VENABLE LLP

IP news & comment

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The Bayh-Dole Act 30th Anniversary Event

You are invited to join in a celebration of the legislation that changed our economy and the lives of countless Americans. December 12, 2010, will mark the 30th anniversary of the Bayh-Dole Act. The Act forever changed the way America develops technologies from federally funded university research and secured the country's leadership position in innovation. The Bayh-Dole Act was co-sponsored by Senator Birch Bayh of Indiana, currently a partner in Venable's Government Division, and Senator Robert Dole of Kansas. Click on the link above to read more about this landmark legislation and to register for this important AUTM-sponsored event.

The Greatest Generation vs. Generation Y: Barbie® vs. Bratz® -- The Battle Continues

On July 22, 2010, a panel of the U.S. Court of Appeals for the Ninth Circuit issued its opinion in *"Mattel, Inc. v. MGA Entertainment, Inc. et al.*, 616 F.3d 904 (9th Cir. 2010) – a closely-watched copyright and employment law case between Mattel and its competitor MGA Entertainment over rights in Mattel's Barbie® dolls and MGA's competing line of Bratz® dolls.

Design Patents: Don't Overlook Their Potential Value

Contrary to popular belief, patents are not limited to the functional, utilitarian, or scientific aspects of a product. In fact, design patents, although often overlooked, can be a tremendous, cost-effective asset to many companies' IP portfolios. Design patents can help build products and brands at a relatively low cost, and they provide a number of strategic advantages.

Federal Circuit Affirms Patent Applicants' Right to Challenge PTO Rejection in District Court with New Evidence

A patent applicant whose application has been rejected by the U.S. Patent and Trademark Office's Board of Patent Appeals may file suit against the PTO in the U.S. District Court for the District of Columbia under 35 U.S.C. § 145. Contrary to the position taken by the PTO, the U.S. Court of Appeals for the Federal Circuit in *Hyatt v. Kappos* has confirmed that an applicant may introduce new evidence – never seen by the PTO – when making a case before the district court. When submitting evidence to the district court, no special deference is due the administrative customs of the PTO.

In *Re Vaidyanathan* - Predictable Use of Prior Art

Einstein is quoted as saying "common sense is the collection of prejudices acquired by age eighteen." Occasionally, common sense is a reason used by the U.S. Patent and Trademark Office to reject a patent application as obvious. The Federal Circuit decided an appeal of such an obviousness rejection in *Re Ravi Vaidyanathan* (2009-1404, Fed. Cir. 2010, non-precedential), holding that an obviousness rejection requires a reviewable explanation of the evidence and rationale behind the rejection.

Update: The Green Circle Grows - A More Inclusive Green Technology Pilot Program

On November 10, 2010, the United States Patent and Trademark Office announced an extension to the Green Technology Pilot Program by over a year. The program now runs until December 31, 2011 and the first 3,000 grantable petitions will be accepted.

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