BASICS OF LICENSING:

International Edition

Danny Simon
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To Susan – 44 years of marriage and now over 35 books. I don't know how you withstood either, but I couldn't imagine life without you.

-Greg

To the things that mean the most – my wife Carey for her love and friendship, my daughter Jane who lights up my life, and my faithful stuffed champions Dorothy and Doggie Arf Arf for their steadfast support.

-Danny

About The Authors

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Greg is a prolific author, having written more than 35 books on various licensing and IP topics, including the seminal book on the law of merchandising entitled *The Law of Merchandise & Character Licensing*, which was originally published in 1985 and is updated annually by West Publishing. He is a founder and executive editor of *The Licensing Journal* and the *IP Litigator*, both published by Aspen and for the last six years has been the legal columnist for *Total Licensing*. He has written more than 50 articles on various licensing and IP topics and given more than 200 talks on the subject before a wide range of audiences, including the INTA, LES, AIPLA and other organizations. He has been qualified as an expert in more than thirty actions on licensing related matters.

Greg turned a passion for baseball into a business, having invented a computerized video baseball/softball pitching

simulator for which he has received 13 U.S. patents and numerous international ones. In his spare time, he created and now runs a company called ProBatter Sports, which manufactures and sells these simulators to a wide range of customers including a dozen Major League teams and more than 400 colleges and commercial training facilities.

Danny Simon is a thirty plus year veteran of the licensing industry with expertise in all phases of the merchandising and licensing process. Having built the licensing division for Lorimar Productions, 20th Century Fox and Carolco Pictures, he opened his own licensing agency in 1992 in Los Angeles, CA, called The Licensing Group, Ltd.

Danny has been a pioneer in the area of entertainment licensing, with a focus on material geared to the teen plus market. Beginning with the television program DALLAS, he was among the first to license adult, prime-time television entertainment and, with DYNASTY, he was the first to apply branding techniques to television shows. He also developed successful licensing programs for M*A*S*H, Fall Guy, Alf, Rambo, Terminator 2: Judgment Day, Mortal Kombat, Baywatch, U.S. Secret Service, Arnold Schwarzenegger and David Hasselhoff.

He has also succeeded in feature film development. With MORTAL KOMBAT, he produced the first ever film adaptation of a video game. He's a partner in an entertainment development company that sold the rights to the MATT HELM book series to DreamWorks, where it is currently in development as a motion picture.

For the past 18 years Danny has taught a continuing college level course on entertainment licensing at UCLA. He's a founding member of LIMA and has been its president and a two-time member of its Board. With Greg Battersby, he developed and serves as Co-Dean of LIMA's Certificate of Licensing Studies program.

Danny also is a regular lecturer on a variety of licensing topics around the world and serves as an international licensing consultant, providing consulting services to the Hong Kong Trade Development Council and other international groups.

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Over the years Danny has written many articles on the subject of licensing for various licensing magazines. He is a regular contributor to the book *Licensing Update*, published annually by Aspen, and also writes a monthly column on entertainment licensing for *The Licensing Journal.*

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Francesca Ash became involved in the licensing industry in 1978 when she co-organized the first-ever character merchandising conference and exhibition. In the 1980s she became the first non-American officer of LIMA — a position she held for two years. Acknowledged as an expert in licensing on a worldwide basis, in 2003 she co-founded Total Licensing and currently is responsible for publishing Total Licensing magazine, a worldwide publication with readers in over 100 countries. In addition, she publishes Total Art Licensing, Total Licensing Australia, Total Licensing UK and co-publishes The Total Licensing Report. In 2014, she will be responsible for the launch of Total Licensing's latest magazine, Total Brand Licensing. Francesca regularly addresses seminars and conferences around the world

