

**In this issue:**

Click on any headline for more information or to view the article in its entirety.

**IP Insights****IP Legal News & Updates****Announcements and Reminders****Awards and Recognition****IP INSIGHTS****America Invents Act of 2011: Major Changes in the Law that Will Affect Patent Litigation Strategies**

*Clifton E. McCann*

Some litigation-related changes brought about by the AIA came into effect immediately upon its enactment on September 16, 2011, and are already in play. Others will take effect at various stages between now and 2015. Because the AIA includes ambiguities that will need to be resolved by the courts, a period of turmoil and uncertainty will exist until at least 2015 as users of the patent system argue the applicability of the new law and courts interpret the law to resolve disputes. Companies that make or use new technology need to be increasingly diligent during this period, and increased diligence will likely yield competitive advantages.

**Obtaining Patents Under the America Invents Act**

*Lars H. Genieser, Ph.D.*

Originally proposed in 2005, the America Invents Act ("AIA"), colloquially known as the "patent reform bill," was signed into law on September 16, 2011. This represents the most dramatic change to the U.S. patent law since the 1952 revision. A spur to Congress to pass the bill and to the President to sign it into law was a perception that "reform" of the patent system has an important role to play in stimulating the economy, creating jobs, and promoting U.S. global competitiveness. The passage of time and retrospective analysis will be necessary to identify to what degree the AIA has the intended positive effects. However, the AIA undeniably has changed the foundations of U.S. patent law, so that those who adapt to this change may benefit, and those who do not will suffer.

**An Introduction to Grey Market Goods**

*Justin E. Pierce and Elissa Brockbank Reese*

Is your company and brand ready and aimed to fire against the threats posed by unauthorized grey market goods and parallel imports? Recently, [Justin E. Pierce](#), a Partner in Venable's Trademark Practice Group, presented "Combating Grey Market Goods in the United States and Europe" at the 7th Anti-Counterfeiting & Brand Protection Conference in New York.

**Fan Art: Friend or Foe?**

*Joshua J. Kaufman*

What would Campbell's soup or Brillo soap pads do if they were confronted by the artworks of a young artist named Andy Warhol? Would they view his art as homage to their brand, as the creative work of an artist, and as something to be fostered and encouraged? Or would they view it as an insidious infringement and have their lawyers send out a harsh cease-and-desist letter?

**"Top Ten List" of Best IP Practices**

*Marcella Ballard*

In September 2011, [Marcella Ballard](#), a Partner in Venable's IP Litigation Practice Group, presented at the 7th Anti-Counterfeiting & Brand Protection Conference in New York. Her presentation covered best IP Practices to utilize to protect a global brand.

**IP LEGAL NEWS AND UPDATES****Why Do I Need to Know About the America Invents Act?**

*Clifton E. McCann and Lars H. Genieser, Ph.D.*

After six years of starts and stops and extensive debate, Congress enacted the Leahy-Smith America Invents Act ("AIA") on September 16, 2011. The final Senate vote was an impressive 89 to 9 vote in favor of passage. The Act represents the most dramatic changes to U.S. patent law since 1952, including fundamental changes to the law governing the right to obtain patents and the ability to challenge patent rights. As an introduction to the new law, we offer the following answer to the question "Why do I need to know about the AIA?"

**Domain Name Issues Update**

*Janet F. Satterthwaite*

The sunrise period for owners of registered trademarks to register or block registration of .xxx domain names closes October 28, 2011.

## Protect IP Act Update

*Christopher S. Crook*

The Protect IP Act remains on hold in the U.S. Senate due to a hold put in place by Senator Ron Wyden (D-OR). However, this proposed bill continues to receive a great deal of attention. On October 4, 2011, various business and labor groups made their case on Capitol Hill in support of this bill, focusing on the Act's ability to protect American jobs.

## "Fame Monster" Terrorized by "Frivolous" Trademark Applications

*Marcella Ballard and Victoria R. Danta*

Grammy Award-winning pop star Stefani Germanotta-- a.k.a. "Lady Gaga"--is suing Excite Worldwide LLC, a Nevada-based cosmetic company, over some "frivolous" trademark applications filed with the U.S. Patent and Trademark Office (PTO) to register "Lady Gaga" and "Lady Gaga LG" for cosmetics and jewelry products.

