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Latest News and Alerts

Venable attorneys produce periodic alerts and newsletters covering a variety of topics and practice areas. For your convenience, we have assembled below a collection of the latest alerts and newsletters from April 2012. To view the full text of an article, please click on the title of the piece.

[Legal Issues and the State-Based Exchange – Enhancing Your State's Readiness](#)

On March 12, 2012, the Department of Health and Human Services issued final regulations relating to the establishment and operation of a State-based health insurance Exchange, including standards for the Small Business Health Options Program.

[Jumpstart Our Business Startups \(JOBS\) Act](#)

In order to spur job creation and economic growth, Congress recently passed legislation that fundamentally reforms the requirements for accessing capital markets in the United States. On April 5, 2012, President Obama signed the Jumpstart Our Business Startups Act, which Congress passed with broad bipartisan support. This legislation seeks to expand access to capital markets by making initial public offerings more attractive to “emerging growth companies” and expanding the ability of companies to raise capital in private and limited public offerings without registration with the Securities and Exchange Commission.

[Act Now: Clock Starts to Request Duty Reduction or Suspensions](#)

If you are seeking a new temporary duty suspension or duty reduction for a product you import, or if you want to extend an existing reduction or suspension beyond 2012, you have until Monday, April 30 to seize the opportunity or risk waiting several years before getting another chance.

[CBP Adds a New Tool to its Anti-Counterfeit Arsenal: New Rule Brings IP Rights Holders into Pre-seizure Investigative Process](#)

Tuesday, April 24, 2012, U.S. Customs and Border Protection issued a new Interim Rule that, effective immediately, enhances the effectiveness of its anti-counterfeit operations. The rule amends 19 C.F.R. Part 133 and authorizes CBP field agents, subject to certain limitations, to share information with Intellectual Property rights holders in order to assist CBP in determining whether merchandise bears a “counterfeit mark.” The revisions also include a clarification to CBP’s definition of “counterfeit trademark” for consistency in enforcement.

[DoD Fast-Track Acquisition Process Promises New Opportunities for Contractors](#)

The U.S. Department of Defense is establishing a fast-track acquisition process for cybersecurity products and services. The new process, which DoD plans to roll out within the next six months, promises to provide new opportunities for government contractors in the cybersecurity industry. This client alert provides an overview of DoD’s proposal (which has not been detailed in public) and guidance for companies looking to position themselves for these acquisitions.

[FDA Releases Global Engagement Report](#)

On April 23, 2012, the Food and Drug Administration issued a report on the FDA’s plans for increased global engagement. The report focuses on the challenges which a U.S. domestic regulatory agency faces in protecting U.S. consumers who are increasingly using products from non-U.S. manufacturers and facilities.

[FTC Wins Preliminary Injunction, Stopping Second Hospital Merger in a Week](#)

In a second hospital merger victory in a week for the Bureau of Competition at the Federal Trade Commission, Federal District Court Judge Kapala in the Northern District of Illinois granted the FTC’s motion for a preliminary injunction last week, stopping a merger between two hospital systems in Rockford, Illinois. The decision kept the parties’ assets separate pending an administrative litigation before an FTC administrative judge, which was to begin on April 17, 2012. The hospitals withdrew their merger filing on April 12, ending that case.



Venable was a proud sponsor of the ACG Global 2012 InterGrowth Conference in Dallas, Texas. The firm partnered with Bernstein Wealth Management to host the *Capital Strategies for Privately Held Companies* track on Thursday, April 26. For more information about Venable’s involvement in this program, click [here](#).

FTC Continues Active Enforcement with Decision to Block Hospital Merger in Toledo, Ohio

Although the challenging and dynamic environment facing many hospitals and the requirements of the Affordable Care Act might suggest that the Federal Trade Commission will displace or rethink traditional antitrust analysis for hospital mergers, the FTC recently made clear that any hospital merger resulting in high market shares faces a steep uphill climb to win FTC approval.

Gift Card Sellers Take Note: Groupon Settlement and New Developments in New Jersey May Affect Your Business Strategy

During the past couple of weeks, there have been several important new developments in the gift card industry that may inform the next steps of sellers of gift cards and similar instruments in New Jersey and other states. At the end of March and the beginning of April, several of the biggest gift card sellers announced that they would stop selling gift card products in New Jersey, on the basis that they could not ensure that third parties would comply with the data collection provisions of the New Jersey stored value card law. On the other side of the country, in California, Groupon reached an \$8.5 million settlement in multidistrict litigation alleging that the promotions company sold vouchers with unlawful expiration dates, in violation of the law of several states. Sellers that offer gift cards in New Jersey, or that offer "daily deal" vouchers in partnership with Groupon (or run similar promotions), should take note of these developments, summarized in more detail below.

New Health Plan Rules to Keep in Mind When Planning for the 2013 Open Enrollment Season

The face of employer health plan compliance continues to shift as a number of new rules impacting health plans already have, or soon will, become effective. Not surprisingly, these rules pose new compliance challenges for employers who sponsor health plans. It is not too soon for plan sponsors to begin planning for the implementation of these requirements and to determine how they will affect 2013 open enrollment.

