Do you want to seem more powerful? Try grabbing your chin thoughtfully. More intelligent? Tilt your head to the left. More attractive? Tilt your head to the right. Whatever you do, don't grab the skin on your neck when addressing someone.

These are just some of the tips body language expert and self-proclaimed Lynx’ Tamer Janine Driver gave attendees during yesterday’s Trademark Administrators Brunch. Driver’s high-energy, interactive talk included advice for how— and how not—to approach your boss (don’t rush into a room with good news—stay in the door frame and speak casually); what your body is saying in a job interview (keep your head straight and belly button facing out); and how a hand shake can literally reveal which party has the upper hand (do whatever it takes to be the hand on top).

As a former federal law enforcement officer with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Driver specialized in assessing body language to detect deception. Today, she is president of the Body Language Institute and a bestselling author.

Upon entering the room yesterday, Driver made some quick judgments about the attendees. “This woman is either important, or she thinks she’s important,” she said of one who was leaning on the seat next to hers. This is the kind of observation our coworkers and loved ones make about us everyday, and they contribute greatly to others’ perception of who we are.

Attendee Tracey Mosley of Borden Ladner Gervais said Driver’s talk motivated her to be more aware of certain habits, particularly when training others. Karla Charles of Gardner, Linn, Burkart & Flory agreed, and added: “I think this is the best brunch we’ve ever had.”

To tweet or not to tweet

There is a big misconception about Twitter, said the company’s Global Brand Protection Manager, Jillian West, during yesterday’s In-house Practitioners Workshop. “People hear Twitter and they think about their own trademarks and get angry,” said West. “But social media can be the victim too.”

While many trademark owners view sites such as Twitter and Facebook as threats, West said it is important that people remember there are policies in place to help, and outlined her company’s own strategies for tackling impersonators and infringers. For example, West managed to get Twitter Latina, Twitter Français, Teen Twitter and Twitter Korea all taken down without having to pursue legal action. “We always reach out directly first, and in almost all instances that works,” said West.

In the case of Teen Twitter, the site was set up by a well-meaning teenager who wanted to target his own demographic. It took a lot of back and forth and explanation of trademark and IP rights to get it taken down, but West said that it was well worth the effort. “We avoided the PR disaster of being viewed as a bully,” she said.

While Scott Augenbaum of the Federal Bureau of Investigation pointed out that social media can be a gateway to crimes such as identity theft, Adam Palmer of Symantec Corporation stressed that living in fear of social media sites is the wrong approach. “These are good systems that are being abused,” he said. But the scale of the abuse has many lawyers’ and in-house counsel trembling all the same. According to Palmer, there was US$308 billion lost to cybercrime last year, and more victims of cybercrime in 2011 than new-born babies.

Despite the numbers, Palmer said that banning social media is not the answer. For many brands it is not even an option, since platforms like Facebook, Twitter and Pinterest are quickly becoming an integral marketing tool.

Karen Webb of Fenwick & West said there is a balance that can be achieved between social media platforms and brand owners. The key points are to have the proper policies in place, to be an “early adapter,” to utilize platform policies and to carefully consider when to potentially embrace or simply ignore infringement or impersonators. Staying on top of such issues can help brand owners to use social media to gain competitive advantage.

“The reality is that cybercriminals move at the speed of light, but we move at the speed of law,” said Palmer.
Three new ways to manage Madrid

Yesterday’s Madrid System Users Meeting saw more than the usual announcements and update on the international trademark system. It marked the launch of three new online services by WIPO.

The services will allow users of the Madrid System to track their documentation, watch any mark and manage their portfolio. “This was a big leap for us, particularly Madrid Portfolio Manager,” said Neil Wilson, Director of the Functional Support Division at WIPO. “We will be carrying out user satisfaction surveys in the next three to six months as well, so we want to know what you think about them.”

Former INTA President Anne Gundelfinger stood up and asked the first question of Wilson, giving some immediate feedback. “These are great programs and I welcome them, but frankly they don’t go far enough,” she said. “I would like to be able to designate an email address for communications when I make an application, rather than waiting for the registration. And when will there be online forms rather than just a form you download and email?”

Wilson clarified that you can designate an email address upon application, and indeed this was something WIPO was now encouraging users to do. As to the online forms, he said: “This is a first best effort. We are happy to extend the services in any way you want and we plan to put some of the most popular forms online.”

Madrid Portfolio Manager (MPM), probably the most complex of the new services, is a web tool that allows owners of international registrations and their representatives to access their international trademark portfolios. This should be especially helpful when submitting new requests for recordal in the WIPO International Trademark Registry. To access MPM, all a user needs is a WIPO user account linked to an email address. Then they can establish a portfolio by collecting all the international registrations linked to the same email address.

Madrid Real-time Status (MRS) is a standalone tool that provides the immediate status of trademark documents being processed by WIPO. Launch a query through MRS concerning a specific international trademark registration and receive a list of all related events recorded or in the process of being recorded in the International Trademark Registry. This allows you to see what is happening to your request at any point in time.

Lastly, Madrid Electronic Alert (MEA) is a free watch service designed to inform anyone interested in the status of selected registrations. MEA subscribers receive daily email alerts when changes are recorded in the Register. WIPO user account holders can create a list of international registration numbers of particular interest, and receive an email each time an inscription concerning one of them is recorded in the Register. These messages provide a hyperlink to Romarin, the Register database, where the user can find further details of the changes.

Earlier in the Madrid System Users Meeting, Ricardo Blancoflor, director general of the Philippines IP Office, had given a speech explaining how he dealt with opposition from trademark attorneys to the country joining Madrid: “Once we talked to them, every business group in the country supported our position. And in the end, lawyers have to follow their clients.” Officers from the Egyptian, EU and Swiss trademark offices also gave presentations on their processes, and took questions from users.

Three new ways to manage Madrid

Have your say on designs
WIPO is seeking the views of owners and users of designs as part of a process that could result in more streamlined, harmonized rules for filing applications for design rights around the world. Marcus Höppperger, director of the Trademark and Design Law Division at the IP organization, said he hopes member states will conclude a design law treaty that does for designs what the Singapore Treaty did for trademarks and the Patent Law Treaty did for patents; simplify application procedures and harmonize registration formalities. It proposes to standardize the rules national offices impose on the way that applicants must represent their design; filing date requirements; the length of the universal grace period that they offer; multiple design applications and the division of applications—among others. Now WIPO wants to hear about design owners think about the technical details of its proposals. Its secretariat will incorporate their views into a report to be presented to the Standing Committee on Trademarks in September. The Committee will then make a recommendation to the General Assembly, which meets the following month, about whether to back a plan to convene a diplomatic conference next year.

WIPO has set up an online survey that design owners and users can complete in English, French, Russian or Spanish. It should take around 15 minutes and anyone wanting to take part can do so until May 11. Follow the links from www.wipo.int.

Speed networking event still impresses

Cheryl Black pretended to collapse on a table. “Maybe 18?” she said. “Wow, 18 people in one hour. That’s why I’m tired.” Black, of Goodman Allen & Filetti in Richmond, Virginia, U.S., had just completed a Speed Networking session, where she met with a consistent stream of participants all in search of one thing: making a connection.

In its second year at the Annual Meeting, the Speed Networking event is so popular there were people who were unable to snag one of the 40 first-come, first-served slots at yesterday’s session. K.M. Aasim Shehzad of BFS Legal in Chennai, India, was among those who missed a seat. “It’s about recommending work or giving work to somebody,” he said, as he hung around in case a slot opened up.

Metin Calis of Calis Law Firm in Istanbul, Turkey, returned to the event after attending a session last year. He got several contacts from the Annual Meeting in San Francisco, he said, though he couldn’t quite pinpoint which ones he met through speed networking. This year, he knew what he had to do: keep notes, identify the brand with the lawyer, and send an e-mail upon his return home. “To get another brand—that’s my goal,” he said.

Missed yesterday’s session? Try to make one today, Tuesday or Wednesday.
A practical approach to teaching law

Law students can spend entire semesters in class without ever hearing the word “client.” But this is something professors such as Susan Montgomery of the Law School at Northeastern University and Amanda Compton of the Charleston School of Law are trying to change. “Gone are the days when employers want to train their entry-level associates,” Compton said yesterday. “Employers are pushing for these graduates to come out with some transferable skills.”

At How to Integrate Real Life into Your Trademark Class, the speakers—Compton, Montgomery, Irene Calboli of Marquette University Law School and Gerald Tschura of Thomas M. Cooley Law School—all stressed the importance of taking a practical approach to teaching trademark law. The professors said too many schools are set in using traditional teaching methods, which typically focus on doctrine. Bolstered partly by professors who advocate alternative means as well as reports by other entities, schools are starting to take notice. The American Bar Association is in the process of adopting standards for schools that require competency as an entry-level practitioner.

Montgomery, who spent 25 years at Foley Hoag before entering academia, said professors should talk about their clients, use unasked questions and provide “messy facts.” She suggested that they should provide material beyond appellate cases, which are an “edited versions of the facts.”

“Students are not prepared to advise clients if those are the only facts they see,” she said. “Tell stories about what walks into your office and the messy facts you’re presented with.”

Additionally, business students should learn how to work with lawyers, said Montgomery, who also teaches at Northeastern’s business school. “I want to change the way they think about legal,” she added. George Schell of The Coca-Cola Company illustrated this point. As a generalist who handles marketing issues, Schell said there’s an interesting dynamic between the business and legal sides of all companies. “Business people typically don’t want anything to do with legal,” he said. “Our job is to say, ‘This is good legal. This will actually help you.’” The key, Schell added, is for business people to have a baseline understanding of how to protect their marks. “It’s up to the legal folks to make sure there’s consistency in how trademarks are used so that they can be protected in the long-term.”

The INTA Art Gallery was opened yesterday with cake, champagne and a book signing. The Gallery, featuring paintings, photographs and other work by INTA volunteers and staff, runs until Wednesday outside the Exhibition Hall. To purchase artworks, contact the artists directly. The Gallery can also be viewed on the INTA website.

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As ICANN revealed on Friday night, the Internet is set for an unprecedented expansion with potentially 2,000 new generic top-level domains to be added to the existing 21 within the next few years. It is likely to be at least a month before we know which strings have been applied for, but in the meantime trademark owners need to put their strategies in place.