Eric Belloso began his professional career with LCI (Leisure Concept International and after 4 Kids Entertainment) in London in 1995. Since then, Mr. Belloso has worked as Licensing Manager for companies such as BRB Internacional in Spain, BKN International in Paris and Viacom Consumer Products in London, developing properties including the Spanish national football (soccer) team, David the Gnome, Rugrats, Pokémon, Dangerous Dinosaurs and Star. Mr. Belloso set up his own company in 2003 consulting with different FMCG companies involved in the entertainment business, including Clear Channel Entertainment (part of Live Nation) in the live show business, Sony Pictures Home Entertainment in the DVD market and Sony Computer Entertainment (PlayStation) in the video game business. Beginning in 2007, Mr. Belloso also became International Business Development Director at Zinkia, managing all facets of the business (TV, toys, licensing strategy, licensing agents, internet and virtual world) for the series Pocoyó and taking the lead with respect to the brand in Latin America and China. He joined Exim Licensing Group in 2010 to head the international exploitation of their first property (BondiBand) and also developed

and implemented, from 2012, the licensing and commercial worldwide strategy for Kandor Graphics, an animated studio based in Granada that launched the 3D feature film "Justin and the Knights of Valour." As of April 2014, he has been hired by Planeta Junior as DreamWorks Brands Director.

Dalia Benbassat, VP of Corporate Relations and Executive Associate at Tycoon Enterprises, is a graphic artist by profession and has developed a long standing career in licensing beginning in 1996 when she joined the Tycoon Group. She started in Equity Promotions, becoming involved in the development and sale of promotional premiums, then progressively became engaged in licensing services by becoming head of Promotions for Tycoon Enterprises in 2001, then Director of Licensing a few years after. Dalia has been directly involved in sound licensing successes with brands such as Pokémon, the new Star Wars saga, Shrek, and Yugioh!, and has worked via Tycoon for major studios including 20th Century Fox, Turner, Sesame Workshop, Marvel Entertainment and Rovio Mobile. Since 2006, she has been in charge of corporate relations and in-bound licensing at Tycoon and has participated in several International Licensing forums and seminars and currently acts as VP of Promarca (Mexico's Licensing Association).

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Marilu Corpus is President and Chief Executive Officer of Click! Licensing Asia, Inc. Founded in 1988, Click! Licensing has grown to be one of the leading brand management companies in Asia managing 9 countries in Greater China, Southeast Asia, with Korea as the latest addition, representing world class brands from pre-school brands as well as entertainment, fashion and lifestyle brands. CLICK's work begins from creating strategies to implementation of licensing programs for the long term benefit of the brands. Marilu started her career in Licensing in 1984 with United Media Licensing International Division in New York working on the PEANUTS and GARFIELD for 7 years and later as Vice President of MGM (Metro Goldwyn Mayer) as Vice President of International Licensing and Merchandising. Marilu is currently on the Board of Directors of the Licensing Industry Merchandisers' Association (LIMA).

Elias Fasja is Founding Partner and President at Tycoon Enterprises, one of the largest and most influential licensing and merchandising agencies in Latin America. Tycoon has consistently introduced to the market the hottest contemporary entertainment brands, as well as big "classics" and a careful selection of premium properties derived from the film, television, interactive, sports and lifestyle fields, including Angry Birds, Hello Kitty, The Simpsons, Plaza Sésamo, Real Madrid and Universal Pictures, among others. Tycoon has recently expanded its scope of services and geographical coverage, raising the bar for industry standards across Latin America, from Mexico to Brazil. Previously, Mr. Fasja was the President of PROMARCA from 2008 to 2012, and CEO at Grupo Carel S.A. de C.V. from 1977 to 1992.

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Fund, the Vatican Library or Deutscher Tierschutzbund and other popular properties. Sir Michael (M.B.A.) is the author of numerous articles on licensing and merchandising and a frequent speaker at various seminars, business schools and universities. He was also the founding President of the European License Marketing & Merchandising Association (ELMA) and its CEO through 2008. www.vip-ag.com.

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and in 1994 was awarded the "LIMA International Licensing Agent of The Year" award.

Hakan Tungaç is the Turkish representative of the International Licensing Industry Merchandisers' Association (LIMA) and is currently a doctorate student of History at Istanbul University. Mr. Tungaç is a Board Member and International Relations Director of the Turkish Press & Publishers Copyrights & Licensing Union. He is currently the managing director of Sentries Licensing Company. Besides his professional work career, he is an actor and has appeared on 3 TV series and a motion picture.

