

From old to new

Hughes Hubbard's Dan Schnapp helps media companies navigate Internet collaborations

by Chris Nolter

AS LEAD PARTNER in Hughes Hubbard & Reed LLP's new-media, entertainment and technology group, Dan Schnapp crafts deals that enable large media houses and others to leverage their intellectual property online.

From where he sits, the 38-year-old lawyer sees the intersection of old and new media. Examples of recent assignments include a wide-ranging pact between Viacom Inc. and Microsoft Corp. that covers advertising, content distribution, gaming and other collaborations between the media and Internet giants. Schnapp's group worked with the Case Foundation, the charitable organization created by America Online Inc. founder Steve Case and his wife Jean, in an online fundraising initiative with partners such as Parade magazine. Called America's Giving Challenge, the project used Facebook, blogs, e-mails and other new-media tools to help people raise money for various charities. For SpiralFrog Inc., a free music Web site that makes money from advertising, the team negotiated rights and licensing agreements with music labels.

Technology law and finance did not run in the Schnapp household. "My whole family's in medicine, and I was a biology major to begin with," he says. When he witnessed his brother's medical internship, however, he realized it wasn't for him.

After graduating from the University of Vermont, Schnapp received his J.D., cum laude, from Syracuse University College of Law. At the time, AOL and the broader commercialization of the Internet were getting under way. A bit of prescience took him to where he is now. "I realized early on that in law, you've got to create a niche," he says.

Financial companies were investing heavily in technology, and after law school Schnapp joined Merrill Lynch & Co. He was the bridge between the general counsel's office and the operations, systems and technology group. "They needed to understand what the technological risks were, and the technology folks needed to understand what the legal issues were," he says. Working alongside cryptologists and other technology specialists primed him for later assignments.

In 1998, Schnapp left Merrill for Pryor Cashman LLP,

where his practice included the rising number of dot-coms and financial publishers such as TheStreet.com Inc., now a client of Hughes Hubbard. Not long after, as large corporations and media companies were spending greater sums on technology, Schnapp moved to Greenberg Traurig LLP, then later to Reed Smith LLP in 2001, where he stayed until joining Hughes Hubbard last August.

Entertainment companies make up about 75% to 80% of his practice today, although financial services and healthcare companies account for a significant amount of business. He often collaborates with Los Angeles entertainment litigation partner Rita Haeusler and New York mergers and acquisitions partner Kenneth Lefkowitz.

He spends much of his time helping media companies that traditionally distributed their content through cable and satellite companies or movie theaters navigate the intricacies of the Internet. Many of the deals are "back-ended," meaning advertising and revenue-sharing agreements, rather than up-front payments, drive the economics.

The Writers Guild of America settlement introduces a new wrinkle. Although selling music and video online are relatively young businesses, standards have begun to be established. "Content providers have to take into account that there are fixed residuals and also escalating residuals depending on the popularity of the program that are due back to the writers," he says. "They have to couple that with the fact that they also have some deals directly with the talent and they

owe them residuals." Other issues such as musical performances can be embedded in content, he adds.

The evolution of social networking and virtual reality communities holds great potential for advertisers. These communities have coveted demographic information and can blend brands and other intellectual property. The need to protect user privacy, however, complicates the proposition. Integrating advertising without alienating viewers is particularly important with the next generation of media users. "They don't have a high tolerance for paying for things that are online," Schnapp says.

Schnapp's insights into new media aren't entirely based on law, technology and finance—there's also firsthand knowledge. Though he is a skier, he and his kids are also avid fans of Nintendo Co. Ltd.'s Wii and Sony Corp.'s PlayStation3. "I play a lot of 'Rock Band,'" he says jokingly of the music video game published by Viacom's MTV Games. ■



Schnapp new rules