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daily news

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The Yin and Yang of Licensing

Licensing can achieve more for a company than mere financial gain, but balancing the requirements of licensor and licensee is a challenge, as Peter Scott reports.

When a licensing agreement works well, both parties reap the rewards, but negotiating and executing an effective agreement is a matter of "give and take," according to Judy McCool, Senior Vice President Legal Affairs at HBO (USA). She was speaking in **Session CM01 The Yin and Yang of Licensing: Deep Thoughts from a Licensee and Licensor** yesterday, along with Viviana Mura, Assistant General Counsel at Luxottica Group (USA).

At HBO, Ms. McCool works on licensing deals for multiple properties, such as TV show *Game of Thrones*, across many different markets and product

areas. From a licensor perspective, she said that good licensing brings in revenue to the company, but also serves other useful purposes.

"When there's a lag between seasons of a show, it's about figuring out ways to keep fans engaged with the show," she said. In the case of *Game of Thrones*, that means everything from a live concert experience drawing on the music featured in the series to a set of postage stamps featuring characters from the show, produced by Royal Mail (UK).

At eyewear company Luxottica Group (Italy), Ms. Mura is usually in the position of licensee rather than



(L. to R.) Judy McCool and Viviana Mura

licensor. The company sells eyewear for brands such as Chanel S.A. (France) and DKNY (USA) under license.

Licensing is a "powerful way to generate revenue" for both licensee and licensor, she said, but money should not be the only consideration.

While adding brands to companies through licensing deals can be a useful way of diversifying your portfolio, "you need to consider whether a certain brand mixes well with your other brands, and you have to be mindful of having a portfolio that really blends

and makes sense when seen in its entirety," Ms. Mura added.

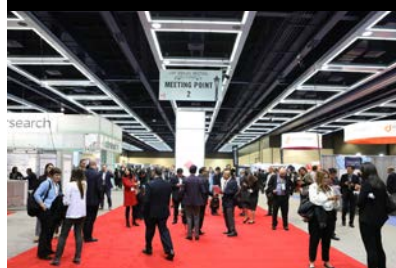
Ms. McCool extended the point, noting that from a licensor's perspective, it's important to choose your licensing partners carefully. "Brand alignment is really important," she said. A deal may look like a great opportunity in terms of revenue, but if the brand doesn't align well with your values, you run the risk of damaging your brand if you license it.

Ms. Mura said that as well as revenue, licenses are a way



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Disparaging Marks and Mascots

The 2017 decision in *Matal v. Tam* captured the attention of the trademark community and had serious implications for another decades-long trademark case concerning disparagement. Sarah Morgan reports.

A rock star and a social activist captivated the attention of registrants yesterday with their stories during **Session CM02 THE REDSKINS and THE SLANTS: A Review of the Causes, the Cases, and**

How the First Amendment Is Likely to Impact Trademark Registrations Going Forward.

In June 2017, the Supreme Court of the United States held that the U.S. government's ban on disparaging

trademarks was unconstitutional, in a move that overturned more than 70 years of legal practice.

The man who sparked this decision was Simon Tam, founding member of Asian-American



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Disparaging Marks and Mascots (continued)

← 1 rock band The Slants. His journey began with a film in 2004—*Kill Bill*, directed by Quentin Tarantino.

“It was the first time that I had even seen an American-produced film that showed Asians as cool, confident and sexy,” he explained in yesterday’s session. Mr. Tam set about launching a rock band to “sing about our perspective ... while reappropriating this slur.”

In 2009, a friend recommended that Mr. Tam file an application to register a trademark, claiming that it would “cost a few hundred bucks and only take six months.”

This was not how thing transpired. His application was rejected on the grounds that it was disparaging to persons of Asian descent.

Mr. Tam explained that the rejection from the United States Patent and Trademark Office (USPTO) quoted UrbanDictionary.com and included photos of Miley Cyrus “pulling her eyes back in a

slant gesture” as evidence that THE SLANTS was disparaging.

“We thought we could appeal using traditional methods,” such as surveys, legal declarations, and expert reports,” said Mr. Tam, but these did not work.

Mr. Tam changed tactics, submitting an ethnic-neutral application. In the first application, Mr. Tam had submitted band posters which featured Asian themes; his second application did not indicate the band’s Asian descent at all. But his application was again rejected, using the same evidence that had previously been cited.

The case ended up at the U.S. Supreme Court. Mr. Tam said that “if the government truly cared about marginalized communities ... then why didn’t they begin by canceling trademark registrations for the Ku Klux Klan or other hate groups?”

The case centered on Title 15 United States Code, Section 1052 (Section 2(a) of the Lanham Act), under which trademarks that are likely to disparage people, institutions, or beliefs are barred from registration.

Joel MacMull, the Vice Chair of Intellectual Property & Brand Management and Commercial and Corporate Litigation Practice Groups at Mandelbaum Salsburg (USA), was part of Mr. Tam’s team at the Supreme Court.

Moderating the session’s panel, he noted procedural shortcomings in the rejection of the second application: “Each application must be evaluated separately, but that’s not what happened here.”

Mr. MacMull added: “This should never have become a constitutional case. There was certainly enough evidence for the United States Court of Appeals for the Federal Circuit (Federal Circuit) to reverse because there wasn’t substantial evidence in support of the Trademark Trial and Appeal Board’s (TTAB’S) decision.”

Following the Supreme Court’s decision in December 2017, the Federal Circuit ruled that the Lanham Act’s ban on “scandalous and immoral” trademarks was unconstitutional in *In Re: Erik Brunetti*, overturning the TTAB’s decision to refuse a trademark registration for the word “Fuct.”

Stephen Baird, Chair of Winthrop & Weinstine, P.A.’s Trademark and Brand Management Group (USA), suggested that these cases mean the ban on scandalous, immoral, and disparaging trademarks is “gone, at least for the time being.”

“It will be interesting to see whether the government will appeal to the Supreme Court. I predict that it will but that the Supreme Court won’t hear it,” he said, at the session.

A Decades-Old Debate

The movement to end Native American mascots for sports teams in the United



Stephen Baird



Amanda Blackhorse

States and Canada has existed for more than four decades.

The first significant case that dealt with it was initiated by Native American Suzan Harjo, who was influential in starting the movement in the 1960s. She successfully overturned a trademark registration for National Football League team The Washington Redskins at the USPTO in 1999, but that decision was overturned at the district court level and then appeals were rejected under the doctrine of laches.

Years later, Amanda Blackhorse, a social worker and activist (USA), who spoke on yesterday’s panel, took on the WASHINGTON REDSKINS trademark. This lawsuit, *Blackhorse v. Pro Football, Inc.*, was filed by younger plaintiffs and therefore not barred by laches. She won the case at the TTAB in 2014.

Pro Football appealed the decision in August 2014 but lost, with the court upholding the TTAB’s decision.

Again, Pro Football appealed, this time to the United States Court

of Appeals for the Fourth Circuit, but the case was vacated because of *Matal v. Tam*,” Ms. Blackhorse said in yesterday’s session.

She went on to explain that the use of such mascots is important to Native Americans because there are more than 560 recognized Native tribes in the United States alone, with more in Canada and Mexico, and these mascots are the only image of them that the public have in many cases. ●

“**The Supreme Court of the United States held that the U.S. government’s ban on disparaging trademarks was unconstitutional, in a move that overturned more than 70 years of legal practice.**”



Simon Tam



Joel MacMull

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The Psychology of Mediation

Saturday’s **Session CSA24 The Psychology of Mediation: Analyzing How Parties Negotiate**, moderated by Kevin Hartley, a Partner at Trust Tree Legal (USA), involved a faux dispute between a family-owned, local craft brewery and a multinational tequila conglomerate. Paul Havel, Partner at Miller Nash Graham & Dunn LLP (USA), and Joel VandenBrink, Founder at Two Beers Brewing and Seattle Cider Company (USA), represented the interests of Viva Brewing Company, while Sarah Anne Keefe, a Partner at Womble Bond Dickinson (USA), and Nathalia Mazzonetto, a Lawyer at Müller, Mazzonetto (Brazil), appeared on behalf of La Fiesta, the Mexican tequila company whose application to register its VIVA LA FIESTA mark for tequila was rejected in view of Viva Brewing’s trademark VIVA for beer. David Friedland, a Partner at Friedland Vining, P.A. (USA) and a member of the INTA Panel of Trademark Mediators, served as the mediator for the parties.