“The Internet is something that’s omnipresent in everyone’s life. For that reason it’s sexy. There are a lot of IP owners that don’t know it as well as they wish they did and private practitioners want to know it better to inform their clients,” says J. Scott Evans of Yahoo, who is moderating today’s industry breakout on cyberspace issues. “If you’re trademark counsel at a big retailer for instance, you’ve got a whole lot going on. It’s difficult to feel as if you’ve got 100% coverage on all the Internet issues.”

Eyes open
That’s particularly the case given the pace of developments with new gTLDs, one of three items on today’s agenda. After ICANN’s Board approved the new gTLD program in June last year, the application period opened in January and should have closed in April. However, it was suspended following a software glitch that enabled some users to see others’ file names. ICANN is expected to provide an update tomorrow on when the program will reopen, but has already revealed that the 839 registered applicants have applied to own and operate more than 2,000 domain strings.

It’s too late now to apply for a gTLD if you’re not already registered in the program, but that doesn’t mean trademark owners can afford to ignore it. On the contrary. In today’s session Brian J. Winterfeldt of Steptoe & Johnson will explain what measures are in place to help trademark owners deal with the expected cases of potential cybersquatting or other conflicts. The number of applications, which is higher than many predicted, has prompted concerns among IP lawyers. “A whole lot of people have only been paying attention with one eye until now,” says Evans. “Brian will remind them what they can do in these staged periods.”

There remains a great deal of uncertainty about both the timing and the impact of the new gTLD program. It is likely that there will be litigation at some point, perhaps resulting from a dispute over a particular domain string or the outcome of an auction. If that happens, it could have an impact on the expected second round of gTLD applications. “It could be very far away,” says Evans.

Do you have a gTLD strategy?
The first part of your strategy should be to have a clear idea about why you did or did not apply. “Somebody in your field is going to do it. When your CEO picks up the paper, and sees that, they’re going to be asking questions. You don’t need to do it [apply], but you need to make sure the decision is made at the right level,” says Evans. Second, there is the question of how you respond to potentially thousands of new gTLD strings, and the threat they bring—something that today’s second speaker, Stacey King of Richemont, will address. “People are feeling overwhelmed and under-budgeted,” says Evans. That means brand owners are likely to have to develop more targeted and focused strategies than they
Search engines: friends or foes?

One Internet topic that continues to provide employment for litigators and professors is keyword advertising online. Recent cases in jurisdictions including Australia, Europe and the United States have helped to clarify issues including both the liability of search engine providers such as Google and what constitutes infringement online.

A practical session tomorrow will examine the strategies that advertisers use in search engine advertising, and what trademark owners can do where they feel their marks are being infringed. Brian Isaac of Smart & Biggar/Fetherstonhaugh, who is moderating the panel, says the recent cases have been helpful in moving the debate from brand owner-versus-search engine to looking at how you actually address a competitor’s use of a trademark: “It’s turning more towards the manner of use online as opposed to the old question of whether you could nail someone just for the fact that they bought the keyword. It’s not settled, but it’s coming back towards the more typical analysis you do in any trademark case.”

Tomorrow’s speakers Howard Hogan of Gibson Dunn & Crutcher and John Ramsey of Rosetta Stone will address issues such as how to prove confusion and damages, and how you can enforce your trademark rights, not just against search engine advertisements but also other uses online. They will also explore the “tricks of the trade” that marketers use to get to the top of the search lists, including by using others’ brands.

Whether you are a large firm or a solo practitioner, you will encounter difficult issues concerning trademark identification and classification. DELOS, LLC, through its lead attorney, Jessie Roberts, can help you create strategies to overcome problems that arise in these areas.

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Complete

DELOS will solve the full range of your trademark identification and classification challenges—from consultation on problematic identification or classification issues to expert witness services.

IM01 Industry Breakout: From the Frying Pan into the Fire: Navigating Emerging Issues in Cyberspace takes place today at 10:30 am in room 146 ABC

CT02 Competitor’s Use of Keyword Advertising and Search Engine Optimization (SEO): Hey! They’re Using My Trademarks! is tomorrow at 10:15 am in room 146 ABC

Have before: marketing people are going to have to get their head around the fact that they’re not going to be able to own every iteration of their mark in every domain. “Rather than going in with a scattergun, and trying to hit everything, you’re going to have to be more laser-focused,” says Evans. Look for an INTA webinar in early summer on how to deal with potentially infringing new gTLD strings.

The third topic to be discussed today is somewhat different and something that is close to Evans’s heart: socially responsible social networking. The growth of online interaction, particularly among young people, has led to greater concerns about bullying online. While raising awareness about such issues may not seem to be a core part of the trademark attorney’s role, Evans says everyone in this area has a responsibility: “This is a plea to people to say: you’re more than just a trademark attorney. You’re someone who understands this stuff: are you explaining it to people? What are you doing to be a better citizen?” Ellen B. Shankman of Ellen Shankman & Associates will discuss these questions during the session.

With the constant emergence of new Internet-related issues, including online counterfeiting and keyword advertising (see box), there are often calls for new laws. But Evans disputes that: “Just because it’s the Internet doesn’t mean it’s a different ecosystem, with different laws. I think the laws that exist today are adequate to handle 90% of the issues arising on the Internet.” Brian Isaac of Smart & Biggar/Fetherstonhaugh agrees: “You always get these questions about how the laws are changing to meet the Internet. It’s kind of the other way around. There’s not necessarily that much need for amendment. The law is intended to be technology-neutral.” So grab your textbooks, get online, and start learning. As Evans says: “It’s a red herring to say we don’t have an adequate law. You’re just not a smart attorney. You need to be creative and you need to sit and think about something.”

Be smart and creative

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Protect your rights in Europe

Trademarks in Europe: reforming the system

1996
The Community trade mark (CTM) system is launched. The Office for Harmonization in the Internal Market (OHIM) receives more than 40,000 CTM applications in first year and some EU member states begin to fear that national filings will slump.

May 2007
Representatives of member states on the EU Competitiveness Council agree to ask the Commission to propose reducing OHIM’s fees after it builds up a large surplus. They also call on the Commission to start work on a comprehensive study on the overall functioning of the European trademark system.

May 2009
The cost of applying for a CTM in Europe falls. Attention now turns to other parts of the deal: a €50 million cooperation fund for projects related to the harmonisation, protection, promotion and enforcement of trade marks and designs in the EU; and bigger questions about the functioning of the CTM system.

July 2009
The Commission puts out a tender for a study of Europe’s trademark system.

October 2009
European Commission awards contract for study to the Max Planck Institute, which starts to consult with trademark owners and users.

January 2010
OHIM publishes its submission to the Max Planck Institute, calling for rebates to owners of CTMs. INTA makes a preliminary submission, setting out its settled policy on many of the issues, such as harmonisation, consistency, the use requirement, well-known marks, opposition, classification and renewal fees.

June 2010
INTA makes a presentation to the Max Planck Institute distilling the views of 46 Working Groups—comprising more than 200 people across numerous INTA subcommittees—who had studied some 60 different aspects of the trademark system in Europe.

December 2010
Max Planck Institute submits its Study on the Overall Functioning of the European Trade Mark System to the Commission. After making more revisions following discussions with Commission officials, it produces a final report in February 2011.

March 2011
The Commission publishes the Max Planck Institute’s study.

May 2011
The Commission holds a meeting with users’ groups to gauge their reaction to the Institute’s study.

2012
The Commission was due to publish its proposals for updating the Trade Marks Directive and the Regulation. To date it has not published its proposals.

With a single market of 500 million people across 27 countries that some of the world’s richest consumers call home, it is unsurprising that brand owners want to boost their presence in the European Union marketplace. But protecting their trademark rights there can be a tricky business. While politicians made it easier for them to register their marks on a pan-EU basis by launching the Community trade mark (CTM) 16 years ago, a patchwork of national laws runs parallel to the CTM system, making it essential for IP owners to understand the rules if they want to maximize their rights.

Panelists in two sessions at the Annual Meeting will introduce them to a series of important issues in European trademark law. The first focuses on filing strategies by considering the advantages (and disadvantages) of using the Madrid Protocol, CTM and of dropping national marks in Europe altogether. It also examines the rules governing the use of a modified mark, and the vulnerability of your mark to attacks on the grounds of non-use. The second session will look at the legal impact of using an unregistered mark—and of not using a registered mark.

Eric Bakker of Bakker & Verkuil, who will moderate tomorrow’s session, will summarize some recent disputes in Europe relating to use of a modified mark and explain how that puts the owner at risk of a challenge for non-use. Three cases are now before Europe’s highest court, the Court of Justice of the EU, which is set to outline how national courts should interpret EU trademark law on this issue. In the first, the Court will consider whether the owner of the marks PROTI, PROTI POWER and PROTIPLUS should be allowed to maintain the registration for PROTI, even though a rival claimed that it had not genuinely used the mark.

The Court is also set to decide a dispute between the Office for Harmonization in the Internal Market (OHIM), which starts to consult with trade mark owners and users.

O HIM  takes on a new role

O H IM  is no longer simply an IP office that grants CTMs and registered Community designs. In March, EU member states agreed that it should take on a new role: overseeing the protection of IP rights across Europe.

Three years ago the European Commission set up a European Observatory on Counterfeiting and Piracy as a platform for coordinating actions to protect IP rights throughout the EU. Now politicians in Europe have backed a regulation to rename the body the European Observatory on Infringements of Intellectual Property Rights and hand its management to OHIM.

As part of its new responsibilities, OHIM now has the job of enhancing understanding of the value of IP; improving understanding on the impact of infringements of IP (by establishing a transparent methodology collecting reliable data); helping to raise awareness of the impact of IP infringements; developing training programs for people involved in the enforcement of IP; and disseminating information about best practices.

Meetings of the Observatory will be attended by representatives of member states and people from the private sector (which the Commission said will include consumer organizations, SMEs and particular industry sectors). Representatives of the European Parliament and the Commission will also take part in meetings.

The question of whether OHIM should be given a leading role in helping IP owners to enforce their rights has been controversial.

Whether OHIM should be given a leading role in helping IP owners to enforce their rights has been controversial.

