

American Conference Institute presents

Executive Legal Summit on

ALCOHOLIC BEVERAGE

marketing & distribution

Practical business strategies for the shifting legal landscape

February 7-8, 2007 ♦ The Biltmore Hotel ♦ Miami, Florida



- ♦ **Direct shipping update** – how recent developments and disputes may affect your business
- ♦ **Current marketing trends** – guerrilla, viral, mobile and beyond
- ♦ **Negotiate distribution contracts with ease** – tactics for gaining more leverage and getting out of bad agreements

INTERACTIVE WORKSHOP

Friday, February 9, 2007 ♦ 9:00 a.m. – 12:30 p.m.

IP BOOT CAMP FOR ADVERTISING EXECUTIVES & ATTORNEYS

Developing a Tactical Plan for Avoiding Lawsuits & Protecting Your Brand without Sacrificing the Ingenuity of Your Advertising Campaigns



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Are Your Business Practices Keeping Up with the Fast-Changing Legal Landscape and the Evolving Distribution System?

Recent direct shipping litigation, state and federal regulatory changes and shifting social views have caused major disruption to the long-time status quo in the alcoholic beverage industry. The changing faces of the US distribution and brand marketing systems have made it necessary for alcoholic beverage executives and attorneys to reassess their current trade practices and marketing campaigns, and potentially chart a new business course for future endeavors.

American Conference Institute's premiere Executive Legal Summit on ALCOHOLIC BEVERAGE MARKETING & DISTRIBUTION will provide you with the need-to-know legal and business developments that affect the way the alcoholic beverage industry operates. You will hear about the latest case law, business strategies, negotiation tactics, and marketing trends from leading in-house counsel, expert attorneys and marketing executives who tackle marketing and distribution challenges for their companies and clients on a daily basis. They will provide you with first hand, practical, and comprehensive information on how to:

- **Avoid** red flags when structuring retail marketing and promotional programs
- **Capitalize** on the industry consolidation trend
- **Tackle** international trade issues associated with alcoholic beverage e-tail
- **Master** the dos and don'ts of using health-related statements in labeling and advertising
- **Minimize** the risk of liability for youth exposure to alcohol advertising

Plus, for those who want to develop a winning game plan for using IP in advertising campaigns, we have an exclusive workshop entitled "IP BOOT CAMP FOR ADVERTISING EXECUTIVES & ATTORNEYS" that will take you through the day-to-day procedures you should implement to avoid lawsuits & protect your brand.

This unique, substantive conference has been designed to help you resolve the most difficult and vexing marketing and distribution issues affecting the alcoholic beverage industry today. By attending you will benefit from the detailed materials supplied by the faculty as well as enjoy a first-rate environment at the amazing Biltmore Hotel. With fantastic networking opportunities and cutting-edge strategies to be discussed in an interactive atmosphere, this program is a must-attend. Register now by calling 1-888-224-2480; fax your registration to 1-877-927-1563; or online at www.AmericanConference.com/alcohol

AGENDA-AT-A-GLANCE

DAY 1

- Why Alcohol Isn't Just Any Commodity
- Navigating the Post-*Granholm* & *Costco* Distribution Landscape
- Untying the Tied House Laws
- Evaluating the Effects of Industry-Wide Consolidation
- State Regulators' Viewpoint: Alcohol Beverage Control Board Panel

DAY 2

- Overcoming Critical e-Commerce Challenges: Direct-to-Consumer Shipping of Alcohol
- Advertising-Based Class Actions Against Alcohol Beverage Manufacturers: Status Report and Appellate Issues
- Support Group for Unsupported Claims and Other Regulatory Trip-Ups
- Incorporating TTBB Compliance into Your Business Strategies
- Mastering guerrilla Marketing Campaigns – Not for the Faint of Heart

Practical business strategies for the shifting legal landscape

THE BILTMORE HOTEL



Built in 1926, The Biltmore Hotel is a national historic landmark property offering luxury accommodations; as well as a championship 18-hole golf course, tennis facilities, spa, fitness center, a premier membership wine club, and the largest hotel swimming pool in the continental United States. This is an amazing opportunity to enjoy an extraordinary business trip combined with a resort atmosphere! A limited number of rooms are available at a discounted rate.

