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**Honors and Awards****News**

## Venable's Jeff Knowles to Receive ERA Lifetime Achievement Award

In a June 3, 2013 press release, the Electronic Retailing Association (ERA) announced that Venable partner **Jeffrey D. Knowles** will receive the 2013 ERA Lifetime Achievement Award.

The Lifetime Achievement Award is given to an ERA member whose work has had a visible impact on the electronic retailing industry and has been acknowledged by colleagues in the industry and the public at large.

Knowles helped found the ERA, then called the National Infomercial Marketing Association, in 1991 and has played a central role in the growth and maturation of the electronic retailing industry over the succeeding 23 years. During this period, Knowles served on the ERA's board, as the association's General Counsel, and, later, as its Chairman.

Knowles will receive the award on September 26 during the ERA's Moxie Awards Gala, the capstone event of the association's annual D2C conference.

[Click here](#) to read the ERA press release.

[Click here](#) to learn more about the D2C conference.

**Analysis**

## The Best Things in Life Are Free – Just Pay Separate Shipping and Handling

They say the best things in life are free, but are they really free if you have to pay separate shipping and handling to get them? asks Venable partner **Gregory J. Sater** in the June edition of the *DRMA Voice*.

In his column, Sater examines recent consumer class actions lawsuits and enforcement cases involving allegedly excessive shipping and handling fees, especially when used in conjunction with the popular buy one, get one (or BOGO) marketing tactic. He also examines a California law targeting excessive shipping and handling fees and gives a tip of the hat to recognized industry best practices.

[Click here](#) to read Sater's column in the June edition of the *DRMA Voice*.

## CARU Says "Watch Those Kids," at Least in Advertising

Two recent decisions from the Children's Advertising Review Unit (CARU) remind marketers of the ground rules for children's ads showing active outdoor play, write Venable partners **Amy Ralph Mudge** and **Randal M. Shaheen** in a recent post on Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com). While the Consumer Product Safety Commission and common sense have gotten rid of childhood "classics" such as lawn darts, they write, the CARU guidelines still admonish advertisers to show kids engaged in properly supervised play with appropriate safety equipment.

Top ranked in *Chambers USA* 2012



Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011-2012



Top-Tier Firm *Legal 500*



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First, they write, parents or other adult figures should be shown supervising kids when the product or the activities could involve a potential safety risk. In the case of the Urban Shredder, an electric-powered three-wheel skateboard that reaches speeds of ten miles an hour and creates a "sparking action," CARU said "the adult presence must be meaningful and must suggest that adult supervision is required." In another recent CARU case, the industry self-regulatory body admonished Razor for its ProXX Scooter ad, which showed a professional rider performing tricks while wearing no helmet or protective pads.

The bottom line, write Mudge and Shaheen, is to ensure that ads directed at kids also portray adequate safety equipment and engaged adult supervision.

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

## Supreme Court to Decide Lanham Act False Advertising Standing Next Term

On June 3, the Supreme Court announced that during the next term it will consider what is required to establish standing to sue for false advertising under Section 43(a)(1)(B) of the Lanham Act. In a recent post to Venable's advertising law blog, Venable attorneys [Roger A. Colaizzi](#) and [David D. Conway](#) write that Section 43(a), on its face, creates a cause of action for "any person who believes that he or she is or is likely to be damaged." They continue that the courts, however, have traditionally interpreted this language narrowly to provide standing only for business entities facing commercial or competitive injury as a result of false or misleading advertising.

Although it is now settled that consumers do not have standing under Section 43(a), the parameters of commercial or competitive injury have long been a murky matter. Adding fuel to the fire, there is currently a three-way circuit split among the federal appellate courts regarding the proper test for Lanham Act false advertising standing.

It is never wise, Colaizzi and Conway write, to predict which way the Supreme Court will fall on an issue. However, they say, it is worth noting that the Third Circuit's *Conte Brothers* decision applying the antitrust standing analysis to Lanham Act false advertising cases was authored by none other than Justice Samuel Alito during his tenure on that court.

[Click here](#) to read the full text of the post by Colaizzi and Conway on Venable's advertising blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

## Trade Secrets: Assets Worth Protecting

Trade secret theft and economic espionage against U.S. companies continue to accelerate, write Venable attorneys [Armand J. "A.J." Zottola](#) and [Robert F. Parr](#) in a recent client alert. In today's business environment, they write, even a single trade secret security breach may substantially undermine a company's ability to compete in the marketplace.

In recognition of this competitive threat, Congress and certain state legislatures have recently passed some legislation that has broadened and strengthened trade secret protection. In the client alert, Zottola and Parr explain the conditions data must meet to qualify for "trade secret" protection and outline a number of practical strategies and tactics a company can employ to increase the security of its trade secrets.

[Click here](#) to read the full text of the client alert authored by Zottola and Parr.

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## Upcoming Events

### [ERA's HomeShopping Conference 2013 - Rome](#)

June 23-25, 2013

Whether you use the power of direct response to sell goods and services on television, online, or in the mobile/wireless world, the ERA European HomeShopping Conference is the place where you will find a truly global representation of people from within the industry. Venable partner [Claudia A. Lewis](#) will present a transactional and regulatory update that will provide inside views and information for product marketers who want to do business in the United States.

[Click here](#) to learn more.

#### **ACI's Legal, Regulatory and Compliance Forum on Dietary Supplements - New York**

June 26-27, 2013

Recent changes in Congress and at the FDA have presented the dietary supplements industry with a whole new set of challenges. Make sense of these developments and their potential impact on existing legal and regulatory structures affecting dietary supplements at the only legal and regulatory gathering designed for the dietary supplement industry. Venable of counsel **Michelle C. Jackson** will present best practices for reporting adverse events for dietary supplements. Venable partner **David G. Adams** will moderate a panel discussion on claim substantiation and risk mitigation in dietary supplement advertising and promotion.

[Click here](#) to learn more.

#### **IFT's Annual Meeting & Food Expo - Chicago**

July 13-16, 2013

The global event that brings together the most respected food professionals in industry, government and academia, the IFT Annual Meeting & Food Expo is the pre-eminent event to acquire practical insights and innovative ideas about the most recent product, ingredient and technology developments and their potential business impact.

[Click here](#) to learn more.

#### **ACI's 3rd Advanced Regulatory and Compliance Summit on Food and Beverage Marketing & Advertising - Washington, DC**

July 16-18, 2013

Gain practical knowledge on meeting SSA standards, labeling challenges for energy and caffeine drinks, COPPA reform and how to maintain the delicate balance of marketing to children amid the obesity epidemic at the 3rd Advanced Regulatory and Compliance Summit. Venable partner **Todd A. Harrison** will present on best labeling practices amid the rise of safety concerns and increased Congressional scrutiny.

[Click here](#) to learn more.

#### **NBJ Summit 2013 - Dana Point, CA**

July 23-26, 2013

Bringing together nutrition industry leaders and influential power brokers, the 16th Annual NBJ Summit is the premier leadership event for strategic thinking and discussion on the progress, opportunities and challenges facing the industry. Venable partner **Todd A. Harrison** will serve as a panelist on the state of the industry--revealing consumer insights, emerging retail product trends, strategic industry issues and proprietary market data.

[Click here](#) to learn more.

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[Click here](#) to subscribe to Venable's Advertising and Marketing RSS feed and receive the Venable team's insight and analysis as soon as it is posted.

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

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