In 2010, representatives of INTA, AIM, BusinessEurope, ECTA and MARQUES wrote a joint paper in which they said: “Such a role would be a significant departure from the current activities of trademark offices bearing in mind efforts already being undertaken by other institutions and law enforcement agencies. It would require a fundamental change of their mission.”

But António Campinos, who took over the presidency of OHIM in October 2010, has been committed to expanding the Office’s enforcement responsibilities from the start. In his first speech, he asked his audience of German IP owners: “What point is there having a reactive and efficient Community trademark and design registration system, if at the enforcement stage, each country does its own thing?”

Annette Kur, one of the three authors of the Max Planck Institute’s trademark study

Feature

EU trademark reform

Monday, May 7 2012

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apparel company Levi Strauss & Co. and a retailer. Levi Strauss owns a trademark for a blank red tab made of cloth, which appears on the pocket of its jeans. When it accused a business rival of infringement, the defendant claimed the plaintiff had used the red tab only as a red tab with the word LEVI’S and said that only the use of this mark (which was also registered) was genuine.

The third case is between UK optician chain Specsavers and supermarket Asda. The Court of Appeal in London has asked judges in Luxembourg a series of questions, including whether a company’s enhanced reputation in a color can be taken into consideration in an issue of consumer confusion, even though the trademark had not been registered in color.

“The issue of use is especially important for logos and device marks which tend to be updated and evolve over time,” says Bakker. “Trademark owners and their counsel should be even more careful when it comes to these marks in deciding what they should file for and how they use their marks.”

“The issue of use is especially important for logos and device marks which tend to be updated and evolve over time.”

Recommendations for reform

The Max Planck Institute’s Study on the Overall Functioning of the European Trade Mark System was 290 pages long. Here are some of its key recommendations.

Classes and fees
Applicants should no longer receive three classes for the price of one. Instead, fees should be payable for each class to avoid overcrowding the Community trade mark register.

Genuine use
This is a controversial—and political—issue for the European Union and a key case, Oneil, is pending at the Court of Justice of the EU. The issue is whether the test of genuine trademark use can be satisfied by use in just one member state, even if that state is as small as, say, Cyprus or Malta. The Institute reached no conclusion but said it strongly supports an interpretation of the genuine use requirement for Community trademarks which disregards political frontiers.

Fees and redistribution
The Institute agrees in principle that 50% of fee income should be distributed to member states.

Trademark law in member states
The Study lists 10 optional provisions in the Trade Mark Directive, which is designed to harmonize laws in member states, that it says should become mandatory, including the absolute ground for refusal based on bad faith, relative refusal based on conflict with a reputed mark and extended protection for trademarks with a reputation.

Well known and unregistered marks
The Study noted that IP owners wanted more clarity on the relationship between well known and reputed marks. To provide this it said that earlier well known marks should be entitled to claim protection as earlier marks in opposition and invalidation proceedings also where protection in the absence of likelihood of confusion is claimed; the Trade Mark Directive be amended to give unregistered marks (as well as registered marks) that are well known in a member state protection against infringing use; and trademarks that are well known in the EU should be given the same protection as registered CTMs, entitling their owners to claim protection against infringing use in actions in CTM courts.

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Three ways to beat counterfeiters

Frustrated with traditional approaches, some brand owners are succeeding with new anticounterfeiting strategies. James Nurton spoke to Jennifer Hamilton of Major League Baseball about three recent developments.

Your client’s brands are being infringed, with factories in Asia shipping thousands of counterfeit goods to customers in the U.S. and Europe. You’ve sent cease-and-desist letters, worked with customs to detain infringing goods and even conducted some daring raids in China. There’s not much more you can do, right?

Wrong, says Jennifer Hamilton of MLB Properties, who has put together today’s panel on alternative approaches to combating counterfeiters. She argues that brand owners are being more creative in tackling the menace of counterfeiters sold on rogue websites and distributed by mail worldwide. “Brand owners have found the standard approaches were not enough,” she says, pointing to the scale of the problem, the ease of distribution and the low penalties. “It’s become difficult to deal with that and it’s like Wack-a-Mole: more and more keep popping up.”

Tomorrow’s session will therefore look at three new techniques used by brand owners in the battle against counterfeiters. It will feature a brand owner, a government representative and outside counsel, each of whom will discuss a recent successful anticounterfeiting effort.

ITC action

The first strategy discussed will be the use of the International Trade Commission (ITC) to block infringing goods being imported into the U.S. While the ITC is well known as a forum for patent disputes, particularly in the high-tech area, it also hears cases involving other IP rights.

There have been about five recorded trademark final determinations at the ITC, all of them general exclusion orders. Most recently, Red Bull won a general exclusion order barring grey market RED BULL energy drinks from entering the U.S.

On March 5 this year, the ITC issued an initial determination recommending a general exclusion order against counterfeit Louis Vuitton products. The company had filed a motion for summary determination of a Section 337 (intellectual property) violation naming several respondents based in China, and requested a general exclusion order barring all goods in violation of eight of the company’s trademarks for its Toile Monogram marks (used on the company’s handbags, luggage and accessories).

Chief Administrative Law Judge Charles Bullock granted the request, saying that because a pattern of Section 337 violations has been identified and it is difficult to determine the source of the infringing products, a general exclusion order—as opposed to the more common limited exclusion order, which offers remedy against infringing goods made by the named respondents only—is appropriate. The ITC order is an initial determination and must be upheld by the full Commission. This is however likely as all of the respondents in the case have so far failed to turn up.

Valerie Sonnier of Louis Vuitton/LVMH Fashion Group in France will discuss the case today, and Hamilton says she is looking forward to hearing about it: “Louis Vuitton is very much at the forefront of trying new ideas and are leading the way. Valerie will explain how they brought the case, how it was conducted and what other brand owners can learn.”

The 150-paddle game

The second strategy to be discussed today will be working with payment providers to shut down websites selling counterfeit goods and then seize the infringer’s revenues. In some cases, brand owners have been able to shut down more than 100 domains with one action, and seize the proceeds stored in PayPal accounts. While individually these may not amount to much, collectively they can raise more than enough to pay for the cost of enforcement. Scott Gelin of Greenberg Traurig, will discuss this trend in tomorrow’s session.

Hamilton says this approach is a cost-effective way for brand owners to tackle the problem of online counterfeit sales, and cumulatively such cases can have an impact: “Every time you disrupt the counterfeiters’ chain and increase its cost of doing business it just makes it much more difficult.” The problem of counterfeiters simply setting up new sites remains, but mass actions shift the balance of power to the brand owner. “It’s still playing Wack-a-Mole but with 150 paddles instead of one,” she adds.

The panel will also discuss how best to work with payment providers and whether a system similar to eBay’s VeRRO can be implemented.

Government action

The third and equally important part of the anticounterfeiting counter-attack is the role of government and that will be addressed by Rana Saoud, of the National Intellectual Property Rights Coordination Center.

The IP Right Center has been active in tackling so-called rogue websites over the past two years, and has been able to seize more than 700 of them. However, as with private actions, the problem has often been that the counterfeiters simply use a new domain.

But in a landmark case last month, U.S. authorities seized nearly $900,000 from bank and PayPal accounts used to store the proceeds from selling counterfeit sports jerseys. The seizures, obtained following a court order, came against domain name operators in China whose sites had been shut down in 2010 but who had simply set up new domains. The investigation was conducted by the Intellectual Property Rights Coordination Center and ICE’s Office of Homeland Security Investigations.

Follow the money

“These have all been really positive developments and should have some impact,” says Hamilton. She adds that they show that the anticounterfeiting battle is most effective when it goes beyond simply taking down websites and hits the infringers in the pocket: “When you get to the money, that’s when you have the most impact.”
Making—and keeping—your mark in Asia

Emma Barraclough explains why linguistic and legal differences make it so important to understand the requirements for trademark use in Asia.

Hermès, Apple, Land Rover and Pfizer: the list of IP owners who have suffered trademark registration woes in China includes some A-list brands. The lessons they have for foreign companies seeking a slice of the China market is clear: register a local language version of your mark before a trademark squatter gets the chance to.

But while registering a trademark in the local script is a crucial step for IP owners who want to do business in China, it’s only the first. Once a mark is on the trademark office’s books, the owner needs to understand how it must use it to maximize the protection that registration offers.

This is an issue being explored by a session today: RM50 — Regional Update: China, Japan, South Korea. In it, panelists from China and Japan and South Korea will explain how brand owners should use their trademarks to minimize the risk of third-party challenges.

Practical lessons

“We want this to be a very practical session where we use real examples to show the requirements of the local trademark laws,” says Beijing-based Chris Shaowei of NTD Patent & Trademark Agency Ltd., who is moderating the session. Shaowei will consider the rules in China, with Jinsang Jeong of Jeong & Park explaining how trademark law is applied in South Korea and Nami Togawa from Japan’s Seiwa Patent & Law outlining the position in Japan. Despite the common linguistic heritage, each jurisdiction has distinct rules when it comes to mandating how trademarks must be used in practice.

In Japan, for example, Togawa says that applicants should register exactly the same mark that they plan to use in the country. They do not need to file a corresponding Japanese mark if they plan only to use the English-language mark, as long as the Japanese transliteration is similar to the native English pronunciation of the mark. “This is because the scope of the trademark protection will extend to its similar marks (in terms of sound),” he says. Where the transliteration is too dissimilar to the original mark, Togawa recommends the IP owner file two applications, one for an English mark and one for a Japanese mark: “If you file a trademark application indicating an English mark and Japanese mark in two lines, there is a risk of non-use cancellation if you use only the English mark or the Japanese mark in Japan.”

File widely in China

In China, however, the country’s first-to-file trademark rules mean that IP owners should consider filing as widely and often as the IP budget allows. Shaowei recommends IP owners apply to protect their original foreign language mark, a pinyin version (a transliteration) and a character trademark. They should also consider filing their word mark and any logo separately, including an additional application for the calligraphic version of a plain text character mark. Once the marks are registered, IP owners should take care how they use them on their goods. Making a change, even if only a small one, can lead to big problems.

That’s because Chinese officials are particularly strict about ensuring that marks are used as registered. In practice, trademark owners can find it very difficult to enforce an English-language trademark registered in capital letters on a black and white background if they use it in a different way on their products.

