



November 7, 2014
3:30 PM – 4:45 PM

**Session 403: Anatomy of Cross-Media Entertainment Production –
Legal Perspectives on Bringing a Blockbuster from Idea to Market**

In today's entertainment commerce landscape, brands and properties are often launched across multiple platforms. What goes on behind the scenes from the legal perspective to bring your favorite movie off the big screen into a cross-media extravaganza of TV, video games and other branded products? This panel will provide an A to Z overview of the legal considerations of producing and developing cross-media entertainment products. The panelists will also discuss the legal issues that arise from bringing such entertainment products to market, including social media, data privacy and more.

Program Chair:

Jeanette Lee, *Lawyer*, Stohn Hay Cafazzo Dembroski Richmond LLP

Moderator:

Stephen Y. Ma, *Partner*, Early Sullivan Wright Gizer & McRae LLP

Speakers:

Melvin N.A. Avanzado, *Owner*, The Avanzado Law Firm

Andrew Chang, *General Counsel and Corporate Secretary*, DreamWorks Animation

Michele Wong, *Senior Attorney*, Xbox Division, Microsoft Corporation,



A DIVISION OF EVEREST INSURANCE COMPANY OF CANADA

Multimedia Liability/Errors & Omissions Insurance Application

NOTICE: THIS IS AN APPLICATION FOR “MULTI MEDIA” INSURANCE COVERAGE. ALL SECTIONS OF THIS APPLICATION MAY NOT BE APPLICABLE TO YOUR BUSINESS OPERATIONS. ONLY FILL OUT THE SECTIONS THAT ARE APPLICABLE. ONCE THE APPLICATION HAS BEEN FILLED OUT AND FORWARDED TO US, A PROCESS CALLED “CLEARANCE” WILL FOLLOW. DURING THIS PROCESS WE MAY WANT TO SPEAK WITH YOUR LEGAL COUNSEL, MEET WITH YOU, OR PERSONNEL OF YOUR COMPANY, TO REVIEW THE RISK MANAGEMENT STEPS THAT YOU HAVE BEEN PUT IN PLACE THROUGHOUT YOUR BUSINESS.

1. Name of Applicant: _____
2. Street & Mailing Address : _____
3. Applicant is a : Corporation Individual Partnership Joint Venture
4. Names and Titles of Principal Officers, Partners or Individuals : _____

5. Desired Effective Date: _____ Desired Term of Policy: _____ year(s)
6. List subsidiaries, affiliates and trade names: _____

7. Coverage requested: Limit of Liability _____ Retention _____

Media Operations (Answer when applicable)

Newspaper Operations

8. Schedule of publications:

a. Name				
Publication (1)	_____	Publication (3)	_____	
Publication (2)	_____	Publication (4)	_____	
	Publ. (1)	Publ. (2)	Publ. (3)	Publ. (4)
b. Location	_____	_____	_____	_____
c. Frequency (daily, weekly)	_____	_____	_____	_____
d. Average circulation	_____	_____	_____	_____
e. Circulation area	_____	_____	_____	_____
9. Give any pertinent details of city if necessary: _____

10. For publications scheduled above, list publications sharing content and percent of duplication: _____

11. Identify newspaper(s) and specify language(s) if published in a non-English language. _____

12. Identify and describe any newspaper which contains a religious, political or ethnic focus:

13. Do you publish articles resulting from investigative reporting? Yes No

If yes, describe editorial procedures to ensure accuracy of matter and authenticity of sources: _____

14. Do you accept unsolicited articles or photographs for publication? Yes No

If yes, describe procedures to ensure originality, accuracy and the execution of releases: _____

15. a. Are "letters to the editor" edited? Yes No

b. Do you publish unattributed "letters to the editor"? Yes No

16. Name of press associations or trade groups to which you belong: _____

a. Do you participate in a press association "libel hotline"? Yes No

b. If yes, provide name: _____

c. Do you desire coverage for errors and omissions for claims arising from the content of matter in owned publications? Yes No

Publishing Operations

17. a. Number of titles published annually _____

b. Number of titles distributed annually _____

18. Annual revenues:

U.S. and Canada \$ _____

Foreign \$ _____

Total \$ _____

19. With respect to foreign revenues, specify countries in which books are sold: _____

20. Percentage of material published in a non-English language: _____ %

Specify language(s): _____

21. Types of books published:

Classical literature	_____ %	Childrens	_____ %	Photography	_____ %
Hobbyist	_____ %	How to	_____ %	Social commentary	_____ %
Law	_____ %	Historical biography	_____ %	Political commentary	_____ %
Instruction	_____ %	Personal betterment	_____ %	By or about celebrities	_____ %
Educational texts	_____ %	Poetry	_____ %	Current biography	_____ %
Religious	_____ %	General fiction	_____ %	Investigative	_____ %
Medical	_____ %	General Interest	_____ %	Other	_____ %
Technical	_____ %	Reference books	_____ %	Describe	_____ %