In preparing for the session, the participants tried to treat the

experience as they would a real mediation. Only the mediator saw each side’s confidential mediation statements and knew the parties’ settlement positions at the outset.

As the mediation progressed from the mediator’s introduction through a successful resolution of the dispute, Ruth Corbin, Chair of CorbinPartners Inc., Adjunct Professor at Osgoode Hall Law School, York University (Canada), and a psychologist well-versed in mediation, analyzed the choices being made by each party, including the mediator. True to an actual mediation, the party caucuses remained confidential, with the other side stepping out of the room at various times. While the audience could witness the exchanges, the unscripted private caucuses produced some unexpected results for not only the audience but the panel members themselves. Dr. Corbin’s insights added a worthwhile twist to this entertaining presentation, which highlighted the value of mediation, particularly through INTA’s Panel of Trademark Mediators, to INTA brand owners. ●

The Yin and Yang of Licensing (continued)

← 1 of “building the reputation of your trademark,” and therefore it’s vital to be confident in the companies you partner with.

A Question of Balance

While both parties to a license should be seeking the same fundamental outcome of a successful, revenue-generating deal, there are always likely to be competing concerns in a negotiation.

For example, Ms. Mura explained, the way royalties are structured is often a source of tension between licensee and licensor. As a licensee, she said, “we don’t like lump sum payments up front, since you have to give over money before you have an idea of how the deal is going to work out.”

For Ms. McCool, the perspective is different, and she prefers to have a “minimum guarantee” in licensing deals to provide a degree of security for the company.

Similarly, on the question of how the licensed assets are used, licensors generally want to keep as much control as possible, but this can be difficult in situations where you’re licensing into industries that you don’t know well, Ms. McCool said, especially in regulated markets.

HBO licenses assets related to *Game of Thrones* for use on slot machines and

on alcoholic beverages, for instance, and there are regulations in those industries that limit the control it can exercise over certain elements of the use.

A Question of Quality

Most licensing agreements will include provisions relating to quality control, and as Ms. Mura noted, some jurisdictions require trademark owners to exercise quality control over products made under license, or risk having the trademark deemed abandoned.

However, the degree of control can vary, and “as a licensee we want the least control possible.” And if there is a quality control issue, “you want the ability [in the licensing agreement] to cure or mitigate” if possible, rather than losing the license for any breach of quality control.

Though, as Ms. McCool noted, some quality control breaches, such as the use of child labor in factories, cannot be cured or mitigated, and

“There are always likely to be competing concerns in a negotiation.”



(L. to R.) Judy McCool and Viviana Mura

for licensors the ability to cancel an agreement promptly in this scenario is vital, not least because there may be public relations challenges to manage.

Ms. Mura cautioned licensors to be wary of trying to exercise too much control over quality, because “the more you control, the higher the likelihood that consumers affected [by a quality breach] would come after the licensors as well as the licensee for any damages.”

She added that taking too much control also raises the risk that “you will be deemed a franchisor rather than a licensor” in litigation.

A Question of Morality

The session closed with a discussion of morality clauses in licensing agreements. These may be used in all types of agreements, but are particularly

common when agreements involve individual celebrities working with brands, and provide for cancellation in situations where one party’s moral conduct does not reach the standards spelled out in the agreement.

“Mutuality is increasingly important in these morality clauses,” Ms. McCool said, because “you never know on which side of the transaction it’s going to be an issue.”

Ms. Mura added that morality clauses shouldn’t “be limited only to criminal acts or a public statement,” because that may mean you are unable to terminate your agreement when you need to.

“All scenarios that lead to termination should be spelled out properly in the agreement,” she said.

Ms. McCool added: “Peace of mind is the name of the game for both sides.” ●

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Color Clarity in Court

Practitioners are curious about the fate of color trademarks in Europe in light of *Red Bull GmbH v. EUIPO*, as Aislinn Burton reports.

Clarity needs to be given to the color trademarks regime in Europe. So said Jennifer Powers, IP Counsel at Red Bull GmbH (Austria), when moderating the panel discussion in **Session CM21: The Fate of Color Per Se Marks in Europe** yesterday.

In November 2017, the European Union's General Court concurred with the European Union Intellectual Property Office's (EUIPO's) decision that Red Bull GmbH's two European Union Trade marks (EUTM) for the brand's blue and silver color combination were invalid because of overly-broad representations and descriptions.

Practitioners in the trademark sphere have kept a close eye on the *Red Bull GmbH* color trademark dispute, which is currently on appeal to the Court of Justice of the European Union (CJEU). Ms. Powers said the CJEU's ruling, which "we're all very curious about," is expected in Spring 2019.

"Hopefully there will be clarification as to whether our mark is valid or not—and I hope it is," Ms. Powers said.

Andreas Renck, Managing Partner

at Hogan Lovells (Alicante) SL y Cia. (Spain) explained that the impact of the *Red Bull GmbH* decision could have wide-ranging implications for owners of non-traditional trademarks, as well as for the EUIPO.

As the registration of concrete and abstract color marks has historically been permitted by the EUIPO, the reasoning behind the *Red Bull GmbH* decision could be used to invalidate more than 85 percent of all registered EUTMs for color combination marks (without any contours) if the General Court's ruling is affirmed, Mr. Renck said.

Though the General Court determined that Red Bull fell short of indicating the level of precision necessary when registering particular colors for specific uses, it did not provide guidance on what would have been sufficient.

Fidelma Macken, former judge at the CJEU and retired judge at the Supreme Court of Ireland (Ireland), said the court does not determine what level of precision will suffice, as "that's a question for the national court, or national trademark office, or for the EUIPO."



(L. to R.) Jennifer Powers, Fidelma Macken, Andreas Renck, Carl Myers, Roland Mallinson, and Dimitris Botis

Carl Myers, Senior IP Counsel at Stanley Black & Decker MEA (United Arab Emirates), said "we're in a bit of a 'wait and see' moment" in relation to color marks in Europe."

He explained that in the early to mid-1990s, when "color marks became more popular," Stanley Black & Decker MEA made "huge efforts" to register and protect its signature black and yellow colors in the United States.

Mr. Myers said the understanding was that companies should "replicate the same in Europe," but, as the company quickly discovered "it doesn't quite work like that" in Europe.

Dimitris Botis, Deputy Director Legal Affairs at the EUIPO (Spain), made note of the additional rules governing the registration of non-traditional trademarks in the EU (Article 3 of EU Commission

Implementing Regulation 2017/1431).

Mr. Botis explained that under the new regulation it is no longer mandatory to include a description of the trademark when filing it at the EUIPO, although if an accompanying description is provided it will not be permitted for it to extend the scope of the mark.

If the description appears to extend the scope of the mark the trademark application will be rejected. In Mr. Botis' opinion, "filing a description is dangerous" as it merely adds to the risk that the application will be rejected.

The other speaker on the panel was Roland Mallinson, Partner at Taylor Wessing (UK).

Mr. Mallinson noted that while color marks are "no different" from other marks in legal status, in practice "the courts do have some difficulties" navigating the realm of non-traditional trademarks. ●

All Eyes on Brexit

The highly complex matter of Brexit is a top priority for INTA's work in Europe, as Hélène Nicora, INTA's Chief Representative Officer, Europe, tells Aaron McDonald.

