



September 4, 2014

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

Gary D. Hailey
gdhailey@Venable.com
202.344.4997

Stuart P. Ingis
singis@Venable.com
202.344.4613

Joshua J. Kaufman
jjkaufman@Venable.com
202.344.8538

Jonathan L. Pompan
jlpompan@Venable.com
202.344.4383

Ari N. Rothman
anrothman@Venable.com
310.229.9909

Molly T. Cusson
mtcusson@Venable.com
202.344.4215

Alexandra Megaris
amegaris@Venable.com
212.370.6210

Honors and Awards

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

Check This Out!

In today's environment, launching an advertising or marketing campaign without considering legal compliance is like playing Russian roulette with your business. The third edition of Venable's *Advertising Law Tool Kit* is a handy collection of background information and checklists designed to help marketers spot potentially problematic advertising practices before they spawn lawsuits and enforcement actions. [Download a copy of the Tool Kit today](#). If you prefer a printed copy, [send us your mailing address](#) and we will send you one.

News

Five Venable Advertising Attorneys Named to *Best Lawyers*

On August 18, Venable announced that 95 of the firm's attorneys, including five from its Advertising, Marketing and New Media Practice Group, were included in the 2015 edition of *The Best Lawyers in America*.

Venable attorneys recognized in the Advertising Law category include [Gary D. Hailey](#), [Stuart P. Ingis](#), [Jeffrey D. Knowles](#), [Amy Ralph Mudge](#) and [Randal M. Shaheen](#).

The Best Lawyers in America is compiled using exhaustive peer-review surveys in which tens of thousands of attorneys confidentially evaluate their peers. Inclusion in this year's publication is based on more than 5.5 million detailed evaluations of attorneys by their peers.

Read Venable's press release to [learn more about *Best Lawyers* and Venable's ranked attorneys](#).

Analysis

Good and Bad News for Online Marketing Compliance

Withering scrutiny from the FTC, state Attorneys General, as well as competitors, consumers and plaintiffs' attorneys is a fact of life for most online advertisers and marketers, lead generators and affiliates. In a recent post to Venable's advertising law blog, attorneys [Jonathan L. Pompan](#) and [Alexandra Megaris](#) share insights gleaned from their panel discussion at LeadsCon NY 2014 titled "Staying Current with Consumer Protection: Practical Lessons from Recent Enforcement Actions."

Among the panel's key takeaways was an infographic demonstrating that websites' compliance with certain regulations governing lead generation and telemarketing have increased dramatically since 2013. However, there is still a long, long way to go.

Read the full blog post to [learn more about the state of online compliance](#).

[View the infographic here](#).

Is the Copyright Registration v. Application Battle Over?

For years, courts have been evenly split on whether a copyright application is sufficient or if a registration is necessary for plaintiffs to file a copyright infringement lawsuit, writes Venable partner [Joshua J.](#)



Top ranked in *Chambers USA* 2014



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

Kaufman in a recent post to the firm's advertising law blog. Circuit courts have reached different conclusions, while district courts, even some in the same district, have come out on opposite sides of the issue. Despite these disconnects, Kaufman observes, the issue has never formally worked its way to the Supreme Court.

However, after recent comments by the Registrar of Copyrights and a rereading of Justice Ginsburg's Majority Opinion for the Raging Bull case (*Paula Petrella v. Metro-Goldwyn-Meyer, Inc.*), Kaufman writes that definitive guidance may, indeed, already exist.

Read the full text of Kaufman's post to [learn about the previously overlooked guidance](#).

[Read the full text of the Majority Opinion in the Raging Bull case.](#)

Marketer, Know Thy Agency (But Not Too Well)

Marketers often hire agencies to advertise to consumers without controlling, or even knowing, how the campaigns are conducted. This is especially true in telephone-based lead generation. During a recent panel at LeadsCon NY 2014, Venable partner **Ari N. Rothman** pointed out that although marketers often believe the agency is solely responsible for legal violations, marketers may still find themselves defending lawsuits alleging vicarious liability.

However, a recent Ninth Circuit ruling gives marketers hope of defeating such claims if their agreements and interactions with agencies are structured properly.

Read a recent article by Rothman and Venable attorney **Molly T. Cusson** to [learn more about the practical lessons from the Ninth Circuit decision](#).

Read Venable's *Advertising Law Tool Kit* to [learn about best practices for structuring advertising agreements and agency relationships](#).

