thus stronger purchase influencers.

Despite their obvious draw, licensees have tended to avoid partnering with social media stars, one reason being the risks associated with long lead times. A select cohort has placed licensed products in brick-and-mortar, but the traditional path to riches remains partnering with brands through endorsements, sponsored content and traditional advertising. However, this doesn't mean that digital stars are not eager to have merchandise as part of their revenue stream. Most everyone sells goods like t-shirts through online on-demand retailers such as CafePress, Zazzle, Skreened, Spreadshirt, District Lines and Redbubble.

### Publishing

For many creators, their first successful foray into traditional licensing is through publishing, with first-time authors becoming #1 bestsellers—usually in memoirs or how-to books, but also comic books or novels, as with *Haunting of Sunshine Girl*. Properties that have published extensions are particularly enticing because they are often the source of film or TV programming, which in turn can lay the foundation for a successful licensed franchise (think *Harry Potter*, where licensing activity is based on filmed extensions rather than the original property).

And while some have found success within the traditional publishing model, alternatives that take advantage of the unique nature of online stars are increasingly proliferating. In one panel, staff from Keywords Press, an imprint created in partnership with United Talent Agency (UTA) and Atria Publishing Group (Simon & Schuster) for digital personalities, cited speed and flexibility as key for licensees. While the standard production schedule is roughly 9–14 months, Keywords pushes out new titles as fast as 4 months. Editorial collaboration with authors, who don't usually come with full-fledged proposals, is much more intimate and can involve the publisher influencing final format and genre. And actually selling books to skeptical traditional outfits like bookstores and libraries has required tapping into a celeb's dedicated fan base for pre-orders—numbers have been key in convincing retailers to stock up.

UTA's Natalie Novak revealed that, surprisingly, most book sales (citing 96% for one title) have been for physical copies and not ebooks. Fans revel in the experience of trekking out to stores, meeting stars at a book signing or event and bringing home physical proof of their devotion.

### Working With Digital Stars

Content creators promise an unprecedented scale of engagement for uniquely tapped-in young superfans, but successful licensees need to be nimble, flexible and possess a strong vision. The social media star is a different animal from their traditional media counterparts, with different demands and expectations. Phil Daniels, Partner at

## PERHAPS MORE IMPORTANT THAN DIGITAL CELEBRITIES THEMSELVES IS THE NEW FORM OF CONTENT THEY ARE ENGAGED IN DEVELOPING.

Ginsburg Daniels, a transactional entertainment and digital media law firm representing creators as well as brands, noted that influencers typically demand greater creative input/control and a larger split of proceeds. They're conscientious about their own brands and demand equal levels of authenticity and rigor from the companies they work with.

While top creators frequently cited negative past experiences and acknowledged that they turn down most offers, they remain excited about working with companies. Rather than contrived one-off campaigns, which can come off as fake and selling out, social media stars seek collaborators with a strong vision that they can develop alongside their own brand. They repeatedly stressed the need for companies to own their brand, however big or small, with a developed vision and story that will support a dedicated fanbase. For a manufacturer, that might mean anything from having a strong social mission, sourcing specific materials (cruelty-free, sustainable, high quality, etc.) or having its own iconic in-house brands.

### New Media

Perhaps more important than digital celebrities themselves is the new form of content they are engaged in developing. The way younger generations are consuming media is changing, and that has implications for which emerging properties will be the next big thing and which evergreens will die out. National Geographic is one such brand that described its efforts to take social media seriously—that meant transforming their storytelling for digital and mobile. Strategies include anything from using only vertical format video for Snapchat to featuring personal stories of correspondents.

Kathleen Grace, CCO of New Form Digital, a production company for digital scripted series, stressed the importance of distributing multi-form content with social media in mind. She claims the strategy is highly successful, citing *Oscar's Hotel for Fantastical Creatures*, a joint venture with The Jim Henson Co., as an example. Merchandise sales made up 20–25% of gross revenue. Obviously the financial model for producing and selling online video is on a lower level than traditional screen productions. But it is clear that bigger players who similarly embrace online video and social media as part and parcel of a franchise might see greater levels of fan engagement, and thus, greater success in licensing.

