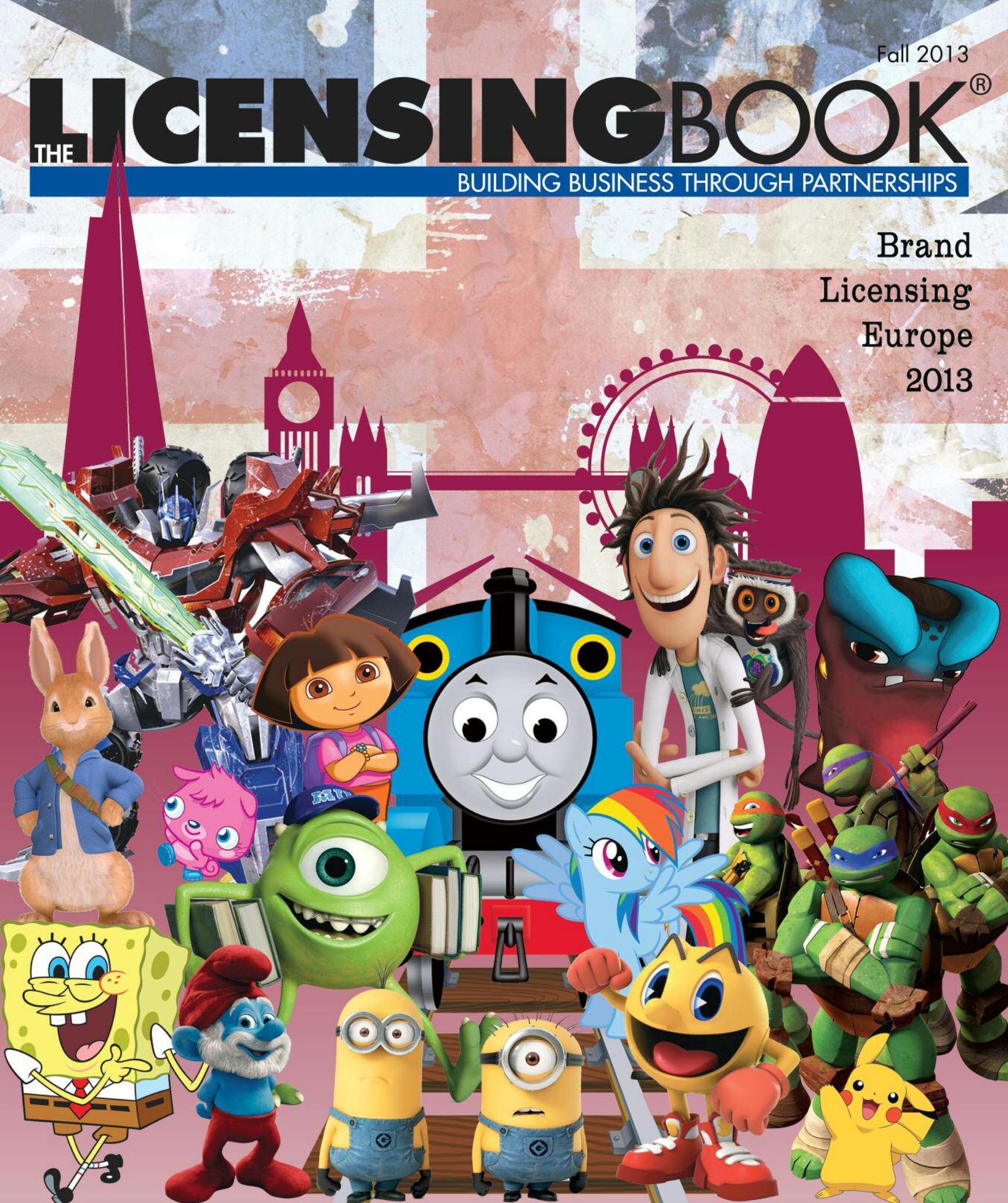


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The Proliferation of Winning Partnerships Between Retailers and Multi-Hyphenate Celebrities



by Darrell Miller, managing partner, Fox Rothschild LLP

The retail market has experienced the economic equivalent of a rollercoaster ride in recent years. On the upside, the Internet and mobile devices have made it possible for brands to market, sell, and distribute goods in an unprecedented number of ways. At the same time, new distribution platforms such as Amazon and eBay have undermined traditional business models and the brick-and-mortar retailers that brands previously depended on to sell their goods. Now, brands must look for strategies to cut through the digital clutter, differentiate their products, and grab the attention of consumers. As such, a growing number of brands are turning to the power of celebrity partnerships to drive sales and brand awareness.

Examples of strategic branding partnerships between celebrities and retail companies are increasingly easy to find. Kohl's, the department store chain, collaborated with Jennifer Lopez to sell a successful line of branded apparel, accessories, and items for the home. Kathy Ireland, the former *Sports Illustrated* swimsuit model, has partnered with retail companies such as Lamps Plus to sell a line of home furnishings bearing her name. Her brand, Kathy Ireland Worldwide, was estimated by *Forbes* to sell \$2 billion in goods annually. To take an example from my own legal practice, I've worked with the rapper and actor Chris "Ludacris"

Bridges on the successful launch of several branded ventures such as his "Soul" by Ludacris headphones and the development of the high-end cognac brand, Conjure.