Tani Wong has over 16 years in licensing business and has gained extensive experience in the industry. She has in-depth knowledge about licensors, licensees, merchandising, publishing, marketing, promotions and events. To recognize her dedication and service to the licensing industry, she was awarded the "20 Most Outstanding Licensing Practioners'' at The 8th China Beijing International Cultural & Creative Industry Expo in 2013. Apart from running her own consultancy, she is the Managing Director of LIMA China office since 2009. Tani served as Sales Director for Greater China, Southeast Asia & India at Warner Bros. She managed a wide portfolio from animation, movie to sports team and events with local agents in the region. Prior to that, Tani joined Disney Consumer Products where she cultivated her enthusiasm in licensing.

Christian Zeidler is Owner and Managing Director of 20too – The Premium Licensing Specialist. 20too – The Premium Licensing Specialist is a leading licensing company located in Dubai, United Arab Emirates. The company specializes in representing global entertainment brands and portfolios of IP owners such as Hasbro, Paws, IMPS, CreaCon and others. In his role as Managing Director, Christian Zeidler manages one of the leading licensing agencies in the region of the Middle East and North Africa. Together with his team they represent some of the world's most popular entertainment and character brands, such as Transformers, My Little Pony, The Smurfs,

5.3 Germany

by Michael A. Lou

5.3.1 Introduction to "GAS"

The "German speaking markets" are often referred to as "GAS" for Germany, Austria and Switzerland, because in earlier times owners of intellectual property rights (IPR's) usually granted licenses by language areas. As a result, they included the two significantly smaller countries of Austria and the German-speaking part of Switzerland (at that time about 2 million Swiss citizens) within licenses granted for Germany.

At one time, almost all packaging, instruction booklets and care labels in these markets were in German only, so the 1957 Treaty of Rome, which facilitated the "free flow of goods within the European Union," had almost no impact. The purpose of the treaty was that once you licensed a company in/for one EU-member country, it can freely sell to buyers from other EU countries, provided they do no "active soliciting", e.g. do not display/market the products outside the licensed territory). Nowadays, almost all packaging and instructions for products in Europe (or at least the 28 member countries of the EU) are in at least the ten most common EU-languages, because most of them aim for an EU-wide distribution.

5.3.2 Background

Since its re-unification with the German Democratic Republic ("East Germany"), Germany has some 81.8 million people in about 24 million households (of which about 40% are single households). Austria has roughly 8.5 million citizen in 3.65 million households and Switzerland counts for almost another 9 million of which some 5.67 million have German as their native tongue (though many more speak German in this tri-lingual country).

GAS is not only the largest single language market in the 503 million people European Union (EU) but also houses the most wealthy citizens. Germany has a GNP of US $44.260,

Austria is $47.660 and "banking"-Switzerland is $89.970 (on Purchase Power Parity basis), according to the World Bank. (USA: $51.749). However, the other key markets in the EU are not far behind. In all 28 member countries of the EU, the average GNP per person is still US $30.494. The average wealth of Germans totals to about 195.200 Euros (France 229.300; Spain 285.300, despite the crises you can read about at this time).

This demonstrates the great potential the EU markets have and Germany and Austria in particular, having traditionally acted as the gateways for business with Eastern Europe. Many companies already have distribution subsidiaries or co-operations in the key markets in Eastern Europe (Poland, Hungary, Russia) which are now upgraded by local production facilities.

While the average income in the ten German states that formed part of "Western Germany" is relatively equally spread, the approximately 12.5 million people living in the six former Eastern German states reach only about 80% of the income of their western neighbours, with wages are still somewhat behind.

In Austria, of course, people in urban areas gain relatively more money than in rural areas, but the living standards and infrastructure allows countrywide distribution at even levels. And in Switzerland, wealth seems to part of the lifestyle.

Of course, there are also bad facts: A UNICEF study released in April 2013 reveals that one in seven German children between 11 and 14 years is "unhappy with his or her situation. And only about 30% of the children who are born today into a certain social group have a chance to change into a higher one compared to 37% of those born in 1950 as reported by the Scientific Centre for Social Research in Berlin.

Despite the EU economic problems that are reported on almost daily, GAS is indeed a stronghold within the European markets. GAS can be a productive market for licensing if licensors use common sense and do not expect that every licensing program that succeeded overseas will automatically also do well (or even better) in GAS. In fact, the opposing situation is also true: a property that was not successful in

other countries may have a chance to succeed in the German speaking markets. That is because, according to market research organization Nielsen, 56% of Germans are open to trying new brands, when they asked over than 29,000 internet users.