That's not to say digital stars are re-inventing everything they touch. The digital world is following the next big trends, namely superheroes for girls and reboots, in the form of live action *Electra Woman & Dyna Girl* (Legendary Digital and Fullscreen), a reboot of the 70s sci-fi children's show.



## LOCATION-BASED LICENSING

## Place-based Strategy Getting DreamWorks Where it Wants to Go

DreamWorks Animation (DWA) must be as happy as, well, an ogre in a swamp with its strategy to exploit Shrek, Hiccup, Oh, Alex and other characters in location-based licensing. As its DreamWorks DreamPlace holiday attractions roll out in malls across the U.S. and London, the movie studio reported that its consumer product revenues more than doubled in the third quarter ended Sept. 30, rising 123% to \$27 million, and rose 28% year-to-date, to \$54.8 million, due primarily to revenues earned from new and extended location-based entertainment license arrangements.

Location-based entertainment opportunities in such venues as shopping malls, cruise ships and theme parks are a key part of DWA's plan to leverage the value of its properties for recurring revenue streams and make some of its consumer product programs perennial rather than focused on specific events, such as film or home entertainment releases. Location-based entertainment is a fast-growing licensed product category, with most entertainment licensors pursuing deals with touring shows and theme parks for properties as diverse as Harry Potter, Thomas the Tank Engine, DC Comics, Star Trek and Hello Kitty.

During its fiscal third quarter DWA, in collaboration with Merlin Entertainments, opened Shrek's Adventure! London, an immersive storytelling attraction located in County Hall on London's South Bank, near Merlin's other attractions including the London Eye. In Shrek's Adventure!, guests tour the Kingdom of Far Far Away on a 4D bus ride with Donkey at the wheel. Suffice to say, given the characters involved, things do not go as planned—after the bus crashes, the guests must embark on a quest to find Shrek and return safely home. Along the way, they meet up with Princess Fiona, Puss in Boots and eventually, the characters from Madagascar, Kung Fu Panda and How to Train Your Dragon.

Shrek is also central to DreamPlace, a sort of next-level Santa's workshop attraction, where families take a virtual sleigh ride with the ogre and his friends to meet and take photos with Santa. (Minimum buy-in: a \$35 photo package.)

In other location-based deals, since 2010 DWA has licensed its characters for the DreamWorks Experience on Royal Caribbean International cruises. It also mounted a How to Train Your Dragon touring show.

The studio's properties will be featured in a DreamWorks themed zone at Dubai's Motiongate theme park, opening in 2016, where in-park neighbors will be Lionsgate's *The Hunger Games* and Sony Pictures' *Smurfs*.

Lionsgate is also among the many entertainment licensors to seek both revenues and property longevity in location-based deals. It's "The Hunger Games: The Exhibition," featuring props, costumes, photography, set recreations

and a retail stores, is currently enjoying a six-month run at Discovery Times Square in New York and will move to San Francisco in February. Next year will also mount a live stage show based on *The Hunger Games*. The studio has teamed with Dutch media company Imagine Nation and U.S.-based Triangular Entertainment to bring the show to a new, purpose-built theater next to Wembley Stadium in London. And in addition to Motiongate, it has deals with developers to open attractions based on *The Hunger Games* in new parks planned for Atlanta and China, *The New York Times* reported.

In another recent deal, Twentieth Century Fox said last week that it will license properties including *Aliens*, *Planet of the Apes*, *Sons of Anarchy* and *Titanic* for a Fox-branded theme park and resort in Dubai to be developed by Al Ahli Holding Group. It could open in 2018, following a similar attraction in Malaysia that is expected to open in 2017.

And in an in-house deal, Jimmy Fallon is getting his own 3D amusement park ride at Universal Orlando, *Race Through New York Starring Jimmy Fallon*, to launch 2017.