“If you change the way you use the mark then it may not be considered ‘continual use,’” warns Shaowei. “That means that another party can file a cancellation request.” In China, unlike many jurisdictions, anyone can ask for the mark to be revoked, not just a party with an interest in the brand. “It’s cheap to lodge a cancellation request for non-use and the
Tademark trolling is a relatively new and undefined area. Today’s session will therefore take a broad understanding of it, explaining every aspect from mere aggressive enforcement to deceptive actions by individuals with no business of their own. Each speaker has responsibility for different parts of this range, with case studies and anecdotes set up to explain their real-world implications.

If one thing defines all trademark trolling, it is the attempted enforcement of rights by an individual who—allegedly—has no business owning them. “It is the attempt to own the unownable,” in the words of speaker Lance Johnson, from Roylance, Abrams, Berdo & Goodman.

The spectrum, for Johnson, then goes from “outright fraud, where the party asserting ownership has no legitimate rights whatever to the trade mark” to, at the other end, “a quasi-legitimate claim, deliberately set up to try and win financial compensation.”

For example, if a company was coming out with a new product and word of it leaked out—including the name—then a trademark troll would immediately try to register than domain name, buy AdWords on Google, and set up a fake company using that name so that they could try to assert prior rights.

“It’s more like claim jumping,” says Johnson. “The idea is that you establish these quasi-rights and then make it much easier for the legitimate company to buy them from you than to go through the legal processes necessary to have them transferred or canceled.”

Troll or not?

What Johnson leaves out of his definition of trademark trolling is aggressive enforcement of more legitimate rights, and it’s controversial whether this subject should be classified as “trolling.”

“The law, particularly on the civil side, does not have a good enforcement mechanism to stop aggressive enforcement,” says Johnson. “Because it’s subject to what a judge might think, what are proven to be legitimate rights, whether this is the expansion of an existing right, plus the concept of dilution and whether something is a legitimate exercise in protecting a famous brand.”

Adam Cohen of Kane Kessler will talk about aggressive enforcement on the panel. “The type of people involved in this varies considerably. There are individuals, who opportunistically register trademarks like OCCUPY WALL ST or LINSANITY. Then there are small companies that try to exclude the bigger rivals by owning descriptive phrases or elements crucial to design in their industry. And then there are the big companies who could be seen as doing the latter on a larger scale. There are big brands on either side of that debate.”

In Cohen’s view, these types of cases are often dealt with by lawyers individually, when they come up, but few people are looking at them as a trend. “Do we want legislation to address this? Or will that just lead to greater uncertainty, both now and when we actually have the law? And either way, what do we responsibly advise our clients in the meantime?” Cohen asks.

Pure trolling

Lance Johnson’s most significant experience was with an individual who certainly qualified as an aggressive enforcer. Johnson will tell the story of how he filed counterclaims against Leo Stoller’s claims for trademark ownership, and eventually won an injunction that prohibited him from participating in the federal courts.

“I hope that working through some of the strategies used in that case will provide some useful tips for lawyers and their clients that come up against similar situations themselves,” says Johnson. In particular, he will provide advice on ways to counteract a troll’s actions and make them reconsider whether the action is worth pursuing.
“That’s the hardest thing about tackling a troll: convincing them that this is more hassle than it’s worth, so you can settle quickly or get out of the case altogether,” says Johnson, adding that the best route can be to craft a civil claim for unfair trade practices. Unlike a criminal case that would require proof beyond reasonable doubt, this civil route merely requires proof based on a preponderance of the evidence.

“The key is to put something in front of the judge that they can understand—the idea being that if something is criminal in nature it must by definition be civilly unfair to engage in that conduct,” says Johnson. He hasn’t used the strategy since, but only because the opportunity hasn’t arisen reinforcing Adam Cohen’s point about seeing these cases as a trend, even if they only come up rarely.

The chair of the panel is Mitch Milstein of Quiksilver, who will relate his experiences of trolling. He came up against Stoller when he joined Quiksilver six years ago, as Stoller was attempting to enforce rights to the trademark STEALTH—which Quiksilver used as one of its ‘style’ or product names. The company creates thousands of these each season and most only appear in small print on garment labels.

“That was my first experience, but we’ve come up against it a few times since,” says Milstein. “It’s something that can be draining on a company, in terms of time and money. The STEALTH case was actually quite easy, but others have gone deep into litigation. We’ve always settled those, but at some point if there is one that is ridiculous and we feel we shouldn’t pay, then we will take it to trial. You need to stand up and make a point.”

Johnson has similar feelings on the issue—one reason he eventually resorted to working for his client in the Stoller cases on a pro-bono basis. And all speakers will be keen to make that point to the audience today.

The impact of the America Invents Act

One of the aims of the America Invents Act (AIA) was to reduce the amount of patent trolling by lowering the cost of pursuing IP rights. But while lawyers are optimistic that it will help in the fight over nuisance patents, will it have any positive effects on trademark trolling?

Lance Johnson is skeptical: “The procedural changes wrought by the AIA for civil litigation preclude the type of mass defendant cases that have characterized patent infringement allegations by non-practicing entities seeking a payoff. Trademark infringement is, by its nature, handled on a case-by-case analysis that makes the proceeding personal between the plaintiff and the defendant. Mass allegations of trademark infringement are very rare, if they occur at all.”

Trademark trolling also often involves cases of outright fraud, which will obviously still remain subject to laws of perjury and the procedural safeguards around only signing and filing genuine documents.

As to the cases of aggressive trademark enforcement, which only some think should be considered part of the trolling debate, these remain a matter of perspective: one man’s aggressive enforcement is another’s defence of legitimate rights.

CM20 Trolling the Trademark Waters takes place in room 207 AB today at 12:00 pm

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IN TA Daily News Monday, May 7 2012 | 11
Following a markup attended by top industry lobbyists late last year, a small but dedicated group of House Judiciary Committee members forced the sponsor of controversial legislation to put off a final committee vote on HR-3261, the Stop Online Piracy (SOPA) Act. Dozens of lobbyists were present for the markup of the bill, which lasted 12 hours. To ensure that they secured seats in the hearing room, many hired line-sitters—generally unemployed local men contracted with professional firms. More than 40 line-sitters stood outside the hearing room an hour before the 10:00 a.m. start of the SOPA markup, and many had arrived the night before.

Several movie studio lobbyists were among the biggest spenders on line-sitters, who can cost as much as $50 per hour. This allowed three prominent industry lobbyists to sit in the front row—The Motion Picture Association of America's Michael O'Leary, Viacom's DeDe Lea, and News Corp's Rick Lane—while Alec French, outside lobbyist for NBC Universal and several Hollywood unions, sat directly behind O'Leary in the second row.

Those seats proved especially useful during the first hour of the markup. The Committee clerk was forced to read aloud the entire 78-page bill as the result of a delaying tactic by the opponents, and while she did so the Hollywood lobbyists were clearly visible behind her and directly to her right.

Fred von Lohmann, Google's copyright counsel, only managed to secure a third-row seat, but he made the most of it. As other lobbyists in the audience slumped in their seats—due to fatigue, boredom, or incessant typing on their tablets or smartphones—von Lohmann sat on the edge of his seat, ramrod-straight. He maintained this posture for hours, and his head rose up clearly above those in front of him, making the lobbyist for the company that was leading the charge against the bill visible to every Committee member.

A fact of life
This is what lobbying looks like in the United States. While SOPA and its companion, the Protect IP Act (PIPA), may ultimately have been postponed due to the widespread Internet campaign led by sites such as Wikipedia, lobbying has always played a crucial role in shaping U.S. legislative decisions. Google, for example, increased its 2011 lobbying budget to $9.68 million compared to $5.2 million in 2010, in part to challenge bills like SOPA and PIPA, which it views as detrimental to its business model.

Results like this mean that lobbying is a fact of life, and a specialized skill that is in high demand. But it can also cause problems and invite criticism for companies, since all spending and involvement in such activity is publicly available. It can raise serious issues for private practitioners as well, who may have conflicts between key issues.

Often, a private practitioner may merely be a member of a trade organization involved in lobbying, and be entirely unaware that the affiliation could cause ethical problems. These are some of the topics that will be debated during today's session, titled Doing the D.C. Shuffle: How Do The Trademark Attorney, Lobbying and Ethics Mix?

Get prepared
"Many lawyers don't realize there are special rules on lawyers acting as lobbyists," says Brett Kappel of Arent Fox, who will be speaking on today's panel. Kappel says, despite a slowdown on lobbying activity overall recently, “there’s been a lot of lobbying on IP issues and Internet privacy recently.” With IP ever more in the spotlight, INTA members would be well-advised to stop by to brush up on the rules.

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Att'y Mohammad was previously a legal advisor for Saudi Basic Industries Corporation (SABIC). During his career at SABIC, he made a very remarkable contribution to the case EXXON Mobile vs SABIC which is the largest case ever in the region with respect to volume of damages and one of the most complex cases in the Middle East.

Currently, AIP&T is rapidly expanding in the region with more than 15 specialists in Riyadh.

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"Many lawyers don’t realize there are special rules on lawyers acting as lobbyists," says Brett Kappel of Arent Fox, who will be speaking on today’s panel. Kappel says, despite a slowdown on lobbying activity overall recently, “there’s been a lot of lobbying on IP issues and Internet privacy recently.” With IP ever more in the spotlight, INTA members would be well-advised to stop by to brush up on the rules.

CMS1 Doing the D.C. Shuffle: How Do The Trademark Attorney, Lobbying and Ethics Mix? takes place in room 202 AB at 3:45 pm today

Getting your message to Congress

With IP issues front and center in Congress, attorneys need to know when their stance on a particular topic may be crossing the line into the highly regulated world of lobbying. Eileen McDermott and Patrick Ross explain.
Culture clash

How best to protect indigenous rights has become a top issue for WIPO, INTA and, increasingly, governments around the globe. Eileen McDermott examines some of the key priorities.

When Italian car maker Fiat launched a 2006 ad campaign featuring a parody of a Maori dance ritual known as the Ka Mate haka, the New Zealand government advised the ad was culturally insensitive, but could do nothing to stop it. Even after the government awarded the Maori rights to the haka in 2009, there was still little they could do to keep the dance from being exploited commercially around the world.