5.3.3 The History of Licensing in GAS

It is difficult to estimate licensing numbers before World War II, because there was no tracking of significant brand or entertainment licensing activities in the German speaking markets before then. In 1950, right after World War II ended, the German producer of the popular "Hummel" figurines, Franz Goebel, acquired from Walt Disney the rights to produce Mickey Mouse, Bambi and other Disney characters.

Licensing according to today's standards began only with the TV market expanding. Leo Kirch, a young and emerging TV program and film dealer was one of the first people to realize the potential of the ancillary rights. (Berlusconi was not even in the business yet and Murdoch & Co. still thought print products were the media of the future.) Kirch's group initially bought the distribution rights from leading US studios like Warner, Paramount and MGM including the merchandising rights. Later Kirch started to produce its own programming like Pippi Longstocking, Heidi, Bee Maja, etc., that was also suited for licensing.

Guenther Vetter, who was General Manager of Kirch's licensing arm Merchandising Muenchen GmbH from 1972

through 1981, was the a real pioneer of licensing at that time and later said he needed "comprehensive negotiation and convincing skills" to sensitize companies in German-speaking markets for this new business opportunity called merchandising.

Some of these early pioneer licensing properties are still in the market today and are nowadays referred to as "classics." When I started in this business in 1980 (as licensee for the DALLAS TV series) there was almost no one to get expert advice from other than Guenther Vetter and Brigitte Gosda, who marketed at that time MGM, United Artists and Warner Bros. properties before doing most of the business for Sesame Street and later developed the properties of Bibi Blocksberg and Benjamin Bluemchen into the local kids classics they are today.

5.3.4 Beyond Entertainment Licensing

Brand licensing actually started, like in most other places, as brand extension (after the owners of core brands had exploited line extensions). Manufacturers of brand name products tried to extend their product lines away from their core products and, if possible, into other distribution channels. The main reason for extending their products, apart from making money, was to reach the consumer in "competitive-free" environments, i.e., where there was no product of their competitors for the core products. These companies hoped to strengthen their brand awareness, and hence their brand value, by being known to a larger consumer group.

Naturally, some brand companies were not set-up for such "brand extension" and soon consultants (later called licensing agents) appeared that helped the brand companies find the right licensees. Early cases of successful brand licensing strategies were the Olympic Games and the FIFA Soccer Championships (through Adidas subsidiary ISL International Sports Licensing). It is somewhat odd that the professional soccer leagues (Bundesliga), which are now so popular, did not begin to license in GAS until they saw what I was ablt to do with the NFL in the late 1980's, even though

American football was not very popular at all in the German speaking markets.

Quite certainly, Kirch´s TV and film licensing developed the entertainment licensing in German markets; Adidas, Puma and fashion brands like BOSS, Jil Sander and Wolfgang Joop, along with some local heroes (like HARIBO) and international corporations from abroad (Playskool was one of the first) developed the brand side of it; and soccer teams (Bayern Muenchen and Co.), FIFA and the Olympic Games were the properties that developed sports licensing.

5.3.5 The TV Market

With respect to television entertainment licensing, one must know that the TV scene in GAS was far behind all other larger European countries. Until 1962 there was only one (!) TV channel ("Deutsches Fernsehen", nationwide and operated by the government). Then a second governmental channel (ZDF Zweites Deutsches Fernsehen) commenced its nationwide broadcasting and each of the 10 Federal States started to launch its own regional channel (that at early times only broadcasted until the evening and was then joined with "Deutsches Fernsehen", today known as "Das Erste"). Consequently, the programming was limited in variety, and the bulk of foreign TV-series, which were better suited for licensing, started only when private TV stations commenced their business in 1984. So television licensing, which historically has generated a vast majority of the licensing business in other markets, started pretty late compared to GAS. I believe that this is why there are many more licensed products in the English, Italian, French or Spanish markets compared to GAS, though GAS represents a very strong licensing market and has probably the best merits with respect to its future development.