Authors Coverage Extension

22. Do you desire coverage for authors? Yes No

23. Do you desire coverage for errors and omissions for claims arising from the content of matter? Yes No

Radio and Television Operations

25. Do your stations simulcast? Yes No

If yes, list the stations simulcasting: _____

26. Do you desire coverage for errors and omissions for claims arising from matter broadcast? Yes No

24. Schedule of radio stations:

	Station (1)	Station (2)	Station (3)
Call letters	_____	_____	_____
TV/AM/FM	_____	_____	_____
Network affiliation	_____	_____	_____
Location	_____	_____	_____
Station revenues	_____	_____	_____
Max. 60 second spot rate	_____	_____	_____
Date licensed	_____	_____	_____
Broadcast radius	_____	_____	_____
Hours of daily broadcast	_____	_____	_____
Principal format (i.e. talk, rock, news, etc.)	_____	_____	_____

Cable Operations

27. Schedule of cable systems:

	System (1)	System(2)	System (3)
Name of system	_____	_____	_____
Location	_____	_____	_____
Number of subscribers	_____	_____	_____
Hours of daily broadcast of access channels	_____	_____	_____

28. Describe any programming which you produce and name of cable systems over which it is broadcast: _____

29. Do you desire coverage for errors and omissions for claims arising from matter broadcast? Yes No

Other Media (On Line, E-Trade, E-Commerce, CD-ROM, Etc....)

30. Describe the medium used: _____

31. Describe distribution: _____

32. Distributor(s) name: _____

33. Length of distribution rights: _____

34. If distributed outside Canada, where? _____

35. If medium is on-line, do you control content of material? Yes No

If no, explain: _____

36. Can material be changed or altered by others? Yes No

If yes, explain: _____

37. Is material interactive in any way? Yes No

If yes, explain: _____

38. If you are an access provider, do you screen or edit user's content? Yes No

39. Do you have a policy for removing infringing material (copyright, trademark, etc.) from your on-line services? Yes No

If yes, explain: _____

Film, Television, and Video Operations

40. Estimate number and types of productions produced annually:

Theatrical Stage

Presentation _____

Infomercials _____

Industrial Films _____

Commercials _____

Other (Please explain) _____

List titles of all productions _____

Education Films _____

Training Films _____

Documentaries _____

41. a) Merchandising : Yes No If Yes, describe in detail: _____

If "yes", submit desired: \$ _____

b) Loss of Advertising or Promotional expenses, due to an injunction : Yes No

42. Synopsis of Production titles to be covered: _____

43. Names of Authors and Writers :

(a) Of Underlying

Works: _____

(b) Of Screenplays, etc: _____

44. Have title reports been obtained on each of the productions? Yes No

45. Have all likeness and consents been obtained on each of the productions? Yes No

Insurance Information, Risk Management, and Legal Counsel

46. Policy Insurance (last three years):

Policy Period	Carrier	Policy No.	Limit of Liability	Retention	Premium
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

47. Has any Insurer declined, cancelled or non-renewed similar insurance for which you are applying? Yes No

48. Do you maintain comprehensive general liability insurance? Yes No

Carrier _____ Policy Period _____
 Policy No. _____ Limit of Liability _____

Personal injury coverage is: Included Excluded

Product liability coverage: Included Excluded

49. Total Annual Revenues: \$ _____

Revenues from:	Newspaper Publishing	\$ _____
	Magazine Publishing	\$ _____
	Book Publishing	\$ _____
	Television Broadcasting	\$ _____
	Radio Broadcasting	\$ _____
	Cable TV Systems	\$ _____

Production of Programming \$ _____

Other (describe) _____

Annual budget for advertising and promotion on your own behalf: \$ _____

50. Name & Address of Applicant's Attorney: Individual: _____

Firm: _____ Phone: _____

51. Has Applicant's Attorney read the Clearance Procedures attached to this Application? Yes No

If "No", Explain: _____

52. Has Applicant's Attorney approved as adequate the Clearance Procedures used by the Applicant in connection with the Production? Yes No

If "No", Explain: _____

53. Is the name or likeness of any living person used or is any living person portrayed (with or without use of name or likeness) in the Production? Yes No

If so, have clearances been obtained in all cases? Yes No

Is the name or likeness of any deceased person used or is any deceased person portrayed (with or without use of name or likeness) in the Production? Yes No

If so, have clearances been obtained in all cases from Personal Representatives, Heirs or other Owners of such rights? Yes No

54. Is there a possible risk that a living person could claim (without regard to the merits) to be identifiable in the Production, whether or not the person's name or likeness is used or the Production purports to be fictional? Yes No

If so, has a release been obtained from such person? Yes No

55. Applicant represents and warrants that neither it, nor any of its Officers, Directors or Partners, or their Counsel, have any knowledge, actual or constructive :

(a) of any claims or legal proceedings made or commenced against the Applicant, or any Officers, Directors, Partners, or subsidiary or affiliated corporations within the last five (5) years for invasion of privacy, infringement of copyright (statutory or common law), defamation, unauthorized use of titles, formats, ideas, characters, plots or other program material embodied in this or any other Production, or breach of implied contract arising out of alleged submission of any literary or musical material.

