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American Conference Institute's

Advanced IP Forum for Advertising Counsel

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April 27-28, 2011 » Helmsley Park Lane Hotel » New York, NY

INDUSTRY INSIGHTS AND REAL-WORLD SOLUTIONS FROM:

Steve Caldwell
Senior Counsel – Legal/IP
The Procter & Gamble Company

Sally L. Davis
Corporate Counsel
S. C. Johnson & Son, Inc.

Asim Khan
Counsel – Sales, Marketing,
and Media Law
Samsung Electronics

Cathy L. Lueders
Senior Business Leader
Managing Advisors Counsel
& Trademark Counsel
MasterCard Worldwide

David J. Moorhead
Corporate Counsel –
Marketing & Intellectual Property
Hyatt

Katherine Nordberg
Vice President, Legal Affairs
Fox Broadcasting

Ndidi Orji
Counsel Legal Affairs
NBC Universal

Kesari Ruza
Senior Counsel
HBO

Brent Sanders
Associate General Counsel
Microsoft

Ricki J. Schweizer
Assistant General Counsel
Interpublic Group of Companies, Inc.

Michele M. Totonis
Corporate Counsel
LEGO

IN-HOUSE COUNSEL FROM MAJOR BRAND AND MEDIA COMPANIES AND EXPERTS IN TRADEMARK, COPYRIGHT, LICENSING AND PATENT LAW WILL PROVIDE PRACTICAL GUIDANCE FOR MEETING THE COMPLEX IP CHALLENGES NOW FACED BY ADVERTISERS:

- » **AVOIDING** intellectual property landmines when setting up social networking pages and engaging in social media
- » **PROTECTING** your marks and monitoring for trademark abuse on the Internet
- » **ENSURING** that marketing tactics do not violate the publicity rights of celebrities and other individuals
- » **COMPLYING** with requirements under the Digital Millennium Copyright Act when engaging in emergent advertising practices
- » **NEGOTIATING** appropriate licenses when content will be leveraged for use in different media and campaigns
- » **RESPONDING** to unauthorized use of your brand's protected intellectual property

DISTINGUISHED CHAIRS:

Ashlie Beringer
Partner
Gibson, Dunn & Crutcher (Palo Alto, CA)

Brent Sanders
Associate General Counsel
Microsoft Corporation (Redmond, WA)

POST-CONFERENCE WORKSHOPS, FRIDAY, APRIL 29, 2011:

- A** Best Practices for Protection of IP Rights when Employing Social Media
- B** Strategies for Resolving Conflicts and Litigation Avoidance in a Virtual Age



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With Advertising Platforms and Media Technologies in a State of Constant Flux, Unanticipated Intellectual Property Issues Can Arise at Any Moment

Learn to Make the Right Decisions and Protect Your Brand

As companies increasingly focus on the use of cutting-edge advertising strategies to reach consumers, a new minefield of intellectual property risks has arisen, presenting complex and changing issues that are hard to anticipate and very difficult for counsel to control. Many of the latest trends in marketing involve multi-pronged campaigns that combine traditional media with the use of new platforms, incorporating multiple web domain names, interactive social networking pages and mobile text messaging promotions. With technology changing on an almost daily basis, **in-house counsel are faced with tremendous challenges** when trying to understand what constitutes protected IP and how to guide their companies through this period of explosive innovation. Often the answers are far from clear when trying to apply earlier legal precedents to emergent advertising practices, or determining your rights when seeking to repurpose content for use in different media. And with litigation a constant and costly concern, it is vital to be able to identify, and nip in the bud, any **activities that could open the door to claims that your company has infringed** on a protected trademark, copyright or patent, or violated someone's rights of publicity.

American Conference Institute's **Advanced IP Forum for Advertising Counsel** is a unique new program that has been tailored to provide expert, detailed knowledge that you can apply directly to your review of your company's marketing practices. Our faculty of experienced counsel for major brand and media companies will go well beyond identifying trends as they provide you with strategies and practical tips for **avoiding the new intellectual property pitfalls that can lead to weakening of your brand and/or exposure to litigation.**

With important assets at stake in an increasingly connected world advertising arena, the **ante has been upped** for brand counsel. Attendees at ACI's **Advanced IP Forum for Advertising Counsel** will learn how intellectual property laws are being applied by the courts to the technologically-driven advertising landscape, and how the level of IP protection varies overseas. Practical takeaways will include advice on what to look out for when **monitoring the conduct of competitors** and best practices for weighing when, and how to **respond to infringing use** of your company's valuable intellectual property.