5.3.6 Recent Changes in Licensing

In recent years, the channels of distribution of licensed product have undergone significant changes, but so too have the ways licenses are marketed and sold, having refined and captured new ground. With respect to licensing itself, the tar-

get groups and/or potential licensees have widened. There are more direct-to-retail licenses being granted, which leaves the retail chains more freedom with respect to sourcing. And cross-licensing with other properties (Star Wars with Lego or and Angry Birds, Hello Kitty and Elvis) has become very popular.

As far as distribution, changes and developments were more significant in the past two decades, but channels continue to grow and diversify. For example, Tilmann Schneider, who in the mid-1980's headed licensing for the private TV-Giant RTL, "discovered" gasoline stations as new POS for his plush replicas of "Kommissar REX," the shepherd detective in a popular TV series, and selling them in greater numbers than the other traditional channels combined. Another example of the expanding distribution channels is the sale of animal health insurance using the licensed image of a popular dog character and distributed through pharmacies/drugstores.

While entertainment and sports licensing were well-established, it was not until the late 80's that brand licensing really became serious business. The German Railway Company used it to support the launch of its new high speed trains (ICE); Unilever, after they bought Fabergé in the US and went back to Europe to start an upscale brand licensing program, to re-launch its mass market body care line Fabergé (Brut de Fabergé); Pepsi Cola to leverage its tiny market share of 8% (vs. Coke with over 50%); followed by numerous fashion brands.

Celebrity licensing was strong in the 80's and 90's with legends like Humphrey Bogart, James Dean, Elvis Presley, Bruce Lee and Marilyn Monroe. Growth in the area continued into the late 90's with contemporary stars like Michael Jackson, Tina Turner, The Beatles, Rolling Stones and others that were popular through their respective music, just like in many other countries.

In the 21st century there were very few property categories introduced apart from charity licensing. The shift went more toward alternative or additional distribution channels and mainly to direct-to-retail licensing (DTR).

5.3.7 Licensing Today

Major Properties. Most certainly, among the top five most successful properties licensed for kids in GAS are SpongeBob, Mickey Mouse, Hello Kitty, Star Wars and the German classic Benjamin Bluemchen, a friendly elephant walking on two legs and primarily aimed at pre-schoolers. There has been little change during recent years with respect to the popularity of these properties. Depending on seasonal promotions, a new film release or TV broadcast, Barbie, The Smurfs, Cars and Spiderman are also very popular. A good source for tracking popularity and success of kid properties is www.iconkids.com.

The spectacular, ongoing success of Lego's Star Wars products is significant because it shows that two properties that at first glance do not fit can be a surprising success. The same goes for Elvis and Hello Kitty, which became another surprise hit, even if not the size of Lego. When I was the agent for Lucasfilm back in the 80's I could never have thought of offering Lego a Star Wars license, simply because Lego's bricks where square and old-fashioned, and Luke Skywalker & Co. were the state of the art in youth entertainment. So you see how easily you can be wrong in judging the market potential of your license. Nevertheless, the message left behind this example is: You never have a chance of getting your property noticed if you do not examine EVERY option.

Sports. In sports licensing there is very little apart from soccer. Soccer is the major sport in Western Europe and as such also of the Germans, Austrians and Swiss. Some fans will buy any merchandise featuring the logos of their favorite clubs, and the world's top leagues generate the bulk of the business, in addition to seasonal merchandise from the UEFA European championships or FIFA World Cup. Even though handball and basketball enjoy an increasing fanbase and greater TV coverage, there is hardly any significant licensing for these sports. Other than soccer, Formula 1 car racing has had some success and, quite surprisingly because of its limited media exposure, cycling is popular as well.

Brand. The brand licensing sector is dominated by the fashion licensors. Esprit is one of the main players thanks to its dynamic (and even aggressive) licensing program (that in my opinion tends to over-license the brand), followed by more or less local brands like S.Oliver, Tom Tailor, Bruno Banani, Bugatti, Mephisto (a shoe brand), and Scout (the brand of the leading school bag). Of course, you can also see the international luxury brands on some licensed products, including eyewear, watches and fragrance, most notably. Some "on air" brands are doing well, like the TV show Heidi Klum's Germany's Next Top Model, or DSDS Germany searching for the Super Star. These brands which appeal to the masses are well-equipped for successful licensing programs. On the other hand, there are no guarantees either. Some TV stations acquire licensing rights along with the show but do not really follow-up on it (for instance because they simply have too many of them). A good recent example is the popular show "Dance with the Stars", where the stations (RTL) licensing arm only signed two or three deals over three years. Even cooking shows with famous chefs became a good source for licensing, even in the food business, which seems still underdeveloped in GAS.

