



## Philip M. Kelly

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Philip Kelly is an attorney at Kendall Brill & Klieger LLP. Mr. Kelly's practice focuses on entertainment, intellectual property, and commercial litigation.

Mr. Kelly has litigated on behalf of some of the nation's leading motion picture studios, television networks, production companies, music companies, technology companies, and videogame publishers, including Viacom Inc., MTV Networks, CBS, NBC Universal, UPN, Paramount Pictures Corporation, Paramount Home Entertainment, Mark Burnett Productions, Universal Music Group, SAVVIS, Inc., THQ, and Activision. In addition to his litigation matters, Mr. Kelly provides pre-broadcast counseling and advice to motion picture and television clients, with particular emphasis in the area of reality television.

In both 2008 and 2009, Mr. Kelly was named by Super Lawyers Magazine as a Southern California "Rising Star," recognition awarded to less than 2.5% of all lawyers under 40 years old in Southern California. Prior to joining Kendall Brill & Klieger, Mr. Kelly was an associate at Irell & Manella in Los Angeles.

### Representative Matters

A selected listing of noteworthy publicly-reported client matters follows:

Steiner v. CBS Broadcasting Inc., Los Angeles Superior Court. Mr. Kelly obtained summary judgment on behalf of CBS in a case in which plaintiffs, composers of background music for various episodic television series airing in the 1950s, 1960s, and 1970s, alleged that CBS had failed to pay royalties for synchronization licenses of the compositions in connection with the release of the television series on videocassette and DVD.

World Wrestling Entertainment, Inc. v. JAKKS Pacific, Inc., et al., Southern District of New York. On behalf of videogame publisher THQ, Inc., Mr. Kelly obtained dismissal of RICO, antitrust, and commercial bribery claims asserted by World Wrestling Entertainment ("WWE"). WWE's claims arose out of the alleged bribery of two of WWE's licensing agents in connection with WWE's award of a videogame license to a joint venture between THQ and JAKKS Pacific. WWE was seeking damages in excess of \$100 million.

HLC Properties, Ltd. v. MCA Records, Inc., et al., California Supreme Court and Los Angeles Superior Court. Mr. Kelly successfully represented Universal Music Group before the California Supreme Court in a landmark case involving the scope of the attorney-client privilege. Mr. Kelly then "second chaired" Universal Music Group's trial victory in the case.

Bethea v. Mark Burnett Productions, et al., Central District of California. Mr. Kelly also successfully defended Mark Burnett Productions, NBC Universal, and Donald Trump in a copyright infringement action involving the hit television series, *The Apprentice*. After discovery, the District Court granted summary judgment in favor of defendants on the copyright infringement claim.

Western Sky Industries, LLC v. Eclipse Aviation Corp., AAA Arbitration and District of Arizona. Mr. Kelly litigated on behalf of Eclipse Aviation, an aircraft manufacturer, in a multi-million dollar dispute arising out of an exclusive purchase agreement with one of Eclipse's key suppliers. After a 19-day arbitration trial, Eclipse defeated claims alleging improper termination of agreement, misrepresentation, promissory fraud, and theft of intellectual property.

## **Kendall Brill & Klieger, LLP**

Spark Unlimited v. Activision Publishing, Los Angeles Superior Court. Mr. Kelly litigated on behalf of Activision against a videogame developer related to the development of the World War II-based videogame Call of Duty: Finest Hour. The case included claims by both parties for breach of contract and fraud and settled before trial.

Fox/UTV Holdings, Inc., et al. v. Paramount Pictures Corporation, et al., Los Angeles Superior Court. Mr. Kelly litigated on behalf of Paramount and UPN in a \$100 million breach of contract dispute with UPN's largest affiliate group. The case was settled before trial.

News Limited v. Australis Holdings Pty, Ltd., et al., New York Supreme Court. Mr. Kelly litigated on behalf of Paramount, Sony, and Universal in a multi-billion dollar dispute concerning licensing and distribution of pay television services in Australia. The case, which involved a variety of contract and tort claims, settled before trial.

FSBI Business Services, Inc. v. eToys Inc., AAA Arbitration and District of Minnesota. Mr. Kelly litigated on behalf of eToys in a multi-million dollar breach of contract dispute concerning a fulfillment services agreement. After a two-week arbitration trial, a substantial award was entered in eToys' favor.

### **Bar Admissions**

- 2000, California

### **Education**

- UCLA School of Law (J.D., 2000)
  - Order of the Coif
- Pomona College (B.A., Economics, 1995)