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In this issue:

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1. Zoltek Warning: Consider Suit Against Government Contractors When Infringement Arises Abroad

The United States Court of Federal Claims (COFC), whose jurisdiction is limited to lawsuits brought against the federal government, has issued a ruling of first impression in a 13-year-old patent case brought by Zoltek Corporation that may have profound implications for government contractors. (*Zoltek Corp. v. The United States*, No. 96-166 C.)

2. Second Circuit Holds That Sale of Trademarks as Search Terms Constitutes "Use in Commerce" Under the Lanham Act

In a much-awaited decision in the trademark world, on April 3, 2009 the Court of Appeals for the Second Circuit held that Google's sale and offer for sale of trademarks as keywords, which trigger advertisements called sponsored links, is a "use in commerce" under the Lanham Act. (*Rescuecom Corp. v. Google Inc.*, Civil Case No., 06-4881, April 3, 2009, available at <http://www.ca2.uscourts.gov/opinions.htm>.) This decision brings the Second Circuit in line with other Circuits in the United States.

3. Suspended: A Continuing Obstacle for Proposed Patent Rules

On January 20, 2009, President Obama issued a memo to all executive agencies that postponed promulgation of new agency rules and granted President Obama's appointees time to review and approve any new regulations, including those that had been finally approved by the Bush administration. The memo may have a significant impact in preventing implementation of the Bush administration's highly controversial rules on patent claims and continuation applications.

4. Ralph P. Albrecht to Introduce U.S. Attorney General Eric Holder at Bar Association of the District of Columbia Annual Meeting

Ralph P. Albrecht, who is serving as the 121st President of the Bar Association of the District of Columbia (BADC), will introduce U.S. Attorney General Eric Holder at the Association's upcoming June 10 Annual Meeting. The BADC, founded in 1871, is the nation's third oldest bar association after New York and Boston. The BADC has served as DC's voluntary bar since the 1972 formation of the mandatory unified DC bar. Mr. Albrecht, previously co-chair of Venable's Patent Prosecution Practice Group, is a past BADC Treasurer, Secretary and member of the Board of Directors, as well as past Chair and Officer of BADC's Patent Trademark Copyright (PTC) Section. He is the third PTC Section Chair to be named President. For details of the Annual Meeting visit www.badc.org/i4a/calendar/details.cfm?id=156.

5. Leading Entertainment Industry IP Attorney George M. Borkowski Joins Venable in Los Angeles, Becomes Co-Chair of National IP Litigation Group

Noted intellectual property attorney George M. Borkowski, who has represented major entertainment and content industry constituents against copyright infringement and Internet piracy, has joined the firm as a partner in its Los Angeles office. Mr. Borkowski will also serve as co-chair of Venable's national Intellectual Property Litigation Group.

6. *Janet F. Satterthwaite Elected Vice-Chair of Marques Cyberspace Team*

Janet F. Satterthwaite, a trademark partner who also heads Venable's Domain Name practice, has been elected vice-chair of the Marques Cyberspace Team. Marques is the Association of European Trademark Owners. The team studies issues and recommend positions for Marques to take with governmental and non-governmental bodies, and provides information to Marques members. The team covers issues affecting brands online, including domain name best practices, new domain registrations such as .eu and .asia, ICANN activities, and online sales of counterfeits.

7. *Michael A. Sartori, Ph.D., Authors Chapter on Software, E-Commerce, Internet and Business Patents*

Michael A. Sartori, Ph.D., chair of Venable's Patent Prosecution practice, has authored the chapter "Software, E-Commerce, Internet, and Business Patents" in the book *Drafting Patents for Litigation and Licensing* published by BNA Books. *Drafting Patents for Litigation and Licensing* helps patent practitioners draft the broadest possible patent that can sustain a validity challenge by synthesizing and applying lessons from case law. It focuses on real-life examples taken from court decisions—especially those from the U.S. Court of Appeals for the Federal Circuit, in which patents were interpreted, enforced, or licensed—too often to the detriment of the patent owner. Lessons taken from these decisions are broken out by principle and area technology, providing detailed advice for drafting strong patents, avoiding problems and maximizing leverage.

8. *Michael A. Gollin to Participate on a Panel Titled "Anti-Biopiracy Restrictions on Patenting and Use of Genetic Resources" at the BIO 2009 Conference*

Michael A. Gollin, chair of Venable's Life Sciences Group, will participate on a panel discussing "Anti-Biopiracy Restrictions on Patenting and Use of Genetic Resources." New disclosure of origin (DOO) laws in a growing number of countries require all patent applicants to provide information about how they obtained any genetic resources used in the invention, and negotiations are underway for an international DOO treaty intended to prevent biopiracy. Biotechnology companies face a grave risk if they fail to comply with the new regime of DOO laws. This panel will discuss the history, current requirements, and future of DOO laws, the consequences of non-compliance (including patent invalidity or criminal prosecution) and practical steps to ensure compliance when samples are collected, during invention disclosure and when patents are filed. The presentation will take place at the BIO 2009 Conference on Thursday, May 21, 2009 at 4:00 p.m.

9. *Joshua J. Kaufman and Thomas J. Speiss Will Speak at the Licensing International Expo*

Joshua J. Kaufman, head of Venable's Copyright and Licensing Group, will participate on the panel "Royalty Rate Trends" at the Licensing International Expo in Las Vegas, Nevada. Royalties and other compensation issues are a constantly moving target. This session will help attendees zero in on the current benchmarks relevant to their businesses, especially in these licensing categories of Celebrity, Art, Entertainment, Corporate and Sports. The session will take place on June 2, 2009 at 1:00 p.m.

Thomas J. Speiss, vice chair of the State Bar of California's Subcommittee on Licensing, will speak on the topic of "Action Sports Licensing" on June 4, 2009 at 9:00 a.m..

For information on the 2009 Licensing International Expo, visit www.licensing.org.

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