5 KEY TAKEAWAYS

Lights, Cameras, Lawyers! Running an In-House Content Production Studio

Kilpatrick Partner **Laura Miller,** Delta Air Lines' **Heather Morlock** (Assistant General Counsel, Corporate Transactions and Marketing), and Sallie Mae's **Minh Ngoc Nguyen** (Vice President & Associate General Counsel) recently spoke at **ANA Masters of Advertising Law Conference** on the topic of **"Lights, Cameras, Lawyers! Running an In-House Content Production Studio."** As more brands bring content production in-house for cost savings, speed, and creative control, legal teams lose the safety net of agency indemnities and must build their own clearance and risk-management frameworks. The panel covered intellectual property ownership, talent and third-party licensing, AI, vendor contracts, and review workflows, while offering practical strategies to keep in-house studios compliant, yet fast.

Key takeaways from the presentation include:

1

Build Review Workflows That Keep Pace With Production

- Integrate legal early through a stage-gate model with checkpoints at concept, script, production, and final edit.
- Have creative teams complete a one-page pre-clearance checklist before submitting content for legal review.
- Use pre-approved templates and tiered, risk-based review, with clear red-flag triggers such as competitor mentions, health claims, celebrity likenesses, and regulated categories.
- Invest in engaging, scenario-based training and position legal as a creative partner, not police.

2

Lock Down IP Ownership From Day One

- Employers generally own works employees create within the scope of employment, but independent contractors retain copyright by default absent a written agreement.
- Use written work-for-hire agreements with every freelancer and include a full IP assignment as a fallback for works outside the nine statutory categories.
- Include IP assignment clauses in offer letters and employment agreements rather than relying solely on the work-for-hire doctrine.
- Distinguish background from foreground IP, secure perpetual royalty-free licenses to pre-existing materials, and maintain an IP ownership registry updated with every project.

3

Clear Talent, Music, Locations, and Third-Party Content

- Right of publicity is a state-law patchwork; releases should address scope of use, duration, territory, digital alteration, and AI-generated likenesses.
- Engaging SAG-AFTRA talent triggers collective bargaining obligations, and becoming a signatory affects all future productions.
- Music generally requires both a sync license (composition) and a master use license (recording); track every license's term, territory, and renewal dates.
- Interior locations, street art, and recognizable third-party IP require releases or clearance, and platform terms of service are not sufficient for commercial reuse of user-generated content.

4

Document Human Authorship in AI-Assisted Content

- The U.S. Copyright Office and Thaler v. Perlmutter confirm that copyright requires human authorship, so purely AI-generated outputs may not be protectable.
- Keep records of prompts, selections, modifications, and creative direction to support registrability.
- New York and California now require disclosure of synthetic performers, and state digital replica laws continue to expand.
- Establish internal policies on when and how AI-generated likenesses may be used, and account for FTC transparency and false advertising considerations.

5

Standardize Vendor Contracts and Insurance

- Production vendor agreements should include work-for-hire provisions with assignment fallback, confidentiality, SLAs, and vendor indemnification for IP and talent claims.
- In a hybrid agency/in-house model, audit agency-created assets and ensure clean IP transfer when moving work in-house.
- Evaluate E&O, media liability, CGL, and cyber coverage, watching for exclusions covering AI, social media, and user-generated content.
- Review insurance coverage annually as production activities, especially AI use, evolve.

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