“The threats to identity are not internal but global,” said New Zealand’s Waitangi Tribunal, which hears complaints about misuse or misappropriation of Maori culture, in a recent report. “They are the genericizing effects of a lowest-common-denominator consumer culture and the ease with which IP-based ventures can pluck Maori culture for its uniqueness and saleability, and bend it to commercial ends,” the report continued.

That statement perhaps forms the crux of the challenge over protecting indigenous rights and traditional knowledge around the world. From South America to Africa and Canada, indigenous peoples are becoming increasingly concerned about their cultural secrets being discovered and used for profit by the Western world. As the Internet makes traditional knowledge (TK) more accessible, the danger grows.

But how to draw the line between keeping valuable cultural knowledge in the public domain so that it is easily available to those who need it and protecting it from misappropriation continues to largely elude indigenous communities, governments and IP rights advocates alike.

Today’s session Protection of Indigenous Rights: An Increased Need will educate attendees about the growing need to develop an international framework to facilitate the protection of TK and Traditional Cultural Expressions (TCE) within indigenous communities, and the sometimes uneasy relationship which has historically existed between TK and trademark rights.

WIPO developments

In February 2011, a WIPO Working Group comprising some 200 traditional knowledge specialists from member states, indigenous communities and industry agreed to a simplified text consisting of 11 substantive articles. Wend Wendland, director of WIPO’s traditional knowledge division, said the latest text is “shorter and more streamlined” than previous drafts. “The experts have got rid of a lot of clutter,” he added. The text comprises the policy objectives and guiding principles, followed by 11 articles (see box).

Each article includes a commentary, with comments and questions raised by different delegations. “It is looking like a negotiable text for the first time,” explained Wendland at the time.

In a recent interview, WIPO Director General Francis Gurry said that the Office’s Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore Committee (IGC) is making “good progress” on indigenous rights, and in September of last year at the WIPO General Assemblies, the IGC claimed “great progress” because it agreed on the renewal of its own mandate to work on these issues.

The IGC mandate represents more progress than has been made on the issue so far, but the challenges are...
great. In part, this is because IP protection is far from the most pressing issue on many indigenous groups’ lists. “In many cases they are still fighting for some basic rights,” says Keri Johnston of Johnston Wassenaar in Canada, who is moderating today’s panel. “In Canada especially, I know that’s true. There is a hierarchy of needs,” she adds.

But as governments begin to take more action on essential rights such as housing and education, indigenous groups are becoming more aware that both defensive and positive IP protection (see box) can be crucial to the preservation of their unique knowledge and customs.

**Government action**
In July last year, New Zealand’s Waitangi Tribunal released a report recommending the formation of a Maori patents advisory committee to advise the Commissioner of Patents and encouraging legislative reform to require that commercial use of *taonga* (treasure) works be approved by *kaitiaki* (guardians). The report is non-binding on the Crown, however, and took 20 years to be released.

The South African parliament passed a law in November of last year to protect traditional knowledge that was widely criticized. The Intellectual Property Laws Amendment Bill introduces separate provisions on traditional knowledge into the Copyright, Designs, Performers Protection and Trade Marks acts. It also includes an overarching provision that the IP rights created by those acts apply to traditional knowledge as well. But this creates a series of conflicts that are likely to make the law unworkable. It doesn’t explain how to prove the originality required for copyright, for example, in traditional arts or pieces of music that are hundreds of years old. The same applies to design protection, which would require some proof of novelty. South African lawyers said they plan to advise their clients to not register traditional knowledge...
Advice on protecting unregistered marks

The speakers on tomorrow’s panel on India, Pakistan, and the Middle East will talk about protecting unregistered trademarks, and the groundwork that brand owners need to lay down to defend their marks. Peter Leung reports.

Well known in India case study

In a 2009 case, Rolex SA v. Alex Jewellery, the Swiss watchmaker sued for an injunction against Alex Jewellery to stop the defendant’s use of the ROLEX name in jewellery. ROLEX is registered in Class 14, which covers clocks and watches. Alex Jewellery did not sell watches, and only used the mark on dissimilar goods and services.

Rolex sought an injunction on the ground that its mark was well known under Section 2(1)(c) of the Trademarks Act. Its evidence included advertisements, press articles, registrations, and court orders in other countries. Rolex also pointed to its appearance in Business Week’s list of global brands, which is limited to brands worth at least US$1 billion and with at least one third of their earnings coming from outside their home market.

The Delhi High Court granted the injunction. It found that the ROLEX brand was well known to the relevant segment of the watch-buying public and was known in India through magazines, even back when the country had import restrictions.

The court did not accept Alexander Jewellery’s defenses. It rejected the argument that Rolex had failed to defend the brand, pointing out that Rolex opposed Alexander Jewellery’s two attempts to register the mark. The court was also unconvinced by the defendant’s claim that there would be no confusion between ROLEX-branded jewelry and watches, finding that a buyer would likely assume they are the same brand. Finally it rejected the defendant’s most creative defense, that its ROLEX brand was based on the name of the owner’s son Alex.

The case was seen as a positive sign that brand owners can prevail if the mark is well known in a particular segment of society even if it is not known by the general public.

Preparing yourself

The panelists have a number of practical tips for brand owners and attorneys. If possible, Holder recommends that brand owners keep robust portfolios with the logos/labels registered separately, which allows for more flexibility in defending their marks. Good record keeping is also important for establishing a trademark as well known. For this purpose, Fikree says that a wide variety of documents can be used, such as advertisements, product registries, and even invoices that clearly refer to the trademark.

Trademarks in Asia

Continued from page 9

The burden of evidence to show continual use lies with the trademark owner, he says. Shaowei will look at the problems companies have experienced, including a company that used the mark HAGGAI on its product but had the trademark canceled because the original registration was for the word HAGGAI plus a stylized outline of a letter H. Similarly, a tool-manufacturing company with a registered trademark that included a logo, the transliteration of DANGONG and the two characters Dangong lost its rights because the mark appeared on the tools without the two Chinese characters.

Shaowei says it is vital to understand how marks should be used in China. “Many foreigners still consider China to be like the Wild West and think that people don’t understand IP,” she says. “But local people are getting sophisticated and some of them understand exactly how they can use the system to get a free ride.”

Indigenous rights

Continued from page 14

under the law, given its uncertainties, but to use existing IP rights instead.

INTA initiatives

INTA has been following developments like these since before the WIPO IGC was formed. The Indigenous Rights Subcommittee monitors WIPO and government progress and makes recommendations for best practices to INTA members. In a recent issue of the INTA Bulletin, Marion Heathcote of Davies Collision Cave and Barbara Sullivan of Henry Hughes, who have been integral to INTA’s work on indigenous rights, outlined INTA’s recommendation to members in the face of continued uncertainty over mechanisms for protecting indigenous rights. “Trademark owners need not await the outcome of this debate to start developing best practice guidelines to facilitate the recognition of TCEs and to make appropriate decisions about their use in trademarks and brand strategies,” Heathcote says. “At the very least, a program of awareness of indigenous issues enables informed choices.” Johnston adds: “This is some-
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In Latin America, registration is key

When it comes to registering marks in Latin America, there are three things today’s panelists want attendees to know: how to maintain a trademark registration, how to enforce their rights, and what kind of trademark usage can put their rights at risk.

“The message we want to convey is: Don’t think that if you use the mark, that has you covered for these countries,” says Marcela Bolland, a partner at Uhthoff, Gomez Vega & Uhthoff in Mexico and the moderator of today’s Latin America Regional Update. Although trademark owners may be able to use their marks, local laws often make registration key to enforcement in Latin America, she says.

In many Latin American countries, a local company that uses the same mark as a multinational company has better rights, Bolland says. This is especially pertinent for companies that didn’t pick Latin America among their early markets. “It’s important for them to know that by not entering these countries, at some point they could be facing risks—not only not being able to register marks, but also being prevented from entering the market,” she adds.

The risks vary in each country. Some recent cases in Mexico involve individuals registering marks ahead of a foreign brand owner—who then finds himself prevented from entering the market using his own marks. In cases such as these, the brand owner often has little option but to sue. “Then, you’re talking about time and money for the brand owner,” Bolland says. In Chile and Costa Rica there are cases in which brand owners have registered marks but not used them within the allotted time period. As a result, third parties have stepped in and the brand owner has been forced to negotiate to try and buy back something they believe is already theirs. “In truth, in all these cases, you will have to enter into a litigation scheme,” she says. “It’s much more expensive than having the mark from the very beginning.”

Among brand owners’ main concerns is having to re-register marks that are vulnerable to cancellation if they aren’t used within a three- to five-year period. “The strategy there is to re-register,” Bolland says. “File a new application; cancel the old one. In other countries, I know in some Asian countries, that’s considered a bad-faith mark. But as far as we’re concerned, that’s not the case within Latin American offices.”

Preventing counterfeit goods from crossing markets can also prove difficult, Bolland says. Mexican Customs officials, for instance, do not seize goods in transit. “That’s a problem,” she adds. “It may happen that the merchandise could end up in other Central American countries. If you don’t have IP rights, you will not be able to do anything in those countries.” These cases mostly involve clothes, shoes, purses and other items of apparel.

Above all, Bolland says she wants to emphasize that inside and outside counsel are there to help businesses achieve their goals. It’s a tricky relationship, she adds, because lawyers are often seen as a hindrance by the businesses they serve: the “bad guys” who tell them they can’t complete a project. It becomes problematic when businesses decide to consult counsel only after a problem has been identified. “We’re trying to give them a clear perspective of what the situation is in these Latin American countries, and hopefully help them convey these ideas to the people in charge of the project,” Bolland adds.

Mexico moves closer to Madrid

One recent development panelists will be sure to mention is the Mexican Senate approving the Madrid Protocol in late April. Bolland says this is encouraging, although no one knows exactly when the Protocol will take effect. Colombia’s politicians approved similar legislation last year and that country is due to deposit its instrument of accession in June for the WIPO-administered trademark system.

“Don’t think that if you use the mark, that has you covered for these countries”

RM21 Regional Update: Latin America takes place in room 147 AB today at 12:00 pm
How to harness social media

Facebook and Twitter are becoming more important for trademark counsel every day, yet the law is still uncertain. Simon Crompton explains how a hypothetical consumer product could produce some useful recommendations.