As INTA's Chief Representative Officer, Europe, Hélène Nicora and her team are the Association's eyes and ears at EU institutions and other stakeholder organizations. Based in Brussels, Belgium, Ms. Nicora works at the heart of the European Union.

The United Kingdom's forthcoming departure from the European Union—Brexit—is keeping politicians, journalists, and many other groups, including businesses and lawyers, on their toes. Discussions in the mainstream press and in public may have largely ignored IP, but INTA is under no illusions about the scale of the problem.

"Brexit is not only an unprecedented political situation for the European Union, it is also unprecedented for businesses and citizens in Europe," says Ms. Nicora.

"If IP issues are not properly addressed, it could have the potential to seriously derail trade and impact businesses and consumers," Ms. Nicora declares.

The Brexit negotiations—on the

U.K.'s withdrawal agreement, the transition period, and the nature of the future relations between the European Union and the United Kingdom—are lengthy and complex, and their outcome uncertain, says Ms. Nicora.

"Companies across all industries and sectors, and of all shapes and sizes, will be affected in a variety of ways, including in areas related to IP and corporate brand protection," she says.

INTA is calling for a solution that would ensure maximum retention of IP rights along with minimum costs and burden, including the automatic extension of existing EU trademarks to U.K. national trademarks.

INTA has developed a dedicated Brexit webpage to keep members informed, and a Brand Brexit Toolkit—a practical guide for companies to identify issues.

"Thanks to its global perspective," Ms. Nicora says, "INTA is able to advocate before both the European Union's and the United Kingdom's negotiators. INTA has participated

in many meetings with the European Commission's top negotiating team, the U.K. IP Minister, and the U.K. Intellectual Property Office."

Beyond Brexit

The European Representative Office works closely with INTA's U.S. headquarters in New York City, New York and with its other representative offices in Shanghai, China; Singapore; Santiago, Chile; and Washington, D.C..

Aside from Brexit, the Office is working to ensure that the final texts from the EU's trademark reform package, agreed upon in 2015, are appropriately enforced.

Work is also underway to address the threat of a potential spread in plain packaging laws from tobacco products to food and drink products.

Noting that outside Europe such laws have spread to these sectors, she says that the European Union may well decide to "follow the trend."

"By relying almost solely on brand restrictions to address public health issues, governments have completely



Hélène Nicora

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If IP issues are not properly addressed, it could have the potential to seriously derail trade.

”

overlooked trademark rights and their value for the economy," she says.

"INTA will continue its efforts to advocate for strong brand protection and to raise awareness on the negative consequences of brand restrictions." ●

Taking Brand Restrictions to the Top of Government

INTA must work with non-IP authorities and organizations to influence the global debate on brand restrictions, stressing the economic impact of such policies, says Bruce MacPherson, INTA Chief Policy Officer, in an interview with Ed Conlon.

INTA has long been active in the area of brand restrictions, urging legislators to respect IP owners' legal right to display their trademarks on their products. But the Association's views have fallen on deaf ears in some cases, perhaps most notably in Australia, which was the first jurisdiction to implement plain packaging for tobacco products in 2012.

Since the 2017 Annual Meeting in Barcelona, Spain, the 2017 Brand Restrictions Response Presidential Task Force concluded its work (in November), finding that INTA should make the issue a higher priority across a range of Association activities, including advocacy, education, and publications, says Bruce MacPherson, INTA Chief Policy Officer.

"The idea is that we will raise our visibility regarding brand restrictions," he explains. "We have a tremendous network of member companies and we will try to leverage that network and our influence on the issue to protect IP rights."

Mr. MacPherson says INTA is looking into conducting an Impact Study on the topic, specifically the harm brand restrictions have on a country's economic well-being.

Underpinning this view is that brand restrictions and the "chipping



istockphoto / Lord Bailey

away of legal rights" have a negative effect on the economy, jobs, income, and the general ability of a country to attract investment.

This issue is not confined to tobacco products: other categories of goods including snack foods, sugary drinks, alcoholic beverages and pharmaceuticals are also seen as at risk. For example, in Latin America, pharmaceutical trademarks have been ordered to appear in a font three times smaller than the generic name of the drug.

INTA has filed submissions on brand restrictions with governments in more than 23 jurisdictions to date.

"We will continue to do that, but the issue now is in the broader political realm, so we will put more emphasis on the impact on jobs," says Mr. MacPherson.

Challenges Ahead

There are two major challenges for INTA. The first is that it faces a hugely influential entity—the World Health Organization, which actively campaigns for more brand restrictions.

The second challenge is that historically, IP authorities have not been very influential over health matters and the related regulatory authorities. This is something that needs addressing "at the top level of government," Mr. MacPherson says.

He believes that IP associations need to speak more in terms the general public can understand if they are to get their point across more clearly and to put political pressure on decision makers.

On INTA's influencing of governments on brand restrictions, Mr. MacPherson says, "We have to build broad coalitions. That requires working with lots of different types of organizations outside the realm of IP."

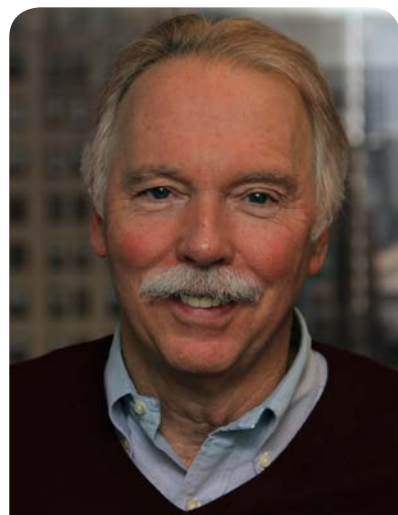
Although the Australian plain packaging legislation has been in place since 2012, its impact is still being watched closely. The World

Trade Organization (WTO) is due to rule on a dispute resolution claim that the Dominican Republic (later joined by other nations) brought against the Australian legislation for allegedly breaching the Agreement on Trade-Related Aspects of Intellectual Property Rights.

In its last update, the WTO said it expected to issue its final report to the parties by the end of the third quarter of 2017, but Mr. MacPherson

says "nobody except for the disputing countries has seen an actual draft of this decision" and "everybody is waiting to see what happens."

Based on leaked reports, he thinks the decision is likely to go in favor of Australia. But even assuming it does, he says, "it will make the legal arguments against brand restrictions only slightly more difficult, but it will make the economic arguments much more important." ●



Bruce MacPherson

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We have a tremendous network of member companies, and we will try to leverage that network and our influence on the issue to protect IP rights.

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More Games, More Trademarks

While Seattle is famous for its coffee and fish throwing, it's also home to many video game developers. Sarah Morgan reports on the trademark issues in the industry.

Why should INTA hold a session on video games? That question was answered thoroughly by Christopher Parent, Director of Intellectual Property and Enforcement at Nintendo of America (USA), in yesterday's **Session IM20 Industry Breakout: Legal-Up! Implications of Video Games in the 21st Century.**

According to the Entertainment Software Association (USA), 64 percent of households in the United States own at least one device for video games.

"Consumers interact with video game brands in a very different way than consumers in other industries. They're not passive observers of the products they use, but active participants," Mr. Parent explained.

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Video games are viewed as software products and allowed trademark protection.

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(L. to R.) Ben Golant, Alexandre Rudoni, John Crittenden, Vineeta Gajwani, and Christopher Parent

The competitive landscape has changed with the advent of the Internet and especially mobile apps, which have lowered barriers to entry for young and inexperienced developers.

"This means more games, more trademarks, and a more crowded field," he said, adding that this lowering of barriers has enhanced competition and consumer choice but also created a tension for attorneys in clearance and enforcement.

For Vineeta Gajwani, Managing Counsel of IP at Electronic Arts Inc.

(USA), the first thing to keep in mind when undertaking title clearance is that "there's really no one-size-fits-all approach."

