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**Honors and Awards**

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**News****UGG, Hermes Score Victories Against Counterfeiters**

This week, two leading apparel brands, Hermes and UGG Boots, were victorious against websites selling counterfeit goods.

Hermes won \$100 million and permanent injunctions against websites selling counterfeit Birkin and Kelly bags online. Later in the week, UGG's parent company, Deckers Outdoor Corp., won \$686 million in lawsuits against more than 3,000 China-based websites selling counterfeit UGGs.

In both cases, many of the funds awarded were seized from the defendants' PayPal accounts, a practice that was previously not possible. The seizure of funds from PayPal accounts was done in accordance with Operation In Our Sites, an initiative by U.S. Immigration and Customs Enforcement's Homeland Security Investigations and the National Intellectual Property Rights Coordination Center.

The initiative allows the Department of Justice to recover funds collected via PayPal from defendants as well as money transferred from PayPal accounts to bank accounts in China. Stan Abrams, a Beijing-based IP attorney, writes in a *Business Insider* column that this is a critical development in anticounterfeiting because, otherwise, it would be nearly impossible to recover money from defendants.

[Click here](#) to read Abrams' *Business Insider* column.

[Click here](#) to read coverage of the cases by the *Fashion Law Blog*.

**FTC Announces Preliminary Agenda for “DotCom Disclosures” Workshop**

On May 2, the Federal Trade Commission (FTC) released the preliminary agenda of a one-day public workshop to consider the need for new guidance about disclosure for online advertisers. The event will be held on Wednesday, May 30, 2012.

According to the FTC's press release, the new guidance is likely to address technological advancements and marketing developments that have emerged since the FTC first issued its online advertising disclosure guidelines known as “Dot Com Disclosures” 12 years ago. The event is free and open to the public and will also be webcast.

[Click here](#) to view the preliminary agenda and additional information about the event.

**Analysis****CA Law, FTC Regulation Give Cause for Care With “Made in USA” Claims**

In the current economic climate, making the claim that a product is “Made in USA” can be advantageous for sales, write Venable partners [Jeffrey D. Knowles](#), [Randal M. Shaheen](#) and [Amy Ralph Mudge](#) in the May 2012 edition of *Electronic Retailer* magazine.

Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011



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However, they explain that marketers should take care when making "Made in USA" claims so that their claims do not run afoul of a 1997 FTC Enforcement Policy Statement or California state law. Under FTC guidance, marketers must be able to show that "all or virtually all" of the product was made in the United States in order to be able to make an express or implied "Made in USA" claim.

While the FTC's standard leaves room for some *de minimis* foreign content, the California law is much more strict. It prohibits the use of "Made in USA" or similar words when the "merchandise or any article, unit, or part thereof, has been entirely or substantially made, manufactured, or produced outside of the United States."

Knowles, Shaheen and Mudge write that litigation and enforcement actions concerning "Made in USA" are common, noting a pair of relatively recent California class actions as well as numerous FTC enforcement actions.

[Click here](#) to read their column, which begins on page 41 of the publication.

## Court Refuses to Dismiss Celebrity Endorsement Breach of Contract Case

Most endorsement contracts have a morals clause designed to give the marketer an excuse to terminate an endorsement deal if they think the celebrity has done something that might reflect poorly upon the company, write Venable partners [Randal M. Shaheen](#) and [Amy Ralph Mudge](#) in a recent post on Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

A judge recently refused to dismiss a lawsuit brought by Pittsburgh Steelers running back Rashard Mendenhall against Champion, a Hanesbrands company, after Champion terminated his endorsement contract because of Tweets concerning Osama bin Laden and questioning whether the collapse of the Twin Towers was the result of hijacked planes.

Mendenhall's morals clause barred actions that would tend to bring him "into public disrepute, contempt, scandal or ridicule, or tending to shock, insult or offend a majority of the consuming public." The judge found that the morals clause could not be triggered simply because the company disagreed with Mendenhall's comments. Instead, the judge held that further factual development was necessary so that the court could make a finding as to the nature of the public's response to Mendenhall's Tweets.

