

**Issue Editors**

Jeffrey D. Knowles
jdknowles@Venable.com
202.344.4860

Roger A. Colaizzi
racolaizzi@Venable.com
202.344.8051

Gary D. Hailey
gdhailey@Venable.com
202.344.4997

Gregory J. Sater
gjsater@Venable.com
310.229.0377

In This Issue

Jeffrey D. Knowles
jdknowles@Venable.com
202.344.4860

Todd A. Harrison
taharrison@Venable.com
202.344.4724

Claudia A. Lewis
calewis@Venable.com
202.344.4359

Melissa Landau Steinman
mlsteinman@Venable.com
202.344.4972

Steven J. Schwarz
sjschwarz@Venable.com
202.344.4295

Michelle C. Jackson
mcjackson@Venable.com
202.344.4492

Heili Kim
hkim@Venable.com
202.344.4677

John G. Moore
jgmoore@Venable.com
202.344.4592

Analysis

Leave Your Claims at the Border

In today's global economy, successful products often cross borders and continents, writes Venable attorney **Christopher S. Crook** in a recent post to Venable's advertising law blog. However, he writes, while products may be one free trade agreement away from a new market, advertising claims and their underlying substantiation, are often not as portable.

Crook points to the case of GTech, which recently launched its cordless vacuum in the U.S. market using claims substantiated via a European testing protocol. Hot on the heels of the launch, one of GTech's competitors challenged the claims at the National Advertising Division (NAD).

Read Crook's blog post to [learn what happened next](#).

[Read NAD's press release about the GTech decision](#).

Delaware Suit Shows You Can't Escheat the Tax Man

Late last month, a Delaware lawsuit against gift card issuer Card Compliant LLC, 33 major retailers, and the National Restaurant Association was unsealed. The whistleblower suit alleges that the defendants knowingly failed to report and remit the balances of unredeemed gift cards – totaling hundreds of millions of dollars – to the state as required by its abandoned property, or escheat, laws.

Regulatory scrutiny of gift card programs has never been greater, write Venable attorneys **Melissa Landau Steinman** and **Erin E. Warren** in a recent post to Venable's advertising law blog. In the current regulatory climate, they write, companies marketing gift cards that fail to ensure strict compliance with the patchwork of state regulations governing the popular payment products are simply asking for trouble.

To learn more about the case, [read the blog post by Steinman and Warren](#).

[Read a PDF of the unsealed Delaware lawsuit here](#).

FDA Sets Limit on Fishy Omega-3 Nutrient Value Claims

On April 28, the U.S. Food and Drug Administration (FDA) issued a final rule prohibiting certain nutrient content claims for three popular omega-3 fatty acids. The final rule makes no substantive changes to FDA's 2007 proposed rule on the issue, and it will take effect on January 1, 2016.

In a recent client alert, attorneys from **Venable's Dietary Supplements, Cosmetics and Functional Foods Practice Group** write that companies using omega-3 fatty acid nutrient content claims to market products should assess compliance with the final rule and begin planning any necessary changes.

Read the client alert to [learn what types of omega-3 claims will remain legal](#).

For even more detail, [read the full text of the FDA's omega-3 final rule](#).

Your Guide to Post-Grant Patent Challenges

In 2012, the America Invents Act made post-grant proceedings before the Patent Trial and Appeal Board

Meaghan Hemmings Kent

mhkent@Venable.com
202.344.4481

Kristen R. Klesh

krklesh@Venable.com
202.344.4830

Fabian M. Koenigbauer

fmkoenigbauer@Venable.com
202.344.4477

Carly S. Levin

cslevin@Venable.com
202.344.4638

Erin Elizabeth Warren

eewarren@Venable.com
202.344.4212

Honors and Awards

Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2012 and 2014



Top ranked in *Chambers USA* 2013



Top-Tier Firm *Legal 500*

For more information about Venable's award-winning Advertising and Marketing practice, please visit our website at

www.Venable.com/Advertising-and-Marketing

(PTAB) available as means to challenge both design and utility patents, write Venable attorneys **Steven J. Schwarz**, **Meaghan Hemmings Kent**, **Fabian M. Koenigbauer**, and **Carly S. Levin** in a special PTAB edition of Venable's *IP Buzz*.

