

LEGAL/PRIVACY

## Gucci counsel says consumer consent essential in mobile marketing

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*Gucci Chime for Change app*

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By JEN KING

NEW YORK - With consumers spending 65 percent of their social time on mobile devices, it is becoming more important to understand, from a legal standpoint, how and why fashion brands integrate mobile, according to a panel discussion April 24 at the Cardozo School of Law's Semi-Annual Fashion Law Symposium.

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With marketers commercializing assets and staying abreast of current technologies, in-house lawyers must balance legal and practical risks in a fast-moving business environment. Keeping the conversation between a legal team and marketers up-to-date is key to avoiding risks while enhancing mobile-optimized initiatives.

"Partner carefully," said Nicole Marra, general counsel for **Gucci America Inc.**, New York. "You want to be in the position with an ongoing conversation with marketing partners early and often. They might come to you at a point that's too late."

"It's important to build relationships out of projects," she said. "Have a dialogue to stay in the know before [the marketers] make a deal."

"[As the brand's lawyer], you're a benchmarker all the time."

## Mobile moments

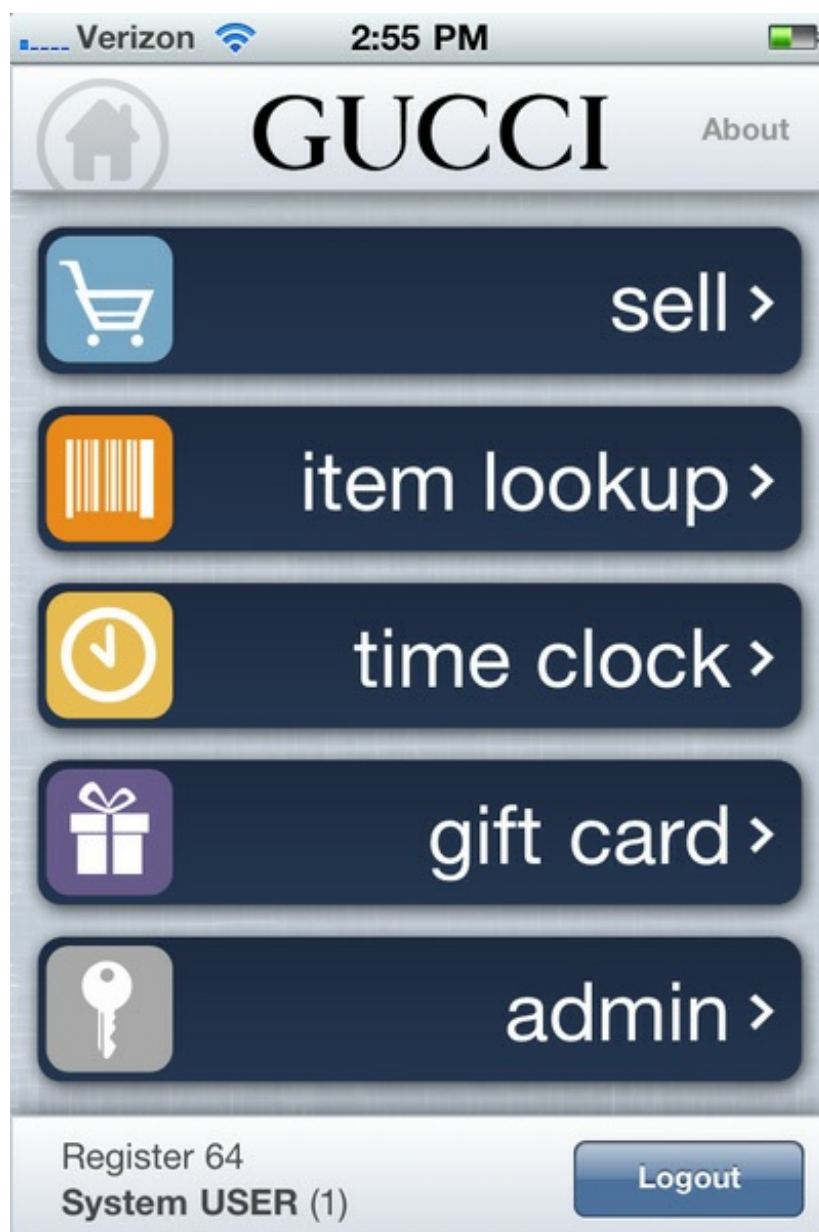
The panel focused on how fashion and beauty marketers are using mobile for campaigns.