"The range of different types of games you have in the industry is vast; there's everything from free games on your phone to US \$70 titles," she said.

There are approximately 30,000 live U.S. trademarks for computer game software, added Ms. Gajwani. To narrow the scope if you need to do a trademark search, she suggests

focusing on the particular platform the game is intended for, such as mobile apps or consoles.

She added that there's an increasing trend for reviving old games, so it's good practice to see if there are any "dead" trademarks for old games that may be "brought back to life."

In the United States, the title of a single creative work is not eligible for trademark protection, meaning that the titles of books, movies, and TV shows can't be registered. But this doesn't apply to video games, which are viewed more as software products and allowed trademark protection.

Moving to the other side of the Atlantic, Alexandre Rudoni, Partner at Allen & Overy LLP (France), explained that, despite efforts toward harmonization, there's a disparity in the protection available for titles across Europe.

To illustrate one of the potential quirks of video game litigation, Mr. Rudoni pointed to the case of *ZeniMax Media vs. Mojang* in Sweden.

ZeniMax Media had sued Mojang over the company's

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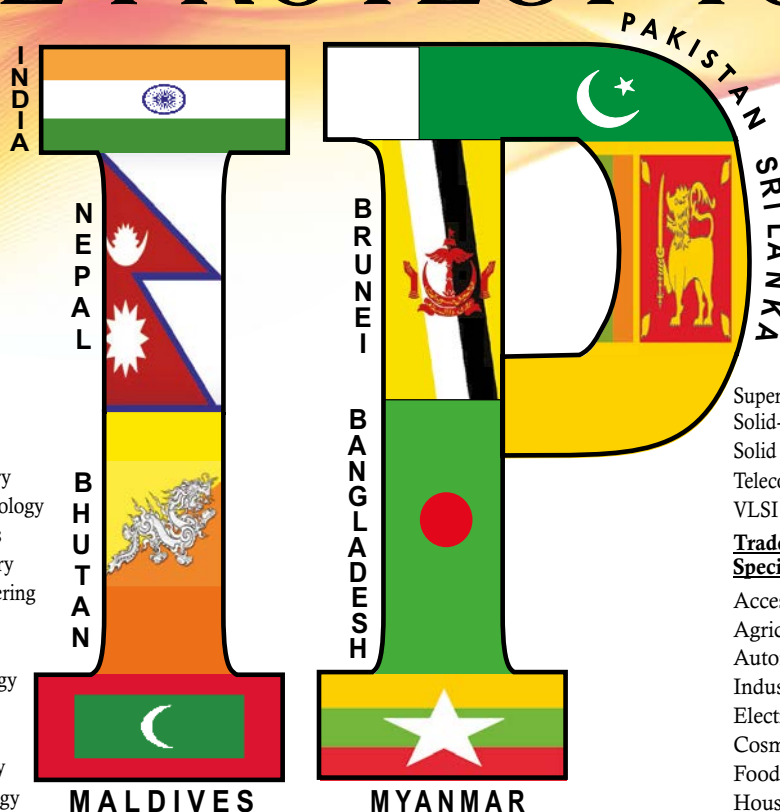
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Placing Corporate Social Responsibility at the Heart of the Company



The concepts of sustainability and corporate social responsibility should be front and center of brand owners' corporate philosophy, as Sarah Morgan hears from two companies.

Aiko Bode, Group Chief Sustainability Officer at Fenix Outdoor International AG (Germany), says that the days are long gone when companies could treat sustainability, or corporate social responsibility (CSR), as a peripheral agenda item.

Today, sustainability must be a core tenet of a company, otherwise pursuing

it tends to become a pure marketing exercise, he adds.

"Every company will need to reflect on what impact their business model has on the environment or societies and other stakeholders," Mr. Bode says. "This is particularly true in Europe, where non-financial aspects are increasingly forming part of the legally-demanded annual reporting exercise."

Fenix Outdoor International AG, a company specializing in outdoor equipment, owns the brand Fjällräven, which means "Arctic Fox" in Swedish. Featuring the logo of a red fox, the brand's rucksacks are commonly spotted across Europe.

Fjällräven is not the only brand used at the company—others include outdoor footwear line HANWAG and outdoor clothing brand TIERRA. Recently, Fenix Outdoor acquired Royal Robbins, a California based outdoor apparel company.

"An outdoor company that does not take care of nature, the environment, and societies it deeply depends on is not truly trustworthy," Mr. Bode explains.

This is why sustainability stands at the core of the company.

In 2012, Fenix Outdoor International AG adopted the Fenix Way, the company's "constitution".

At the core of the document stands the compass, the four cardinal directions of which are N = Nature; E = Economy; S = Society; and W = Wellbeing of man and nature.

"A 360-degree view allows

for decision-making that takes repercussions and side-effects into the equation and may give another impetus/emphasis to a decision taken," Mr. Bode says.

The company has also included a code of conduct for employees and suppliers (to share values) on the Fenix Way, so that it combines ethical and sustainability aspirations and compliance.

Mr. Bode adds: "We at Fenix believe that we depend on a planet that is worth living on and that has natural habitats and diverse cultures that call for adventures and exploration."

Making Sense for the Future

For Santiago Peralta, the Founder of Pacari Chocolate (Ecuador), an organic chocolate manufacturer based in Ecuador, "sustainability is the only thing that makes sense" to ensure the long-term future for brands.

Mr. Peralta launched the company 16 years ago with the aim of "changing the history of chocolate in Ecuador."



Ecuador and Trinidad and Tobago are the major fine or flavor cacao producers, according to the International Cocoa Organization. Three-quarters of Ecuador's exports are classified as fine or flavor cacao.

Until the beginning of the 20th century, Ecuador was the world's largest exporter of cacao. Now, while the country produces only a small proportion of the world's cacao, Ecuador and Trinidad and Tobago are the major fine or flavor cacao producers, according to the International Cocoa Organization. Three-quarters of Ecuador's exports are classified as fine or flavor cacao.

There are two broad categories of beans: "fine or flavor" beans, which produce high-quality dark chocolate, and "bulk" beans, which are used in mass-produced chocolate.

"When we began our project, the aim was not to start making chocolate. We were trying to improve the price of cacao for cacao farmers and have a sustainable enterprise," Mr. Peralta explains.

Instead of exporting the raw goods to traditional chocolate makers in Europe, Pacari Chocolate has moved the production in-house, making a "tree-to-bar" chocolate.

According to Mr. Peralta, this ensures that over 50 percent of the wealth from the chocolate stays in the country of origin.

He adds that by paying farmers more for the beans, Pacari Chocolate is helping to stop the felling of very old cacao trees, which are fantastic in flavor but don't have a very big yield.

"You can't be environmentally sustainable if you put chemicals into the land," cautions Mr. Peralta.

This is why Mr. Peralta speaks to the farmers to make sure they understand the products being produced and the quality of beans needed. This means that the 5,000 small-scale farmers Pacari Chocolate works with want to be part of the company's drive for change.

Matching Pacari Chocolate's environmental sustainability aspirations is its logo. Pacari means "nature" in Quechua, a native South American language spoken primarily in the Andes, and the company's logo incorporates a graphic of a man and a tree that is 5,500 years old, reflecting the long history of cacao in the country. This, according to Mr. Peralta, represents a "symbiotic relationship between nature and man."

Halfway across the world, a similar philosophy guides Fenix Outdoor International AG's efforts to protect wildlife.

The Arctic fox (known as Fjällräven in Sweden), which the Fjällräven brand features, has been an endangered species in Sweden since the 1930s. In 1928 there were more than 10,000 Arctic foxes in Sweden but by 1930 there were only 150 left, and the population has never truly recovered, despite many preservation efforts.

"We invest in research and support to protect the fox and its habitats and



Aiko Bode

“Every company will need to reflect on what impact their business model has on the environment or societies and other stakeholders.”

”

we can see some signs of hope as the population is slowly increasing again,” says Mr. Bode.