Social media have become the dominant theme of the age. But it is only in the past few years that trademark lawyers have realized how much Facebook, Twitter and the rest will change their profession.

Social media bring brands much closer to their customers. This has many benefits, but it also means legal action—including attempts at trademark enforcement—has marketing and PR ramifications that it rarely had in the past.

Tomorrow’s panel, led by Scott E. Thompson of Greenberg Traurig, will be structured around a hypothetical example, with speakers laying out the issues that a consumer products company faces when launching a new brand and attempting to harness the full force of social media.

The company plans to not only promote the product, but also run a competition online and talk pro-actively to its consumers. The scope of the campaign—and so the session—will be broad, taking in mobile devices, apps, blogs and push-direct marketing techniques.

“At every stage we will compare the strategy of this hypothetical company to successful strategies others have employed in the real world,” says Thompson. One example is Thompson’s client Evian, which launched an advert for its bottled water online back in 2009 featuring babies on roller skates dancing to rap music, all created through CGI technology. The international version now has had 55 million views, the US version 17 million.

“That was just launched online, to kind of stick a toe in the water and test reaction. Now more and more brands look to social media first,” says Thompson. There was also a ‘making of’ video for the advert, which had 5 million views, and last year Evian made a follow-up, the Director’s Cut, showing adults in T-shirts with baby prints.

Such strategies are cheaper, more flexible and reach a broader audience than traditional advertising. The legal risks, however, are equally broad, with the potential for criminal sanctions in almost any country where the internet is accessible.

Elliott Basner at Diageo, who is also speaking on the panel, says this is a particular issue for his company. “As a drinks company you need to be very sensitive to how the law varies between jurisdictions,” he says. “The question is, what do you do when something involving the company on social media is fine in 20 countries but at risk in another 30?”

But while the law is developing, countless examples and horror stories point the way for dealing with social media day to day. First, think global. An isolationist attitude is impossible to maintain given the scope of the Internet; you need to think outside your normal jurisdiction. Second, think outside the box. “Because the law doesn’t address the issues you need to have a creative legal mind and look at what is a reasonable extension of the law,” says Thompson. Third, do a risk analysis exercise in advance. Consider all the cultural risk, PR risk and legal risk in various countries and anticipate as much as you can.

In the end, though, when a law is in transition the most useful resource is other lawyers. Their experiences and recommendations for what has worked for them are invaluable. Thompson refers to this, and in particular the audience at INTA, as the ‘brains trust’ of trademark experts.

“We will find out through discussion, through argument and most importantly through the questions we get from the audience, how social media is living and working around the world,” he says.

CT50: Social Media—An Ever-Changing, Challenging and Competitive World takes place tomorrow at 3:30 pm in room 146 ABC
What is your role?
I am senior counsel at the office of the general counsel for American Red Cross. I am the IP department! I manage all sorts of matters including patents, copyrights, trademarks, right of publicity, entertainment, domain names and social media—working a lot with our IT teams.

I’ve been here since 2008 and prior to that I was assistant general counsel for Wal-Mart Stores for about four years, doing copyright and clearance work. Before that I worked for the law firm K&L Gates in Pittsburgh, PA.

I grew up in Baltimore, MD and wanted to move closer to home and I saw this opportunity. I was really excited about the opportunity to work with American Red Cross.

What is American Red Cross?
A lot of people are familiar with the Red Cross in times of disaster, but that’s just the tip of the iceberg. The American Red Cross is one national society within an international movement. There are five lines of service: one, we shelter, feed and take care of survivors of disaster from a house fire to a bigger disaster. Two, biomedical services: we provide nearly half the US blood supply, as well as research related to blood disorders. Third, we teach life-saving skills such as CPR, lifeguarding and even pet CPR. Fourth, we help military families connect with active service members and provide support for coping with stress, at hospital and psychological help. Five, humanitarian aid: we provide internationally whenever there is an emergency as well as fighting malaria, measles and all sorts of things.

It’s a challenge. We’re not a government agency but the American Red Cross is expected to be there when there’s a disaster. We’re a charity given responsibility by the government to lead when there’s a national emergency. We rely on donations and volunteer time.

What are the IP issues that arise?
We’re lucky that the Red Cross is one of the most iconic symbols in the world. We spend quite a lot of time protecting the use of the emblem and the words, which are grounded in the Geneva Conventions. Harry Dunant mobilized a group of people to help the wounded and it was through that he called for the creation of national relief societies. Their symbol became a symbol of neutrality and is protected by the Geneva Conventions. Each national society has its own statute to protect the words and each society has an obligation to further the mission and also protect against misuse.

We’re lucky that a lot of organizations want to partner with us for fundraising. A lot of the work I do is licensing the brand to people who want to help us fundraise or giving instructions on enforcement. It’s really interesting work.

Do you see a lot of infringement?
We do have to prevent misuse. We have trademark registrations in addition to the statutory protection. We take a really pragmatic approach. You’ve got to inform people and treat it based on the nature of the abuse. Don’t just send out form letters. But if there is fraudulent use, we take pretty aggressive steps.

There are nefarious people everywhere. The good news is that people who honestly didn’t know, once we tell them it’s not just about us being a bully but about cutting out confusing uses, they are responsive. We say it’s more than a trademark, it happens to be a trademark but it’s more, it’s a symbol of hope. Some people just want to make a buck and they know around the time of major disasters that Red Cross will be out there and they can create fraudulent websites. We’re talking about protecting the goodwill like any corporation would but it really has a deeper meaning.

We’re lucky. Most times we send a letter or reach out, people will stop. Often it’s just lack of knowledge. Sometimes we do have to seek local or federal law enforcement or take more aggressive action. We’re aware we’re using donated dollars so we have to be pragmatic. We write pretty persuasive letters.
“Some people just want to make a buck and they know around the time of major disasters that Red Cross will be out there and they can create fraudulent websites.”

Debra Hughes

The Red Cross and Red Crescent

Henry Dunant proposed the creation of the International Committee for Relief to the Wounded in 1863, and at that time it was suggested that medical services could bear a badge or uniform to ensure they were recognized. In earlier conflicts, different armies used different colors or symbols to identify their medical services.

During discussions, delegates agreed that the symbol should be white armbet with a red cross and in 1864, Article 7 of the Geneva Convention provided for a distinctive uniform and flag for hospitals, ambulances and evacuation parties as well an armbet featuring this emblem. It is not known why this shape and color combination were chosen.

Later some countries adopted a red crescent, red lion and sun, and these were incorporated in the Geneva Convention in 1929. The red cross and red crescent are both respected worldwide, and have equal status in the Statutes of the International Red Cross and Red Crescent Movement (1986). Israel uses the Red Star of David as an emblem for its medical services.

What trademarks do you have?

We have the cross in red and the words protected and also other trademarks used around certain campaigns. We rely on the strength of our iconic brand and don’t need to register a lot.

Our primary community we’re chartered to serve is the U.S. But with the global way things occur on the Internet we collaborate with the other societies.

The Internet must be important for fundraising and awareness?

It’s absolutely essential. The Internet is efficient and cost-effective. We have our website and a blog and a Facebook presence. We rely on online media to communicate with the world at this point.

American Red Cross has really embraced social media and I’m proud of the free flow of information and discussion rather than taking the approach that dialogue is a bad thing. Our social media policy is pretty cutting-edge and I’m proud of the free flow of information and discussion rather than taking the approach that dialogue is a bad thing.

What do you do most about your role?

In my free time I spend a lot of time volunteering with my sorority Sigma Gamma Rho, which I’ve been involved with for 22 years. Coming to the American Red Cross meshed with my desire to provide service. I believe in what Emerson said, that by helping other people I’m helping myself. Seeing my IP work actually help someone else, shutting down fraud in Haiti and enabling people to help the Red Cross through texting is really humbling. Your IP work can make a difference in the world. I’m not just pushing a good, I’m doing good. It makes you realize you value counsel who have worked in-house who can communicate to the business.

The difference is we’re a much leaner legal team so the law firm may be expected to do a little bit more, draft a bit differently. In a perfect world I can forward your response to the business team without editing. In my other experiences I had a little bit more time but here I don’t have the same resources.

Do you see much online abuse?

We do. The great news is we have a wonderful system to keep track and monitor that. The public are great supporters too and they tell us. They’re as incensed about fraud as we are, and will go up to people even at a local level. It makes enforcement really nice. Everybody wants RED CROSS to be protected. Just like with any strong brand, people do try to align themselves with it so we try to deal with it quickly and cost-effectively.

What work do you outsource?

Most of our work is done in-house. We do engage law firms for important litigation, or an external opinion on a matter. In a perfect world I can forward your response to the business team without editing. In my other experiences I had a little bit more time but here I don’t have the same resources.

INTA blood drive

As part of its commitment to giving back to each Annual Meeting host city, INTA is this year hosting its first-ever blood drive in partnership with the American Red Cross. This event will be hosted from 10:30 am to 4:30 pm today in a private area in the back of the exhibition hall. INTA will provide beverages and snacks to those who participate.

Any attendee who meets the donor eligibility guidelines can donate blood. “We’re so thankful for INTA for doing this blood drive,” said Debra Hughes. “Please pop by and say hi to the Red Cross folks if you can.”

INTA expands offerings for non-profit members

The newly formed INTA Non-Profit committee is dedicated to developing and enhancing existing INTA benefits and services for non-profit organizations. For more information or to get involved please contact Peg Reardon at preardon@inta.org.
In these straitened economic times, it can be tempting for brand owners to try to extend the revenue-raising potential of a successful trademark to a whole new range of products and services. But when and how should IP owners venture into brand extensions? In session CT21—The Living Brand: Borderless Extensions Limited Only by the Imagination, panelists will explain how in-house counsel can help successfully leverage a trademark’s value and the trust that consumers have in the brand to give the business a head start against the competition.

Mona Lee of Hanol Law Offices, John Joseph Cheek of Caterpillar Inc., Michelle Landy of FremantleMedia Enterprises (Americas) and Alison Tan, The Procter & Gamble Company will discuss what works (and what doesn’t) and the factors brand owners should take into account when deciding whether to extend their brands.