The panelists also touched on how new advertising technologies have specific legal considerations that are unprecedented such as if a text message falls in the same category as a spam phone call under the protection of the Telephone Consumer Protection Act, degrees of consent and the legality of geolocation targeting.

Ms. Marra gave attendees an overview of Gucci's social presence, citing that the Italian fashion brand has more than 12 million "likes" on Facebook, approximately 1 million Twitter followers and nearly 1.5 million followers on Instagram.

The lawyer also touched on Gucci's mobile commerce Web site and placed special importance on the label's use of applications.

Currently, Gucci is working to engage consumers more on the app front. Gucci Style app continuously evolves to include new content, collections and trends, while the sales associate version of the app aims to create a better in-store shopping experience.

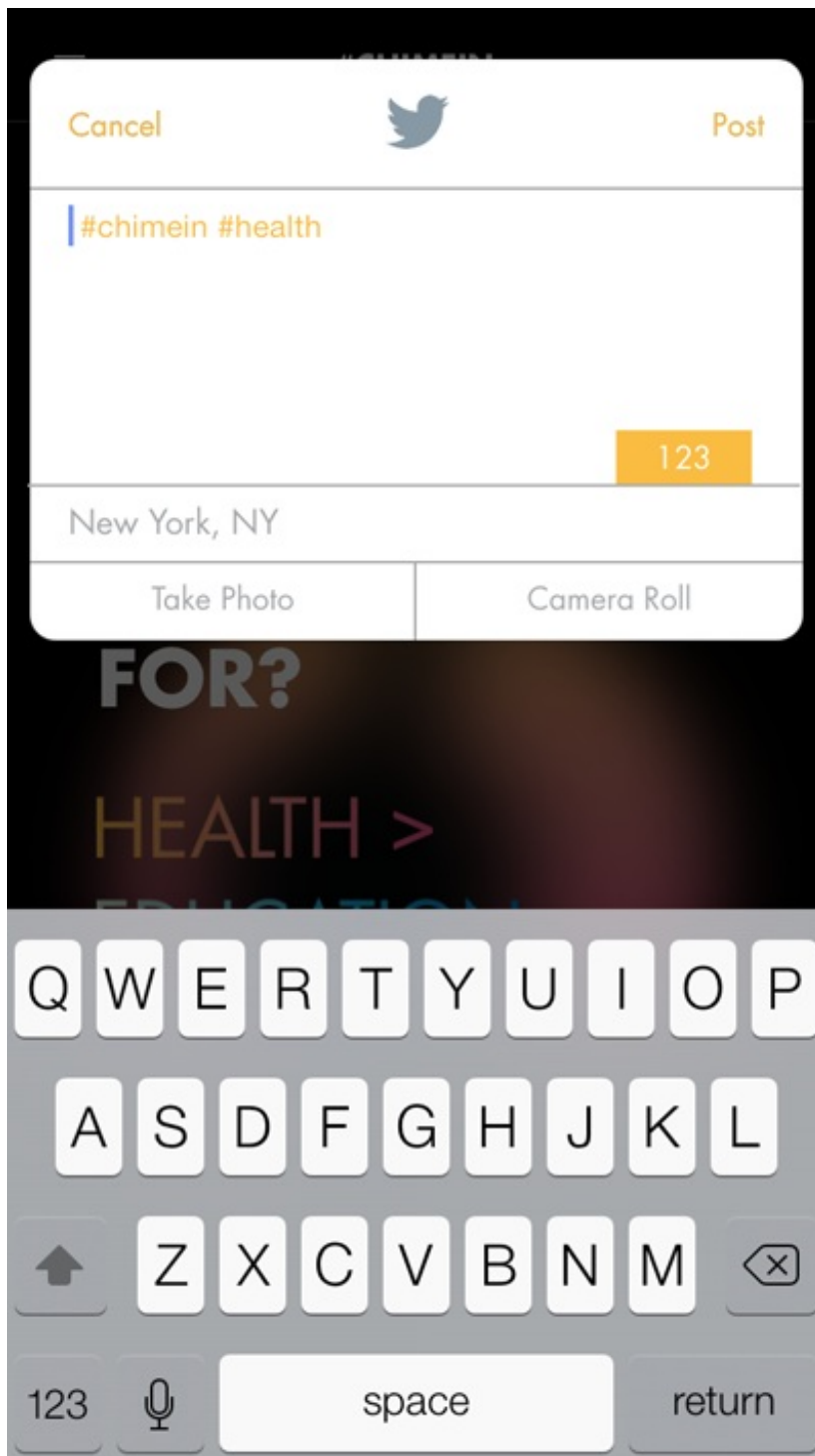


### *Screen shot of Gucci Style app, sales associate version*

When first launched, Gucci equipped its store associates at select locations with Apple iPhone 4S devices that contain a mobile point-of-sale program that lets employees process sales, email receipts to customers, access the Gucci Style app and use a translator and currency converter on the spot.

The brand gradually implemented the app in select branded stores in the United States, Europe and Asia and has since updated to meet current technologies ([see story](#)).

Engagement is key for Gucci in the mobile space and the brand has been successful through its charity initiative Chime for Change and its newly launched mobile app. Ms. Marra's colleague, Robert Triefus, chief marketing officer of Gucci, discussed at the 2014 Luxury Summit the benefits of technological touch points used to motive interaction with consumers ([see story](#)).



*Gucci Chime for Change tweeting app*

Call me, maybe

Gucci's mobile presence is the norm, but an increasing number of brands, mostly mass market labels, are turning to new ways of interacting with consumers. One new approach is the use of SMS, or text messages, to communicate with target consumers.

From a legal perspective this should be done with caution, urged the panelists. To operate within the law, the consumer must consent before a text is sent for marketing purposes, otherwise the Telephone Consumer Protection Act is violated.

Previously, when a consumer gave a brand his or her mobile number that was deemed consent, but now it must be put in writing. The agreement must include a clear disclosure that providing a phone number will result in a message by the sender and that the

consumer is not required to make a purchase.



*From left to right: Tom Burke, deputy general counsel at Brown Shoe Company, St. Louis, Nicole Marra of Gucci and moderator Joseph Lewczak, partner at Davis & Gilbert LLP*