---

## ANNOUNCEMENTS AND REMINDERS

### "Consumer Protection and Advertising Law: An Emerging Practice with Exciting Career Opportunities" for the American Bar Association Antitrust Section

October 12, 2011

[Elissa Brockbank Reese](#) and [David D. Conway](#) discussed exciting new career opportunities in consumer protection, privacy and advertising law. The program provided students and other junior attorneys the opportunity to dialogue with other young attorneys about pathways into these emerging areas of the law and included a broad overview of the relevant laws and agencies that operate within the fields.

### Opportunities and Challenges in Implementing an International Business Strategy

October 21, 2011

As companies look to implement an international strategy, there are numerous opportunities and challenges facing management. The question is often not should they go overseas, but how? Our experienced practitioners will discuss several of the key legal, accounting, organizational, and business development issues to consider when developing your plan.

### Getting Your Fair Share: How To Prevent Royalty Underpayments (Video Webinar)

October 26, 2011

Join [Joshua J. Kaufman](#), Chair of Venable's Copyright and Licensing group, [Debora Stewart](#), CPA/CFF, Managing Director of Invotex and auditor [Anthony Curtis Elliott](#), CPA as they discuss the causes of royalty underpayment, what you can do to prevent it from happening, and how to use royalty audits to uncover missing royalties. Please click [here](#) for additional information and registration.

### American Conference Institute's ("ACI") Law Conference

[Roger A. Colaizzi](#) will be speaking at the American Conference Institute's ("ACI") Law Conference, taking place October 26 – 27, 2011 in New York City. Roger will speak on "Protecting Your Brand: Policing Your Intellectual Property in an Ever-Evolving Virtual Space."

### Venable Welcomes Gregory J. Sater to the Technology Division

[Gregory J. Sater](#) recently joined the firm as a partner in the [Intellectual Property Litigation Practice Group](#). He focuses on advertising, marketing, trademark, copyright, patent, trade dress, trade secret and other IP issues.



---

## AWARDS AND RECOGNITION

### Venable ranked in 2011 list of Global 100 law firms by American Lawyer

*American Lawyer* recently released its Global 100 list of law firms for 2011. Venable was ranked among the top 100 revenue generating firms in the world. Revenues for the 78 U.S. firms listed in the top 100 were compiled from The Am Law 100. Click [here](#) to view the full list.

### Venable recognized for commitment to diversity by Defense Research Institute DRI

The Defense Research Institute "DRI" has recognized Venable with its annual Law Firm Diversity Award. DRI is the international organization of all attorneys involved in the defense of civil litigation. DRI is committed to enhancing the skills, effectiveness, and professionalism of defense attorneys; anticipating and addressing issues germane to defense attorneys and the civil justice system; promoting appreciation of the role of defense attorneys; and improving the civil justice system and preserving the civil jury.

### **Best Lawyers Names Four Venable Partners “Lawyers of the Year”**

Best Lawyers, the oldest and most respected peer-review publication in the legal profession, has named four Venable partners “Lawyers of the Year.” The recognized attorneys are [Julie A. Petruzzelli](#), 2012 Washington, DC Technology Law Lawyer of the Year; [Bryson L. Cook](#), 2012 Baltimore Tax Law Lawyer of the Year; [Charles J. Morton, Jr.](#), 2012 Baltimore Venture Capital Law Lawyer of the Year; and [Jeffrey K. Gonya](#), 2012 Baltimore Non-Profit/Charities Law Lawyer of the Year.

*To keep abreast of changes in the IP world effecting your business, subscribe to our new RSS feed. To subscribe, please click [www.Venable.com/RSS](http://www.Venable.com/RSS).*

**If you have friends or colleagues who would find this newsletter useful, please invite them to subscribe at [www.Venable.com/subscriptioncenter](http://www.Venable.com/subscriptioncenter).**

CALIFORNIA MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | [www.Venable.com](http://www.Venable.com)

© 2011 Venable LLP. This newsletter is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address. Further, each newsletter article has been prepared by the named author or authors, and does not represent the views of Venable LLP or unnamed Venable attorneys. This newsletter may be reproduced without the express permission of Venable LLP as long as it is reproduced in its entirety, including the Venable name and logo.