If no exceptions, Please Initial

Except as Follows (attach separate sheet if necessary): _____

(b) of any threatened claims or legal proceedings against the Applicant, or any Officers, Directors, Partners, or subsidiaries or against any other person, firm or corporation arising out of or based upon the Production including title thereof, or any material upon which the Production is or will be based, that would be covered by the Policy sought to be obtained by the Applicant.

If no exceptions, Please Initial

Except as Follows (attach separate sheet if necessary): _____

(c) of any facts, circumstances or prior negotiations by reason of which they, or any of them, believe that a claim might reasonably be asserted or legal proceedings instituted against the Applicant that would be covered by the Policy sought to be obtained by the Applicant.

If no exceptions, Please Initial

Except as Follows (attach separate sheet if necessary): _____

56. Attach separate schedule of all known, suspected or reported claims.

57. Applicant agrees to obtain from third parties from whom it obtains matter, material or services for the Production written warranties, representations and indemnities against claims arising out of the use of such matter, material or services, including advertising agencies, advertisers, independent contractors and others providing copy, music, photographs, artwork and other material to be used in the Insured Productions.

Please Initial

58. Applicant agrees that it will use due diligence to determine whether any matter or materials to be used in the Production are protected by law and, where necessary, to obtain from parties owning rights therein the right to use the same in connection with the Production.

Please Initial

59. COVERAGE, CONFLICTS, ETC.

Applicant understands that there will be special provisions in the Policy (General Condition) covering the respective obligations of the Company and Applicant to provide DEFENSE and INDEMNITY where coverage issues or conflicts of interest are or may be present.

Applicant acknowledges that claims and lawsuits may be brought which may combine covered and uncovered claims or forms of relief and that conflicts of interest may arise as between one Insured and another Insured under the Policy, with respect to the Company or otherwise. In all such circumstances, Applicant recognizes that, under the Policy, the Company's obligation is only to provide one (1) counsel for defense of all claims and if any further counsel are desired by Applicant, they may be retained by Applicant, but the costs and expenses of such counsel shall be shared fifty percent (50%) by the Company and fifty percent (50%) by the Applicant, fees shall be limited to amounts generally paid by the Company and representation shall be subject to further terms and conditions contained in the Policy. Applicant understands that the premiums set forth herein, the deductible, and the balance of the terms of the Policy have been specifically set and determined with the foregoing provisions in mind and acknowledges that it has agreed to such method of payment for any additional counsel desired to be retained by Applicant.

Please Initial

60. THIS APPLICATION IS SUBMITTED WITH THE FOLLOWING SPECIFIC UNDERSTANDING :

- (a) Applicant warrants and represents that the above answers and statements are in all respects true and material to the issuance of an Insurance Policy and that Applicant has not omitted, suppressed or misstated any facts.
- (b) If any claims, threatened claims, or other matters which might affect issuance of a Policy come to the attention of Applicant after execution or filing of this Application with the Insurer but before a Policy issues, Applicant must notify the Insurer immediately.
- (c) All exclusions in the Policy apply regardless of any answers or statements in this Application.
- (d) Deductible Provision - Please note that the Policy stipulates that any deductible or retention shall apply to investigation expenses and defense costs as well as indemnity.
- (e) Applicant understands that the limit of liability, deductible, term of coverage and other terms and conditions in any Policy issued in response hereto may be different than those requested herein and Applicant agrees to such differences.

This Application shall be attached to and become a part of any Policy, should a Policy be issued as a result of this Application. The Application shall be deemed a schedule to such Policy, but the signing of this Application does not bind the Applicant or the Company unless and until a Policy of Insurance is issued in response to this Application.

Applicant's Signature: _____ Date Signed: _____

By: _____ Title: _____

Agent / Broker: _____

Address: _____

Phone: _____ Fax: _____

NOTE: Please be sure to Attach 5 years Loss Experience in Detail of the Applicant or any Officer, Director or Partner for any Production in which they were included.