Add value to your attendance by taking advantage of our two interactive workshops. **Workshop A, Best Practices for Protection of IP Rights when Employing Social Media** will provide hands-on guidance that all attorneys practicing in this area need in order to help their companies develop proper social media safeguards and avoid IP-related liabilities. **Workshop B, Strategies for Resolving Conflicts and Litigation Avoidance in a Virtual Age** will guide you to be able respond effectively to critical scrutiny of your company's use of IP in evolving marketing practices, and provide strategies for rapidly terminating conduct by others that may infringe upon your own brand's rights.

Register now to ensure your place at this timely and unique event! Call 1-888-224-2480, fax your registration form to 1-877-927-1563, or register online at www.americanconference.com/advertisingIP.

WHO YOU WILL MEET:

- » In-house counsel for any company involved in advertising or marketing its products or services
- » Marketing & advertising directors
- » Brand managers
- » Attorneys who specialize in the following practice areas:
 - Advertising
 - Marketing
 - Promotions
 - Entertainment/media
 - Consumer protection
 - E-commerce/internet
 - Trademarks and copyright
 - Privacy
 - IP
 - Licensing

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DAY 1 » WEDNESDAY, APRIL 27, 2011

8:15 **Registration & Continental Breakfast**

9:00 **Co-Chairs' Opening Remarks**

Ashlie Beringer

Partner
Gibson, Dunn & Crutcher (Palo Alto, CA)

Brent Sanders

Associate General Counsel
Microsoft Corporation (Redmond, WA)

9:15 **In-House Insights: How Recent Advertising Trends Have Raised the Bar and Created Complex New IP Challenges for Counsel and Brand Companies**

Asim Khan

Counsel – Sales, Marketing, and Media Law
Samsung Electronics (Ridgefield Park, NJ)

David J. Moorhead

Corporate Counsel - Marketing & Intellectual Property
Hyatt (Chicago, IL)

Kesari Ruza

Senior Counsel
HBO (New York, NY)

Michele M. Totonis

Corporate Counsel
LEGO (Enfield, CT)

- Analyzing how counsel are adapting to use of new media platforms
- Examining areas such as Internet streaming where new IP-related issues are emerging, as companies move further from established advertising models
- Factoring cost concerns into discussions of protecting IP rights
 - assessing when to consult with outside counsel
 - alternatives for innovative smaller companies with more limited resources
- Uncovering who is seeking to undermine protections afforded to patent and copyright owners
 - provisions in potential trademark reform legislation
- How evolving advertising practices and licensing models are changing the playing field for owners and licensors of intellectual property

10:15 **Morning Coffee Break**

10:30 **Responding to Cutting Edge Trademark Concerns Arising from New Advertising Media**

Cathy L. Lueders

Senior Business Leader
Managing Advisors Counsel & Trademark Counsel
MasterCard Worldwide (Purchase, NY)

David H. Bernstein

Partner
Debevoise & Plimpton (New York, NY)

Cynthia Johnson Walden

Partner
Fish & Richardson P.C. (Boston, MA)

- Applying trademark law to advertising in non-traditional channels
 - navigating the increasing fluidity of trademarks
 - examining when domain names and other emerging corporate identifiers impermissibly suggest sponsorship or ownership
 - legal guidelines and considerations in choosing:
 - vanity URLs
 - email addresses
 - names selected to identify sponsored events and promotions
 - words used to identify cell phone “apps”
- Analyzing infringement and personification issues arising on social media sites
 - trademark and parody policies of Facebook and Twitter
- Evaluating other areas of potential trademark abuse on the Internet
 - keyword advertising practices
 - use of competitors’ trademarks
 - risks relating to linking to and from other sites
- Monitoring the web for potential infringers
- Examining recent judicial application of trademark law to emerging advertising contexts
 - how the courts have resolved who has superior rights
 - where courts have found likelihood of confusion

11:45 **Shielding Your Company from the Increasing Threat of Rights of Publicity Disputes as Individuals Seek to Control Use of Their Names and/or Likenesses**

Katherine Nordberg

Vice President, Legal Affairs
Fox Broadcasting (New York, NY)

Ndidi Oriji

Counsel Legal Affairs
NBC Universal (New York, NY)

Brent Sanders

Associate General Counsel
Microsoft Corporation (Redmond, WA)

- Working with celebrity talent on 360° advertising campaigns
- Knowing what constitutes protected expression when athletes, celebrities and other individuals are discussed or represented on your sites
 - person’s name or likeness, look-alikes, sound-alikes, nicknames, phrases associated with a celebrity
- Ensuring the reliability of representations that permissions have been secured from individuals
- Weighing when you can use an individual’s likeness without their permission

