

Round 2 - CINEMA

Barbie Pink Drink

Confidential Facts for Mattel

Mattel's Barbie doll stands as an enduring icon, captivating generations of children and earning its place in pop culture as a symbol of fashion, beauty, and female empowerment. For more than half a century, Mattel has associated Barbie with the color pink, a crucial element in shaping the public perception of Barbie and setting it apart from other dolls on the market. Mattel has no issue defending the intellectual property rights associated with Barbie. In fact, Mattel did just this in *Mattel, Inc. vs. MAC Records* which illustrates that no one is exempt from trademark infringement, even massive corporations like Starbucks.

It is Mattel's position that intellectual property laws exist for a reason. It plays a crucial role in safeguarding the core ideas and assets that define a business's brand identity and heritage. Like Barbie, many trademarks and copyrighted materials are household names and deserve to be appropriately preserved. Brand confusion regarding intellectual property can be perilous for a company in several ways. It can erode a company's brand reputation, as consumers may become uncertain about the authenticity and quality of products or services, leading to lost trust. It can also result in legal disputes and costly litigation, with potential fines and damages if intellectual property violations are proven. Lastly, brand confusion can dilute a company's unique identity and market positioning, making it harder to stand out and succeed in a competitive marketplace. Therefore, protecting and managing intellectual property is crucial to maintain a strong and distinct brand image.

The *Barbie* movie has garnered a great deal of revenue for Mattel. Barbie became the highest grossing movie of 2023 with \$575 million domestically and \$1.3 billion internationally. In addition, Barbie became the 14th highest grossing movie of all time. Amidst all of the success, Mattel has seen a huge uptick in the number of individuals and companies infringing on Barbie's intellectual property. The legal team at Mattel has been quietly battling these intellectual property disputes that have cost the company upwards of \$100 million. In other words, 20% of Mattel's share of the *Barbie* movie earnings are going towards defending the company's intellectual property rights. While protecting Mattel's intellectual property rights is a worthwhile investment, the company would prefer to allocate funds towards initiatives that generate revenue rather than deplete it.

It should be noted that even without registration, Mattel has gained trademark rights for Barbie Pink and can prevent third parties from using this color in connection with items related to dolls and accessories. Through its consistent use in branding and packaging, Mattel has acquired distinctiveness and secondary meaning for Barbie Pink in connection with dolls and accessories. Mattel has also actively enforced its rights in Barbie Pink to maintain its exclusivity. While Mattel would like to avoid litigation at this time due to the several ongoing disputes and the undeniably ludicrously

capricious cost of intellectual property litigation, Mattel also believes that given its history, they may have a good chance of winning the case, at least as it pertains to the trademark dispute.

Under no circumstances will Mattel allow the continuous sale of the “Barbie Pink Drink.” While Mattel would prefer not to do business with Starbucks following this careless incident, the leaders at Mattel are savvy enough to recognize the significant potential for profit that this collaboration could offer. Mattel anticipates Starbucks having ideas regarding the collaboration. However Mattel would much rather a collaboration hosted by Mattel. The marketing team at Mattel have pitched a new limited edition Barista Barbie to be sold in Walmart, Target, and Macy’s. Mattel would consider authorizing the doll to be sold in other stores as well. Having more stores will increase customer exposure and excite more people about the *Barbie* movie. Aside from being able to launch a new Barbie, unbeknownst to many, the gears are in motion to begin filming the second *Barbie* movie. The film is set with Barbie (again played by Margot Robbie) living her life as a human after deciding to take a leap of faith and leave Barbie land. Barbie is portrayed as delighting in the most ordinary tasks and fully relishing the experience. Because Barbie is now in the real world, the writers have written her into comedic situations involving name brand establishments such as Walmart and, of course; Starbucks. While the second movie is far from being finalized, it is clear that the writers have developed some incredibly funny bits involving Starbucks, however, Mattel representatives worry about including those scenes without permission from Starbucks (if only Starbucks was so considerate).

The doll collaboration has the potential to earn \$50 million in revenue for both Mattel and Starbucks. Mattel would prefer a revenue split of 80% and 20% — 80% for Mattel and 20% for Starbucks. Executives at Mattel find this offer fair, as it allows Starbucks to avoid a costly lawsuit and ultimately save money. Mattel is hesitant but willing to agree to a revenue split of 35% and 65% — 35% for Starbucks and 65% for Mattel. In the event that both parties come to an agreement, Mattel’s legal team is insistent on a non-disclosure agreement. The non-disclosure agreement would be used to ensure that Mattel’s trade secrets, intellectual property, and proprietary data is safeguarded. Mattel attorneys have drafted a standard non-disclosure agreement of standard scope and duration with the effects of the non-disclosure agreement lasting for 10 years. Mattel is willing to lower the duration of the non-disclosure agreement to 2 years, though they would prefer a longer timeframe. Mattel is also amenable to signing a non-disclosure agreement, particularly if it encourages Starbucks to be more open to entering into one as well. In the event that Starbucks does not agree to a non-disclosure agreement, Mattel will only accept a revenue apportionment of 80% with the other 20% going to Starbucks.

Lastly, Mattel intends on asking for a lump sum payment in settlement of the intellectual property litigation. Starbucks made approximately \$10 million in sales with a drink using Barbie’s intellectual property and the hype surrounding the *Barbie* movie. Mattel estimates that including legal costs and the lost business opportunity caused by Starbucks’ use of the Barbie Logo, the damages

awarded in any trial would be upwards of \$15 million. Mattel's leadership team wants to open negotiations requesting the full amount of \$15 million in settlement. However, Mattel's business and legal teams forecast that the cost of litigation would be extensive and would reduce the likelihood of a profitable collaboration between the two companies. For these reasons Mattel's negotiating team has authority to accept no less than \$6.5 million to settle the litigation. However, if the settlement is below \$10 million, Mattel will require that Starbucks agree to post a public apology and denounce Mattel Barbie's affiliation with the "Barbie Pink Drink" so as not to cause any more brand confusion. In the event of a collaboration, Mattel is willing to make social media content so long as the request is reasonable.