(SEE ATTACHED FOR CLEARANCE PROCEDURES)

TO COMPLETE YOUR APPLICATION, PLEASE ATTACH IF APPLICABLE:

1. Current financial statement
2. Copy of publication(s), catalog/list of titles
3. Rate cards for radio and telephone stations and schedule of programming
4. Media kit or promotional material/brochure describing your operations
5. Standard contracts with clients, advertisers, independent contractors, authors, distributors and freelance writers
Experience resume

CLEARANCE PROCEDURES

The Clearance Procedures below should not be construed as exhaustive and they do not cover all situations which may arise in any particular circumstance or any particular Production.

1. Applicant and its counsel should continually monitor the Production at all stages, from inception through final cut, with a view to eliminating material which could give rise to a claim.
2. The script should be read prior to commencement of Production to eliminate matter which is defamatory, invades privacy or is otherwise potentially actionable.
3. Unless work is an unpublished original not based on any other work, a copyright report must be obtained. Both domestic and foreign copyrights and renewal rights should be checked. If a completed film is being acquired, a similar review should be made of copyright and renewals on any copyrighted underlying property.
4. If the script is an unpublished original, the origins of the work should be ascertained - basic idea, sequence of events and characters. It should be ascertained if submissions of any similar properties have been received by the Applicant and, if so, the circumstances as to why the submitting party may not claim theft or infringement should be described in detail.
5. Prior to final title selection, a Title Report must be obtained.
6. Whether Production is fictional (and location is identifiable) or factual, it should be made certain that no names, faces or likenesses of any recognizable living persons are used unless written releases have been obtained. Release is unnecessary if person is part of a crowd scene or shown in a fleeting background. Telephone books or other sources should be checked when necessary. Releases can only be dispensed with if the Applicant provides the Company with specific reasons, in writing, as to why such releases are unnecessary and such reasons are accepted by the Company. The term "living persons" includes thinly disguised versions of living persons or living persons who are readily identifiable because of identity of other characters or because of the factual, historical or geographic setting.
7. All releases must give the Applicant the right to edit, modify, add to and/or delete material, juxtapose any part of the film with any other film, change the sequence of events or of any questions posed and/or answers, fictionalize persons or events including the releasee and to make any other changes in the film that the Applicant deems appropriate. If a minor, consent has to be legally binding.
8. If music is used, the Applicant must obtain all necessary synchronization and performance licenses from composers or copyright proprietors. Licenses must also be obtained on prerecorded music.
9. Written agreements must exist between the Applicant and all creators, authors, writers, performers and any other persons providing material (including quotations from copyrighted works) or on-screen services.
10. If distinctive locations, buildings, businesses, personal property or products are filmed, written releases must be secured. This is not necessary if non-distinctive background use is made of real property.
11. If the Production involves actual events, it should be ascertained that the author's sources are independent and primary (contemporaneous newspaper reports, court transcripts, interviews with witnesses, etc.) and not secondary (another author's copyrighted work, autobiographies, copyrighted magazine articles, etc.).
12. Shooting script and rough cuts should be checked, if possible, to assure compliance with all of the above. During photography, persons might be photographed on location dialogue added or other matter included which was not originally contemplated.

13. If the intent is to use the Production to be insured on Videotapes, Videocassettes, Videodiscs or other technology. Rights to manufacture, distribute and release the Production must be obtained, including the above rights, from all writers, directors, actors, musicians, composers and others necessary therefor, **including proprietors of underlying materials.**
14. Film clips are dangerous unless licenses and authorizations for the second use are obtained from the owner of the clip or party authorized to license the same, as well as licenses from all persons rendering services in or supplying material contained in the film clip; e.g., underlying literary rights, performances of actors or musicians. Special attention should be paid to music rights as publishers are taking the position that new synchronization and performance licenses are required.
15. Aside from living persons, even dead persons (through their personal representatives or heirs) have a “right of publicity”, especially where there is considerable fictionalization. Clearances must be obtained where necessary. Where the work is fictional in whole or in part, the names of all characters must be fictional. If for some special reason particular names need not be fictional, full details must be provided to the Company in an attachment to the Application.
16. Consideration should be given to the likelihood of any claim or litigation. Is there a potential claimant portrayed in the Production who has sued before or is likely to sue again? Is there a close copyright or other legal issue? Is the subject matter of the Production such as to require difficult and extensive discovery in the event of necessity to defend? Are sources reliable? The above factors should be considered in your clearance procedures and recommendations.

TO COMPLETE YOUR APPLICATION, PLEASE ATTACH IF APPLICABLE:

1. Current financial statement
2. Copy of publication(s), catalog/list of titles
3. Rate cards for radio and telephone stations and schedule of programming
4. Media kit or promotional material/brochure describing your operations
5. Standard contracts with clients, advertisers, independent contractors, authors, distributors and freelance writers
Experience resume

For purposes of the *Insurance Companies Act* (Canada), this document was issued in the course of Premiere Insurance Underwriting Services Inc.'s insurance business in Canada, on behalf of Subscribing Insurers.



