

Advertising & Marketing

Fross Zelnick's Advertising and Marketing Team, a cross-discipline and cross-industry practice, directly addresses the critical business issues that arise from advertising and marketing initiatives. The team focuses on sound business counsel, offering deep consideration of the client's advertising objectives, identifying the pitfalls that can undermine them, and developing strategies to mitigate the risks inherent in any campaign.

Marketing and advertising campaigns are often developed quickly and creatively in response to unexpected market opportunities. Consequently, the agreements that govern campaigns are often drafted and approved without comprehensive legal review. IP ownership and shared-use arrangements, influencer and spokesperson relationships, contracts with models and photographers, and master service agreements with agencies and vendors all require careful consideration. Such agreements often contain unanticipated obligations or restrictions that, if undetected, can pose certain legal risks, including unanticipated constraints on use, uncertainty as to ownership of intellectual property, and indemnification obligations the parties did not previously discuss. Moreover, these contracts often involve [data privacy](#) obligations that should be carefully considered to evaluate compliance requirements, audit rights, and other issues that could carry significant exposure to penalties if not followed.

Our team has experienced the day-to-day challenges of maintaining compliance first-hand from the perspective of in-house and outside counsel. They understand how to maintain compliance without sacrificing the flexibility and practicality needed to craft effective advertising and marketing initiatives.

Our advertising and marketing group asks the tough questions—questions that can uncover missteps and reduce liability. We analyze every aspect of our clients' campaigns, from IP ownership, naming rights, product design, and rights of publicity for models and influencers, to data privacy obligations, disclosure requirements, regulatory compliance, and pricing. Working seamlessly with the firm's renowned prosecution and enforcement lawyers, we ensure that the business agreements that define advertising, marketing, and IP both are sound and align as closely as possible with a client's business goals.

Our team draws on years of experience with hard-fought battles at the intersection of IP and advertising law from the perspective of both in-house and big-law litigators. This experience has instilled in us a deep understanding of the methods and objectives of every party typically involved in advertising agreements, including ad agencies, influencers, content creators, and technical artists—in short, any vendor that works on campaigns with (or for) our clients. We know how in-house review of advertising should work—and what can go wrong if it doesn't.

We provide counsel on numerous advertising-and marketing-related legal disciplines and issues, including:

- False advertising claims
- Right-of-publicity agreements, including model, photographer, and influencer agreements, among others
- Website Terms of Service
- Reference pricing
- Data privacy issues
- Telephone Consumer and Protection Act disputes