An emerging licensing segment is the cause-related licensing for charities like WWF, UNICEF, Greenpeace, Whatever It Takes, Ein Herz fuer Kinder (A Heart for Children) by the Axel Springer publishing company or Deutscher Tierschutzbund (Europe's oldest charity for the protection on animals and nature).

Mobile content licensing is, as everywhere, rather new and works to my knowledge in GAS as in most other key markets as it is still too early to make certain specializations.

Local Heroes. Almost all local properties that command notable sales originate from media exposure, mainly TV. From the same source of the elephant Benjamin Bluemchen comes another local character from Kiddinx GmbH: Bibi Blocksberg, a young witch that has been attracting a young audience for about 20 years now. Then there is "Die Sendung mit der Maus", Germany's answer to Sesame Street; Wendy,

a young girl with her horse known from year-long comic books and now from its TV series, and the Sandmaennchen, known by small children for 50 years from its little bed time story on TV. Of course, we also have numerous characters that come and go depending on their TV presence, just like in most other countries, but I cannot see anyone on the horizon with enough potential for a lasting licensing success. There is simply too much competition that looks confusingly similar.

On the brand side, we have the Adidas and PUMA brands as leading licensors, RED BULL and Swarovski from Austria, Bally from Switzerland, HARIBO (known for its fruit gummy bears), Thomas Sabo (a brand that solely emerged from fashion jewellery for young girls) and the various fashion brands mentioned before. A very unique property is the Deutscher Tierschutzbund, an animal charity with 800,000 members. In late 2012, it began to license its logo to endorse meat and poultry from animals that have been brought up in strict conformity with the highest legal standards, so becoming a seal of quality. Now, they are also starting a licensing program for products and services that foster the well being of animals.

5.3.8 Key Players in the Market

GAS is dominated mainly by licensors and agencies located in Germany, which houses four times as many consumers than Austria and Switzerland together. Most of the leading property owners who license their properties use agents, but of course we also have several companies who have their in-house licensing teams like Adidas, PUMA, Red Bull, Swatch, Hugo Boss, to name but a few.

From the international side we also have the Walt Disney Company, now located in Muenich; FremantleMedia in Potsdam (near Berlin); Nickelodeon/Viacom right in Berlin; subsidiarieis of The Licensing Company and CPLG Copyright Promotions Licensing Group, both in Muenich but with headquarters in the U.K.; and Warner Bros. Consumer Products with offices in Hamburg.

Today, almost all of the TV stations have created their own licensing arms, including:

- RTL Interactice (www.RTLinteractive.de)
- WDR MediaGroup (www.wdr-mediagroup.com)
- ZDF Enterprises (www.zdf-enterprises.de)
- ProSiebenSat1 Licensing (www.ProSiebenSat1Licensing.com)
- RTL Disney Fernsehen (www.Superrtl.de)
- RTL 2 Fernsehen GmbH (www.rtl2.com)

Among the various independent agencies are Bavaria Sonor, headed by Dr. Rolf Moser (www.bavaria-sonor.de); Euro-Lizenzen headed by Guenter Vetter (www.eurolizenzen.net), Team Licensing, headed by Katharina Dietrich (www.teamlicensing.de) and my own V.I.P. Entertainment & Merchandising AG (www.vip-ag.com). These are probably the most experienced ones, while there are several other agencies that were mostly founded by former employees of the other ones. A good source for information is the local licensing magazine at www.licensing-online.com.

5.3.9 Unique Challenges

Successful licensing in GAS begins with the understanding of what I stressed before: even if a licensing program is successful elsewhere, that does not mean that it can be carried over to the GAS markets in exactly the same way. There are a few cases where this works, mostly thanks to heavy media exposure like TV, but in most cases, products that can be licensed in GAS need to make advertising and promotion adjustments to account for local preferences and trade exposure, which has to meet the individual Point-of-Sale situations. Clearly, the property has to be protected by trademark rights in all relevant classes, and you should have a lawyer on the spot that has ample experience with local copyright and trademark law to defend the rights you want to license.