However, climate change has led to the intrusion of the red fox into Arctic fox territory and the red fox considers the Fjällräven as prey.

Industrial and recreational activities and infrastructure projects mean that the Arctic fox's original habitats have changed a lot, making it even more challenging for the foxes to survive.

“But we are on it and will extend our activities beyond the foxes into ecosystem protection and preservation efforts in the years to come,” Mr. Bode adds.

Fenix Outdoor International AG's efforts in support of wider Swedish Government policies have helped to drive an increase in the population of Arctic foxes (according to Mr. Bode, there are now 250).

Better Conditions

Fenix Outdoor International AG is also attempting to change the textile industry's long legacy of poor working conditions and pollution.

“If you look at certain street names in Europe that come from the medieval times, such as ‘blue creek road’ and ‘red river street’, they may sound nice but they relate to water pollution that happened more than 1,000 years ago,” says Mr. Bode.

For the outdoor brand, it has been important to improve this legacy. To do so, Fenix Outdoor International AG has incorporated into the Fenix Way a rather broad but targeted set of goals.

The reduction of chemicals is one of those goals, and the company is consequently phasing out harmful substances—“a process that takes time but we can already see the first results,” says Mr. Bode.

It is looking to remove perfluorocarbons (PFCs), which make materials water repellent, from

all of its products, although this is challenging as the alternatives are few and far between and there are not many reliable PCF-free waterproof zips on the market.

Animal welfare is also high on the agenda—animal welfare organization Four Paws has named Fenix Outdoor International AG as the top performer in its “Cruelty Free Down Challenge,” which makes sure geese and ducks are not live-plucked or force-fed.

The company's promise says that “when you buy a down product from Fjällräven you can be 100 percent sure that the down we use is the result of a process that takes the greatest possible care of the bird's well-being.”

Only if you have a full understanding of the “ingredients” in your product and know where they come from will you be able to fully manage them and their legacy, Mr. Bode explains.

“It is simply a part of responsible purchasing and product development,” he adds.

Fenix Outdoor International AG has also established a control system on labor conditions in the supply chain; the company's social compliance setup, which contributes to working and living conditions, has been accredited by non-profit organization the Fair Labor Association.

Mr. Bode states: “Topics which deal with social exploitation or the destruction of nature stand at the core of our agenda and we continue to develop this further.”

In Ecuador, Mr. Peralta is very aware that new generations will not stay in the farming areas if there are no opportunities to build a future.

“There will be no people in the fields in 20 years' time if we don't create jobs in a sustainable way,” he cautions.

Pacari Chocolate deals directly with the farmers, rather than middlemen, solidifying their loyalty and paying a



Santiago Peralta

“

You can't be environmentally sustainable if you put chemicals into the land.

”

much higher price than the market rate for the beans.

“People start to take care of how they harvest the beans. Because they know and trust us, we get the crème de la crème of the cacao beans,” Mr. Peralta says.

He believes that the success of Pacari Chocolate is inspiring the local business community to “go in the right direction” and become sustainable and organic.

A Competitive Edge

“The more honest the efforts we take to improve our sustainability profile, the more our customers support us and help us to remain competitive in our markets. In turn, we can then become even more sustainable in various ways,” Mr. Bode adds.

The importance of consumer trust cannot be overstated, but what happens when that trust and confidence is lost?

The brand may suffer serious economic consequences, but also risks to its reputation.

According to Mr. Bode, this is particularly an issue with brands that touch upon essentials such as health, nutrition, and safety in their business models, as well as for those that sell to outdoor enthusiasts, as they are “expected to not do any harm to nature.”

Ultimately, a major reputational loss can lead to a brand's disappearance from the market.

“We think that honesty, open dialogue and transparency are the elements that help to ensure consumer trust and satisfaction (apart from the obvious: to deliver quality products),” adds Mr. Bode.

But consumers are now demanding more. They want to see what a company does in terms of positive contributions to the community and nature.

The advent of the Internet and social media makes it that much easier to make this clear to consumers. Fenix Outdoor International AG has published a set of YouTube videos explaining what it's doing and why (along with an annual CSR report for those who want to follow its progress).

Taking it one step further, the outdoor brand also invites various groups (activists, customers, policy makers, and suppliers) to discuss the progress being made on the sustainability journey and develop new ideas for goals and paths to follow.

Mr. Bode adds: “We want to give the Fenix Way and our sustainability agenda another level: we will update it in light of what we have achieved and where we faced challenges and we want to incorporate and address ambitious goals.” ●

Hear The Latest on WHOIS From the IPC

How will the European Union General Data Protection Regulation affect brand protection efforts by blocking access to website registration data (WHOIS)?

On Wednesday at 1:00 pm – 3:00 pm in Room 608-609, the Intellectual Property Constituency (IPC) of the Internet Corporation for Assigned Names and Numbers (ICANN) will host a session to help brand owners understand and navigate the challenges created by ICANN's recently approved interim model for compliance with the European Union General Data Protection Regulation (GDPR). As INTA members contemplate a world

without full access to domain name registration data, the IPC has organized two informative panels to explain the political landscape and practical realities of a closed WHOIS system.

The featured topics are “Can We Save Access to WHOIS? How the GDPR Will Cripple Brand Protection” and “How Brand Owners Are Fighting Back” and “What Happens after GDPR? What Will Brand Protection Efforts Look Like When WHOIS Data Becomes Inaccessible.” INTA is

a founding member of the IPC and supports this effort.

The meeting is open to all Annual Meeting registrants. Per IPC policy, remote access will be available for non-attendees. For remote access information, please contact Chantelle Doerksen, Supporting Organizations/Advisory Committees Collaboration Services, Senior Coordinator at ICANN (chantelle.doerksen@icann.org) or Matthew Johnson, INTA External Relations Coordinator (mjohnson@inta.org). ●

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As INTA members contemplate a world without full access to domain name registration data, the IPC has organized two informative panels.

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IP Enforcement in Asia

Tackling counterfeiting in Asia can be a challenge, but with the right approach, brands can achieve effective results, as Sarah Morgan reports.

Most of the IP enforcement mechanisms used in Asia were devised in the early 1990s, and put into effect via The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Are these mechanisms still relevant today? This was one of the questions posed in **Session CM52 Enforcement Strategies in Asia** yesterday.

"Are we using a set of remedies that were built long ago for a bunch of concepts that have long expired?" said Nick Redfearn, Deputy CEO and Partner at Rouse & Co. International LLP (Indonesia).

Over the past 20 years, there have been various deadlines set and missed for implementing TRIPS, but now "fatigue has set in," according to Mr. Redfearn.

He added that, while most countries have "slowly crawled" toward implementation, practice and enforcement are still lacking in some.

Mr. Redfearn said: "Corporations now have a lot more to think about than just building an enforcement program and getting it to work."

While customs can be very effective

in Asia, it's not clear that other mechanisms have been, he added.

The advent of e-commerce platforms and the fact that the brand protection industry has "grown up" from thinking it should just conduct lots of raids, are two of the ways in which the perspective has changed on enforcement.

Customs enforcement is "still probably the best remedy, where it works, in terms of cost-effectiveness," said Say Sujintaya, Partner, Baker McKenzie Ltd. (Thailand).

"Many years ago, most customs enforcement was not effective because officials wouldn't intercept unless you had specific information" such as the name of the ship transporting the counterfeit goods, she explained.

Ms. Sujintaya added: "A lot of officials, through the efforts of trademark owners and their lobbying, have started taking *ex officio* actions."

She advised that when brands are looking at customs border enforcement programs, the requirements of customs recordation should be top of the list.

However, if you haven't registered your marks, customs may still intercept and seize goods, but the procedure becomes more "complicated and costly."

After registering your marks with customs, maintaining a relationship with customs by offering training is absolutely essential, added Ms. Sujintaya.