The proceedings have become wildly popular, they write, even though one federal judge called PTAB judges the "death squads" of patent rights. The special edition examines post-grant proceedings from all angles, providing a primer on the proceedings as well as an overview of recent cases and the pros and cons of different strategic approaches. The special edition also gazes into the crystal ball to provide insight on potential future trends in post-grant proceedings.

Read the special issue to [learn everything you need to know about post-grant proceedings](#).

Upcoming Events

New York City Bar Association – New York, NY

May 16, 2014

Venable partner **Melissa Landau Steinman** will participate in the New York Bar Association's "Sweepstakes, Promotions & Marketing Laws: Comprehension & Compliance in a Digital/Mobile Environment" program. Join Ms. Steinman as she presents "Loyalty Programs and Gift Cards" on Friday, May 16 at 11:25 a.m. ET.

[Click here](#) to learn more and register.

SURTEX - New York, NY

May 18-20, 2014

SURTEX is a global marketplace for original art and design that convenes 6,000 buyers and manufacturers from 49 countries to buy or license the newest designs from approximately 1,000 artists. Join Venable attorneys for several educational sessions during the conference, including **Joshua J. Kaufman** who will present "Anatomy of a Licensing Contract" on Sunday, May 18 at 3:30 p.m. ET, and **Meaghan Hemmings Kent** who will present "Protecting Artwork through Copyrights & More" on Monday, May 19 at 8:00 a.m. ET. Also, be sure to join **Po Yi** and Joshua J. Kaufman for "Licensing Agreements: Challenges & Resolutions" on Monday, May 19 at 10:00 a.m. ET.

[Click here](#) to learn more and register.

Media Finance Focus 2014 – Miami, FL

May 19-21, 2014

Venable is a proud sponsor of the Media Financial Management Association's Media Finance Focus 2014, an annual conference that convenes media, financial, and business executives. Venable partner **Stephanie M. Loughlin** will present "Federal Tax Update" on Monday, May 19 at 2:40 p.m. ET. Venable partners **Melissa Landau Steinman** and Stephanie M. Loughlin will present "Gift Cards, Coupons, and Loyalty Programs" on Tuesday, May 20 at 2:00 p.m. ET. Also, be sure to join Venable partners **Po Yi** and Melissa L. Steinman for "Advertising and Marketing on Social Media: Staying Ahead of the Curve" on Tuesday, May 20 at 3:00 p.m. ET.

[Click here](#) to learn more and register.

The CNP Expo - Orlando, FL

May 19-22, 2014

Venable partner **Ellen T. Berge** will moderate the panel "I'm from the Government and I'm Here to Help" at the Card Not Present (CNP) Expo on Wednesday, May 21 at 1:15 p.m. ET. The CNP Expo provides a meeting place for merchants, banks, processors, anti-fraud software providers, legal experts, alternative payment providers, card networks, and others to learn how to leverage card-not-present payments in an increasingly multi-channel retail sales environment.

[Click here](#) to learn more and register.

ERSP 10th Anniversary and ERA Government Affairs Fly-in – Washington, DC

May 20-21, 2014

Venable is a proud sponsor of the Electronic Retailing Self-Regulation Program's (ERSP) 10th

anniversary program celebrating a decade of self-regulation. On Tuesday, May 20, Venable partner [Jeffrey D. Knowles](#) will present "Broadening the Scope: Self-Regulation in the Telemarketing Industry and Beyond" as part of an afternoon of panel discussions on advertising self-regulation in the direct response industry. Venable is also a sponsor of the ERA Government Affairs Fly-in on May 21, which brings together direct retailing industry leaders to discuss the current political landscape and what to expect in the year ahead.

[Click here](#) to learn more and register.

[Cause-Related Marketing Forum - Chicago, IL](#)

May 28-29, 2014

Venable is a proud sponsor of the Cause-Related Marketing Forum, an annual conference that convenes national for-profit marketers and large nonprofits engaged in cause marketing activities. Join Venable associate [Kristalyn J. Loson](#) for "Legal Q&A" on Thursday, May 29 at 3:15 p.m. CT.

[Click here](#) to learn more and register.

[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.

CALIFORNIA DELAWARE MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com

© 2014 Venable LLP. This alert 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. ATTORNEY ADVERTISING.

575 7th Street, NW, Washington, DC 20004

© 2014 Venable LLP | www.Venable.com | 1.888.VENABLE