WHO YOU WILL MEET

- In-House Counsel, VPs of Marketing, Advertising, e-Commerce and Government Relations, as well as Chief Compliance and Regulatory Affairs Officers at companies involved in the production and sale of alcoholic beverages
- Attorneys who specialize in the following practice areas:
 - Alcoholic Beverage Law
 - Food & Beverage Law
 - Regulatory Compliance
 - Licensing
 - Advertising
 - Marketing
 - Intellectual Property
 - Trademarks
 - E-Commerce/Internet

DISTINGUISHED FACULTY

CHAIRS:

Marc E. Sorini

Partner
McDermott Will & Emery LLP
(Washington, DC)

William Tomaszewski

Corporate Counsel
Wine.com (San Francisco, CA)

SPEAKERS:

Celeste Beatty

President
Harlem Brewing Co.
(New York, NY)

Richard M. Blau

Chair, Alcohol Beverage & Food Law
GrayRobinson, P.A.
(Tampa, FL)

Low Bright

General Counsel
Texas Alcoholic Beverage Commission
(Austin, TX)

Ronald C. Fondiller

General Counsel
Canandaigua Wine Co., Inc.
(Canandaigua, NY)

William H. Foster

Assistant Administrator
Headquarters Operations
Alcohol and Tobacco Tax and Trade Bureau
(Washington, DC)

Jeffrey A. Greenbaum

Partner
Frankfurt Kurnit Klein & Selz, PC
(New York, NY)

Jeffrey Greer (Invited)

Associate Director
Rhode Island Division of Commercial
Licensing & Regulation
(Providence, RI)

Robert S. Hill, III

General Counsel
Alabama Alcoholic Beverage Control Board
(Montgomery, AL)

Andre R. Jaglom

Partner
Tannenbaum Helpert Syracuse
& Hirschtritt LLP
(New York, NY)

David G. Mallen

Assistant Director, Legal Affairs
National Advertising Division
(New York, NY)

Phyllis Hurwitz Marcus

Senior Attorney, Division of Advertising
Practices, Bureau of Consumer Protection
Federal Trade Commission
(Washington, DC)

Terry Micek

VP Regulatory Affairs &
Deputy General Counsel
Coors Brewing Company
(Golden, CO)

Brian Murphy

Partner
Frankfurt Kurnit Klein & Selz, PC
(New York, NY)

David O'Brien

Founder and Executive Director
O2B Brands LLC
(New York, NY)

Vincent O'Brien

Senior Counsel
Nixon Peabody LLP
(New York, NY)

James L. Webster

Webster Powell, P.C.
(Chicago IL)

ALCOHOLIC BEVERAGE marketing & distribution

DAY 1 – Wednesday, February 7, 2007

8:00 Registration and Continental Breakfast 

8:45 Co-Chairs' Opening Remarks



Marc E. Sorini

Partner
McDermott Will & Emery LLP
(Washington, DC)



William Tomaszewski

Corporate Counsel
Wine.com
(San Francisco, CA)

Analyzing the Future of the 3-Tier Distribution System

9:00 Why Alcohol Isn't Just Any Commodity



Richard M. Blau

Chair, Alcohol Beverage & Food Law
GrayRobinson, P.A.
(Tampa, FL)

- Operating in a unique area of commerce
- Why distributors have a *de facto* monopoly
- Understanding the historical basis for preventing vertical integration
- Applying past justifications for separate tiers to today's marketplace
- Understanding franchise termination
- Are the public policies behind the 3-tier system still relevant?
 - balancing a state's interest in temperance and the federal Sherman Antitrust Act

10:00 Navigating the Post-*Granholm* & *Costco* Distribution Landscape



Marc E. Sorini

Partner
McDermott Will & Emery LLP
(Washington, DC)

- Determining the reach of *Granholm*
- Assessing the current state of affairs after Round 1 of *Costco*
 - analyzing the new direct shipping law in WA
 - post & hold system

- prohibition on quantity discounts
- delivered pricing
- mandatory minimum mark up
- New lawsuits by interstate retailers
- Business strategies in response to new developments

11:00 Coffee Break 

11:15 Untying the Tied House Laws

James L. Webster

Webster Powell, P.C.
(Chicago, IL)

- Receiving rebates, allowances, favors, or anything else of value
- Defining "things of value"
- Structuring retail marketing and promotional programs
- Scrutinizing trade practice enforcement actions by state ABC departments and Attorneys General
- Exceeding the monetary limits on consumer giveaways

12:15 Networking Luncheon for Delegates & Speakers 

1:45 Evaluating the Effects of Industry-Wide Consolidation

Ronald C. Fondiller

General Counsel
Canandaigua Wine Co., Inc.
(Canandaigua, NY)



Andre R. Jaglom

Partner
Tannenbaum Helpern Syracuse & Hirschtritt LLP
(New York, NY)



Vincent O'Brien

Senior Counsel
Nixon Peabody LLP
(New York, NY)

- Continuing consolidation among manufacturers, distributors and retailers – what does it all mean?
- Assessing the impact on control states
- Capitalizing on the product segmentation trend
- Responding to increasing supply pressures; the key to meeting consumer demand
- Negotiating distribution contracts
 - gaining more leverage
 - getting out of bad agreements

Practical business strategies for the shifting legal landscape

3:00 Refreshment Break ☞

3:15 **State Regulators' Viewpoint: Alcohol Beverage Control Board Panel**

Through regulation and enforcement, ABC boards across the country play a crucial role in determining the way your business operates - from manufacturing, importing and exporting to storing, selling and transporting. Don't miss this opportunity to hear key insights and get answers straight from the regulators! Among the topics to be discussed: trade practice compliance, increased focus on trade practice violations, licensing disputes, and much more.

