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Entertainment Law Circular
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David Leads 2-Day Symposium on
International Film Finance & Production at
Shanghai University, Shanghai, China



On May 26 and 27, David Albert Pierce was a Guest Lecturer at Shanghai University's Film School as he conducted two days of eight intensive workshop lectures on topics related to international aspects of film finance and production.

The seminar materials were prepared by Pierce Law Group LLP in conjunction with Shanghai University which commissioned Pierce to conduct this program. Approximately 30 Chinese attorneys and other entertainment industry professionals based in China attended this Symposium, which was declared a tremendous success and is anticipated to lead to further speaking and transactional work opportunities for Pierce Law Group LLP in China.

Coming Soon To Theaters

Sicario: Day of the Soldado, produced by Black Label Media, is a sequel to the critically acclaimed 2015 film *Sicario* which premiered at the Toronto Film Festival.

Pierce Law Group LLP's Anthony J. Hanna and David Albert Pierce provided certain legal services for this

Albert Pierce provided certain legal services for this project which arrives in theaters on **June 29th** and stars **Benicio Del Toro** and **Josh Brolin**. Click on the trailer below.



David also found the opportunity to explore Shanghai with the University administrators serving as tour guides of the many cultural sites, business districts, and tourist destinations. This was David's second trip to Shanghai in three years. Pierce Law Group LLP represents both film clients based in China as well as U.S. based clients doing business in China.



David with a number of the executives that partook in the 2 day symposium

Black Klansman Wows At Cannes Winning 'Grand Prix' Award

Pierce Law Group's client screenwriting team of **Charlie Wachtel & David Rabinowitz** saw their film **Black Klansman** premiere to strong reviews, and walk away with the coveted "Grand Prix" Award at its **Cannes Film Festival** Premiere. The film is directed by **Spike Lee** and stars **Adam Driver** (Star Wars: The Last Jedi), **John David Washington**, (Denzel Washington's son), and **Topher Grace** (That 70's Show).

The first trailer for the film has recently been released, check it out by clicking the photo below:



Firm Seminars & Events

On **May 16**, David Albert Pierce co-chaired a BHBA seminar panel entitled "Productions and Production Insurance: Are You Covered or Naked & Afraid?" The panel featured leading entertainment insurance experts discussing some of the cutting edge insurance questions

confronting filmmakers.

On **June 15**, Pierce Law Group LLP Partner **Joshua Edwards** spoke at the **American Black Film Festival** in Miami Beach, Florida. Joshua participated in a program consisting of a panel followed by a set of breakout discussions on the topic titled, "Development Demystified." The program was presented by Turner Entertainment and joining Joshua were other Industry executives, including: **Olivia Morris** (TBS), **Rohit Sang** (TruTV), **Ada Chiangahana** (HBO),



Rebecca Winkler (WB Jacobson et al) .

On July 18th, the Beverly Hills Bar Entertainment Law Section presents a luncheon seminar, "Blockchain Goes Hollywood: How DLT Can Be Used To Manage And Monetize Media Rights." David Albert Pierce is the incoming Chairman of the BHBA Entertainment Law Section and will be introducing the seminar. For registration and more information please click [here](#).

On July 25th- July 29th, David Albert Pierce & Joshua Edwards will be traveling to the Just For Laughs Comedy Festival in Montreal. Pierce Law Group LLP is a proud sponsor of Just For Laughs.

On July 26th, the California Society of Entertainment Lawyers ("CSEL") presents a seminar on "Issues To Consider When Prosecuting A Right Of Publicity Case." The event will take place at Wolfgang's Steakhouse in Beverly Hills from Noon to 2 pm. David Albert Pierce served as Chair of the Planning Committee for this seminar and he serves as the MCLE Chair for CSEL.



DAP on The Bund (Shanghai's gorgeous riverwalk)

"Cool Beans!": When Entering Licensing Agreements Details Matters

By David Albert Pierce (with research by Madelynn A. Hefner, Summer Associate - Southwestern Law)



The viral internet meme, Grumpy Cat, was the subject of copyright and trademark infringement litigation as a result of a licensing agreement dispute.

Grumpy Cat Limited ("Grumpy Cat Ltd."), as owner of a registered trademark and four registered copyrights, entered into an exclusive licensing agreement with Grenade Beverage LLC ("Grenade") to create and sell iced coffee products using the Grumpy Cat name and image.

As licensor, Grumpy Cat Ltd. granted a "license and privilege" in Grumpy Cat's name and image "in connection with the manufacture, advertisement, merchandising, promotion, distribution, and sale solely of Products." The contract then defined the term "Products" as "a line of Grumpy Cat-branded coffee products, or other additional products within the Product Category that may, upon the Parties' mutual approval, be marketed hereunder." The term "Product Category" was in turn defined as "non-alcoholic beverages."

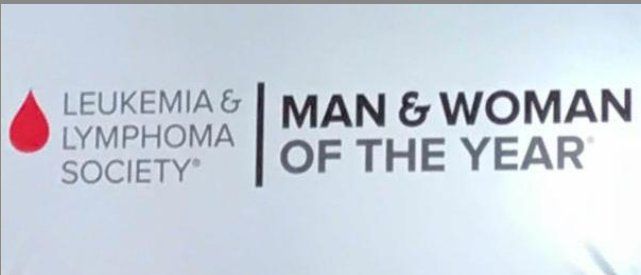
Grumpy Cat Ltd. alleged that Grenade exceeded the scope of the license, thereby infringing upon its trademark and copyrights, when the Defendant began selling coffee products other than the specific iced coffee product ("Grumppuccinos") which at all times was the only intended type of coffee products contemplated by the parties, and not ground roasted coffee beans as was now being sold by Defendants. Multiple correspondence from Grumpy Cat Ltd told the Defendants that they couldn't proceed with the ground coffee beans product without approval.