**Brand extension examples**

The panelists have plenty of examples to share: Caterpillar Inc. branched out from its core heavy machinery business into apparel by licensing its brand to footwear maker Wolverine Worldwide in the mid-1990s. Now revenues from its footwear business alone reach close to US$1 billion. That’s around one-sixtieth of the money Caterpillar pulls in from selling diggers and loaders but it still amounts to a revenue stream that many companies would envy. Entertainment company FremantleMedia Enterprises has bet on its AMERICAN IDOL trademark, extending it into a summer camp business and an attraction at the Walt Disney World Resort in Florida that gives would-be singing stars the chance to audition for a version of the show at the resort. FMCG company Procter & Gamble has extended two of its household cleaning and laundry detergent brands under a franchise model: launching Tide Dry Cleaners and Mr. Clean Car Wash.

The advantages of extending a brand are unmistakable. “It’s clear that there is money to be made,” says Cheek. But the list of positives goes beyond a simple profit and loss account. Caterpillar’s lawyer says it also spreads awareness of a brand. “From a legal perspective, the more avenues that you have to consumers, the greater the chances that your mark is well known—and that can lead to greater protection in those countries that recognize famous marks.” Another key reason for extending the brand is that if you don’t, someone else might. “If we sell clothes under the CAT trademark then no one else can,” says Cheek.

But there are also obvious—and not so obvious—downsides. Taking a well-respected brand and applying it to a new business is a risky strategy. If the new venture fails to live up to the brand promise—or flops altogether—it tarnishes the trademark. “You have to control the way you manage your mark very closely because it is valuable. You can’t afford for a brand extension to mess it up,” says Lee.

**Practical problems**

IP owners might also face practical problems if they want to sell a business marketed under the same trademark as...
their core operations. Unlike a company with dozens of brands that can be spun out and sold with little impact on the retained businesses, companies that have extended one mark into many areas could find it difficult to divest just one part of the business. Do they license their mark, for example, or do they simply sell the physical assets of the extended business without the right to use the trademark?

Finally, brand extensions can cause registration problems for the business’s trademark attorneys. Cheek says that Caterpillar operates a vigilant watching program for its marks and has successfully limited what trademarks third parties can register within classes relevant to its long-standing heavy machinery business. As a result, he says, the company has developed what he calls a “keep quiet” space around its marks in those classes where its traditional business operations are registered. “When you extend your brand you typically haven’t established that space. When you make that leap you might land in a spot that already had people in before you, or where bad faith registrants might have anticipated you would get to.”

So what advice will the panelists be giving to other in-house counsel? Be open to brand extension ideas but be aware of the reputational and legal risks. “Brilliant marketing minds are often like that because they don’t think like lawyers,” says Cheek. Ensure that the extended business lives up to the brand promise of the core trademark through a system of strict licensing and closely controlled pre-approval for the way a mark is used. Invest heavily in registering the trademark in new classes in as many jurisdictions as you can afford when you launch a new product. That way will you will reduce the risk of trademark squatters anticipating your expansion plans. Finally, enjoy it: “Brand extension work is really neat for trademark lawyers,” says Cheek. “It drives variety in the issues that we deal with. Otherwise I would just see the same issues over and over for tractors.”

**CT21 The Living Brand: Borderless Extensions Limited Only by the Imagination takes place tomorrow at 11:45 am in room 202 AB**

## Brand extensions McDonald’s style

Anyone who has been to Hong Kong will have witnessed the popularity of McDonald’s restaurants. For many young people, they aren’t simply a fast-food joint: they are a place where they can escape cramped high rise flats, hang out with friends and indulge in a wildly popular local pastime—accumulating the novelty collectables that the restaurant routinely hands out with its meals.

So it is little wonder that the company sought to capitalize on the brand loyalty of its consumers by expanding its mark into new sectors. But how did that may surprise many. Last year McDonald’s launched a wedding party service in three of its Hong Kong outlets. The basic package costs HK$9,999 (US$1,290), which covers invitation cards, venue rental, food, gifts for the couple and their guests, basic venue decoration, special games, audio system usage and Master of Ceremonies service.

To publicize its new service, the restaurant threw its first engagement party on Valentine’s Day last year which saw McDonald’s devotee Kelvin propose to his girlfriend Ashley in front of 50 of their relatives and friends at a secret party he threw at one of its restaurants. Says the fast food chain’s publicist: “The couple made a toast to their guests with their favorite sundae … [then] as they put on the McDonald’s engagement rings made of colorful balloons, they also cut the lovely Apple Pie Wedding Cake”.

Finally, brand extensions can cause registration problems for the business’s trademark attorneys. Cheek says that Caterpillar operates a vigilant watching program for its marks and has successfully limited what trademarks third parties can register within classes relevant to its long-standing heavy machinery business. As a result, he says, the company has developed what he calls a “keep quiet” space around its marks in those classes where its traditional business operations are registered. “When you extend your brand you typically haven’t established that space. When you make that leap you might land in a spot that already had people in before you, or where bad faith registrants might have anticipated you would get to.”

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### SECURING YOUR RIGHTS IN A CHANGING CHINA

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A leader in IP protection, Chang Tai & Partners provides one-stop service from IPR Protection to IPR Enforcement with a team of experienced lawyers. Our expertise and effectiveness in developing legal strategies and solutions are recognized in China and around the world.

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Krishna & Saurastri Associates (KSA) is a full service Intellectual Property Law Firm that offers a complete spectrum of IP solutions. We practice law with dedication and integrity; always consistent with our commitment to excel in service and success.

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A leader in IP protection, Chang Tai & Partners provides one-stop service from IPR Protection to IPR Enforcement with a team of experienced lawyers. Our expertise and effectiveness in developing legal strategies and solutions are recognized in China and around the world.
Heritage Trails

Everyone knows about the Mall, the monuments and the museums. See more of the real D.C. and its local history by walking one of the Neighborhood Heritage Trails. The Adams Morgan trail starts at 16th Street and Florida Avenue, NW, and the U Street trail is reachable using the Circulator bus from the Woodley Park Metro (stop is U Street).

For more information visit: www.culturaltourismdc.org

Millennium Stage

The Kennedy Center’s Millennium Stage presents free performances every night at 6:00 pm. Tonight, Swami Yomahni, Matt Pauli, Karen Beriss and Evan Young perform feats including physical comedy, plate spinning, cigar box juggling, balancing and magic as part of Look Both Ways: Street Arts Across America.

The John F. Kennedy Center for the Performing Arts, 2700 F Street, NW Ticket and Information: 800-444-1324 or 202-467-4600.

The Howard Theatre

The Howard Theatre, which has launched the careers of legends such as Duke Ellington, Marvin Gaye and The Supremes, was reopened on April 9 this year. The US$29 million renovation project has breathed new life into the city’s thriving theatre scene. Tomorrow, The Musical Box restages one of the very first Rock Operas in history, “The Lamb Lies Down On Broadway,” by Genesis.

620 T Street, NW, (202) 803-2899

The Phillips Collection

View Brooklyn artist Alyson Shotz’s unique installation, Ecliptic, showing at the Phillips Collection through May 27. Inspired by science, Shotz’s drawings are made of yarn looped over nails and conjure the solar system.

1600 21st St, NW. The exhibition is open Tuesday to Saturday from 10:00 am to 5:00 pm and until 8:30 pm on Thursdays.

Getting around

Looking for a new, quick way to see the tourist sites? Take a Segway Tour and whizz round the city at speeds of up to 12.5 mph. Capital Segway, at 1350 I St NW, provides authorized tours of all the main sites, in less than three hours.

Alternatively, Capital Bikeshare enables you to hire one of over 1,200 bicycles from 140 stations. More details: www.capitalbikeshare.com

Washington D.C. resident Dina Lewis suggests some lesser-known local attractions.
Gala Dinner Award Winners

Ladas Memorial Award Winners, sponsored by Ladas & Parry LLP

Professional category:
Mary LaFrance, William S. Boyd
School of Law, University of Nevada, Las Vegas

Student category:
Sarah Hopkins, Seattle University School of Law

Patishall Medal for Teaching Excellence of Trademark and Trade Identity, sponsored by Patishall, McAuliffe, Newbury, Hillard & Geraldson LLP

David Vaver, Osgood Hall Law School, York University

Saul Lefkowitz Moot Court Competition Winners

Winning team: University of New Hampshire School of Law
Second place: Emory University School of Law

Best oralist team: University of New Hampshire School of Law
Second place oralist team: Emory University School of Law

Dolores K. Hanna best brief: University of New Hampshire School of Law
Second place brief: North Carolina Central School of Law

Lefkowitz Competition Sponsors: Finnegan, Henderson, Farabow, Garrett & Dunner; Cowan Lebowitz & Latman; Goodwin Procter; DLA Piper US; Husch Blackwell; Intellectual Property Law Association of Chicago; Kilpatrick Townsend & Stockton

Gala grand prize winner of 2013 Annual Meeting Package: AM Registration, Gala Ticket, 5-night hotel stay

Kristen Poggensee of Motorola Mobility in Libertyville, IL, U.S.A.

INTA President Gregg Marrazzo was at the Gala Dinner on Saturday night to present the awards.

Unique Service in the region.

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Our network covers the protection of Community Trademarks (CTM) and provides full IP service in the countries of the Balkans, Central and Eastern Europe, namely:

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INTA Daily News 2012 Quiz

Win an INTA portfolio!

We have one of these special prizes to give away each day of the INTA Annual Meeting. To win today’s prize just answer the question:

Abraham Lincoln was shot while attending a play at Ford’s Theatre, at 511 10th Street, NW. Whose portrait is displayed on the front of the box where Lincoln was seated?

Send your answer by email to contest@inta.org by 6:00 pm today. The winner will be announced in tomorrow’s INTA Daily News.

Yesterday’s contest winner

Helen Huang of Peter Huang & Richard in Penang, Malaysia.

Come to the INTA Daily News office in Room 102A to claim your prize.

The answer was: The first two capitals of the United States were New York (1789-1790) and Philadelphia (1790-1800)
What is the biggest problem you face in trademarks today?

Ming-Yen Lin, Deep & Far, Taipei, Taiwan
Trademark squatters are a big issue—people who register a big brand locally with no intention of using the mark. We have many clients frustrated by this.

