

міжнародних документів та межі відповідальності цих органів.

Україна вже ратифікувала низку конвенцій, які встановлюють міжнародні стандарти у галузі праці й соціальній сфері моряків. Як було зазначено, основними гарантами прав людини є національне законодавство і сама держава, на території якої проживає дана особа [2]. Але багато міжнародних актів Україна ще не ратифікувала, зокрема Конвенцію про працю в морському судноплаванні (MLC), яка була прийнята під егідою Міжнародної організації праці 23 лютого 2006 р. Слід відмітити, що Конвенція унікальна за своєю юридичною природою і тому суттєво відрізняється від всіх інших конвенцій Міжнародної організації праці.

Література

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LEGAL ASPECTS OF MERCHANDISING

Trademark rights are acquired in names, logos, symbols and other marks by any person or business entity by using it in the normal course of business or by filing an application for registration of the mark in the appropriate state authority. Merchandising can be defined within the purview of the entertainment industry, as the manufacture or production and sale of a film's or television's program name, artwork, logo, characters, or other elements related to the film or program. Commonly, the owner or producer of an artistic work licenses or offers the right to produce and merchandise these products that carry any of these artistic elements. The owner or the producer gets payment normally in the form of a royalty on each product sold, in return for that permission. This licensing agreement is more or less similar to a rental contract.

The owner of the film or television program grants the permission to use the elements in that film or television shows on certain products for a specific period. The owner may agree with manufacturer to use the elements in that film or television shows in a specified distribution network for a certain payment.

If it is a name, logo, character, or other parts of a film or show, which is a licensable element, it must first be legally protected under the trademark or copyright laws. These elements are referred to as the “property”, and the owner of this property is called the “licensor”, while the manufacturer is called the “licensee”.

Licensing is based primarily upon the legal protection given under trademarks. Names, graphic depictions, slogans and other elements that vary from a company’s line of product from those of a competitor can be trademarked through the appropriate state authority. Trademark protection is vital because a film or television program after licensing will become an apparel brand, a toy brand, or a brand of stationery, and many others. However, a secondary method of legal protection is offered under the copyright law. Copyright law protects artistic creations like music, text, scripts, screenplays, and artwork.

Film-related products are rarely manufactured by the film producers and distributors themselves, whereas they license the right to sell these products to other companies called licensees. In most cases a greater risk is taken by the licensee than the licensor (producer and distributor) because the licensee incurs all expenses relating to manufacturing and distribution of a film. Mostly producers and distributors receive royalty payment as well as an advance payment for each product. Usually major film studios are the owners of licensable film properties. There are special licensing divisions organized to handle the company’s own copyrighted properties and at times those owned by others as well. For example, Warner’s Licensing Corporation of America (LCA) and Disney’s Consumer Products division are such special licensing divisions. Revenues that studios’ generate from merchandising vary greatly depending on the films released in any one year.

By international standards, television program merchandising and licensing is big business. It is estimated that consumers, worldwide, have tremendously increased in purchasing merchandising products. Most of the top-selling merchandising properties are characters driven from television programs that are targeted at children. Retail of television merchandising products is not only limited to children’s programs. Many other types of television programs have spawned lucrative merchandising of products as well. Generally the producer or owner of the artistic creation that is the television program, licenses or offers the rights to produce and merchandise these products that carry any of these artistic elements. In return for that permission, the owner or the producer of the television program receives payment normally in the form of royalty.

Merchandising is the term used to describe products that advertise another

product. Since music is being used in more places than ever before these days, record companies use merchandising on a regular basis to create a “brand interest”, raising public awareness about a new artist or the latest release. The creators of musical work licenses or offer the rights to produce and merchandise musical work to the purchaser or manufacturer. A purchaser of recorded music owns the media on which the music is stored, but not the music itself. The purchaser has limited right to use and reproduce the recorded work. The owner of the musical work gets an amount as royalty and an advance payment as fees from the purchaser. Music merchandising is a fundamental source of promotion, advertising and income to cover some of music producers’ expenses. The key points on the contract between the owner of the musical work and the purchaser will be the terms (period), territory, advances, and royalties including the right to use his/her artwork.

So, the advantages of merchandising can be categorized into two broad areas:

1. The producer needs advertising to educate consumer about their products and to generate a consumer awareness and interest for the product. Merchandising helps producer to support other marketing activities that is attached with the film or show. Such marketing activities are promotions to exhibitors and cinemagoers, and electronic advertising at retail level and with broadcasters. Merchandising helps to create an excitement and eagerness in the minds of people for the product. Thus, merchandising expands the total number of people who hear about the film, television shows and further reminds about the existence of the product in the market. Therefore, merchandising plays a crucial role in gaining greater recognition and preference for a filmmaker or program producer’s products.

2. Television program series producers and filmmakers are entitled to get an amount as royalty form licensees by selling his/her licensed merchandising items. Money raised from these royalties can offset part of the rising costs of film and television program production. In addition to the royalty, the producer may also receive a minimum guarantee amount as advance payment from the licensee. Another benefit is that the licensor has trademark protection that prevents others from exploiting his/her logo or characters [1].

Literature

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