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## In This Issue

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## Happy Holidays

Venable's *Advertising Law News and Analysis* is taking a two-week holiday break. All of us at Venable wish you a happy holiday season and a prosperous 2015 filled with family and friends. We look forward to returning to your inbox on January 8.

## All We Want for the Holidays is Your Vote!

If you have not already cast an *ABA Journal* Blogging Hall of Fame vote for Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com), time is running short!

Please take a moment and [click here to vote](#). You will need to register your email with the ABA Journal then you can find our blog under the dropdown menu called Torts/Consumer. Thank you for your readership and support. We look forward to another year of blogging.

## Analysis

### What Cuba Thaw Means for Marketers and Advertisers

Following the December 17 announcement that the United States plans to normalize diplomatic relations with Cuba, there are a number of questions about what the move will mean for American businesses, write Venable attorneys [Ashley W. Craig](#), [Lindsay B. Meyer](#), [Jamie Barnett](#), [Frederick M. Joyce](#), and [Amanda C. Blunt](#) in a December 17 client alert.

The alert outlines possible implications of the easing of restrictions currently administered by the Department of Treasury's Office of Foreign Assets Control (OFAC) and other agencies. The authors also point out that the announcement has not thrown the doors to the Cuban market open as only Congress has the authority to lift the long-standing trade embargo on the island nation.

Read the client alert to [learn more about what the Administration's announcement does, and does not, change with regard to doing business with Cuba](#).

### 'Tis the Season for Made in the USA Claims

With the holiday season in full swing, marketers are tirelessly seeking ways to convince consumers their product is the perfect gift, and "Made in the USA" or "American Made" claims are always sure sellers, write Venable attorneys [Melissa Landau Steinman](#) and [Kristen R. Brown](#) in a recent post to Venable's advertising law blog.

However, the authors write, some recent California litigation serves as a reminder that marketers should be cautious when wielding patriotic marketing claims. Last month, the U.S. District Court for the Southern District of California stopped short of tossing the state's notoriously strict standards for "Made in USA" claims, but it did place qualified "Made in USA" claims squarely on the "nice" list – a welcome holiday gift

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#### Honors and Awards

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



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](http://www.Venable.com/Advertising-and-Marketing)

for sellers doing business in California.

Read the full blog post to [learn more about the Court's decision and its implications for marketers.](#)

## America Invents Act's Virtual Marking Affords Flexible Patent Protection

While consumers may not care whether a product is patented, writes Venable partner **Frank M. Gasparo** in the most recent edition of *Middle Market Growth*, you can bet that marketers, and competitors looking to latch onto a product's success, do.

Through patent marking, marketers put the public and competitors on notice that their product and any licensed versions of the product are protected. Failing to properly mark a product can have costly ramifications and prevent patent holders from recovering damages for infringement. Gasparo explains that a little-known aspect of the America Invents Act has made so-called "virtual marking" acceptable, creating a more flexible standard for effective patent protection.

Read the article to [learn how virtual marking makes life easier for marketers of patent-protected products.](#)

## Second Circuit Decision Makes it Tougher for Brands to Follow the Money

For years, luxury brand manufacturers like Gucci have tried to recover profits from online merchants who sell counterfeit goods via offshore websites and ultimately wire the proceeds from these illegal activities to the Bank of China (BOC), writes Venable partner **Marcella Ballard** in a recent client alert.

In *Gucci America, Inc., et. al. v. Li et. al.*, the Second Circuit recently ruled, in a decision greatly influenced by the Supreme Court's *Daimler AG v. Bauman* decision, that the Circuit Court did not have general jurisdiction over BOC. Because of this, the Court could not enforce Gucci's asset freeze injunction against the bank. The Second Circuit then remanded the case to the district court to determine whether it had specific jurisdiction over the bank, and, if so, to conduct a comity analysis.

As a result of the *Gucci v. Li* decision, foreign banks can no longer be forced to freeze assets or turn over documents located outside the U.S., barring a set of specific circumstances. Ballard writes that this means it has become more difficult for brand owners to break the counterfeiting chain when ecommerce websites and the domain name registrants are located offshore, the sales are made to U.S. consumers, and the funds wired to a bank that has limited contacts in the United States.

Read the full text of the client alert to [learn more about the implications of the Gucci v. Li decision.](#)

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## Upcoming Events

### "CFPB 2015 Outlook," a Venable CFPB Webinar

January 8, 2015

Please join Venable LLP for a complimentary webinar on the Consumer Financial Protection Bureau 2015 Outlook on January 8, 2015 at 2 pm ET. Members of **Venable's CFPB Task Force** will review the current state of federal consumer financial protection law and policy and outline what you and your company need to know about what's ahead. During the webinar, the speakers will share their experiences from the front lines and offer strategies to help you navigate the evolving legal and regulatory landscape.

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

### The Canadian Institute's 21st Annual Advertising & Marketing Law Program – Toronto, ON

January 26-27, 2015

Giving great advice means recognizing, anticipating, and reacting to the latest developments. Equip yourself to do just that at The Canadian Institute's 21st Annual Advertising & Marketing Law program. Stay current in this dynamic field with practical, in-depth, and innovative strategies and solutions from practice leaders, industry experts, and key regulators. Venable partner [Amy Ralph Mudge](#) will discuss third-party liability, native advertising, and the rise of class actions in Canada during her presentation "Emerging Issues to Watch" at 1:30 p.m. on January 27.

Click here to [learn more about the conference and register](#). Use the code **265SAME** when registering to save \$200.

**Electronic Retailing Association's Great Ideas Summit – Miami, FL**  
January 26-28, 2014

Join Venable at ERA's Great Ideas Summit, the conference that brings together the direct response industry's most influential leaders to hold high-powered meetings and exchange ideas. Join Venable partner [Amy Ralph Mudge](#) for an in-depth discussion of current FTC and state AG enforcement priorities, as well as how the coming changes in Washington will affect the direct response industry.

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

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

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