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Keynote speaker Mark Roesler

Sky is the limit for stars' rights

The next few years will see a “paradigm shift” in the way celebrities are seen and their images exploited, according to CMG Worldwide Chairman and CEO Mark Roesler.

Giving the INTA keynote address, titled ‘You Ain’t Seen Nothin’ Yet,’ in the Convention Center yesterday evening, Roesler described how changes in entertainment and technology mean celebrities can now be brought to life in new ways, be given new images or voices, and even gain a life beyond death. “A whole new definition of career has developed,” he said,

adding that it is through IP rights that such careers are protected. “The concept of a career has rapidly evolved as a result of these IP rights,” said Roesler.

Roesler illustrated his talk with examples of dead celebrities’ images being used in advertising, such as Gene Kelly performing ‘Singin’ In The Rain’ in a car advert and a range of Hollywood and music stars appearing in a Diet Coke advertisement.

Advances in technology will dramatically increase the opportunities to use dead celebrities in entertainment. A few years ago, Nat King Cole’s voice was added to his daughter Natalie Cole’s performance of the song ‘Unforgettable.’ But, with today’s technology, said Roesler, “Nat King Cole himself would be able to do the whole recording.”

In a show of hands, half of the Convention Center audience did not recognize which of two scenes from the film ‘Gladiator’ used a computer-generated version of actor Oliver Reed, who had died unexpectedly during the filming. In the early days of cinema, there was no concept of stars. “The industry feared performers might want additional reward for their work. They were right,” said Roesler. Things soon changed. Among early proponents of stars’ rights were

silent movie actors Mary Pickford, Douglas Fairbanks, and Charlie Chaplin. By the time of Bacall and Bogart, stars’ names preceded the film - an indication of their appeal to audiences. Today, another revolution is happening.

The entertainment industry, including advertising, books, music, movies, video games and TV, is now America’s biggest sector, with a gross annual product of \$125 trillion. Much of that value lies in the power of celebrities, and marketing dead personalities has become a large industry: the intangible rights to Elvis Presley were recently sold for more than \$100 million.

There is great scope for exploiting dead celebrities. Already, computer-generated imaging and voice modeling can bring authentic performances to advertisements, video games and films while converging wireless and Internet technologies enable rapid and wide distribution. Soon, technology such as smart clothing, which combines electronics and textiles to provide inbuilt entertainment opportunities, will extend that power even further.

“Nobody thought celebrities’ rights could last beyond their lifetime. But IP rights do survive,” said Roesler. “We have to address and resolve the uncertainty this brings.” He explained that US trademark

law can protect assets such as images, signatures and names, while the right of publicity exists in more than 30 states, and 19 states protect publicity by statute. In Tennessee, the right of publicity can last forever, provided there is continued use.

Roesler said that other countries which provide some protection for celebrities, either through rights of publicity, unfair competition or other laws, include the UK, France, Italy, Brazil, Canada, Germany, South Korea, and Japan. Noting the moves towards international harmonization in other areas of IP law, Roesler said: “Perhaps the right of publicity will receive similar treatment.”

The life-beyond-death revolution poses challenges for all involved in protecting and exploiting celebrities’ rights: how do you decide what dead celebrities would have wanted or how they would want their image exploited? Said Roesler: “It is our responsibility now - artists, managers, all of us as legal representatives.”

Roesler concluded with a moving tribute to James Dean, one of his clients, who - like Roesler - was born in Indiana. He quoted Dean’s eerily prescient comment: “If a man can ... live on after he has died then he was a great man.”