Lou Bright

General Counsel
Texas Alcoholic Beverage Commission
(Austin, TX)



Robert S. Hill, III

General Counsel
Alabama Alcoholic Beverage Control Board
(Montgomery, AL)

Jeffrey Greer (invited)

Associate Director
Rhode Island Division of Commercial
Licensing & Regulation (Providence, RI)

Terry Micek

VP Regulatory Affairs &
Deputy General Counsel
Coors Brewing Company
(Golden, CO)

Moderator



Marc E. Sorini

Partner
McDermott Will & Emery LLP
(Washington, DC)

4:45 Conference Adjourns

DAY 2 – Thursday, February 8, 2007

8:30 Continental Breakfast ☞

9:00 Co-Chairs' Opening Remarks

9:15 **Overcoming Critical e-Commerce Challenges: Direct-to-Consumer Shipping of Alcohol**



William Tomaszewski

Corporate Counsel
Wine.com
(San Francisco, CA)

- Working out the mechanics of regulated direct shipping
 - licensing documentation
 - tax payment instructions
- Overcoming issues with displaying retail selling prices on website
- Dealing with combination products – bundled non-alcoholic and alcoholic items
- Operating in a world without borders – tackling international trade issues associated with alcoholic beverage e-tail
 - determining who the regulators and enforcers will be

10:15 Coffee Break ☞

10:30 **Advertising-Based Class Actions Against Alcohol Beverage Manufacturers: Status Report and Appellate Issues**

Speaker TBD

- Understanding the basis of the claims and defenses
- Rulings by Trial Courts
 - Federal (OH, MI, WV)
 - State (CA, CO, WI, DC)
- Appellate Issues
 - 6th Circuit
 - *Eisenberg v. Anheuser-Busch, Inc., et al.*
 - *Viola Aston v. Advanced Brands & Importing Co.*

11:30 **Support Group for Unsupported Claims and Other Regulatory Trip-Ups**



David G. Mallen

Assistant Director
Legal Affairs
National Advertising Division
(New York, NY)



Phyllis Hurwitz Marcus

Senior Attorney
Division of Advertising Practices
Bureau of Consumer Protection
Federal Trade Commission (Washington, DC)

ALCOHOLIC BEVERAGE marketing & distribution

Moderator



Jeffrey A. Greenbaum

Partner
Frankfurt Kurnit Klein & Selz, PC
(New York, NY)

- Avoiding pitfalls when navigating the self-regulatory system
- Using health-related statements in labeling and advertising – defining the legal parameters
- Substantiating claims – the truth, the whole truth and nothing but the truth?
 - conducting consumer surveys and clinical studies the right way
- Striking a balance when advertising online: Making the most of a profitable marketing channel while minimizing liability for youth exposure to Internet alcohol advertising
 - verifying website viewer's age
 - using software to prevent underage viewers from site access
- Limiting advertising to audiences where only 15 percent of the population is under 21 – the new norm?

12:45 Networking Luncheon for Delegates & Speakers

2:15 Incorporating TTB Compliance into Your Business Strategies



William H. Foster

Assistant Administrator,
Headquarters Operations
Alcohol and Tobacco Tax and Trade Bureau
(Washington, DC)

- Employing best practices in labeling
- Mastering federal excise tax payments
- Implementing Bioterrorism Act safeguards
- What to expect from a TTB audit
- Complying with import and export requirements
- Other TTB programs and industry issues

3:15 Refreshment Break

3:30 Mastering guerrilla Marketing Campaigns – Not for the Faint of Heart

Celeste Beatty

President
Harlem Brewing Co.
(New York, NY)



David O'Brien

Founder and Executive Director
O2B Brands LLC
(New York, NY)

Creating Buzz in Cyberspace

- Analyzing the industry's move away from measured media
- Operating in the lag time: strategies for conducting business before state laws catch up with the computer age
- Identifying new trends and possible legal red flags in online advertising
 - The recent launch of an in-house film and TV production company
 - "Viral marketing" – what is it, how does it work and how effective is it?