## Can you compete in the \$10.6 billion global preschool market?



### DO YOU KNOW:

- ▶ Which 20 preschool properties had retail sales of licensed merchandise of \$100 million or more each in 2014?
- ▶ What percent of preschool merchandise sold is toys, apparel, & other categories?
- ▶ The six properties licensing executives predict will be "hot" in 2015?
- ▶ How media consumption by preschoolers is changing dramatically?
- ▶ How to support the launch of your preschool property with apps and video-on-demand?

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## VIDEO GAMES

## Activision Latest to Launch TV/Movie Studio

Activision Blizzard made its latest move in a series set to position the company as a multi-platform entertainment franchise power. The video game development company launched its own TV and movie studio, Activision Blizzard Studios. It joins companies like Mattel and Hasbro, whose in-house studios are set to grow their overall business. On the other side of the equation, companies like Disney and MGA are building up their digital/interactive arms.

The growing trend to develop non-entertainment/character properties into full-blown, multi-platform franchises has marked effects on the licensing as these brands gain more staying power and influence. Of the upcoming movies with licensing potential slated for release through 2020, toys and video games/apps made up 7% and 6% of all sources, respectively, and their share is expected to grow (*TLL*, Nov. 2015).

Activision Blizzard Studios will be co-headed by former Disney executive Nick van Dyk. He confirmed that Activision will still work with established studios, noting that “we’re not in the film and television business, we’re in the franchise, intellectual property business,” at an Investor Day conference. To this effect, Activision is aggressively ramping up its licensing efforts; at this year’s Licensing Expo and Brand Licensing Europe the company showed off key brands Skylanders, Call of Duty, the new video game Destiny and Guitar Hero.

First up from the new division is the animated TV series “Skylanders Academy,” based on the video game franchise. Skylanders, which launched in 2011, is firmly situated in

our upcoming list of \$100 million entertainment/character properties for 2014 thanks to its prolific presence in interactive toys. Activision recently expanded the franchise with a mobile game app from Vicarious Visions. Based in the iOS ecosystem, the game allows players to switch between devices of their choice, including Apple TV, and comes with the brand’s digital-connected toys. Juniper Research forecasts that smart toy sales will reach \$2.8 billion in revenues this year, driven by the popularity of the console-connected toys-to-life segment dominated by Skylanders, Amiibo (Nintendo) and LEGO.

Also amongst the first brands set to be exploited by Activision is the video game series Call of Duty. The latest installment, “Call of Duty: Black Ops III” rang up \$550 million in sales worldwide in its first three days—demonstrating the kind of franchise firepower the company is counting on to propel its new content studio. Activision called the “Black Ops III” launch the biggest entertainment debut of the year, comparing its retail sales to *Jurassic World’s* global first-weekend record box-office revenue of \$524 million.

And it’s not just TV and film—the PC and console game maker is also moving into the mobile market with its acquisition of King Digital Entertainment, the makers of mobile game app Candy Crush. Amidst expectations of falling revenue, King sold out to the tune of \$5.9 billion, making it the largest such acquisition ever. The move is expected to serve as an entry point for Activision into game apps by maintaining the power of Candy Crush as well as developing new properties.

## LICENSING LITIGATION

## Licensee Accusation: Asics Deliberately Tried to Drive Us Out of Business

**What Happened:** Asics gave Windsor Financial Group, LLC, financing and exclusive rights to open and operate 13 Asics stores, including flagships in Boston and New York. The deal was supposed to run for 20 years but a couple of years in, Asics terminated the agreement. As a result, Windsor had to close the stores and eat the millions of dollars it had invested to open them.

**The Claim:** Windsor is accusing Asics of bad faith and fraud. It contends that Asics deliberately withheld promised product access, new products and marketing support in an effort to starve the stores of cash and leave them at the mercy of Nike, Sketchers and other rivals. Ending the agreement was supposedly the final blow designed to force the stores to shutter and clear the way for Asics to scoop up Windsor’s remaining store assets for pennies on the dollar.

