



## 2017 SUMMIT

# Safeguarding Innovation For Foreign Investors

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***Legal Services for Businesses, Creative  
Professionals and Their Lawyers***

Arnold Lutzker

Susan Lutzker

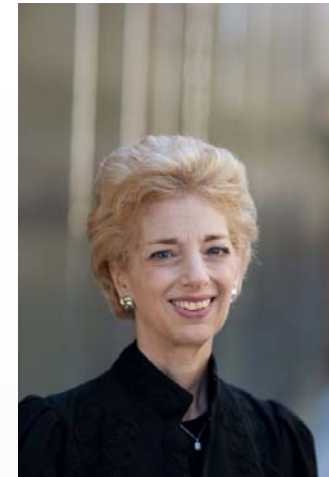
Attorneys and Co-Founders

# WHO ARE WE?



**Arnold Lutzker**

- Harvard Law
- 40+ years of legal experience in copyright and trademark strategy, protection, enforcement and policy



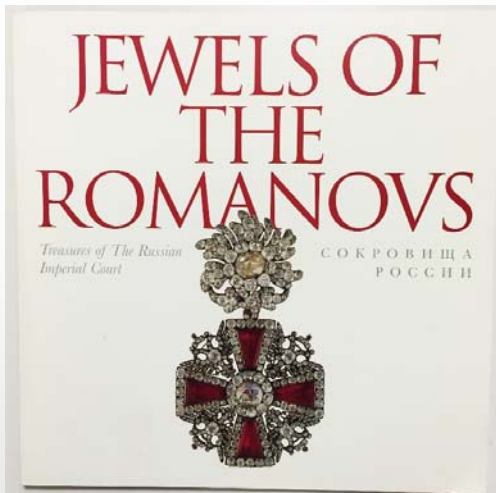
**Susan Lutzker**

- Georgetown Law
- 40+ years of legal experience in complex contractual matters and intellectual property protection and enforcement



# WHO ARE WE?

We are lawyers and entrepreneurs with a passion for art



**Architects of and Legal Counsel for Blockbuster Art Exhibits From Russia and Turkey That Toured the United States**



**CULTURAL TREASURES**  
F O U N D A T I O N

# **WE ARE LEADERS IN INBLF**



**EXPERIENCED. EFFICIENT. TRUSTED.  
THE LEGAL NETWORK FOR THE 21<sup>ST</sup> CENTURY**

**OVER 300 BOUTIQUE AND INDEPENDENT LAW FIRMS WORLDWIDE**

# U.S. LEGAL SYSTEM LEVELS THE PLAYING FIELD & ENCOURAGES INVESTMENT

- Constitutional, statutory and common laws across federal, state and municipal governments support your business success
- Hallmarks are fairness, equitable application and predictability
- Forward-thinking legal regimes



# CORE LEGAL ISSUES FOR INNOVATORS



Intellectual property



Contracts



Insurance



Fair competition



Consumer protection



Privacy

# Entering the U.S. Market

Identify, Protect and Exploit  
Your Legal “Crown Jewels”



- Trademarks
- Copyrights
- Patents
- Trade Secrets



# IDENTIFYING THE CROWN JEWELS OF YOUR BUSINESS

Conduct an  
IP audit

Create a  
plan for  
protection

Ensure legal  
compliance

Exploit and  
realize  
wealth

# TRADEMARKS – YOUR BRAND IDENTITY



**Miele**



**AEGON**



**Corona**

**ABBA**

Trademarks are the names, logos, words, slogans or symbols that stand for your business in the eyes of the consumer and in the minds of your competitors