- backgrounds designed to create realistic representations
- representations of star athletes and entertainers
- First Amendment and parody defense
- Understanding state right of publicity laws
 - elements of claims and defenses under state laws
 - particular protections afforded in states such as New York and California where many celebrities reside
 - boundaries between commercial and noncommercial speech

12:30 Networking Lunch for Speakers and Delegates

1:45 Sidestepping Copyright Landmines: What the DMCA, Hulu and YouTube Mean to Brand Media Strategies

Anthony J. Malutta

Partner, Trademark & Copyright
Townsend and Townsend and Crew LLP
(San Francisco, CA)

Amy E. Carroll

Partner
Drinker Biddle & Reath LLP (Philadelphia, PA)

- Applying the DMCA (Digital Millennium Copyright Act) to online advertising practices and emerging types of marketing promotions
 - understanding who is entitled to the safe harbor immunity provided by the Act
 - steps those qualified for safe harbor status must take
- Discerning what may currently constitute *fair* use when content is incorporated in different promotional channels
 - weighing the amount of risk presented in different circumstances
 - practical guidance for when counsel need to be actively involved
- Knowing when the use of certain images can open the door to a dispute
 - pictures or representation of particular characters
- Techniques for safely incorporating materials from other public sites on sites that you control
- Controlling potential infringement claim risks when streaming your content to Hulu, YouTube and other popular online sites
- Spotting risks when reviewing text messaging and other cellular-based advertising campaigns
 - ensuring ownership of copyright works used in cell phone “apps”
- Assessing potential concerns related to providing “links” to content on the web
 - does a link constitute a copyright violation?
- Reviewing and clearing materials for use at viral events
- Scrutinizing traditional ad copy and company-provided training materials for potential copyright violations
 - challenges relating to repurposing of material or concepts from other campaigns

2:45 Minimizing the Risk of Patent Infringement Claims when Developing Sites for Your Brands on the Web

Terence P. Ross

Partner
Crowell & Moring (Washington, D.C.)

James Singer

Partner
Pepper Hamilton LLP (Pittsburgh, PA)

- Understanding what patents relating to online advertising have been awarded by the U.S. PTO
- Examining the broad range of recent patent claims brought by Facebook, Google and other industry players
- Identifying risks relating to the design of your sites
 - designs for functionality and layout that may be protected IP
 - assessing options for managing the information on your site that may present less potential risk
 - weighing what site features may be open to anyone to use
- Weighing when it may make sense to seek to patent one of your original innovations or creations
 - knowing the standard for “non-obviousness”
 - weighing potential costs and benefits of patent prosecution

3:30 Afternoon Refreshment Break

3:45 China, the EU and Canada: Defending your Intellectual Property Against the Risks of a Global Advertising Campaign

Giles Crown

Head of Department, Media Brands & Technology
Lewis Silkin LLP (London, UK)

Mark Edward Davis

Partner
Heenan Blaikie LLP (Toronto, Canada)

Jennifer Choes Groves

Partner
Hughes Hubbard LLP (Washington, DC)

Moderator:

Jeffrey A. Greenbaum

Partner
Frankfurt Kurnit Klein & Selz PC (New York, NY)

A company’s ability to effectively communicate with customers in a global marketplace is critical in today’s increasingly connected world. Yet as marketers are reaching broader global audiences and looking for opportunities to interact with consumers both in the U.S. and abroad, it is critical to be aware that IP protection laws are different in every country. This session provides a unique opportunity to gain valuable insight about how you can protect your brand and its intellectual property assets. Experts on the global IP environment will share practical guidance on how to:

- Understand what foreign laws may serve to help competitors to weaken your brand
- Handle domain name and trademark conflicts on the world stage
- Comprehend how registrations are treated under the Madrid Agreement

- Perform international trademark prosecutions
- Insure your IP strategies are in sync with local laws
- Avoid pitfalls relating to keyword advertising and other search engine tactics that might be prohibited in some areas
- Develop practical strategies for tracking the relevant developments in multiple legal systems
- Implement strategies that reconcile the conflicting legal standards
- Evaluate and contrast potential methods for IP enforcement in major markets including China, the EU and Canada

5:15 Conference Adjourns

DAY 2 » THURSDAY, APRIL 28, 2011

9:00 Opening Remarks

9:15 Applying Savvy IP Practices When Engaging in Social Networking and Handling UGC Content

Steve Caldwell
Senior Counsel – Legal/IP
The Procter & Gamble Company (Cincinnati, OH)

Sally L. Davis
Corporate Counsel
S. C. Johnson & Son, Inc. (Racine, WI)

