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**Honors and Awards**

2011 *Chambers USA*  
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Top-Tier Firm *Legal 500*



**Special Alert:** Planning to attend ERA's D2C Conference in Las Vegas? Venable friends and clients, who have not yet registered, are eligible for a free exhibit hall pass or \$100 discount off an all-access pass. [Click here](#) to register. We look forward to seeing you at the show!

**News****FTC Seeks Public Comment on Consumer Product Warranty Rules**

This morning, the FTC announced that it is seeking public comment on its rules and guidance regarding consumer product warranties under the Magnuson-Moss Warranty Act.

The FTC rules promulgated under the Magnuson-Moss Act regulate the availability and contents of written warranties for consumer products, and include disclosure requirements for written warranties on consumer products, requirements for sellers and warrantors to make written warranty terms available to consumers before a sale (the "Pre-Sale Availability" Rule), and procedural standards for warrantors who want consumers to use a dispute resolution process before filing suit for breach of warranty. The rules specifically require that warranties disclose in clear language:

- who is protected by the warranty;
- what products, parts, characteristics or properties covered (or not covered);
- what the manufacturer will (or will not) do in the event of a defect or malfunction;
- when the warranty commences and its duration;
- a detailed description of how the consumer can obtain warranty service;
- availability of alternative dispute resolution procedures;
- any limitations on implied warranties; and
- limitations on damages or other relief.

The agency also seeks comment on the FTC's Guides for the Advertising of Warranties and Guarantees and its interpretations of the Act. The agency will accept public comments on the Act and the related rules and guidance until October 24, 2011.

[Click here](#) to view the Request for Comment published in the Federal Register.

**W3 Innovations Cries Uncle After FTC Alleges COPPA Violations in First Suit to Target Mobile Apps**

On Monday, W3 Innovations, parent company of Broken Thumbs Apps settled an FTC lawsuit alleging that the company's popular Emily's World and Emily's Dress Up mobile apps collected children's personal data. The FTC announced the suit last Friday, August 12. Under the settlement the company will pay the FTC \$50,000, refrain from future COPPA violations and delete all data personal information that was collected in violation of the act.

While COPPA-related enforcement actions against websites are nothing new, this was the first such action against a mobile application. The W3 settlement should demonstrate to marketers, if they needed any more proof, that the FTC is keeping a close eye on the rapidly evolving mobile app marketplace.

[Click here](#) to read the "Ars Technica" blog's coverage of the settlement.

[Click here](#) to read the FTC's announcement of the settlement.

**FDA Releases Draft Guidance on Premarket and 510(k) Submission Study Design**

Top-ranked in *U.S. News and World Report*



For more information about Venable's award-winning Advertising and Marketing practice, please visit our website at [www.Venable.com/Advertising-and-Marketing](http://www.Venable.com/Advertising-and-Marketing).

On Monday, the FDA released draft guidance for the design of studies supporting premarket and 510(k) submissions. The document lays out the foundational features of medical device trials, including guidance on the types of studies, as well as how to avoid bias and establish controls in the study. The document frames its recommendations in two broad categories "therapeutic and aesthetic devices" and "diagnostic devices."

"This guidance will help manufacturers and researchers better understand the FDA's basic expectations for clinical trials," Dr. Jeffrey Shuren, director of the FDA's Center for Devices & Radiological Health, said in the FDA's press release.

The FDA stated in its press release that the guidance document was designed primarily for devices undergoing premarket approval submissions, but that the document's guidance recommendations may also apply to 510(k) applications. The FDA will accept public comments on the draft guidance until November 15, 2011.

[Click here](#) to read coverage of the announcement in *Mass Device*.

[Click here](#) to read the FDA's press release announcing the Draft Guidance.

[Click here](#) to view the Draft Guidance Document.

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## Analysis

### Google Allows Trademark Owners to Block Purchase of Their Marks as AdWords

Purchase of trademarks as keywords or "AdWords" by competitors can seem like a never-ending battle for trademark owners attempting to enforce their trademarks and stop apparent piggy-backing off of their established trademarks. Case law continues to be somewhat unclear on this issue. However, trademark owners now have a method for waging a preemptive strike with the "Google Adwords 3rd Party Authorization Request."

[Click here](#) to read analysis by Venable's [Meaghan Kent](#) of this new tool available to trademark owners.

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## Upcoming Events

### Affiliate Summit East 2011 - New York City

August 21-23

[Thomas A. Cohn](#) will be speaking on the panel *Using Testimonial Claims in Social Media Platforms*.

### LeadsCon East - New York City

August 24-25

[Jonathan L. Pompan](#) will be speaking at this event.

### 2011 ERA D2C Convention - Las Vegas

September 13-15

Visit Venable at Booth 909. For a free show hall pass or \$100 off an all access pass, [click here!](#)

### Anti-Counterfeiting & Brand Protection - New York City

September 26-28

[Marcella Ballard](#) will be speaking on the panel *Protecting your Brand Globally through IP Best Practices*.

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