**The Outlook:** Windsor filed a lawsuit against Asics and its Japanese parent company in Los Angeles on October 14. Asics has yet to comment publicly on the case. But when Asics announced that it was terminating the agreement

this June, it cited unspecified “material breaches” committed by Windsor as the reason. So you can expect the company to deny Windsor’s allegations and mount a vigorous defense.

**The Moral:** We have absolutely no idea whether Windsor’s claim that Asics acted in bad faith has merit. But what we do know is that when a licensee feels like it’s not getting the expected support from its licensor, the culprit is often not bad faith, but bad contracting.

**The Takeaway:** Since licensors and licensees both have an interest in maximizing sales of the licensed product, you’d expect licensing agreements to list the specific things each side must do to achieve that end. In fact, agreements typically place the entire burden of maximizing sales on the licensee without specifying what the licensor must do to support those efforts. To avoid falling into this trap, you should ensure that your own agreement sets out the sales, supply, marketing, advertising and other support the licensor must provide to the licensee.

## Benchmark Royalty Rates, Guarantees & Advances



### DO YOU KNOW?

- ▶ The average royalty across all property types and product categories?
- ▶ Which three property types earn the highest royalties?
- ▶ Which three product categories pay the highest royalties?
- ▶ The range of guarantees for licensing agreements?
- ▶ How long the average licensing contract runs by property type and product category?

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## TOYS & GAMES

### Toy Sales Split Along Gender Lines

Reported third quarter (3Q) sales from toy giants Hasbro and Mattel exhibited an interesting break along gender lines, with boys' toys outperforming girls' amidst depressed worldwide sales thanks to unfavorable exchange rates. While this trend began materializing in 2014, more gender balance may be on the way. The girls' market is expected to get a boost next year from the first interactive Barbie doll and a squadron of female superhero properties landing on retail shelves.

Hasbro's 3Q boys' sales increased 24% to \$593.1 million thanks to Star Wars, Nerf and Jurassic World, while sales of girls' toys decreased to \$407.7 million (-28%) with lowered sales from Furby and My Little Pony offset partially by Disney's Descendants. Mattel similarly reported a 4% dip for its Barbie brand to \$302.0 million in Q3 and a 20% fall in sales for other girl's brands to \$320.4 million in constant currency, while sales for the traditionally boy-skewing wheels category (including Hot Wheels and Matchbox) jumped to \$266.9 million (6%).

However, these low figures aren't expected to hold for long. At BLE, Frederique Tutt, Global Toy Industry Analyst for The NPD Group announced that 2014 toy sales figures across all major markets were up, and expected to increase a further 2.7% this year to bring 2015 sales to a record \$13.8 billion. The increase was largely thanks to licensed brands including Frozen (worth twice as much as the next largest property LEGO Ninjago), Playmobil and Star Wars. U.S. sales increased 7%, with the largest growth seen in Mexico (19%). The only market that experienced a decline was France (-2%).

#### Supercharging the Girls' Market

The girls' market is expected to see a boost next year from Mattel's Hello Barbie, the first interactive Barbie doll (down 6% year-to-date through Q3). In addition, the U.S. will see at least four high profile female-focused superhero properties by 2017. Tutt attributed worldwide growth in toy sales in part to superhero brands, particularly from Marvel.

- ▶ Warner Bros.' "DC Super Hero Girls" will launch this fall with global master partners Mattel (toy), The LEGO Group (construction sets), Random House

Children's Books (publishing) and Rubie's Costume (costumes) already on board. Digital content and TV specials are first to come, while publishing, toys, apparel and other products will begin to roll out in 2016. Developed for girls aged 6–12, the franchise stars the youthful versions of female superheroes and villainesses from the DC Comics universe.