Ricki J. Schweizer
Assistant General Counsel
Interpublic Group of Companies, Inc. (New York, NY)

Ashlie Beringer
Partner
Gibson, Dunn & Crutcher (Palo Alto, CA)

- Determining your terms of service for visitors to your sites
- Identifying the specific IP risks you may face when users of your site share information with others
- Obtaining proper intellectual property clearances and dealing with privacy issues
- Implementing an effective take-down notification policy where posted content may be infringing
- Drafting proper disclaimers to shield the company
- Assessing what level of risk you can tolerate and how you can monitor site activity
- Examining particular IP risks relating to the posting and sharing of:
 - photographs, video, music, contest submissions
- Setting your policy for allowing trackers, brokers and other information collectors to track postings and conduct on your site
- Techniques for shielding yourself from infringement claims by copyright owners
 - strategies for working with outside agencies
 - negotiating indemnification clauses
- Best practices for navigating changing terms of service and interacting with consumers on Facebook and other popular networking sites

10:45 Morning Coffee Break

11:00 Engaging in Critical Licensing Negotiations as Companies Leverage their Intellectual Property in New Advertising Media

Joshua Blank
Counsel
United Business Media (New York, NY)

A. John P. Mancini
Partner
Mayer Brown LLP (New York, NY)

- How multiple channels and new marketing platforms in the physical and virtual worlds are pushing advertisers to maximize the use of their proprietary content
- Revisiting existing IP licenses to determine their application or modification for use in new media formats
- Meeting special challenges raised by digitization of content
 - negotiating in a fragmented digital marketplace
 - determining what rights you need to secure
 - anticipating what rights you will not get
- Determining which license restrictions limit use in multi-platform ad campaigns
- Drafting terms for character licensing agreements for the use of characters in different media
- Understanding what license provisions courts may be reluctant to enforce
 - unfair competition concerns
- Negotiating and transactional strategies for ensuring freedom to make maximum use of your licensed content
- Determining the most effective clauses that will withstand scrutiny in potential licensing litigation
- Incorporating protection for the company in an agreement in case your licensor is an infringer on another party's rights

12:00 Networking Luncheon

1:15 Combating Widespread IP Infringement Abuse on the Internet

Lee J. Eulgen
Partner
Neal, Gerber & Eisenberg LLP (Chicago, IL)

Steven Feingold
Partner
Kilpatrick Stockton LLP (New York, NY)

John Slafsky
Partner
Wilson Sonsini Goodrich & Rosati (Palo Alto, CA)

Moderator:

Andrew Berger
Counsel
Tannenbaum Helpert Syracuse & Hirschrift LLP (New York, NY)

- Determining whether to respond to use of content, marks or other IP without permission

- considering whether your brand is diluted
- assessing whether the use may go “viral” in light of the realities of the web
- Setting a procedure for how the company will respond
 - determining who should draft the statement
 - creating an internal approval mechanism
 - deciding how widely to issue and distribute the company response
- Creative responses to infringement including partnering online with an alleged infringer
 - setting appropriate terms for online partnerships
 - how to compel the infringer to remove content without litigation
- Dealing with “fan” sites
 - anticipating what potential harm might arise from a “friendly” site
 - determining ways to minimize the risks

2:45 Afternoon Refreshment Break

3:00 Top Litigators Speak: IP Litigation Considerations for Advertisers

Michael A. Bucci

Partner
Day Pitney LLP (Hartford CT)

Janet L. Cullum

Partner
Cooley LLP (New York, NY)

Claudia Ray

Partner
Kirkland & Ellis LLP (New York, NY)

Moderator:

Paul W. Garrity

Partner
Sheppard Mullin Richter & Hampton LLP (New York, NY)

In today's competitive marketplace, intellectual property rights may be your client's most valuable assets. Protecting these assets, as well as defending against infringement allegations made by others, is critical to a company's success and may necessitate being ready to litigate a dispute. In this session, seasoned IP litigators will share unique inside insights for advertising and media counsel on:

- What “triggers” they are seeing for IP litigation in the context of advertising
- What to do first when you receive a cease and desist letter
- When to file a declaratory judgment action, to try to establish that no likelihood of confusion exists from your activities
- Responding to a request from another company for a license fee
- Assessing the predictability of successful outcomes in IP litigation
- Comparing potential costs for litigating different types of disputes

4:30 Conference Adjourns

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Head of Sales, American Conference Institute

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w.tyler@AmericanConference.com



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Unparalleled Learning and Networking

ACI understands that gaining perspectives from – and building relationships with – your fellow delegates during the breaks can be just as valuable as the structured conference sessions. ACI strives to make both the formal and informal aspects of your conference as productive as possible.

