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**Honors and Awards****IP LEGAL NEWS AND UPDATES****Using Copyright to Protect Your Brand's Characters**

Author: [Joshua J. Kaufman](#)

When "Brand Protection" is discussed in the advertising context, trademark protection is typically what comes to mind. An often overlooked tool is copyright protection. If in advertising you have developed a "character" (think Progressive Insurance's "Flo" character or Haverty's "Emily") or have an object (like Geico's Gecko or the Batmobile) that is essential to your advertising campaign, under the right circumstances, it can be protected by copyright. While trademark law can protect a specific individual rendition of the character, copyright will protect the persona. In other words, you may be able to prevent a competitor from using a substantially similar character.

[Click here to learn more about brand protection using copyright.](#)

**The Duke Versus The Blue Devils: Who Has Trademark Rights to "Duke" Alcohol?**

Authors: [Jessie F. Beeber](#) and [Sarah S. Park](#)

"There's been a lot of stories about how I got to be called Duke. One was that I played the part of a duke in a school play – which I never did. Sometimes, they even said I was descended from royalty! It was all a lot of rubbish. Hell, the truth is that I was named after a dog!" – John Wayne, a.k.a. Duke Morrison, Duke Wayne, Duke, and The Duke

So goes the story of how Hollywood legend John Wayne got his nickname, from the mouth of The Duke himself. Now his heirs are suing Duke University in California federal court to protect their right to further Wayne's legacy through alcohol products.

[Click here to learn more about this case.](#)

**The USPTO Issues Guidelines for Subject Matter Eligibility Analysis: *Pathology v. Myriad* and *Mayo v. Prometheus***

Authors: [Stefan J. Kirchanski](#) and [Miguel A. Lopez](#)

On March 4th, 2014, the United States Patent and Trademark Office issued a guidance advising examiners and the public of the factors for determining whether an invention satisfies the provisions of **35 U.S.C. §101**, as applied to patent eligibility in view of the U.S. Supreme Court's decisions in [Molecular Pathology v. Myriad Genetics, Inc.](#) (*Myriad*) and [Mayo Collaborative Services v. Prometheus Laboratories, Inc.](#) (*Prometheus*).

[Click here to read key "take home" points of the guide.](#)

**Design Patent Developments at the Federal Circuit – 2014 Term**

Authors: [Andrew P. MacArthur](#) and [Ralph A. Dengler](#)

In addition to its heavy docket of utility patent cases, the Federal Circuit also rendered several design patent decisions of interest thus far in the 2014 term. Among them is in a recent non-precedential opinion in [Anderson v. Kimberly-Clark Corp.](#), the Federal Circuit affirmed the application of the "ordinary observer" test at the pleading stage to find that five undergarment products did not infringe a design patent.

[Click here to read how design patents have fared this term.](#)

## IP Buzz – Post Grant Practice July Edition

Earlier this month, Venable issued a special edition of *IP Buzz* focused on *inter partes* litigation.

[Click here to view the latest issue.](#)

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### ANNOUNCEMENTS AND REMINDERS

## Venable Is Pleased to Welcome Four Additions to the Intellectual Property Division

**Andrew P. MacArthur** joins as an Associate in the firm's IP Litigation group in New York. He brings experience in patent litigation regarding telecom, computer switches, software, and LEDs in federal courts and International Trade Commission as well as IP due diligence for corporate transactions. Andrew was recently selected to the Super Lawyers 2014 New York Metro Rising Stars list. Andrew is a graduate of Duke University School of Law, where he was Executive Editor of the Duke Journal of Comparative and International Law, and he earned his B.Sc. in Engineering (Systems & Computing) from the University of Guelph in Canada.

Trademark Counsel **Steven B. Powell** joins the Trademark, Copyright and Domain Names group in Washington, DC. Steven brings ten years' experience from a previous firm, where he advised clients on the management of trademark portfolios and counseled clients on trademark selection, clearance, use, maintenance, and enforcement. Steven was also a Trademark Examining Attorney for the U.S. Patent and Trademark Office, and a Staff Attorney at the American Bar Association. Steven is a graduate of Washington & Lee University School of Law and received his B.A. in Politics from Wake Forest University.

**Laura G. Remus** joins Venable as a Patent Agent in our Los Angeles office after working for two years with an IP firm in Philadelphia. Laura has a B.S. in Physics from Davidson College and a Ph.D. in Physics and Astronomy from Dartmouth. While at Dartmouth, Laura conducted research into condensed matter physics and investigated the quantum/classical divide in macroscopic mechanical systems. She is proficient in Spanish.

**Linda J. Zirkelbach** rejoins Venable as Counsel in the Trademark, Copyright & Licensing Group. She was an associate in Venable's Washington, DC office from 1999 to 2003. Linda was previously with another firm where she focused her practice on intellectual property matters. Linda originally left Venable for the Recording Industry Association of America ("RIAA") where she was Vice President, Legal Affairs, and directly managed high-profile litigation for the U.S. record companies, including the nationwide litigation initiative against thousands of peer-to-peer copyright infringers, and was a key member of the record and movie industry's 9-0 victory before the Supreme Court in *MGM Studios v. Grokster*. After that, Linda spent more than 5 years as the Vice President & General Counsel of a publishing and media company. Linda is a graduate of American University's Washington College of Law and received her B.A. from University of Michigan.

## You're Invited! Venable IP Symposium

Wednesday, September 10, 2014 | 12:30 - 6:30 p.m. ET  
Venable's Washington Office, Capitol Room

Please join us on September 10 for Venable's inaugural IP Symposium. Venable IP attorneys will be joined by distinguished guest speakers for a half-day event in our Washington, DC office. We'll kick off with a keynote luncheon, followed by panel discussions on current trends in IP law and strategies for settling a case favorably, and we'll end the day with drinks on the rooftop. The IP Symposium is complimentary and CLE credit will be available.

### Panel 1: Current Trends in IP Law

- Recent developments in patent, trademark and copyright law and legislation
- The effect of the latest Supreme Court decisions on IP law and practice

### Panel 2: How to Settle Your Case Favorably

- Different approaches to settling patent troll and Hatch-Waxman cases
- Drafting settlement documents that best benefit your client

### Speakers

- **Tamany Bentz**, Venable LLP
- **Toni-Junell Herbert**, Venable LLP

- **Nora Garrote**, Venable LLP
- **Frank Gasparo**, Venable LLP
- **Meaghan Kent**, Venable LLP
- **Janet Satterthwaite**, Venable LLP
- **Kenneth Cappel**, Vice President, Global IP, Amneal Pharmaceuticals
- **Christopher Copeland**, Senior Counsel, Contracts & IP, M&T Bank
- **Vicki Margolis**, Chief IP Counsel, Kimberly-Clark
- **Elizabeth Winston**, Associate Professor, Columbus School of Law, Catholic University
- Keynote Speaker to be announced

[Click here to register.](#)

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