Upcoming Events

[3rd Annual Summit on Digital Advertising Compliance: Social Media, Sweepstakes & Promotions – New York, NY](#)

September 8-10, 2014

Venable partner **Melissa Landau Steinman** will speak on "Deploying Gamification to Sweepstakes and Promotions to Engage Consumers and Enhance Brand Loyalty." This informative session will examine the legal implications of combining gamification with digital advertising in the form of sweepstakes and social media, as well as how to ensure sweepstakes comply with state and federal gambling laws.

[Click here for more information on the Summit and to register.](#)

[Venable's 2014 Intellectual Property Symposium](#)

September 10, 2014

On Wednesday, September 10, Venable will host a half-day IP law symposium at the firm's Washington, DC office. Venable attorneys, in-house counsel, and academics will discuss emerging trends and best practices in areas such as trademarks, patents, licensing, copyright, and effectively settling IP litigation. There is no fee to attend the event and CLE credit may be available, depending on your State Bar's requirements.

[Learn more about the event, view the full agenda, and register.](#)

[LIVE Webcast: Children's Online Privacy Protection Rule: Strengthening Kids Privacy](#)

September 11, 2014

Venable attorney **Julia Kernochan Tama** will participate in a panel discussion providing updates and revision on fair information practices following COPPA regulations. Key topics include:

- Children's Online Privacy Protection Rule Updates: Overview
- The FTC's amendment on "Verifiable Parental Consent" Requirements
- COPPA's requirements on operators of online services and mobile apps, including third parties involved in online advertising activities

[Click here to register for the event and learn how you can obtain CLE or CPE credit.](#)

[ERA's D2C Conference – Las Vegas, NV](#)

September 16-18, 2014

Venable is a proud sponsor of the Electronic Retailing Association's D2C Convention taking place September 16-18 in Las Vegas. Please join our attorneys at Venable's booth in the exhibit hall and at the Venable-hosted Pre-Moxie Awards reception.

If you want to learn how the FTC and self-regulation shape the industry, join Venable's [Randal M. Shaheen](#) who is part of the panel discussion "Capitol Hill Rundown What You Need to Know about the FTC and Self-Regulation" at 1 p.m. on September 18.

If you're interested in learning more about payment challenges facing direct response companies join Venable's [Ellen Traupman Berge](#) who is joining panelists for a Payments Committee Townhall discussion on September 18 at 2:00 p.m.

To obtain a discounted exhibit hall pass that will allow you access to the expo as a Venable guest, [click here](#) and register using the code **EX11775**.

[NAD/CARU Annual Conferences – New York, NY](#)

September 29 - October 1, 2014

Venable is a proud sponsor of the joint NAD/CARU conference where you will gain practical insight into enhancing the use of the advertising industry's self-regulatory forum and learn about the current challenges facing the Children's Advertising Industry.

On September 30 Venable Partner [Amy Ralph Mudge](#) will moderate the "Native Advertising and Consumers: Rules of Engagement" session, which will explore strategies for building consumer trust, content creation and control, and prevailing FTC and NAD guidance.

On October 1 Venable Partner [Melissa L. Steinman](#) will participate in a CARU panel discussion "Beyond the Tube - Marketing Content to Children Through Non-Traditional Means," which will include discussions around the issues encountered when marketing movies, websites, apps, and video games to children.

Venable will host a cocktail reception at El Vez on September 29. [Click here if you are interested in attending](#).

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

[Bridging the Gaps: An Advertising Law Symposium – San Francisco, CA](#)

October 20, 2014

Please join us for an Advertising Law Symposium at the San Francisco Marriott Marquis on October 20, 2014. This all-day MCLE-accredited program is a valuable opportunity to exchange ideas and network with Venable attorneys, regulatory insiders, and top advertising law thought leaders. Key topics to be addressed include challenging competitor advertising, social media and ethics requirements, branded entertainment, digital media, gaming, health related marketing claims, and FTC and CFPB regulations.

Confirmed speakers include:

- Ross Hoffman, Director of Brand Strategies US, Twitter (Keynote Speaker)
- Sheila Jambekar, Senior Counsel, Zynga
- Yan Fang, Senior Attorney, Federal Trade Commission, Western Regional Office
- Gabriel Martinez, Advertising Counsel, The Clorox Company
- Laura Brett, Staff Attorney, National Advertising Division of the Council of Better Business Bureaus
- Judge Marilyn Patel (retired), U.S. District Court for the Northern District of California

[Click here for more information and to 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