"You don't have to reveal every secret about how to distinguish between genuine and counterfeit products, but



Peter Fowler

you should highlight some of them," she said.

Gen Yamaguchi, Trademark Attorney at TMI Associates (Japan), stated: "Customs are very effective in some countries, but don't forget civil actions."

He added that civil actions are often avoided because many believe they are too high cost, but most people don't have sufficient information about civil actions in Asian countries to come to this decision.

Mr. Yamaguchi provided statistics on pendency, costs, and damages awards in countries including Singapore, Malaysia, and The Philippines.

"You need to get information from local authorities—rely on them," he advised.

Peter Fowler, Senior Counsel, Enforcement Team, Office of Policy and International Affairs at the United States Patent and Trademark Office (USA) moderated the session. ●



(L. to R.) Gen Yamaguchi, Say Sujintaya, and Nick Redfearn



Get Involved with the Unreal Campaign!

What? The Unreal Campaign is the International Trademark Association's (INTA's) consumer awareness initiative, designed to educate students (ages 14–18) on the importance of trademarks and the dangers of counterfeit goods.

How? The Unreal Campaign reaches students through online and in-person events:

- **Direct Student Engagement Events:** INTA members travel to classrooms all around the world to educate teenagers on trademarks and the dangers of counterfeit goods.
- **Online Student Engagement Events:** The Unreal Campaign interacts with students through social media (Facebook, Instagram, Twitter, and YouTube) and videos.



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Retail Therapy

The IKEA franchising system helps the brand to tackle challenges and boost consumer trust, says Cecilia Emanuelson, IP Counsel at the global franchisor, in an interview with Aislinn Burton.

Just under one billion visits were made to IKEA stores around the world in 2017.

Cecilia Emanuelson, IP Counsel at Inter IKEA Systems BV (Netherlands), has worked for the worldwide IKEA franchisor for more than 20 years—and it's her job to ensure all marks and branding associated with the IKEA business are legitimate and reflective of IKEA's vision. Today, operating under a franchise model, Inter IKEA Systems BV has franchise agreements with 11 different groups of companies that own and operate 415 IKEA stores in 49 markets.

Ms. Emanuelson is involved in all aspects of trademark work for the home furnishings organization, including determining which marks to file in which jurisdictions and liaising with outside counsel on trademark prosecution matters. Dealing with oppositions takes up a considerable amount of time for IKEA's attorneys, too, due to the volume of matters across so many countries.

"We deal with all enforcement matters worldwide," Ms. Emanuelson adds.

IKEA owns trademark registrations in approximately 80 jurisdictions, and the disputes that arise are varied. Common challenges for the IKEA team include trade dress infringements, unauthorized resellers using the IKEA marks, copycat stores, and online infringements across social media.

Ms. Emanuelson points out that the IP landscape has undergone "massive" changes over the course of her career, noting, "The Internet and social media have completely changed the way we work from the perspective of where the challenges appear and how we deal with these challenges."

Addressing how global brands can secure adequate IP protection, Ms. Emanuelson says "there is no such thing as being sufficiently protected." In any business there needs to be a balance between what the lawyers wish to protect and how much the organization is willing to spend, she explains—and having a trademark filing strategy is central to managing these perspectives.

"For every brand owner there is a price tag on everything done in the

trademark department, but attempting to find better and smarter ways to do things is important," she adds.

Shared Values

IKEA's franchising model helps the brand carry out its mission.

"Living up to the IKEA vision of 'creating a better everyday life for the many people' cannot be achieved by working alone, so we work with IKEA franchisees who are experts at operating IKEA stores," Ms. Emanuelson explains.

She adds that a franchise organization expands in a less structured way than a fully owned business, which can be challenging, since the ownership and operation of the IKEA stores are not vested within one parent entity.

However, for IKEA, "this contributes to the organic way we grow and expand," Ms. Emanuelson says. The people working under the IKEA trademark share certain values and "by doing so we are all contributing to the creation of a brand that consumers can trust." ●



Cecilia Emanuelson

“Living up to the IKEA vision of ‘creating a better everyday life for the many people’ cannot be achieved by working alone.”



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Brand Value, Bridges, and a Body of Research

INTA's new Strategic Partnerships & Economic Research Department is conducting work across a range of topics and countries, with the Brand Value Special Task Force, Generation Z, and bridge building with non-legal associations as its top priorities for 2018 and beyond. Sheila Francis, INTA's Director, Strategic Partnerships & Economic Research, tells Sarah Morgan more.



In May 2017, the Association introduced its 2018-2021 Strategic Plan, which has three core strategic directions: promoting the value of trademarks and brands, reinforcing consumer trust, and embracing innovation and change.

It is the first and second strategic directions that have contributed to INTA's establishment of the Strategic Partnerships & Economic Research Department. The new department includes Ms. Francis and Renee

Garrahan, INTA's Economic Research Intern.

Its key initiative is to support the Brand Value Special Task Force, which was approved in March 2018 by the INTA Board of Directors and is charged with delving into the complex topic of brand value, brand equity, and brand valuation. Co-chaired by Heather Steinmeyer, Managing Senior Associate General Counsel at Anthem, Inc. (USA) and INTA Past President, and Doug de Villiers, Vice Chairman at Superunion Africa (South Africa) and INTA Advisory Director, this Special Task Force brings together a small team of members and non-members of diverse expertise, including brand and IP valuation, finance, economics, marketing, and tax, or a combination thereof.

Over the next two years, the Task Force will engage in focused research designed to provide a set of recommendations and actions for INTA to pursue, including how to help clarify the complex concepts and definitions borne out of the different brand valuation methodologies that currently exist.

"Intangible assets are recognized as highly valued properties. The most valuable but least understood intangible assets are arguably brands. We are excited to have a multidisciplinary team of Task Force members to help us demystify the business value of brands," says Ms. Francis.

Demystifying Generation Z and Attitudes Toward Counterfeits

The department is also building other aspects of INTA's research

"We don't want to be reaching out to others only when there is a pressing issue. We need to build bridges before a crisis might occur."

depository. The Association's Impact Studies Committee, now in its second term, and INTA staff continue to conduct and commission research studies that help to communicate the positive contributions of brands to the economy and society.

In 2018, in what will mark the Association's first attitudinal study, INTA is set to initiate research exploring whether young consumers see an ethical problem in purchasing fake products. It will focus on Generation Z (born in 1995 to mid-2000s)—the largest proportion of young consumers by 2022. The study will cover ten countries in different parts of the world.

Consumer relationships with brands and counterfeits often live in the grey area of their ethical spectrums. It is critical for brand owners to better understand how young consumers'



To learn more about INTA's research work and to request INTA to conduct a study, visit <http://www.inta.org/Committees/Pages/ImpactStudiesCommittee.aspx>

decisions to engage with counterfeit products could be shaped by complex needs, mindsets, and contexts that can make authenticity more or less relevant. Ultimately, the question is: "Who do Gen Zs perceive as being damaged by fake products, and how does this align with this generation's overall interest to be more authentic?"

"We see this as an important research gap that requires action," says Ms. Francis, noting that the aim is to have the study results by the 2019 Annual Meeting.

Beyond this, throughout 2018 and 2019, the Association has an ambitious research agenda which includes potential studies on artificial intelligence, brand restrictions, and other topics. To learn more about the INTA's research work and to request INTA to conduct a study, visit <http://www.inta.org/Committees/Pages/ImpactStudiesCommittee.aspx>

Reaching Out to Non-Legal Constituencies

Research activities are only one aspect of the responsibilities of the Strategic Partnerships & Economic Research Department. As INTA seeks to be even more outward-looking—developing additional ties with non-IP and non-legal constituents and associations—the team is also focusing on strategic partnerships.

"We don't want to be reaching out to others only when there is a pressing issue. We need to build bridges before a crisis might occur," says Ms. Francis.