**PRODUCERS' ERROR & OMISSIONS
LIABILITY INSURANCE APPLICATION**

NOTICE: THIS IS AN APPLICATION FOR A "NAMED PERILS" CLAIMS MADE POLICY. EXCEPT AS MAY BE PROVIDED IN THE POLICY, ANY INSURANCE POLICY WHICH MAY ISSUE HEREAFTER WILL BE LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD OR WITHIN SIXTY DAYS AFTER THE TERMINATION OF THE POLICY PERIOD, SUBJECT TO THE SPECIAL 36 MONTH REPORTING PROVISION. PLEASE READ AND REVIEW THIS APPLICATION CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT, BROKER OR LEGAL REPRESENTATIVE.

- 1. Name of Applicant: _____
- 2. Street & Mailing Address : _____

- 3. Applicant is a : Corporation Individual Partnership Joint Venture
- 4. Names and Titles of Principal Officers, Partners or Individuals : _____

- 5. Name of Producer (Individual): _____
Executive Producer (Individual): _____
- 6. Desired Effective Date: _____ Desired Term of Policy: _____ year(s)
- 7. Title of Production to be Insured: _____
- 8. Has Title Report been obtained from any one of the Title Clearance Services?: Yes No
If "Yes", Name the Clearance Service: _____

(Attach Copy of Report)
- 9. Estimated Dates for:
 - (a) Completion of Principal Photography: _____
 - (b) First Release or Air Date: _____
- 10. Limits of Desired Coverage: For any one claim: \$ _____
In the Aggregate: \$ _____
Deductible Amount: \$ _____

NOTE: Costs and Expenses of claims handling and defense are inclusive within the Deductible Amount.

11. Is Coverage desired for the following optional items?

(a) Merchandising: Yes No If "Yes", describe in detail: _____

If "yes", submit desired limit: \$ _____

(b) Loss of Advertising or Promotional expenses, due to an injunction : Yes No

12. Synopsis of Production: _____

13. Names of Authors and Writers:

(a) Of Underlying Works: _____

(b) Of Screenplays, etc.: _____

14. Production is:

Motion Picture for Initial Theatrical Release Running Time: _____

Motion Picture for Initial Television Release Program Time: _____

T.V. Pilot T.V. Special Radio Program Program Time: _____

T.V. Series Number of Episodes: _____ Program Time: _____
(Each Episode)

Radio Series Number Each Week: _____ Program Time: _____
(Each Episode)

Videocassette

Theatrical Stage Presentation

Other (e.g. Cable, Pay-TV, Subscription, etc.) Describe: _____

15. Name & Address of Applicant's Attorney: Individual: _____

Firm: _____ Phone: _____

16. Has Applicant's Attorney read the Clearance Procedures attached to this Application? Yes No

If "No", Explain: _____

17. Has Applicant's Attorney approved as adequate the Clearance Procedures used by the Applicant in connection with the Production? Yes No

If "No", Explain: _____

18. Is the name or likeness of any living person used or is any living person portrayed (with or without use of name or likeness) in the Production? Yes No
 If so, have clearances been obtained in all cases? Yes No

Is the name or likeness of any deceased person used or is any deceased person portrayed (with or without use of name or likeness) in the Production? Yes No
 If so, have clearances been obtained in all cases from Personal Representatives, Heirs or other Owners of such rights? Yes No

19. Is there a possible risk that a living person could claim (without regard to the merits) to be identifiable in the Production, whether or not the person's name or likeness is used or the Production purports to be fictional? Yes No
 If so, has a release been obtained from such person? Yes No

20. Are actual events portrayed in the Production? Yes No

21. Has Applicant or any of its agents bargained for (a) any rights in Literary, Musical or other material; or (b) releases from any persons in connection with the above Production, and been unable to obtain or refused an agreement or release? Yes No

If "Yes", Please Explain: _____

22. Is the Production:

- Entirely Fictional
- True Portrayal of Events or Happenings
- Portrayal of actual Events or Happenings, but which includes significant fictionalization
- Based on another Work If so, Please Specify: _____
- Other: _____

23. Is the Production:

- Quiz or Panel
- Interview or Forum
- Variety
- Musical
- Dramatic
- Children's Show
- Documentary
- Mini-Series
- Docudrama
- Other: _____

24. (a) Does the production use any literary, musical, or other material whatsoever that was copy righted before January 1, 1978? Yes No
 (b) If Yes, list separately the title of the material and the date of initial and renewal copyright for each such copyrighted matter :

<u>TITLE OF MATERIAL USED</u>	<u>DATE OF COPYRIGHT</u> (Mo./Day/Yr.)	<u>DATE OF RENEWAL</u> (Mo./Day/Yr.)
_____	_____	_____
_____	_____	_____
_____	_____	_____