Advertising News & Analysis - April 2012

News

- Senator Durbin Calls on FDA to Regulate Caffeine in Energy Drinks
- FTC Approves Final Order Settling Privacy Charges with Upromise
- FTC Continues Crackdown on Marketers Targeting Vulnerable Consumers
- Two New Partners Join Venable's Advertising, Marketing and New Media Practice
- NAD Refers Supplement Company to FTC
- FTC Orders Alcoholic Beverage Manufacturers to Provide Data on Alcohol Advertising, Including Internet and Digital Marketing
- FTC Announces Schedule for Reviewing Regulations
- FTC Commissioner Tells Industry Group Social Media Sharing Cannot be Forced
- CFPB Says Financial Institutions Responsible for Contractors' Actions
- FDA FVM's Four-Year Strategic Plan Takes Aim at Food Labeling, Dietary Supplements
- Senate OKs USPS Changes
- Ohio AG Announces Charitable Solicitation Settlement With InfoCision

Analysis

- Court Denies Class Action in Continuity Product Case
- CFPB now Sharing Complaints with FTC
- Groupon Settlement, New Developments in NJ have Implications for Gift Card Sellers
- Unfairness Makes Comeback Overseas: Is the US Next?
- FTC Blog Illustrates Lessons of Last Week's "Bottom Dollar" Enforcement Actions for Legitimate Businesses
- Fourth Circuit Revives Rosetta Stone's Google AdWords Claims
- Flash Mobs Can Generate Buzz, Legal Issues
- FDA Releases Global Engagement Plan

IP Buzz - April 2012

IP Legal News and Updates

- Fourth Circuit Revives Rosetta Stone's Claims Against Google Over its AdWords Program
- Decision-Making Is Not Patentable - The SmartGene Case
- IP: Trademark Disputes as an Unintended Consequence of Distribution Agreements
- Court Denies Class Action in Continuity Product Case
- IP: What's in a Name?
- Venable Attorneys Author Chapter on U.S. Anti-Counterfeiting

Upcoming Events

We would also like to highlight upcoming Venable events that you may be interested in attending. Please click on the event title for additional information

Nonprofit Contracts: Best Practices, Negotiation Strategies, Practical Tips, and Common Pitfalls

May 17, 2012
12:00 p.m. - 2:00 p.m. EDT

Most nonprofit programs and activities are codified in written agreements, which can create a wide array of tax, antitrust, regulatory, and other legal and financial risks. Meeting contracts, independent contractor and consulting agreements, and vendor contracts, among others, can sometimes take on great legal, financial, and program-related significance. With this in mind, how do you answer the following questions: Does your nonprofit have a strategy for identifying and managing its greatest potential contractual liabilities? Do you have a reliable and comprehensive system in place for negotiating, forming, and approving contracts? Do you have a trusted source of counsel on their legal implications?

WMACCA Government Contractors Forum: The Key Word is 'More'

May 23, 2012
12:00 p.m. - 2:00 p.m. EDT

Please join us for an in-depth discussion of the evolution of DCAA audits following the agency's recent implementation of heightened testing, scrutiny and evidentiary requirements. This program will focus on how the new DCAA culture will affect approval of contractors' business systems, ethics programs and compliance audits.

WMACCA will apply for 1.5 hours of Virginia MCLE credit.

Fair Lending: Why It's Important to You in 2012

May 31, 2012
12:00 p.m. - 12:30 p.m. EDT - Lunch and Networking
12:30 p.m. - 1:30 p.m. EDT – Program/Webinar

Fair lending was a hot topic for Countrywide and other lenders in 2011, and the issue will continue to be an important one in the coming year. Our panelists will share with you their perspectives on what it means to be a regulator enforcing ECOA, FHA and fair lending laws, as well as what it means to be a regulated entity in this economic and regulatory environment. Additionally, our panelists will provide you with some practical tips for preparing for a fair lending examination and tell you how to handle the deluge of upcoming mortgage regulations while preserving access to credit. We will discuss the following questions:



Chambers USA recognized fifteen of Venable's [Corporate Group](#) attorneys in national and regional categories in their 2011 rankings.



Two Venable [Corporate Group](#) partners were ranked in the 2011 edition of *Chambers Global*.



Legal 500 recognized fifteen attorneys from the [Corporate Practice Group](#) in 2011.



Eleven of Venable's [Corporate Group](#) attorneys were recently selected by their peers for inclusion in *The Best Lawyers in America*® 2012.

James J. Hanks, Jr., a Partner in Venable's [Corporate Practice Group](#), was named the *Best Lawyers* Baltimore Corporate Governance and Compliance Lawyer of the Year.



Charles Morton, Co-Chair of Venable's [Corporate Practice Group](#), was named the Baltimore Venture Capital Lawyer of the Year.

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