The department works with three INTA committees to develop these ties: the Building Bridges Committee, to foster relationships with marketing associations, consumer groups, organizations that support small to medium-sized enterprises, associations that develop and promote sustainability and ethical standards, and retail and manufacturing organizations; the Brands and Innovation Committee, to build ties with technology-based groups; and the Impact Studies Committee, to boost contacts with other economic and research driven-associations.

The department's work in collaboration with various INTA committees will build on the Association's research foundation, spread the word about IP, and help drive the 2018-2021 Strategic Plan into the future. ●



Sheila Francis

"The most valuable but least understood intangible assets are arguably brands. We are excited to have a multidisciplinary team of Task Force members to help us demystify the business value of brands."

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Advertising Campaigns Can Change the World

Advertising campaigns have the ability to change the world and drive peace initiatives, as Francisco Samper told registrants at yesterday's Lunch and Learn.

“Creativity thrives in the face of obstacles,” Francisco Samper, Founder and President of MullenLowe SSP3 (Colombia) and Regional Director, MullenLowe Latin America, told an audience at yesterday's **Lunch and Learn—Changing the World Through Advertising: Guerrillas, Soccer, and Peace**.

Mr. Samper shared inspirational stories of how advertising campaigns influenced the Colombian peace process.

Starting in 2008, advertising campaigns created by MullenLowe SSP3 assisted in demobilizing 18,000 Colombia guerrillas and helped prevent more than 3,800 deaths, according to Mr. Samper.

The Colombian conflict lasted 53 years and left 260,000 dead, he said. While he praised the efforts of the national military in helping reach a peace agreement, there was a “lesser-known weapon that was instrumental in the demobilization of guerrillas.”

“I’m talking about the advertising ideas that we developed as part of the military plan,” he said.

“How was this possible? It all started 10 years ago when one day out of the blue I received a phone call in my office from the Ministry of Defense.”

During the conversation, Mr. Samper was asked whether he thought advertising campaigns could help demobilize the guerrillas.

“I immediately responded, ‘yes,’” he recalled. Mr. Samper took on the proposition but said there were three conditions that needed to be met for successful implementation of the campaigns.

The first was continuity. “Every advertising campaign needs time to meet its goals, and this was a formidable task,” he said.

The second condition was coherence: knowing the product and understanding how it will achieve its goals.



Francisco Samper

The final condition was identifying the target audience and understanding their fears, beliefs, thoughts, and feelings. In this instance the target audience was the guerrillas.

Once this was established, Mr. Samper and his team set about establishing campaigns that would demobilize the guerrillas.

By this time, deep in the Amazon rainforest, the guerrillas had been surrounded by the Colombian military. “The guerrillas were hostages just as much as the people they had kidnapped,” he said. Essentials were beginning to be cut off.

“We decided to talk to the guerrillas’

hearts instead of their minds,” said Mr. Samper.

But there was a problem. How could this be achieved when the guerrillas were rarely exposed to mainstream media?

The answer was to develop a series of campaigns to tell emotive stories and encourage the guerrillas to put down their weapons and return to their families.

Christmas was chosen to launch the campaign because it was thought to be when the guerrillas would be most sensitive to the message. Out of this, Operation Christmas was born.

The military decorated nine trees in different zones of the rainforest with Christmas lights. When somebody walked past the decorated tree, it lit up.

Mr. Samper and his team also identified soccer as something that was important to the guerrillas.

“Our next big move was to drop soccer balls the way that bombs were dropped before” from helicopters, he explained.

Well-known athletes, politicians, and members of the general public wrote inspirational messages on the soccer balls encouraging the guerrillas to return to their homes.

This campaign clearly pulled at the heartstrings of the target audience, as it was followed by 588 guerrillas demobilizing and returning to their homes.

Other campaigns included putting illuminated balls containing more inspirational letters, and gifts to the guerrillas, into the Amazon river. Throughout this campaign, there was a demobilization every six hours.

A key demographic that MullenLowe SSP3 began to target was the female population within the guerrilla groups. Mr. Samper said that women in the groups couldn’t get access to cosmetics and feminine hygiene products. To reach out to them, the campaign launched advertisements for cosmetics with the caption “A New Life Awaits.” This was another success, since following the campaign more than half of the women in the groups returned to their homes.

For the male guerrillas, another campaign targeted their relationships with their mothers who they left behind when they joined the group.

To tap into their emotions, “wanted” posters featuring the guerrillas as children were posted throughout the jungle. Because of these efforts, 218 mothers welcomed their sons home.

“What is truly relevant is that some of these ideas have been implemented to directly confront conflict in other countries,” said Mr. Samper.

While he acknowledged that there is still work to be done, the campaigns have been a resounding success.

Overall, MullenLowe SSP3’s more than 400 successful campaigns resulted in close to 18,000 guerrillas being convinced to leave their lives in the jungle in favor of their families.

“As long as there are ideas, there will also be hope,” concluded Mr. Samper. “Advertising can be instrumental in helping the world become a better place.” ●

“

What is truly relevant is that some of these ideas have been implemented to directly confront conflict in other countries.

”

More Games, More Trademarks (continued)

← 6 card game “Scrolls.” In response, Mojang said: “Let’s settle this! I challenge Bethesda [a subsidiary of ZeniMax Media] to a game of Quake 3. If we win, you drop the lawsuit. If you win, we will change the name Scrolls to something you’re fine with.”

Mr. Rudoni added that this was a “surprising way of making an offer for settlement,” and that it’s of “huge consequence if a game can’t use the title for which investment has been made.”

John Crittenden, Senior Counsel at Cooley LLP (USA), outlined relevant video game litigation in the United States.

There’s a conflict when designing video games, he said, because, while the real world is generally available to be used as a virtual location for a game, there are some exceptions.

“What happens if a movie character works at Starbucks? Do you need a license? Do you have to do this for every brand? This could make it very

impractical,” he said.

Fortunately, in the United States, there’s case law outlining the position and robust First Amendment protections, added Mr. Crittenden.

The video game industry pulls in US \$100 billion in revenue annually, added Ben Golant, Chief Counsel for Intellectual Property Policy at the Entertainment Software Association.

The association has set up Video Juegos MX, a contest that allows individual creators to make their own

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While the real world is generally available to be used as a virtual location for a game, there are some exceptions.

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games and encourages them to think about IP.

“We’ve learned that to make people respect IP we have to involve them in the IP marketplace,” he concluded. ●

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A Chic Approach to IP

Fashion brand Marc Jacobs International, LLC adopts as creative an approach to IP registration and enforcement as it does to its designs, says Antonio Borrelli, the company's Vice President, Associate General Counsel, in an interview with Ed Conlon.

As a creative brand itself, Marc Jacobs International, LLC (USA) adopts a similarly creative approach to dealing with challenges around trademark registration and enforcement, says Antonio Borrelli, Vice President, Associate General Counsel at the fashion brand.

He says the need for such innovation derives from some IP offices taking an approach that can favor "trademark pirates." These jurisdictions are very strict in their interpretation and application of likelihood of confusion standards and, in many of these places, the "first to file" rule applies.

"In such jurisdictions, pirates may be able to register trademarks that have only slight variations from a registered mark, because IP offices take the position that consumers are able to discern even small differences between marks and to understand that the sources of the respective products are distinct," says Mr. Borrelli.

"In those jurisdictions, it is extremely important to have a watching service in place in order to monitor trademark applications filed by third parties and to take action against copycat trademark filings as necessary," he adds.

The consequences of these standards can complicate registration and enforcement strategies, in particular with new marks or designs (as opposed



istockphoto / mizoula

to recognized and established marks), Mr. Borrelli explains.

It is vital in these situations to develop creative approaches in response, including filing a trademark in a different format or seeking alternative forms of protection to trademarks.

For example, he says, an alternative can be filing copyright or design patent registrations where they are available.