Other Nontraditional Marketing Avenues

- Mobile marketing: Marketing on the go or a practice that's got to go?
- Negotiating sponsorship agreements – forming strategic alliances with the sports and entertainment industries
 - Anticipating and preparing for public backlash

4:30 Conference Concludes

ABOUT AMERICAN CONFERENCE INSTITUTE

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Each year, more than 21,000 in-house counsel, attorneys in private practice, and other senior executives participate in ACI events – and the numbers keep growing.

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ACI's highly trained team of attorney producers are dedicated, full-time, to developing the content and scope of our conferences. They speak your language, ensuring that our programs provide practical, strategic guidance on cutting-edge issues.

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ACI understands that gaining perspectives from — and building relationships with — your colleagues during the breaks can be just as valuable as the structured conference sessions. ACI strives to make both the formal and informal aspects of your conference as productive as possible.

POST-CONFERENCE WORKSHOP – Friday, February 9, 2007

9:00 a.m. – 12:30 p.m.
(Registration begins at 8:30 a.m.)

IP BOOT CAMP FOR ADVERTISING EXECUTIVES & ATTORNEYS

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Jeffrey A. Greenbaum

Partner
Frankfurt Kurnit Klein & Selz, PC
(New York, NY)



Brian Murphy

Partner
Frankfurt Kurnit Klein & Selz, PC
(New York, NY)

The Advertising Executive . . .

The little light bulb in your head has finally gone off after countless hours of racking your brain for that one perfect idea. The thought of submitting your brainchild to the attorneys for clearance is a real downer because they always seem to find problems.

The Advertising Attorney . . .

The advertising department is all revved up over a new ad idea, but as a matter of procedure, has submitted it to you for review. While you recognize the proposal's creative and

innovative value, you are concerned that it pushes the envelope too far and could expose the company to a huge IP infringement lawsuit.

Collaboration between advertising executives and attorneys is a crucial element in the successful use of IP in advertising. In this workshop you'll gain insights and strategies for striking the right balance between creativity and caution while building a better foundation for dealing with day-to-day procedures, including:

- **Identifying** common clearance traps
- **Determining** when copyright protection is available
- **Understanding** the boundaries of the fair use defense in advertising
- **Staying** out of trouble when using "rip-o-matics"
- **Knowing** when to get permission to use a third party's trademark
- **Avoiding** Lanham Act claims
- **Defining** the scope of protection for name, picture, voice, and persona
- **Hiring** celebrities – knowing what to expect
- **Protecting** your creative ideas
- **Covering** all the bases when using music in your advertising
- **Analyzing** the "when" and "how" for dealing with talent unions
- **Taking** action: knowing what to do when someone is ripping you off

CONTINUING LEGAL EDUCATION CREDITS

Accreditation will be sought in those jurisdictions requested by registrants which have continuing legal education requirements. To request credit, please check the appropriate box on the Registration Form.

This course has been approved in accordance with the requirements of the **New York State Continuing Legal Education Board** in the amount of 12.5 hours. An additional 3.5 credit hours will apply to workshop participation.

ACI certifies that this activity has been approved for CLE credit by the **State Bar of California** in the amount of 10.75 hours. An additional 3.0 credit hours will apply to workshop participation.



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ACI works closely with each sponsor to create a distinctive package tailored to individual marketing and business development objectives. Our objective with every sponsor is to foster a rewarding and long-term partnership through the delivery of a wide variety of sponsorship benefits and thought leadership opportunities.

For more information, please contact:

Benjamin Greenzweig

Director of Business Development, U.S.
(212) 352-3220 ext. 238 or
B.Greenzweig@AmericanConference.com

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Executive Legal Summit on

ALCOHOLIC BEVERAGE marketing & distribution

Practical business strategies for the shifting legal landscape

February 7-8, 2007 ♦ The Biltmore Hotel ♦ Miami, Florida

REGISTRATION FORM

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APPROVING MANAGER _____ POSITION _____

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INTERACTIVE WORKSHOP

Friday, February 9, 2007

9:00 a.m. – 12:30 p.m.

(Registration begins
at 8:30 a.m.)

5 Easy Ways to Register

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New York, NY 10010

PHONE 888-224-2480

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VENUE: Biltmore Hotel
ADDRESS: 1200 Anastasia Avenue
Coral Gables, FL 33134

A limited number of rooms are available at a discounted rate. To make your hotel reservation please visit www.globalexec.com/aci. If you need assistance please call Global Executive on 800-516-4265 or email aci@globalexec.com. The hotel will not be able to make or change your reservation directly.

Registration Fee

The fee includes the conference, all program materials, continental breakfasts, lunches and refreshments.

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