(c) Does the license or assignment for all such material grant renewal rights? Yes No
 (d) Was the copyright for such material renewed during the lifetime of the author? Yes No

25. Has a Copyright Report been obtained? Yes No
 If "Yes", is there an ambiguity or gap in the line of Ownership? Yes No

If "Yes", Explain: _____

26. Will any Film Clips be used in this Production? Yes No
 If "Yes", have all the Licenses and Consents for the Film Clips been obtained as follows? :
- | | | | | | |
|---|------------------------------|-----------------------------|-------------------------------------|------------------------------|-----------------------------|
| From Copyright Owners? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | Have Musical Rights been obtained? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| From Music Owners? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | Recording & Synchronization Rights? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| From Writers and/or Others? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | Performing Rights? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| From Performers or Persons appearing in the Film? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If "No" to any of the foregoing, Explain: _____

27. Have Musical Rights been cleared? Yes No
 (a) Recording and Synchronization Rights? Yes No
 (b) Performing Rights? Yes No

28. If Original Music was commissioned, has a Hold Harmless been obtained from the Composer? Yes No

If "No", Explain: _____

29. Will a Soundtrack Album or Tape be produced? Yes No

30. Will the Production be distributed to the public on Videotapes, Videocassettes, Videodiscs or other technology? Yes No

If "Yes", has Applicant acquired necessary Music and other Licenses and Consents therefor? Yes No

31. Has Applicant had prior Copyright, Libel, etc. (Producers' Liability) Insurance on the Production to be insured? (If "Yes", Attach a Copy of Prior Policy.) Yes No

32. Has Applicant or any Officer(s), Director(s) or Partner(s) ever been refused similar Insurance for this Production or any other Production? Yes No

If "Yes", Explain: _____

33. Applicant represents and warrants that neither it, nor any of its Officers, Directors or Partners, or their Counsel, have any knowledge, actual or constructive:

- (a) of any claims or legal proceedings made or commenced against the Applicant, or any Officers, Directors, Partners, or subsidiary or affiliated corporations within the last five (5) years for invasion of privacy, infringement of copyright (statutory or common law), defamation, unauthorized use of titles, formats, ideas, characters, plots or other program material embodied in this or any other Production, or breach of implied contract arising out of alleged submission of any literary or musical material.

If no exceptions, Please Initial

Except as Follows (attach separate sheet if necessary): _____

- (b) of any threatened claims or legal proceedings against the Applicant, or any Officers, Directors, Partners, or subsidiaries or against any other person, firm or corporation arising out of or based upon the Production including title thereof, or any material upon which the Production is or will be based, that would be covered by the Policy sought to be obtained by the Applicant.

If no exceptions, Please Initial

Except as Follows: _____

(c) of any facts, circumstances or prior negotiations by reason of which they, or any of them, believe that a claim might reasonably be asserted or legal proceedings instituted against the Applicant that would be covered by the Policy sought to be obtained by the Applicant.

If no exceptions, Please Initial

Except as Follows: _____

34. Attach separate schedule of all known, suspected or reported claims.

35. Applicant agrees to obtain from third parties from whom it obtains matter, material or services for the Production written warranties, representations and indemnities against claims arising out of the use of such matter, material or services, including advertising agencies, advertisers, independent contractors and others providing copy, music, photographs, artwork and other material to be used in the Insured Productions.

Please Initial

36. Applicant agrees that it will use due diligence to determine whether any matter or materials to be used in the Production are protected by law and, where necessary, to obtain from parties owning rights therein the right to use the same in connection with the Production.

Please Initial

37. COVERAGE, CONFLICTS, ETC.

Applicant understands that there will be special provisions in the Policy (General Condition F.) covering the respective obligations of the Company and Applicant to provide DEFENSE and INDEMNITY where coverage issues or conflicts of interest are or may be present.

Applicant acknowledges that claims and lawsuits may be brought which may combine covered and uncovered claims or forms of relief and that conflicts of interest may arise as between one Insured and another Insured under the Policy, with respect to the Company or otherwise. In all such circumstances, Applicant recognizes that, under the Policy, the Company's obligation is only to provide one (1) counsel for defense of all claims and if any further counsel are desired by Applicant, they may be retained by Applicant, but the costs and expenses of such counsel shall be shared fifty percent (50%) by the Company and fifty percent (50%) by the Applicant, fees shall be limited to amounts generally paid by the Company and representation shall be subject to further terms and conditions contained in the Policy. Applicant understands that the premiums set forth herein, the deductible, and the balance of the terms of the Policy have been specifically set and determined with the foregoing provisions in mind and acknowledges that it has agreed to such method of payment for any additional counsel desired to be retained by Applicant.

Please Initial

38. THIS APPLICATION IS SUBMITTED WITH THE FOLLOWING SPECIFIC UNDERSTANDING:

(a) Applicant warrants and represents that the above answers and statements are in all respects true and material to the issuance of an Insurance Policy and that Applicant has not omitted, suppressed or misstated any facts.