POST-CONFERENCE WORKSHOPS » FRIDAY APRIL 29, 2011

Workshop A » 9:00 a.m. to 12:00 p.m.

(Registration and Continental Breakfast begin at 8:15 a.m.)

Best Practices for Protection of IP Rights when Employing Social Media

Steve Caldwell
Senior Counsel--Legal/IP
The Procter & Gamble Company (Cincinnati, OH)

Asim Khan
Counsel – Sales, Marketing, and Media Law
Samsung Electronics (Ridgefield Park, NJ)

Janet L. Cullum
Partner
Cooley LLP (New York, NY)

John E. Ottaviani
Partner
Edwards Angell Palmer & Dodge LLP (Providence, RI)

With social media now an essential tool for interacting with consumers, attorneys need a solid understanding of how intellectual property rights come into play when using these still-developing platforms. Sites such as Facebook, Twitter, and YouTube each present unique legal challenges, and the underlying technologies and user interfaces can be confusing for counsel to fully comprehend. This interactive workshop will enable attendees to go back to their companies much better equipped to spot the IP “red flags” that can pose a danger to their brands in this exploding area. Points of discussion will include:

- Understanding social media technology and how different types of IP are utilized and intersect with content
- Ensuring that you do not cede too much control over your IP assets when working with networking sites
- Addressing potential IP concerns when negotiating social media partnerships and co-promotions
- Devising effective procedures for monitoring your social media exposure and discerning questionable statements or use of IP assets
- Uncovering the processes for removing offensive content from different sites and the different protocols for offensive material
- Analyzing potential liabilities when a consumer posts new or borrowed content online and developing a strategy for controlling these risks
- Balancing free speech with concerns over potential exposure to claims of defamation and libel
- Managing and protecting consumer data
- Ensuring that monetization strategies for use of site traffic information do not open the door to consumer litigation or raise privacy concerns
- Understanding the terms of service that Facebook, MySpace and other sites impose upon their users
- Knowing when you can share information with other advertisers

Workshop B » 1:00 p.m. to 4:00 p.m.

(Registration begins at 12:30 p.m.)

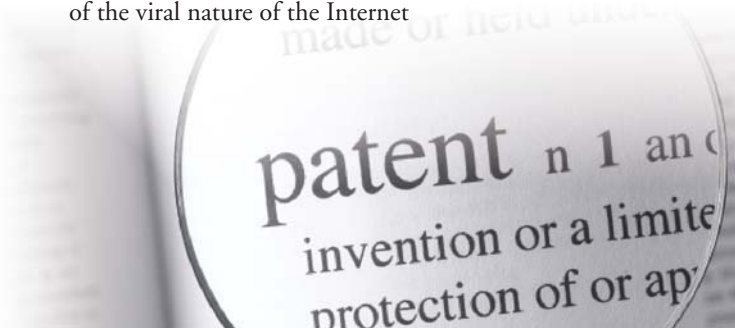
Strategies for Resolving Conflicts and Litigation Avoidance in a Virtual Age

Joshua Blank
Counsel
United Business Media (New York, NY)

Andrew Berger
Counsel
Tannenbaum Helpert Syracuse & Hirschtritt LLP (New York, NY)

Hand in hand with the increased adoption by companies of developing technologies has been the arrival of a new battleground, with claims that particular marketing practices constitute an infringement of various IP rights. Counsel are thus increasingly being required to make, or respond to, such claims and it is critical to be prepared to respond swiftly and effectively to instances of misappropriation that can quickly have global implications. Our expert faculty will provide guidance on:

- Strengthening your position in potential litigation via the use of effective notices
- Shielding yourself from liability with tailored disclaimers
- Implementing advertising screening policies that reflect heightened concern for IP rights and analysis of relevant use restrictions and permissions
- Responding to misappropriation of your IP
 - determining whether to directly contact the infringer
 - drafting language for a cease and desist letter
 - compelling the infringer to remove content from their web site
 - making requests for damages
- Determining what to do when you receive a claim that you have inadvertently violated a patent or other IP right in developing your web sites
- Setting a settlement strategy after looking at precedent and weighing the strength of your position
- Ensuring that a potential settlement will be effective in light of the viral nature of the Internet





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POST-CONFERENCE WORKSHOPS
FRIDAY, APRIL 29, 2011:

- A **Best Practices for Protection of IP Rights when Employing Social Media**
- B **Strategies for Resolving Conflicts and Litigation Avoidance in a Virtual Age**

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