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Bar Talk

PEOPLE AND PRACTICES

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SIDEBAR

Name game

Local attorney Terry Gross is in the middle of a Hollywood donnybrook.

Gross, of Gross & Belsky, is lending his legal muscle to help Spike Lee in a battle with Viacom Inc. Gross, along with Johnnie Cochran and lawyers at New York's Van Lierop & Burns, is trying to block Viacom from renaming one of its cable networks "Spike TV."

In a suit filed with the New York Supreme Court they claim Viacom intends to capitalize on Lee's name recognition. Last week Justice Walter Tolub issued a preliminary injunction against Viacom's use of the Spike TV name pending the outcome of a trial. The new name was to be launched today.

"This case is about a media giant trying to steamroll over other people in its way," said Gross. "I see this as an abuse of the First Amendment."

The legal brouhaha began in April when "TNN: The National Network" — a division of Viacom subsidiary MTV Networks — announced it was morphing into a network for men and changing its name to Spike TV. The network denies it intended to profit off of Lee's name. But the complaint says that in announcing plans to launch Spike TV, TNN President Albie Hecht said Spike Lee was one of his role models for the name.

Viacom attorney Victor Kovner, a partner at Davis Wright Tremaine, referred calls about the case to his client. David Sussman, general counsel of MTV Networks, could not be reached for comment. But in a court document Viacom argues that there are numerous other "Spikes" in the entertainment world, such as film director Spike Jonze, the 1930's musician Spike Jones, and the late British comedian Spike Milligan.

"The notion that the common word 'spike' is so universally and inextricably associated with the director Shelton Jackson Lee, p/k/a Spike Lee, that viewers of a cable television network named 'Spike TV' will automatically assume that the word 'spike' in that title is a reference to him, or that he is sponsoring that network, is so far removed from reality — let alone the basis for litigation — that defies reason," Viacom states in its court filing.

Gross said that under New York's Civil Rights Law more than a negligible number of people must perceive an association between a name and an individual for there to be a claim of misappropriation of reputation. Eleven people — including actors Edward Norton and Ossie Davis and former Sen. Bill Bradley — submitted declarations backing Lee's claim that in the entertainment arena "Spike" evokes Spike Lee.

Gross got pulled into the high-profile case through his previous work with Cochran, who gained national prominence defending O.J. Simpson. Gross represented Simpson in an unsuccessful attempt to block distribution of a movie about the trial, claiming it violated attorney-client confidences.

For Gross, who specializes in media, intellectual property and constitutional law, working for Lee has been rewarding and fun.

Walking with Lee to court one day, Gross recalled, a man at a pastry truck shouted out to Lee: "Whatever we have here is on the house for you."

"He evokes the real feeling and real heartbeat of New York," Gross said. "It was neat to feel that as we were walking along."

— Brenda Sandburg