Ryan Dean, Fish & Associates, Irvine, U.S.A.
Trademarks online, particularly paid ads in search engines, such as the Google AdWords system. There have been some decisions, such as Rossetta Stone, but the courts have to provide greater clarity.

Ameen Kalani, Henry Goh Ltd, Singapore
In Singapore there are few problems. It’s a small country and the borders are tight. But internationally I think the biggest issue is the cost of IP. It should be cheap, for the man in the street, not a weapon for big companies.

Jesus (Jay) Sanchez Mel, Sanchez mel & Associates, Florida, U.S.A.
There needs to be a greater understanding of different legal systems, particularly common law versus civil law. Most trademark treaties are hollow because they don’t take this into account. It’s apples and oranges.

Iilda Harry, BVI Financial Services
Commission, Road Town, British Virgin Islands
In the British Virgin Islands, a big problem is the number of trademarks sitting on the register that aren’t being used. We hear nothing from the agents and they clog up the system.

Erienne Romero, Courtenay Coye, Belize City, Belize
Passing off. Because Belize is such a small country, brands don’t bother to enforce their trademarks here, so counterfeiting is rife. There have only ever been two cases brought in the courts for passing off.

Jamal Abu Ghaida, ArazMarks IP, Doha, Qatar
I wish all trademark registration and maintenance took place online. In the Middle East our IP offices are very traditional and have very little available online. It makes prosecution, searching and everything else needlessly difficult.

Rie Miyake, Mattel, El Segundo, U.S.A.
Fake websites are possibly the biggest problem in trademarks today. Anyone can copy a genuine site and set up a fake one tomorrow. We have problems with many of our brands, such as Barbie, Hot Wheels and others.

Raja Selvam, Selvam + Selvam, Chennai, India
India needs to sort its trademark prosecution before it joins the Madrid Protocol. The quality of examination here is pathetic. As Franklin said, a failure to plan is planning to fail.

Pedro Barroso, Barbiea Mushnicki & Aragao, Rio de Janeiro, Brazil
A big problem is the overlapping of rights, particularly in Brazil between industrial designs and trademarks. There was a case, for example, that said once a design has expired you can’t register it as a mark—because it should be public.

Tiffany Schwartz, Armstrong Teasdale, St Louis, U.S.A.
The biggest problem today is the global use of trademarks that comes through use on the Internet. Trademarks reach a much broader spectrum of people and there are no jurisdictional boundaries.

Sriram Panjam, Subramaniam NATARAJ & Associates, New Delhi, India
The inconsistency of how trademark offices around the world function. The law might be harmonized, but offices still work in very different ways, and the differences can be hard to understand.

Liz Szabo, Religious Technology Center, Los Angeles, U.S.A.
The inconsistency of what constitutes use of a trademark online. In Japan the mark has to be in Japanese before they will consider that the site is directed at Japanese consumers, even if you have a local mark registered in English.

Attention non-profit organizations and attorneys who represent non-profits: Stop by breakfast Tuesday morning in Hospitality and join the conversation

Trademarks and nonprofits are not mutually exclusive. The newly formed Non-Profit Committee invites you to come and discuss topics of interest that your nonprofit clients may have or that your for-profit clients may have in working with nonprofits. Not profit and for-profit: business relationships are important in today’s marketplace. What are the branding considerations that both have to think about when promoting a cause?

Come to the Hospitality Area in Hall D from 8:10 Tuesday morning and look for the specially designated tables.

Case summaries and images from trade dress infringement decisions in more than 60 countries?

Answer: Global Trademark Research, Trade Dress Image Library
Visit www.inta.org/TradeDress

#INTAD
In the image, there are photographs of various events and gatherings, presumably related to the professionals and organizations mentioned below:

**Baker & McKenzie Ferraiuoli Edwards Wildman**

**K&L Gates**

**Osler**

**LDS**

**Barnes & Thornburg**

**Fulbright & Jaworski**

**Spoor & Fisher**

**Integra**

**Venable**

**Dennemeyer 50th Anniversary Party**

Additionally, there is an advertisement for **Kasznar Leonardo**, a Brazilian intellectual property firm. The advertisement includes a brief description of the firm and highlights the expertise of its partners, including Elisabeth Kasznar Fekete and Gabriel Leonardos. The text reads:

**Kasznar Leonardo**

**INTELLECTUAL PROPERTY BRAZIL**

The Brazilian IP experts Elisabeth Kasznar Fekete and Filipe and Gabriel Leonardos, besides other 16 partners and over 170 associates and employees, have the pleasure to announce that their new firm – Kasznar Leonardo, one of the two successors of Momsen, Leonardos & Cia (founded in 1919) – started operating under the above mentioned name on May 2nd, 2012.

Just like Momsen, Leonardos & Cia, Kasznar Leonardo provides the world’s largest companies with a wide range of technical and judicial services in IP areas, such as:

- Trademarks and Domain Names
- Patents
- Copyrights
- Industrial Designs
- Geographical Indications
- Computer and Software Rights
- Unfair Competition
- Trade Secrets and Confidential Data
- Litigation and Dispute Resolution
- Antitrust and Competition Law
- Publicity Law
- Anti-Counterfeiting
- Technology Transfer, Franchising, and Licensing
- Protection of Plant Varieties.

What does the market say about us?

Elisabeth Kasznar Fekete is “an outstanding professional who elevates the firm to a higher level. She is especially well respected for her contractual expertise and is known as a gifted linguist.”

(Chambers Global 2012)

Gabriel Leonardos is “a brilliant IP lawyer who also receives praise for his tax expertise, which is an added asset when it comes to contractual work.”

(Chambers Global 2012)

**Kasznarleonardos.com**

**info@kasznarleonardos.com**
Today’s Schedule | Monday, May 7, 2012

All events take place at the Washington Convention Center (WCC) unless otherwise indicated. Consult the Final Program for times and locations of invitation-only events.

7:30 am – 5:00 pm
REGISTRATION
East Registration

8:30 am – 5:00 pm
HOSPITALITY
Tour Booth

9:00 am – 10:15 am
OPENING CEREMONIES
Academic Day: Getting Your Foot in the Door: Resume Writing and Interviewing for a Trademark Position

10:00 am – 4:30 pm
EXHIBITION HALL

10:15 am – 12:15 pm
COMMITTEE MEETINGS
Anticounterfeiting—Latin America & Caribbean Subcommittee
103 B

Enforcement—Trade Names Subcommittee
103 A

Harmonization of Trademark Law & Practice Committee (until 10:45 am; see subcommittee breakouts beginning at 10:45 am listed below)
140 A

International Amicus Committee (until 10:45 am; see subcommittee breakout beginning at 10:45 am listed below)
140 B

10:30 am – 11:30 am
10:30 am – 11:45 am
CONCURRENT SESSIONS
CM01 Protection of Indigenous Rights: An Increased Need
Balloon Room

CM02 Exploring the Outer Limits of Trademark Law
120 AB

WM01 Industry Breakout: From the Frying Pan into the Fire: Navigating Emerging Issues in Cyberspace
146 ABC

10:30 am – 11:45 am
Academic Day: What to Say to Land the Job: How to Answer the Tough Interview Questions
144 A

10:45 am – 12:15 pm
COMMITTEE MEETINGS
Red Cross Blood Drive
Hall D

11:30 am – 12:30 pm
Concurrent Sessions

12:00 – 1:00 pm
12:00 pm – 11:15 pm
SPEED NETWORKING
Hall D

12:00 pm – 1:00 pm
SPEED NETWORKING

12:00 pm – 1:00 pm
Leadership 2012 Project Team
103 A

Trade Dress and Design Protection Conference Project Team
204 B

Trademark Office Practices—USPTO SubCommittee
151 AB

The Trademark Reporter (TMR) Committee
204 B

Young Practitioners Committee
208 A

2:00 pm – 3:15 pm
LUNCHEON TABLE TOPICS
150 AB

1:45 pm – 3:00 pm
Academic Day Networking XI
144 B

1:45 pm – 3:45 pm
COMMITTEE MEETINGS

Emerging Issues—Development of Rights Subcommittee
103 B

Emerging Issues—Issues Identification Subcommittee
159 A

Emerging Issues—Limits on Trademark Rights Subcommittee
159 A

Emerging Issues—Parody Subcommittee
203 AB

2:00 pm – 4:00 pm
Academic Day Trademark Scholarship Symposium Session I
144 A, 148 & 149 A

3:00 pm – 4:00 pm
Academic Day Trademark Scholarship Symposium Session II
144 A, 148 & 149 A

3:30 pm – 5:30 pm
COMMITTEE MEETINGS

Anticounterfeiting—Middle East, Africa & South Asia Subcommittee
103 A

Enforcement—Opposition & Cancellation Standards & Procedures Subcommittee
204 C

India Project Team
160

Internet-Domain Disputes, Ownership and Whois
151 A

Internet-Online Use Subcommittee
201

Trademark Office Practices—Asia-Pacific TM Relations Subcommittee
141

Trademark Office Practices—European National TM Relations Subcommittee
158 AB

Trademark Office Practices—Latin America Subcommittee
209 BC

Trademark Office Practices—OAPI/ARIPPO Subcommittee
159 A

2:30 pm – 5:00 pm
CONCURRENT SESSIONS
CMS0 Trademarks and Industrial Designs: A Balancing Act?
146 ABC

CM03 Doing the D.C. Shuffle: How Do the Trademark Attorney, Lobbying and Ethics Mix?
202 AB

IM50 Industry Breakout: Trademark Challenges and Opportunities in the Pharmaceutical World
147 AB

RM50 Regional Update: China, Japan, South Korea
207 AB

WM50 Trademarks for the Unusual in Transatlantic Trademark Practice
145 AB

3:45 pm – 5:45 pm
COMMITTEE MEETINGS

Government Officials—Edumacations & Training Committee
142 B

Law Firm Committee
140 A

Trademark Administrators Conference Project Team
204 B

4:00 pm – 6:00 pm
Academic Day: Academic and Young Practitioners Happy Hour
143 A

6:00 pm – 7:00 pm
Non-Profit Reception
Renaissance Hotel Renaissance East

Renaissance Hotel Congressional Hall B