(b) If any claims, threatened claims, or other matters which might affect issuance of a Policy come to the attention of Applicant after execution or filing of this Application with the Insurer but before a Policy issues, Applicant must notify the Insurer immediately.

(c) All exclusions in the Policy apply regardless of any answers or statements in this Application.

(d) Deductible Provision - Please note that the Policy stipulates that any deductible or retention shall apply to investigation expenses and defense costs as well as indemnity.

(e) Applicant understands that the limit of liability, deductible, term of coverage and other terms and conditions in any Policy issued in response hereto may be different than those requested herein and Applicant agrees to such differences.

39. This Application shall be attached to and become a part of any Policy, should a Policy be issued as a result of this Application. The Application shall be deemed a schedule to such Policy, but the signing of this Application does not bind the Applicant or the Company unless and until a Policy of Insurance is issued in response to this Application.

Applicant's Signature: _____ Date Signed: _____

By: _____

Title: _____

Account Executive: _____

Agent / Broker: _____

Address: _____

Phone: _____ Fax: _____

NOTE: PLEASE BE SURE TO ATTACH 5 YEARS LOSS EXPERIENCE IN DETAIL OF THE APPLICANT OR ANY OFFICER, DIRECTOR OR PARTNER FOR ANY PRODUCTION IN WHICH THEY WERE INCLUDED.

(SEE ATTACHED FOR CLEARANCE PROCEDURES)

CLEARANCE PROCEDURES

The Clearance Procedures below should not be construed as exhaustive and they do not cover all situations which may arise in any particular circumstance or any particular Production.

1. Applicant and its counsel should continually monitor the Production at all stages, from inception through final cut, with a view to eliminating material which could give rise to a claim.
2. The script should be read prior to commencement of Production to eliminate matter which is defamatory, invades privacy or is otherwise potentially actionable.
3. Unless work is an unpublished original not based on any other work, a copyright report must be obtained. Both domestic and foreign copyrights and renewal rights should be checked. If a completed film is being acquired, a similar review should be made of copyright and renewals on any copyrighted underlying property.
4. If the script is an unpublished original, the origins of the work should be ascertained - basic idea, sequence of events and characters. It should be ascertained if submissions of any similar properties have been received by the Applicant and, if so, the circumstances as to why the submitting party may not claim theft or infringement should be described in detail.
5. Prior to final title selection, a Title Report must be obtained.
6. Whether Production is fictional (and location is identifiable) or factual, it should be made certain that no names, faces or likenesses of any recognizable living persons are used unless written releases have been obtained. Release is unnecessary if person is part of a crowd scene or shown in a fleeting background. Telephone books or other sources should be checked when necessary. Releases can only be dispensed with if the Applicant provides the Company with specific reasons, in writing, as to why such releases are unnecessary and such reasons are accepted by the Company. The term "living persons" includes thinly disguised versions of living persons or living persons who are readily identifiable because of identity of other characters or because of the factual, historical or geographic setting.
7. All releases must give the Applicant the right to edit, modify, add to and/or delete material, juxtapose any part of the film with any other film, change the sequence of events or of any questions posed and/or answers, fictionalize persons or events including the release and to make any other changes in the film that the Applicant deems appropriate. If a minor, consent has to be legally binding.
8. If music is used, the Applicant must obtain all necessary synchronization and performance licenses from composers or copyright proprietors. Licenses must also be obtained on prerecorded music.
9. Written agreements must exist between the Applicant and all creators, authors, writers, performers and any other persons providing material (including quotations from copyrighted works) or on-screen services.
10. If distinctive locations, buildings, businesses, personal property or products are filmed, written releases must be secured. This is not necessary if non-distinctive background use is made of real property.
11. If the Production involves actual events, it should be ascertained that the author's sources are independent and primary (contemporaneous newspaper reports, court transcripts, interviews with witnesses, etc.) and not secondary (another author's copyrighted work, autobiographies, copyrighted magazine articles, etc.).
12. Shooting script and rough cuts should be checked, if possible, to assure compliance with all of the above. During photography, persons might be photographed on location dialogue added or other matter included which was not originally contemplated.
13. If the intent is to use the Production to be insured on Videotapes, Videocassettes, Videodiscs or other technology. Rights to manufacture, distribute and release the Production must be obtained, including the

above rights, from all writers, directors, actors, musicians, composers and others necessary therefor, **including proprietors of underlying materials.**