5.3.10 Role of Agents and Consultants

There is always the question of the hen and the egg. Should you first get legal advice on how to best protect your property in GAS to make it fit for licensing or find an agent to evaluate the market potential to see if licensing in GAS could generate more money than needed to cover the legal and administrative expenses? I recommend looking first for the right agent for your property. The biggest agent might not always be the best choice at a given moment and the TV station that airs your programming may have too many other properties to look after and may not give the property the desired attention. Of course, in most cases the TV station will try to insist on getting the licensing rights when buying the airing rights, but you always have to bear in mind the question what property TV station pushes most: Their own shows/properties or yours?

When George Lucas came to me with the Star Wars II property back in 1981, I was still relatively new in the business with a short track record. He asked me how much I would generate for Star Wars and how much of it would I possibly guarantee him in minimum royalties. Luckily, I had done my homework and could present him some evaluation on what I believed we could produce, but we signed no guarantee at all.

All licensors want to have such projections from their potential agents before granting the agency the rights, and all promise not to "bind" the agent to his projections. But if an agent has not lived up to projections, the licensor will remember. And if there is no viable reason as to why the agent could not meet expectations (change of exposure, economic crises, unexpected competition etc.), and this happens two or three times, good licensors will not want that agent to represent their properties. So the most valuable asset an agent has is credibility, in addition to ample market experience, objective judgement and innovative creativity as to the market approach for your property.

5.3.11 Outlook, Projections and Conclusion

Despite the negative news reported over the past year on the economic and financial problems in the EU that have also affected Germany and Austria, these markets are still strong with a positive outlook. But licensing in GAS has also changed dramatically over the past few years. What was formerly the "bread and butter" business in the region (T-shirts, toys, stationery, bags, etc.) does not generate as many sales for many properties. The market has become more fragmented, both on the property side and on the consumer side.

GAS has experienced an oversaturation of TV programming, all trying to make money at licensing; hence each of the properties has a smaller share of the market.

Moreover, the children's market has changed, with kids maturing earlier and attracted to properties aimed at older audiences. This is heavily influenced by the various new social media tools readily available at all age groups. It is not uncommon to see babies in strollers with computer games in front of them while at the same time parents are talking on their cell phones. Another example of licensees trying to catch up with this trend is the new PC game "Lego City Undercover", which shows obvious parallels to the "Grand Theft Auto" game. The near future of licensing in GAS is certainly influenced by Age — the following chart is of interest because it demonstrates to an alarming extent the shift of age group in Germany. Very soon the largest portion of consumers will be over 50 years old.

As a conclusion I can say GAS is probably the most fertile ground for licensing in Europe because it is –at least with respect to many categories of licensed products- still far behind France, Italy, Spain and the U.K. If you are not of the mind to "take the money and run" but are seriously interested in building a successful licensing program with longevity and willing to invest adequate funds, you have all that is needed for an attractive ROI.

Brand licensing, in my opinion, has a very promising future. There is a much wider target group and the core product is known as a result of years of advertising and promotion, hence these properties have an established pre-sold popularity and established positioning/image. Charity (cause-related) licensing is equally promising, yet with smaller target groups as the consumer has to decide what charity they favor most.

The new media being offered to consumers brings unpredictability. Licensing involving cell phone technology has not taken hold in this region, while the computer gaming industry has begun to make strides. These games usually have a longer market presence than theatrical releases and hopefully will provide an entry for cell phone games and other properties deriving from the new media scene. Even licensing virtual properties for PC game players and collectors has already reached a significant market size and seems to still grow, because of the increasing number of people who play on their Smartphones or tablets.

In conclusion, I can say that the German-speaking markets are similar in many ways to other key markets in industrialized countries, but offer greater opportunity because of its leading position within the EU and its position as gateway to the Eastern European markets.

We do not try to reinvent the wheel over here, but instead try to constantly smooth the ball-bearings. So, welcome to the “old world”!