- ▶ "Miraculous: Tales of Ladybug & Cat Noir" is an original 3D CG-animated action-sitcom from Zag Animation Studios premiering this fall. Global master toy licensee Bandai is joined by Rubie's Costume (costumes, accessories), Accessory Innovations (bags, backpacks, luggage, accessories), H.E.R. Accessories (jewelry, hair accessories), Franco Manufacturing (bedding, bath), Komar (children's pajamas, sleepwear, robes) and Handcraft Manufacturing (children's underwear).
- ▶ Cartoon Network's 2016 relaunch of "The Powerpuff Girls" will be anchored by master toy partner Spin Master (including plush, figures, playsets and dolls) with products hitting retail fall 2016. In North America, partners include Penguin Books (publishing) and Disguise (costumes, dress-up toys, accessories).
- ▶ Nelvana Enterprises and The Topps Co.'s "Mysticons" will launch 2017 with Playmates Toys acting as the global master toy partner. Targeted for girls aged 6-plus, the animated series tells the epic tale of four girls from different walks of life who transform into legendary warriors in their quest to find a magic tome and save the world.

#### Blurred Lines

While manufacturers don't seem to be departing from the concept of gendered toys, these distinctions are slowly being dismantled in retail aisles. Target announced this August that it was eliminating storewide labeling of toys as boys' or girls'. While Toys 'R' Us did the same in the U.K. following other regional retailers, the toy giant has yet to make any moves in the U.S.

## Who's News

### The New Face of Beanstalk

Licensing agency Beanstalk officially appointed Allison Ames as CEO, expanding her current responsibilities as President. She succeeds Michael Stone, who will actively serve as Chairman, advising and promoting the company. Ames had worked with Stone, who moves on from his role as Co-founder & CEO, for 18 years and for the last year has taken up her new role in all but name. As the company comes off a year of growth, it is planning bullish expansion in international reach, especially in Latin America, Asia and the Middle East, as well as its portfolio.

Beanstalk's bread and butter brands are in corporate/trademark (examples include Black & Decker, Energizer, P&G) which, as a category, grew 2% in 2014, and Ames expects greater growth for brands in the food/beverages subcategory (Got Milk?, Slim Jim, Airheads), which grew 3.5% domestically in 2014. Beanstalk's roster of food brands are growing at a greater clip internationally, while they have historically performed better in the U.S. The agency also represents celebrity brands (Mindy Weiss, Paris Hilton, Salma Hayek), and is expanding into a new category with six video games titles from Microsoft.

Ames identified several trends that she expects to tap into and drive brand licensing over the next year:

- ▶ She expects **electronic sports** (esports)—organized multiplayer video game competitions—to help video game properties get a broader reach, noting that esports have greatly increased visibility for Beanstalk's Microsoft titles.
- ▶ The **maker movement**, which is strong with millennials, has sparked a rebirth of specialty e-commerce and manufacturers that serve the space.
- ▶ **Direct-to-retail** (DTR) relationships, such as retail-only partnerships, are evolving to address shrinking shelf space in brick-and-mortar and the growth of e-commerce.
- ▶ As the **wearables** market is developing, consumer electronics are allowing for greater diversity and reach of brands.

MHS Licensing has brought on **Cathy Anderson** as an Account Executive.

Licensing veteran **Ivan Marco** and business partner **Conchita Romero** have launched a new licensing agency in Spain. Marcrom Licensing's portfolio of brands includes Belen Esteban, Terelu Campos, Boris Izaguirre, Kiko Matamoros, Ylenia, La Liga, Munich, Keith Kimberlin and Kokonuzz.

Former Nickelodeon and Disney senior executive **Geradine Laybourne** has joined the board of directors of 9 Story Media Group.

After 35 years in the licensing industry, Exim Licensing Group President & Founder **Elias Hofman** is stepping down. Following his departure on Jan. 1, offices in Argentina, Mexico, Panama, Colombia, Peru and Brazil will be managed and run independently. Hofman plans to continue working in the entertainment business by finding new development opportunities in areas such as lives shows, exhibitions and events in Latin America and the U.S.

Balmoral Funds, a Los Angeles-based private equity fund, has acquired giftware company Enesco and named **Todd Mavis**, an operating advisor for Balmoral, as CEO. Current CEO **Tom Bowles** will retire.

The Bon-Ton Stores appointed **Nancy Walsh** to the position of EVP & CFO.

Tomy Intl. has announced that **Nicolai Lindhardt**, EVP Europe, is departing the company. He will be replaced by **Masayuki Nagatake**, currently CCO.