With so much money being generated, it is easy to see why both brands and celebrities are eager to use strategic partnerships to grow their bottom lines. While the profits can be staggering and the ability to reach consumers can be unparalleled, celebrity endorsement deals often involve complex negotiations that draw on issues that may be unfamiliar to many retail brands. This is especially true for retailers and brands that increasingly negotiate directly with celebrities and their representatives without the assistance of ad agencies or other traditional middlemen. It is critical that retailers and brands educate themselves about how these deals are structured and, in particular, the unique considerations that come into play when working with celebrity partners.

Understand the Rules of Actor Unions

When contemplating celebrity partnerships, many retailers do not consider one of the most important dimensions of such engagements:

"An artist may say, 'I travel with three bodyguards and my agent, and we all need to be on the same floor of the hotel, next to the elevator.' Just don't forget about the makeup artist, wardrobe specialist, and hair stylist, who are coming, too."



Ludacris with Conjure cognac

working with professional actor unions. Professional unions such as the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) set the parameters for negotiations regarding retail partnerships and licensing deals. Union rules can specify everything from wardrobe allowances, to how grievances and disputes will be arbitrated, to the scale of pay at which the artist must be compensated (more on this later). Given the wide-ranging nature of the issues covered

by union rules, it is imperative that brands engage advisors who are experienced in working with professional talent and can help them to navigate these rules.

Know the Celebrity's Target Audience

Partnering with celebrities can provide brands with instant recognition and cachet. Think of the rapper 50 Cent's partnership with Glacéau, makers of vitaminwater, to produce a proprietary line of grape-flavored beverage, Formula 50. Glacéau benefited from 50 Cent's immense popularity and, after seeing its stock surge, was purchased for \$4.1 billion by Coca-Cola. The benefits can be enormous, but what is sometimes lost on retail brands is the need to understand the celebrity's fan base

and demographic reach before engaging in a celebrity partnership.

While brands may want to benefit from the popularity of a famous partner, it is essential to remember that the celebrity's actions—related to the brand or not—can have irreparable consequences for the public perception of the product. To protect against this type of scenario, retail brands are increasingly insisting on the inclusion of a morals clause in their contracts with the celebrities (this type of provision curtails, restrains, or proscribes the behavior of a party to the contract).

Accept the Economics

Although retailers and brands have an increasingly sophisticated understanding of celebrity partnerships, they frequently still get "sticker shock" when they see the typical price range for engaging A-level talent. Key financial considerations for retailers and brands include:

- As noted above, professional unions set the minimum wage or scale at which performers must be compensated. Union rules apply to commercials and endorsement appearances, as well as movies, TV shows, and radio ads. For retailers and brands that are accustomed to working with non-professional actors to promote their products and appear in advertisements, working with professional unions is worth the investment if they are prepared.

- The (not so) hidden cost of travel: Contracts with celebrities and other professional talent will include a range of provisions regarding how the artist will travel (first-class or five star hotel), what type of accommodations they expect, what type of food they will eat, and who will travel with them. A common feature of many contracts are provisions for the travel expenses of the posse or "glam squad"

with whom the artist expects to travel. An artist may say, "I travel with three bodyguards and my agent, and we all need to be on the same floor of the hotel, next to the elevator." Just don't forget about the makeup artist, wardrobe specialist, and hair stylist, who are coming, too. Companies may attempt to cut corners, but then they risk compromising the relationship between the brand and the celebrity partner.

- Residuals and broadcast rights: Residuals are fees that are paid to professional performers for subsequent showings of a filmed work in which they appear (i.e., the payment actors receive for TV reruns or commercials). Brands may be responsible to pay residuals and must factor this cost into their financial assessment of a deal when working with union performers.

In short, working with professional talent and celebrities is expensive, but often worth it, if a retailer's economic logic is to successfully increase sales through the use of well-executed celebrity partnerships. One strategy brands can use to mitigate the cost of these deals is to engage the services of talent agencies or advertising firms that are in the business of working with celebrity talent. Brands should also work with legal and other industry professionals who are experienced in negotiating and managing such deals. The "sticker shock" experienced by brands can also be a result of underestimating the economic value of celebrity.

In my own legal practice, I have advised Fortune 100 companies in the structuring of celebrity partnership deals. My experiences show that these deals can be very lucrative for both celebrities and retail brands. Brands, however, must educate themselves about how these deals are structured and the special considerations that



Ludacris wearing Soul headphones

come into play when working with professional talent. These partnerships will continue to grow as both brands and artists find new ways to arrange mutually beneficial partnerships to leverage the power of celebrity and to generate significant streams of income. ●●●

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