

## Media & Entertainment Group Of The Year: Cravath

By **Tiffany Hu**

*Law360 (March 1, 2023, 2:03 PM EST)* -- Cravath Swaine & Moore LLP has represented several high-profile entertainment clients, including Starz Entertainment in a dispute against an MGM unit over copyright damages before the Ninth Circuit, earning the firm a spot as one of Law360's 2022 Media and Entertainment Groups of the Year.

In July, the Ninth Circuit rejected MGM Domestic Television Distribution's argument that Starz Entertainment was too late to bring claims that it breached their agreements by licensing to Starz's competitors films that were supposed to be exclusive to the television network.

The MGM unit had argued that Starz had to file its lawsuit within three years of the alleged infringement, not within three years of learning of the alleged infringement, as Starz argued. MGM cited the Second Circuit's *Sohm v. Scholastic Inc.* ruling that limits damages to those arising from acts of infringement within the three-year period from before the suit was filed.

But the Ninth Circuit found that the Copyright Act did not impose a time-based damages bar on copyright damages separate from the statute of limitations. Under the "discovery rule," a claim can accrue when the copyright holder becomes aware of the infringement, and Starz's copyright infringement claims against MGM were timely, the appeals court said.

Partner Wes Earnhardt, who represented Starz in the case, told Law360 that the ruling "[shut] the door in the Ninth Circuit on the argument that the *Sohm* rule should spread there."

"It defines what damages are available for copyright infringement under the Copyright Act in the Ninth Circuit," Earnhardt said, noting that "the Ninth Circuit, along with the Second Circuit, are the two circuits in which most copyright infringement actions are brought."

The firm also represented play and entertainment company Hasbro Inc. in a proxy contest with activist investor Alta Fox Capital Management LLC, which owned a 2.5% stake in the company and had sought to replace three directors with its own nominees.

After the death of Hasbro's longtime CEO in 2021, the company was focused last year on ensuring the right transition to a permanent successor. Alta Fox, which had initiated private dialogue with the



company, publicly commenced its proxy campaign after the permanent CEO was announced, according to firm partner Daniel J. Cerqueira, who represented Hasbro.

"Someone transitioning into the role of CEO is in itself a full-time job, and to have a proxy fight on top of that and bringing that kind of change is, from a company's perspective, disruptive — and not in the good sense that tech people use it, but in a chaotic sense," Cerqueira told Law360.

In June, Hasbro saw all 13 of its directors reelected in its 2022 annual shareholders meeting, and the company's say-on-pay proposal and auditor ratification were similarly approved by the shareholders.

Cravath is no stranger to handling major cases in which "there is an undecided issue of law that will have a wide-ranging impact, not just to the clients in the matter, but to the country at large, to the legal profession," according to Earnhardt.

Earnhardt noted that the firm has been representing video game maker Epic Games, which developed the popular Fortnite game, in antitrust litigation against Apple and Google over their respective app stores' policies. A trial in the Google case is slated for November.

"We have a long history of representing media and entertainment clients in the disputes that matter to them most," Earnhardt said. "The cases that have the potential to shape an industry, or that really are sort of bet the company. We don't seek to do the highest quantity of cases, but we do seek to represent clients in their most important matters, and we've done that over the years."

--Editing by Linda Voorhis.

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