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IP LEGAL NEWS AND UPDATES

Despite Opposition, ICANN Launches Top-Level Registration

Janet F. Satterthwaite and Jeffrey D. Knowles

January 12, 2012 marked the opening of the application window for new top-level domains. While applications will not be made public until after the window closes in April, many believe the Internet Corporation for Assigned Names and Numbers ("ICANN") is expecting a large number of applications. The decision to open up the top-level domains, which currently consist of just 22, including .com, .net, .org, .biz., and .info, to a potentially unlimited number has been a long and highly controversial process.

Click [here](#) to read a National Public Radio story about the start of the top-level domain registration process.

Pleading Standards for Inequitable Conduct – Did *Therasense* Change the Rules?

Peter Curtin

In its recent *Therasense* opinion, the Federal Circuit "tightened the standards for finding both intent and materiality in order to redirect a doctrine that has been overused to the detriment of the public," because "the inequitable conduct doctrine has plagued not only the courts but the entire patent system." *Therasense, Inc. v. Becton-Dickinson & Co.*, 649 F.3d 1276, 1289-90 (Fed. Cir. 2011) (*en banc*).

America Invents Act – Already Making its Mark

Clifton E. McCann

Enacted into law September 16, 2011, the America Invents Act ("AIA"), makes dramatic changes to many substantive areas of U.S. patent law. Five important provisions became effective upon enactment, and five more will take effect September 16, 2012. The federal courts have started to issue decisions based on the AIA, and the U.S. Patent and Trademark Office is busy promulgating rules to implement new AIA procedures.

Expiration of the Green Technology Pilot Program

Lars H. Genieser, Ph.D. and Michael E. Nelson, Ph.D.

The Green Technology Pilot Program of the U.S. PTO offers a route for applicants to expedite examination of patent applications, as set forth on the web site of the **U.S. PTO**. Under the Program, the time from filing the application to issuance of a first office action may be reduced to 3 to 6 months. The Program requires no additional government fee to request, and encompasses a broad range of environmental remediation, environmental protection, clean energy, and energy conservation technologies.

Creating a Road Map to Prepare for Patent Applications

Venable partner Keith Haddaway's article on creating a road map to prepare for patent applications was featured in *IP Today*.

ERSP Sets High Standard for Body-Shaping Claims

Gregory J. Sater

Under the Electronic Retailing Self-Regulation Program (ERSP), advertising claims may be challenged and, while one has the right to refuse to take part in an ERSP proceeding or to refuse to comply with the recommendations made by ERSP, such a refusal will lead to one's case being referred to the FTC.

Pre-purchase Exposure: Defeating Class Certification in False Advertising Cases

Gregory J. Sater

How can defendants in California defeat class certification in class actions that allege false advertising

under either the "fraudulent" prong of the unfair-competition law or the Consumer Legal Remedies Act? There is at least one good way to do so, and that is by demonstrating variability of consumer exposure to the challenged advertising claim.

ANNOUNCEMENTS AND REMINDERS

Marcella Ballard and Justin Pierce to speak at the 8th Annual Anti-Counterfeiting & Brand Protection Summit

January 24, 2012 - January 25, 2012

Justin Pierce will speak on the panel entitled: "Quantifying the Potential Impact of Counterfeiting on Your Brand and Your Bottom Line" on January 24 at 9:00 a.m. (PST). Marcella Ballard, along with other industry professionals, is speaking on a panel called "What Steps Can Brand Owners Take to Counter the Ease of Distribution, Communication and Anonymity the Internet Affords?" on January 25 at 11:15 a.m. (PST).

ACI's Advertising Law Conference – New York

January 23-24, 2012

Venable is a proud sponsor of this conference, join us for a presentation by Roger A. Colaizzi on Battle of the Brands: Resolving Disputes Involving Competitor's Comparative Claims.