Grenade Beverage counterclaimed, alleging breach of contract, breach of covenant of good faith, and negligent and intentional misrepresentation, seeking, among other things, declaratory relief to have their activities declared as non-infringement of copyright and trademark.

Now On Newsstands

David Albert Pierce's latest article entitled "Gold Standard: Put the Green in Greenlight with the Most Effective Film Financing Tactics" appears in the Spring 2018 edition of MovieMaker Magazine now on newsstands.





On June 9th, David attended the Leukemia & Lymphoma Society's Man/Woman of the Year Gala.



\$1,897,878.00 raised!

This year the event raised \$1,896,878 by the L.A. Chapter for funding research. David is commencing his tenth and final year as a Trustee on the Executive Board of the LLS L.A. Chapter.



On May 22, David attended the Tower Cancer Research Foundation Gala honoring Entertainment Industry Business Manager Warren Grant and his wife Randi for their philanthropic endeavors with this remarkable charity.



Warren & Randi Grant



USC Marching Band sounded the trumpets



David congratulating Warren Grant

The entire issue revolved around the meaning of the phrase "a line of Grumpy Cat branded coffee products, or other additional products within the Product Category [which would require pre-approval]." The court found the phrase ambiguous and the jury was left to decide whether the license term "a line of Grumpy Cat-branded coffee products" meant a single iced coffee product or a multiple types of coffee products, including ground coffee beans sold in a can.

Following a trial, the jury held in favor of Grumpy Cat Ltd. and awarding \$710,000 in damages-- an amount that would turn even that cat's frown upside down! The jury found that the parties intentions were for the license only to apply to iced coffee and any other coffee product would require approval under the portion of the agreement that governed additional products within the Product Category. Thus, as a result of the Defendant's sale of ground coffee beans in a can, which were not specifically iced coffee products, infringement had occurred. Likewise, because of this finding, the court rejected Defendant's counterclaims.

The "additional products" phrase was deemed a specific limitation that excluded anything but iced coffee from the exclusive express license until and unless those additional products were first approved by the Licensor.

The court focused its analysis on the exact language and grammar of the contract as well as allowing testimony and other evidence as to the parties intentions to parcel out what the declared ambiguous term meant.

LESSONS FROM GRUMPY CAT

Both the words in a contract and the intentions of the parties matter. A primary concern for all Licensors and Licensees of intellectual property always involves properly defining the scope of the license between them. Drafting such terms from the start in a clear unambiguous manner can avoid needless litigation later (and devastating monetary judgments if your interpretation of an ambiguity is a wrong one).

Finally, on a personal note, we give a tip of our hat to our litigation friends at the law firm of Lavelly & Singer for so eloquent arguing an ambiguity on behalf of Grumpy Cat that at first blush not everyone might see.

Pierce Law Group LLP regularly drafts license agreements on behalf of both owners of content and those looking to merchandise such content.

If you are looking to license out your intellectual property or obtain an intellectual property license, contact [David Albert Pierce](#) or [Trea Tran-Lachowicz](#) at **Pierce Law Group LLP** to help ensure your intentions are properly documented in the licensing agreement.

And, if you have an existing license agreement for which a dispute arises, contact [John Baldivia](#) in our firm's litigation department to discuss your rights.

ZIP_{ZAP}ZOP ENRICHMENT

On June 10, Zip Zap Zop Enrichment Center for Autism held a fun raising comedy night at The Comedy Store.



David with ZipZapZop founder Maja Watkins

The comedy event was headlined by Jeff Ross and Bob Saget. PLG clients Willie Hunter and Jeremiah Watkins also performed for the charity, along with comedians Brad Williams and Josh Meyrowitz.

Zip Zap Zop is committed to improving communication skills and thus providing greater access for students with special needs in an inclusive classroom. Pierce Law Group LLP proudly volunteers its time as outside general counsel on a *pro bono* basis to this charity.



Bob Saget & Jeff Ross riff in support of ZipZapZop



Pierce Law Group LLP congratulates client Tony Hinchcliffe on five years of outstanding comedy podcast programming with his "Kill Tony" show taped at the world famous **Comedy Store** and available for download on the **Deathsquad Podcast Network**. Tony Hinchcliffe is an All-American villain and one of the hottest rising young comedians on the comedy scene today (don't believe it, just ask him).



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David strikes a pose with Maja Watkins along with
Comedians Jeremiah Watkins & Willie Hunter

About Pierce Law Group LLP

Pierce Law Group LLP is a full service, boutique entertainment law firm that provides both transactional and litigation legal services. Our practice areas include entertainment law, intellectual property (copyright, trademarks, right of publicity), film finance, securities law, production counsel, and labor & employment issues affecting the entertainment industry, with an emphasis on film, television, and new media. We represent production companies and other creative businesses as well as artists including producers, actors, writers, directors, comedians, and other entrepreneurs. Our client list includes both Academy Award and Emmy Award winners. We utilize an academic and analytic legal approach to accomplish creative solutions to our clients' goals.

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