14. Film clips are dangerous unless licenses and authorizations for the second use are obtained from the owner of the clip or party authorized to license the same, as well as licenses from all persons rendering services in or supplying material contained in the film clip; e.g., underlying literary rights, performances of actors or musicians. Special attention should be paid to music rights as publishers are taking the position that new synchronization and performance licenses are required.
15. Aside from living persons, even dead persons (through their personal representatives or heirs) have a “right of publicity”, especially where there is considerable fictionalization. Clearances must be obtained where necessary. Where the work is fictional in whole or in part, the names of all characters must be fictional. If for some special reason particular names need not be fictional, full details must be provided to the Company in an attachment to the Application.
16. Consideration should be given to the likelihood of any claim or litigation. Is there a potential claimant portrayed in the Production who has sued before or is likely to sue again? Is there a close copyright or other legal issue? Is the subject matter of the Production such as to require difficult and extensive discovery in the event of necessity to defend? Are sources reliable? The above factors should be considered in your clearance procedures and recommendations.



SUPPLEMENTAL QUESTIONS ON COMPANION MATERIALS

Production Company Name: _____

Title of Production: _____

NOTE: THIS APPLICATION IS FOR NEW MATERIAL (“COMPANION MATERIALS”) PRODUCED IN ADDITION TO THE PRODUCTION (“THE PRODUCTION”) TO BE USED (OTHER THAN FOR PROMOTIONAL PURPOSES) IN CONJUNCTION WITH THE PRODUCTION.

Kindly indicate the category of Companion Materials to be distributed in connection with the Production. Please mark all that apply:

MERCHANDISING

Please describe the merchandise (e.g. toys, dolls, clothing, colouring books, etc.) to be created.

- | | | | |
|-----|---|-----|----|
| (1) | Have all necessary consents and licenses been obtained from performers, creators, authors artists, etc. to produce and distribute this merchandise? | Yes | No |
| (2) | Have appropriate trademark or other searches been made? | Yes | No |
| (3) | Is the merchandise being designed and/or produced by licensees of the applicant?
If yes, name: _____ | Yes | No |
| (4) | Sublimit desired: \$ _____ | | |
| (5) | Estimated Merchandising Revenue: \$ _____ | | |

LOSS OF ADVERTISING OR PROMOTIONAL EXPENSES DUE TO AN INJUNCTION

Sublimit desired: \$ _____

SOUNDTRACK

Has the applicant acquired all the necessary rights and licenses for all formats in which this soundtrack album will be distributed? Yes No

EXTRA MATERIALS ON OTHER MEDIA FORMATS (e.g. commentary track, “making-of” documentary, interviews, behind-the-scenes, out-takes, historical information, video game)

Please describe extra material to be created in conjunction with the Production.

Please describe the media format.

Have all necessary rights been obtained from the performers, creators, authors, programmers, etc., to produce and distribute this version? Yes No

If no, please explain: _____

WEBSITE

Please provide the internet address for the site (if available): _____

Please describe the website to be created in conjunction with the Production.

- | | | | |
|-----|---|-----|----|
| (1) | Is the web site being designed and produced by licensee or independent contractors? | Yes | No |
| | If yes, are the licensees and contractors providing warranties and indemnities that their contributions to the design and contents of the web site (e.g. software for operating the site, graphics, photographs, written materials and music) will not infringe rights of others? | Yes | No |
| (2) | Will the web site have any "chat rooms", "bulletin boards" or other areas in which Members of the public can post materials? | Yes | No |
| | Will the web site have "blogs" or streamed live content? | Yes | No |
| | If yes, what arrangements have been made for the monitoring of such areas on a continuous basis to eliminate matter that may infringe, defame or otherwise violate the rights of others? | | |

- | | | | |
|-----|--|-----|----|
| (3) | Will the web site provide links to other website? | Yes | No |
| | If yes, does the applicant have consents from these sites? | Yes | No |

OTHER Describe: _____

CLEARANCES

- | | | | |
|----|---|-----|----|
| 1. | Will the Companion Materials be produced under the control and direction of the applicant? | Yes | No |
| | If no, under whose control or direction will it be produced, and what rights of approval will applicant have? | | |

(If more than one category is to be produced, please clearly indicate the answer for each category)

- | | | | |
|----|---|-----|----|
| 2. | For matter used in the Companion Materials, including excerpts from the Production, are licenses and rights for the use of all such matter and excerpts (such as new visual materials, text, software programming, actors' performances and likeness, screenplay, underlying book, music, photographs or clips) clearly broad enough to allow their use in the Companion Materials? | Yes | No |
| 3. | For each category, have applicant and its counsel arranged that counsel or other appropriate representatives of applicant will monitor the clearance procedures for and contents of the Companion Materials on an ongoing basis? | Yes | No |
| 4. | With respect to any Companion Materials, has additional or separate insurance coverage been obtained by any licensees or by applicant? | Yes | No |
| | If yes, who has obtained the insurance and what kind of coverage is it? | | |

Applicant's Signature : _____
By : _____

Date Signed : _____
Title : _____