In other words, according to the judge, it is not enough for the company to think that an endorser has offended many people; the company must also show it factually, at least under the wording of the morals clause in question.

[Click here](#) to read the post by Shaheen and Mudge on Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

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## Events

### [New York City Bar Center for CLE - New York](#)

May 4, 2012, 9:00 a.m. to 12:30 p.m. EDT

Please join Venable partner [Melissa Landau Steinman](#) when she presents "[Sweepstakes, Promotions and Marketing Laws: Comprehension & Compliance](#)" on Friday, May 4, 2012. Topics of discussion will include the laws governing sweepstakes and skill contests, social media, mobile marketing, drafting official rules and disclosures, use of intellectual property, and the gift-card/coupon interface.

To register to attend this event in person, please [click here](#).

To register for a live webcast of this event, please [click here](#).

### [ERA'S Government Affairs Fly-In 2012 - Washington, DC](#)

May 7-8, 2012

Please join Venable at the Electronic Retailing Association's 2012 Government Affairs Fly-In. The event, which takes place in Washington, DC from May 7-8, is an outstanding opportunity to learn more about the regulatory and legislative efforts affecting the electronic retailing industry and to meet with lawmakers and senior agency officials. Venable's [Jeffrey D. Knowles](#) will be among the dozen senior-level speakers from Capitol Hill, federal regulators, industry self-regulatory bodies, policy think tanks and the electronic retailing industry during this important two-day event.

### **Response Expo 2012 - San Diego**

May 15-17, 2012

Please join Venable at the Response Expo 2012. The event, which takes place in San Diego from May 15-17, brings together key decision-makers and industry leaders from the corporate marketing arena and direct response spectrum. Please stop by our booth and meet Venable's **Advertising and Marketing attorneys**. Venable is the proud sponsor of the Martini Party networking event, which will occur on May 16, 2012 from 4:30 p.m. - 6:00 p.m. PDT.

### **ACC's Social Media Day - Darien, CT**

May 18, 2012

Social media has created a new frontier for many companies. The legal issues relating to social media evolve every day. This day-long program at the Woodway Country Club in Darien, CT will prepare legal professionals to confront this new reality and manage the resulting legal issues. Please join Venable partner **Leonard L. Gordon** when he presents "Managing Compliance Risks: Privacy, Consumer Protection and Social Media" on May 18, 2012 from 10:30 a.m. - 11:45 a.m. EDT.

For registration information, please [click here](#).

### **American Bar Association Section of Antitrust Law- Washington, DC**

May 22, 2012, 12:30 p.m. - 1:45 p.m. EDT

Please join Venable partner **Lisa Jose Fales** when she presents "**The Poultry Merger Reviews: When Can Birds of a Feather Flock Together?**" on Tuesday, May 22, 2012. This panel discussion will feature two recent mergers in the poultry industry --the case of Perdue/Coleman, which garnered Department of Justice (DOJ) review, and the case of Tyson/Georges, which sparked a civil antitrust action. Hear perspectives from counsel to the parties as well as the Section Chief from the DOJ Antitrust Division on these transactions and potential implications for the future. Noteworthy topics to be discussed include potential monopsony issues, analysis of economic harm, and proper remedies.

To register to attend this event in person, please RSVP to **Alicia Allen**.

To register for a live webcast of this event, please [click here](#).

### **ACI Litigating & Resolving Advertising Disputes - New York**

June 19-20, 2012

Venable is a proud sponsor of the ACI Litigation & Resolving Advertising Disputes Conference. Please join Venable's **Thomas E. Gilbertsen** and **Amy Ralph Mudge**. Gilbertsen will speak on the explosion of class action lawsuits, and Mudge will moderate a panel of judges providing the judicial perspective on advertising litigation.

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Visit Venable's advertising law blog at [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

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