**Stephen Smith** is LL Bean's new President & CEO.

**Laurel Richie** will step down as President of the WNBA. NBA Deputy Commissioner **Mark Tatum** will oversee the WNBA on an interim basis while the league searches for a new president.

UTA's digital media division added agent **Sara Early** to its staff. Early will identify and represent brands, platforms, and digital influencers for UTA.

Home textiles distributor and manufacturer Design Weave promotes **Eric Jent** to company President.

Turner Intl. announced new appointments to streamline its entertainment business. **Hannes Heyelmann**, SVP/MD Central & Eastern Europe will represent Turner International as its liaison executive with entertainment teams in the U.S. Meanwhile, **Patricia Hidalgo**, SVP/Chief Content & Creative Officer Kids EMEA, will assume the new remit for the company's international kids strategy.

Warner Bros. Animation promoted **Jay Bastian** to SVP Series, and COO Ed Adams to SVP & GM.

Spin Master's MD Europe, **Kevin Jones**, is retiring at the end of 2015. **Hedley Barnes** will be promoted to Regional General Manager North (U.K., Germany, Benelux), while **Guillaume Mamez** will be promoted to Regional General Manager South (France, Italy). In the U.K., Jacqueline Taylor-Foo will be promoted to Commercial Director Sales and **Phil Hooper** will be promoted to Commercial Director Marketing.

**Brenda Gilbert** has been named President of Bron Media Corp's Bron Animation. The division's leadership team is filled out by **Adam Wood**, VP Creative; **Teunis de Raat**, VP Digital; and **Luke Carrol**, VP Production & Development.



Vandor has hired **Vince Brick** as Director Business Development National Accounts.

Viacom International Media Networks' VP Intl. Brand Management **Charlotte Castillo** has been promoted to SVP Brand Management & Creative for Nickelodeon and Viacom Consumer Products.

**Seth Marks**, former SVP Merchandising & Strategic Sourcing for Overstock.com, has joined Kmart as Head Strategic Merchandising.

**Jarrod Weber** has been promoted to EVP Fashion at Authentic Brands Group.

Vandor hires marketing veteran **Dhyani Gardner** as its VP Marketing & Product Development.

The Saban Brands executive team saw multiple appointments, including: **Tori Cook**, SVP Global Retail Business Development; **Marcy George**, VP Global Consumer Products; **Jennifer Wexler**, SVP Marketing; **Stan Wan**, Creative Director Saban Brands Lifestyle Group; and **Scott Rosenbaum**, SVP Business & Legal Affairs.

FOX Sports is reeling in **Barbara Blangiardi** to serve as SVP Strategies & Creative Partnerships.

**Alber Elbaz** is stepping down from his position as the creative director of Lanvin after 14 years.

**Raf Simons** is leaving Dior, where he was Artistic Director of women's haute couture, ready-to-wear and accessory collections.

Scripps Networks Interactive promoted **Eleni Stratigeas** to SVP Business/Legal Affairs & Corporate Secretary.

Whirlpool has named **Marc Bitzer** President & COO.

**Brendan Hoffman**, former CEO of The Bon-Ton Stores Inc. and earlier Lord & Taylor, has joined Vince as CEO. He succeeds **Mark Brody**, who has served as Interim CEO since July when **Jill Granoff** departed from the brand.

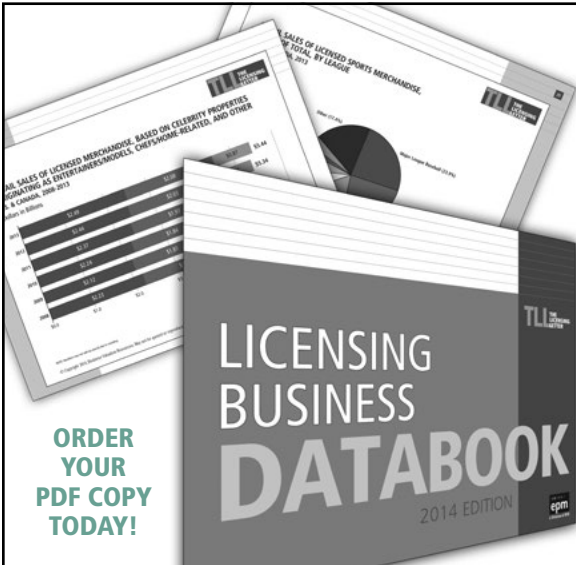
Rovio is to cut 213 jobs across all departments and refocus on games, media and consumer products.