In response to panel moderator and partner at Davis & Gilbert LLP Joseph Lewczak's questions on this subject, Ms. Marra noted that although Gucci does not send out mass text messages to consumers, the brand does text individuals who have provided contact information to a sales associate. Legally, the calling card information can be used by Gucci to help its consumers, as those individuals willingly accepted the terms in writing.

“[Gucci] wants consumers’ information, but we don’t do the same type of initiatives [as a mass-market brand],” Ms. Marra said. “But we’re thinking about it.

There is also the idea that an invasive text message could tarnish the luxury brand’s relationship with its consumers.

“The press would be impactful over something like this,” she said. “Gucci is sensitive about its image. Any texts sent are done by sales associates [and] based on personalized relationships with consumers.

“[Gucci’s] culture is to be less aggressive in this way. The United States wants to keep cutting edge, but this does not go well with being at a luxury brand.”

Buyers beware

Geo-location targeting is now at the forefront of mobile. Accessing the beacon from a mobile device's antenna, a brand can follow the moves of consumers as they navigate a bricks-and-mortar boutique just as they do for Web sites.

Although the data collected can be useful to marketers, legal counsel should be vocal about ensuring that consumers opt in or are aware of the tracking. One option is to post a sign, but for a luxury retail space this may harm the luxurious design of the storefront.



*Gucci's boutique at Charles de Gaulle Airport, Paris*

A better, more mobile-friendly option would be use a service similar to Apple's iOS software that notifies the consumer when an app would like to use the individual's exact location. This way, consumers are given the option to participate in the data collection or not.

In addition to consumer choice notification, brands should also limit what is being collected, avoid transferring information to third parties and all that is collected should only be kept for a short time period.

"This is a really interesting topic for [Gucci]," Ms. Marra said. "We're looking at this and looking around at what others are doing.

"From a brand image perspective, it's important," she said. "If people are creeped out that you're tracking their every move, what does it do to your image? There's a huge desire to know about where consumers go, what they're doing and other information, but we're carefully looking at it.

"We haven't implemented it, but it's been discussed. The perception issue is a problem for our brand right now."

Final Take

*Jen King, editorial assistant on Luxury Daily, New York*

Embedded Video: [//www.youtube.com/embed/IqX7Iw5mJ94](https://www.youtube.com/embed/IqX7Iw5mJ94)

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