# PROTECTING TRADEMARKS IN THE U.S.

- Search and analyze **before** you invest



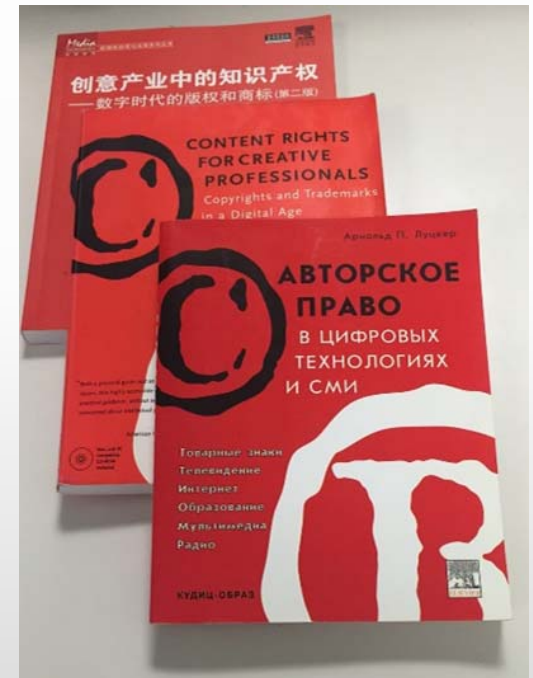
- The legal standard: likelihood of confusion
- Register your trademark first in your home country
- Register your mark with the U.S. Patent and Trademark Office



# COPYRIGHTS

**Movies • Music • Books • Software • Photos**

- Work that is original and fixed in tangible form
- Term of protection: nearly a century
- Exclusive rights of copyright owner include
  - To Copy
  - To Distribute
  - To Adapt
  - To Publicly Perform
  - To Publicly Display
- Key limitations on owner rights include
  - fair use \* compulsory licensing \* first sale doctrine



Arnold Lutzker's *Content Rights* – Chinese, English, Russian editions

# PROTECTING COPYRIGHTS

- Registration
- Enforcement
  - exclusive legal enforcement in federal courts
  - remedies for infringement – unique attorneys' fee provision
  - digital works



# PATENTS

- Patents protect software, methodology, chemical formulas, etc.
- Registration is important – first to file can win big!
- Two approaches to applying for patent protection in the U.S.
  - Provisional filing
  - Standard filing
- 20-year term of protection
- Damages: lost profits, reasonable royalty, treble damages



# TRADE SECRETS

Trade secrets can have perpetual life  
PROVIDED you keep the secret:

- Use a non-disclosure agreement (NDA) in introducing your idea to a potential partner or investor
- Enforce secrets in employment agreements
- Maintain “need to know” access



# NEGOTIATING CONTRACTS IN THE U.S.

## Use contracts to:

- spell out the goals of the parties
- document the details of a business transaction
  - “work made for hire” key IP provision
- allocate risks

## Plan ahead to avoid disputes:

- Document the deal
- Preserve key communications – written and electronic
- Build in alternative dispute resolution to avoid litigation





# SUFFICIENT INSURANCE IS A “BEST PRACTICE”

- Many risks can be greatly reduced by appropriate insurance
- Contracts often require insurance coverage
- You will need qualified insurance brokers
- Essential types of insurance:
  - Business liability insurance
  - Umbrella insurance
  - Errors and omissions insurance
  - Product liability insurance
  - Workers compensation



# U.S. LAWS EMPHASIZE FAIR COMPETITION

- Federal and state agencies investigate unfair practices
- Federal and state governments can prevent entrenched enterprises from hindering new entrants like you



# U.S. LAWS SUPPORT CONSUMER PROTECTION

Federal and state agencies set standards – know your industry

Food and drug	FDA
Agriculture	USDA
Transportation	DOT
Highways	NHTSA
Facilities	OSHA
Air and water	EPA
Financial services	FRB/SEC/OCC/FDIC
Media	FCC
Alcohol	BAFTE
Energy	FERC
Aerospace	EPA/FAA/NASA
Automotive	EPA/DOT
Mining	EPA/BLM



# PRIVACY LAWS



- Federal and state laws encourage protection of worker and customer privacy
- Threat of cyberattacks being met with strong countermeasures
  - National legislation: Cybersecurity Information Sharing Act of 2015

# THE U.S. IS OPEN FOR YOUR BUSINESS

- We would love to help you enter the U.S.
- Through our INBLF colleagues, you will get the top legal expertise you need to make important business decisions and address key legal issues, including Corporate Formation, Taxation, IP Protection, Immigration, Real Estate, Employment, Estate Planning, Insurance, Business Litigation, Environment and Land Use, Trade, Import/Export, Health Care, Data Protection and Privacy, State and Federal Regulations.
- Working with INBLF lawyers is a cost-effective way to obtain the highest quality and personalized legal services throughout the U.S.

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