

**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

Amy Ralph Mudge
amudge@Venable.com
202.344.4743

Gregory J. Sater
gjsater@Venable.com
310.229.0377

Randal M. Shaheen
rmshaheen@Venable.com
202.344.4488

Ian D. Volner
idvolner@Venable.com
202.344.4814

Samuel D. Boro
sdboro@Venable.com
202.245.7418

Mark S. Goodrich
msgoodrich@Venable.com
202.344.4715

If You Like What You Read, Give Us a Click!

We are very excited to announce that Venable's advertising law blog, www.allaboutadvertisinglaw.com, has been named to the 2014 *ABA Journal* Blawg 100. This honor makes the blog eligible for election into the publication's Blogging Hall of Fame. But we need your votes to get there!

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:

'Tis the Season to Be Mindful of the Unavailability Rule

Unless you're a food retailer or an advertising lawyer, the FTC's "Unavailability Rule" may be unfamiliar to you, write Venable attorneys [Amy Ralph Mudge](#), [Randal M. Shaheen](#), and [Samuel D. Boro](#) in a recent post to Venable's advertising law blog. Even though the FTC decided last month not to extend the scope of the rule to other industries, there are many good reasons – including similar state consumer protection laws that do extend beyond the food industry – marketers should keep the rule in mind.

Read the full blog post to [learn how to mitigate charges of bait-and-switch advertising when using white-hot holiday deals to drive traffic and sales](#).

[Read the FTC's recent press release about the Rule.](#)

Just What Is an "Autodialer," Anyway?

Telemarketers are all too aware that automatic telephone dialing systems, or autodialers, are a hot topic in the litigation world. The Telephone Consumer Protection Act (TCPA) prohibits making any autodialed call or text message to cell phones without the called party's prior express consent. However, write Venable attorneys [Ian D. Volner](#) and [Mark S. Goodrich](#) in a recent post to Venable's advertising law blog, no one – including the Federal Communications Commission (FCC) – seems to understand the full extent of devices that are properly classified as autodialers under the TCPA.

As a result, parties have fought over the proper meaning of "autodialer" in the courts, and numerous petitions have been submitted to the FCC requesting clarification. As the lawsuits continue to pour in, the FCC is preparing to publish clarifications and guidance that could remove some of the uncertainty. However, Volner and Goodrich write, until any new developments, telemarketers must keep fighting to persuade courts that the narrow definition of autodialer is the correct interpretation.

Read the full blog post to [learn more about recent autodialer-related developments in the courts and at the FCC](#).

FTC, NAD Concerned That Seals are Tricky

Marketers love to use seals, certificates, and other third-party recognition of greatness to give consumers an

Shahin O. Rothermel
sorothermel@Venable.com
202.344.4550

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*



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extra bit of confidence in the product being marketed, write Venable attorneys [Amy Ralph Mudge](#) and [Shahin O. Rothermel](#) in a recent post to Venable's advertising law blog.

The Federal Trade Commission (FTC) and the National Advertising Division of the Council of Better Business Bureaus (NAD) love seals too, the authors write. In recent enforcement actions and decisions, both entities have articulated the belief that while seals are powerful marketing tools, they can easily deceive consumers.

Read the full blog post to [learn about recent FTC and NAD matters involving the use of seals, as well as best practices marketers can use to avoid trouble](#).

FTC Strips Cellulite-Slimming Claims...Again

Like a moth to a flame, the FTC is drawn to any advertising claims promising body shaping, slimming, or fat loss, writes Venable partner [Gregory J. Sater](#) in the December edition of the *DRMA Voice*.

He writes that the Commission's recent settlements with two companies that marketed caffeine-infused shapewear undergarments to reduce cellulite and reshape the bodies of wearers provide useful guidance on practices marketers should avoid when making such claims. This is especially fitting as we reach the New Year, when the FTC's appetite for unqualified weight loss and slimming claims becomes as voracious as a teenage jock shoveling down their third serving at a holiday dinner.

Read Sater's column to [learn what factors marketers should be mindful of when constructing slimming, shaping, and weight loss claims](#).

Read the [FTC's press release](#), as well as the Commission's complaints and consent decrees in the [Wacoal America](#) and [Norm Thompson Outfitters](#) matters.

Upcoming Events:

"Maximize Your Business Performance – Intellectual Property Strategies for Online Lead Generators and Marketing Services," a LeadsCouncil Webinar

December 17, 2014 | 2:00 p.m. ET

Strategic management of IP enhances business performance and provides businesses with distinct competitive advantages in the marketplace. Many online lead generators, however, fail to effectively manage or even use their IP rights to achieve and support their business objectives. This webinar with Venable attorneys [Jonathan L. Pompan](#), [Justin E. Pierce](#), and [Kristina Montanaro Schrader](#) will cover the basics of how IP rights such as patents, trademarks, copyrights, and trade secrets apply to the business of online lead generation, and how online lead generators can better use intellectual property to maximize their business performance.

[Click here to register for the event.](#)

"Perfecting the Charitable Promotion: Legal, Financial and Practical Considerations for Commercial Co-Ventures" at the GWSCPA 2014 Nonprofit Finance and Accounting Symposium – Washington, DC

December 18, 2014 | 9:10 – 10:25 a.m. ET

In this program, you will hear from three professionals, including Venable attorney [Kristalyn J. Loson](#), who are well versed in the related areas of promotions and charitable fundraising. They will explain the myriad legal and regulatory issues involved, as well as the latest developments in promotional campaigns. By attending this program, nonprofits will get a better understanding of the state regulatory requirements, general advertising concerns, and relevant federal tax issues they need to navigate in order to tap into the power of promotional campaigns.

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

[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](#).

[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.

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