YouNow, a live streaming social app, hires **Gregory Stropoulos** as Director Business Development.

**Robert Iger**, Chairman & CEO of The Walt Disney Co., is to be inducted into the Toy Industry Hall of Fame for his contribution to the lives of kids across the globe.

**Manny Stul**, Co-CEO of Moose Toys, was named the 2015 Australian Entrepreneur of the Year for his drive passion and achievements.

Sock & Accessory Brands Global has named **Tom O'Riordan** CEO & Chairman. Founder **Jeff Arnold** will transition from CEO to a member of the board.



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## TECHNOLOGY

### New Frontiers in VR

As traditional linear entertainment is falling by the wayside, certain emerging technologies are paving new roads for us to interact with brands. Internet TV is one example of shifting consumption habits, where on-demand viewing has become the norm. And now, virtual reality (VR) and augmented reality are further shifting the paradigm to achieve higher levels of engagement.

As the technology behind VR is emerging from its infancy, becoming more advanced, inexpensive and therefore accessible, major technology firms are finally releasing the types of consumer headsets that can support a thriving market. It's no stretch to say that 2016 is the year of VR. Major players such as Disney, Comcast, Time Warner and

*Continued on page 24*



Continued from page 23

Legendary Entertainment are pulling out all the stops in an effort to be the first. The proving ground, and where consumer attention is largely directed, is video games—and while developers like Ubisoft are bullish and others such as EA are holding back, it is generally accepted that a significant market will exist within 5 years. The technology has already expanded to films, live events and even product launches. According to Piper Jaffray, by 2025 the market for VR content (not including hardware) will reach \$5.4 billion.

While augmented reality units are further off in the future, the promise of seeing your favorite characters or the latest products in your room is no less tantalizing for those seeking the latest ways to monetize more connected, tech-savvy consumers.

The biggest challenge is adoption, with hardware developers straining to slash prices and raise buzz. Google recently partnered with *The New York Times*, which sent out over a million free Cardboard units as it launched new VR content. The giant also partnered with YouTube to support VR, targeting the masses in a way high-end gaming units cannot. On the flip side, Google partnered with Mattel for a 21st century reboot of classic toy brand View-Master that hit retail this fall.

While the NFL became the first to broadcast a professional sporting event in VR last month, it's expected to be joined by the NBA and European soccer leagues as early adopters. With content being developed by start-ups and big studios alike, the licensing industry will likely see new VR-based properties breaking into consumer products over the next five years.

## Know Your Headsets

### Google Cardboard (2014):

Literally a fold-out cardboard mount for a mobile phone. Low emersion, low price point (>\$10).

### Razer OSVR (Jun. 2015):

Open source VR initiative. Developer kit from Razer allows for modifications (\$199); compare to similar Oculus DK2 (\$350).

### Samsung Gear VR (Nov. 2015):

Headset that works with the 2015 line of Samsung smartphones. Has separate gamepad (\$99).

### HTC Vive (Q4 2015):

Higher-end PC-based headset developed by HTC and Valve, to support titles on the Steam VR gaming platform (\$300–500).

### Oculus Rift Crescent Bay (Q1 2016):

PC-based headset with positional tracking and integrated audio. Developed by Oculus VR, acquired by Facebook FB. Ships with Microsoft's Xbox One wireless gamepad, with more controllers to come (\$200–400).

### Project Morpheus/PlayStation VR (Q2 2016):

Headset from Sony for the PlayStation 4 and PlayStation Vita game systems. Around 70 confirmed games, including franchises with robust licensing programs (\$399).

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