

Comic Book Guy

Bam! Pow! Buchalter Nemer partner Michael Lovitz plays copyright superhero to creators. —By Joe Mullin

It's summer in San Diego, and Michael Lovitz is doing what a lot of IP attorneys spend their days doing: talking copyright and trademark law, and trying to drum up a bit of business in the process.

Lovitz's audience, though, is unique. It includes a woman styled as a tentacled, blue-hued alien and a man dressed in the orange jumpsuit of a *Star Wars* X-wing fighter pilot. The pair are among the more colorful of some 200 attendees at this year's Comic-Con International who have turned out for the second installment of Lovitz's three-part "Comic Book Law School" series.

"Let's talk about licensing," says the smiling Lovitz. "It's happening around you all the time." Copyright, he tells the audience, is almost infinitely divisible. "You're not required to transfer everything—you can just sell rights to a live-action movie, or a TV series," he adds, before fielding a question.

In the 17 years that Lovitz, an IP partner at Buchalter Nemer in Los Angeles, has been coming to the San Diego Convention Center for Comic-Con, the event has grown from a fringe meeting of a few comic book obsessives to the world's largest gathering of comic, science fiction, and fantasy fans. These days, much of the buzz is about movies and TV shows that feature superhero characters. This year's attractions, for instance, include promotions for *Iron Man 2*, *The Green Hornet*, and *Sherlock Holmes*.

For Lovitz, it's still about the comics. He's loved the form since he read his first Archie and Richie Rich as a boy growing up in Philadelphia. Later, an older brother introduced him to

Superman and The Fantastic Four. He maintained his passion through college (University of Pennsylvania) and law school (Temple University). After getting his law degree in 1989, he split his time between owning a Philadelphia comic book store and working in-house for Slumberland Productions, a

answer legal questions, she had him join her on the panel.

Lovitz saw immediately that comic creators were hungry for legal knowledge. When he returned the following year, he pitched his own panel to convention organizers. That first year, he set up in a room able to hold 40 people; it quickly filled to capacity. His sessions now attract hundreds of people on each of Comic-Con's three days. A few lawyers attend, but the audience is mainly composed of creative types. Lovitz makes it clear to the crowd that he's not offering legal advice about specific issues. By informing artists and writers about copyright basics, he hopes to help them protect their IP rights. "They're very creative individuals, but they don't have the time or the inclination to worry about business issues," he says.

Doran, a Lovitz client for more than 15 years, was relieved to find a lawyer who truly understood the industry. "Getting together with someone like Mike, who understands not only the professional end of the market, but how fans interact with us—he's gold, he is absolutely gold," she says.

The Internet, Doran says, has had a big impact on creators' rights, as well as on the ways in which fans interact with the creations.

Some of those ways aren't welcome: "We have problems all the time with fans who don't understand that they don't have the right to make a novel about our work, and then turn around and sell it. They honestly believe that if they publish something and don't make a profit, it's okay. But if someone is self-publishing a book based on my work and charging \$20 a whack, they're going —continued on page 52



"Creators can end up signing away the store if they're not careful."

company that republished classic comics. In 1993 he joined Philadelphia IP boutique Panitch Schwarze Jacobs & Nadel (the firm was later purchased by Akin Gump Strauss Hauer & Feld).

That same year, Lovitz made his first trip to Comic-Con. He attended a panel on self-publishing moderated by Colleen Doran, a cartoonist and illustrator best known for her *A Distant Soil* comics. When he offered to

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A quick tour around Comic-Con reveals some obvious copyright issues. Outside the convention center, for instance, in an area called “Artist’s Alley,” comic artists sell sketches of such popular Marvel and D.C. Comics characters as Spiderman and Superman. It’s a good time and a brisk business—and a clear case of infringement, albeit one publishers have traditionally ignored.

Lovitz likes Comic-Con so much that after years of traveling to San Diego to attend, it was one reason he decided to move to Southern California. Having worked in Connolly Bove Lodge & Hutz’s Delaware office since 2001, he transferred to the firm’s Los Angeles office two years ago before joining Buchalter Nemer this year.

At this year’s Comic Book Law School, Lovitz stages a mock negotiation between groups playing creators and publishers. He asks each what their top concerns are. “Royalties!” they shout. “Marketing! Exclusivity! Residuals!”

After the seminar, a tall young man named Tommy Paul joins a group of about a dozen people waiting in the hallway to ask Lovitz follow-up questions. Paul is thinking about pitching an animated TV show. “There’s all these different rights out there—I want to know which the important ones are,” he explains. Lovitz patiently answers questions from Paul and others who are waiting. Not far away, a line of *Battlestar Galactica* fans shout, “So say we all!”—a well-known line from the show.

Lovitz—whose work mostly involves prosecuting trademark matters for corporate clients—does find clients at Comic-Con. He’s already added two this year, including a trust owned by the family of Dave Stevens, creator of the *Rocketeer* comic books. But his trips to Comic-Con are as much about indulging his passion as they are about drumming up business.

“My soft spot is for creators,” he says. “There is a power imbalance in this business, and creators can end up signing away the store if they’re not careful.” ■