"Instead of filing a word mark in all jurisdictions, it may be advisable to incorporate another element into the mark (such as another word element, a house mark, or a design/logo)" to facilitate the registration process, Mr. Borrelli says.

He adds: "When it comes to registration of IP, there is no 'one-size-fits-all' approach—the strategy needs to be carefully adapted to further the registrant's goals."

One Strategy

Based in New York City, New York, Marc Jacobs International, LLC is owned by LVMH (France), the multinational luxury goods conglomerate, and was initially launched by the designer Marc Jacobs in 1984. LVMH owns other fashion brands, including Céline, Fendi, and Louis Vuitton.

Marc Jacobs International LLC's IP portfolio includes more than 1,600 international trademark registrations, copyright, and design patent registrations. As Mr. Borrelli notes, the renowned house mark, MARC JACOBS, is the jewel in the portfolio's crown, "as it is our oldest trademark and has been used for over 30 years."

Asked about the major challenges in the IP clearance and application processes, Mr. Borrelli says it is important to perform these tasks on a worldwide basis. Marc Jacobs

International LLC is a global company and needs to maintain and enforce its rights in key markets, manufacturing locations, and notorious piracy areas throughout the world, he explains.

But because IP rights are essentially territorial, it can be a challenge to develop a unified strategy in many different countries simultaneously, he adds.

"In some countries it may be easier to register one IP right over another—generally speaking, copyright registrations are easier and cheaper to obtain than trademark or patent registrations due to the more streamlined examination conducted by copyright offices," Mr. Borrelli explains.

"In addition, the manner in which an IP right is depicted in an application may need to be tailored based on local practice; for example, whether to include a logo or design element, color, local language translation/transliteration, or other details," he says.

Another element that should be considered, he adds, is the level of local law enforcement's willingness to help brand owners enforce their rights.

Marc Jacobs International LLC is active in trying to raise awareness of its brands among authorities. This includes partnering with and training law enforcement and customs officials, and taking legal action when

counterfeit products are discovered, according to Mr. Borrelli.

Combating "Creative" Counterfeits

Counterfeit products come in many forms; most commonly, Mr. Borrelli sees infringements of the company's best-selling products, such as handbags, backpacks, and wallets, and accessories including sunglasses and watches.

"Counterfeiters are very creative, and we have seen 'original' counterfeit products that are not direct copies of the company's actual products. For example, a pirate will create a completely new style of handbag or wallet that is not a direct copy of one of the company's products and affix the MARC JACOBS name to it," he explains.

"We have also seen counterfeit products in categories that are not currently offered by our company," he adds.

Mr. Borrelli says the scale of counterfeiting and the accuracy of the counterfeits vary from product to product and from country to country. "In many cases we are able to quickly confirm that a sample is counterfeit by viewing photos of key aspects of a product," he says.

However, he adds, sometimes it is necessary to touch and feel the product in person and carefully inspect its details in order to confirm whether a sample is counterfeit.

The availability of high-level manufacturing has increased the quality of counterfeit products, so physical inspection is now a more critical part of the investigation, he says.

"We very often need to be creative with enforcement strategy," he concludes, showing that creativity is firmly embedded within the fashion company's IP mindset too. ●



Antonio Borrelli

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Counterfeiters are very creative, and we have seen 'original' counterfeit products that are not direct copies of the company's actual products.

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Marc Jacobs International, LLC is owned by LVMH (France), the multinational luxury goods conglomerate, and was initially launched by the designer Marc Jacobs in 1984.

Combating Counterfeit Sports Products

The Internet can provide a plethora of opportunities for counterfeiters, so professional sports brands need to remain vigilant in protecting consumers. Aaron MacDonald reports.

Jerseys, shirts, socks, and balls. These are some of the most at-risk branded sporting products targeted by counterfeiters, said Tanya Fickenscher, Vice President, Deputy General Counsel at Major League Baseball Properties, Inc. (USA), who moderated yesterday's **Session IM01 Industry Breakout: Battling Counterfeit Sports Merchandise—A Multi-Jurisdictional Review.**

Victoria Loughery, Assistant Counsel at the National Football League (USA), commented that it is important for sports brands to stay up to date with the latest technologies to help protect consumers from counterfeit goods.

She highlighted a shift toward the mobile and social media landscape as providing opportunities for counterfeiters, who can purchase advertisements that target particular consumers, and making monitoring potential counterfeit sales online more difficult.

"This was really a game changer," said Ms. Loughery.

Scott Palmer, a Partner at Perkins Coie LLP (China), spoke about how to tackle counterfeiting issues in China. There was a time when people perceived counterfeiters in China as "unwitting", he said, but things have definitely changed.

He described counterfeiters in China as some of the most sophisticated in the world, saying they are increasingly knowledgeable about the sports industry, know who to target, and understand which products sell.

"If brand owners don't have sufficient rights in China, the chances are that when you look at the registry,

somebody has gotten there before you," he warned. It's important to act to gain rights in China or it can be extremely difficult to stop counterfeiters.

Helen Chen, Legal Director at the National Basketball Association China, added that the Internet is making it harder to identify who is engaging in counterfeit activity.

"They are trying every way to avoid being found," she said. "They either have little, a limited, or no inventory. They will produce products on demand."

The counterfeiters take advantage of the privacy provided by some social media platforms to conduct business.



(L. to R.) Anna Guix, Scott Palmer, Helen Chen, and Victoria Loughery



Tanya Fickenscher

These factors mean it is harder "to find a good lead and to capture useful evidence," Ms. Chen said.

While the Internet provides counterfeiters with a means of hiding their identity, some popular European cities, such as Barcelona, contend with street vendors selling counterfeit sporting products out in the open.

Although this is a problem, Anna Guix, Intellectual Property Lawyer at FC Barcelona (Spain), said there are ways to counter the threat.

"For brand owners, one of the key tools you have to fight against this phenomenon is to build really strong relationships with authorities – mainly the police," she said.

Ms. Guix added that brands can collaborate with the authorities by training them to identify an authentic product.

"If they see the brand is really working together with them, then they will be collaborative," said Ms. Guix. ●



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Canada's Commitment to IP

Canada's new IP Strategy proposes some important reforms to the trademark system, as Mark Schaan, Director General, Marketplace Framework Policy Branch, Innovation, Science and Economic Development, tells Ed Conlon.

Canada's government has pledged to invest CA \$85.3 million (US \$66.6 million) over the next five years to help businesses, creators, entrepreneurs, and innovators better understand, protect, and access their IP. The investment is part of a new Intellectual Property Strategy, which was released by Navdeep Singh Bains, the Minister of Innovation, Science and Economic Development, in April.

Mark Schaan, Director General, Marketplace Framework Policy Branch, Innovation, Science and Economic Development, and his team of policymakers have spent the past two-and-a-half years getting the Strategy ready, and, he says, it shows that the government is more committed than ever to taking IP seriously.

"It's the first of its kind for Canada: the Canadian government is committed to reinforcing the importance of IP in the modern economy, ensuring the IP regime is balanced and supportive of our goals," says Mr. Schaan.

The Strategy is divided into three pillars: IP awareness, education, and advice; strategic IP tools for growth (including expedited dispute resolution); and IP legislation.



istockphoto / seranonticor

It covers a range of issues across all forms of IP, including some important legislative changes in the trademark field. However, just like any legislation, these amendments still require approval from lawmakers.

Mr. Schaan explains that the main reforms to trademarks include new opposition and invalidation grounds concerning bad-faith use. In addition, trademarks are required to be used within three years of registration in order to enforce them. After three years, the Canadian Intellectual Property Office will be able to remove marks from the register based on lack of use.

Decluttering

Four years ago, amendments to Canada's Trade-marks Act, which will allow Canada to join the Madrid Protocol and the Singapore Treaty, removed an administrative requirement stipulating that parties must provide a written "declaration" of use before they can register a trademark. These amendments are expected to come into force sometime next year. Canada's IP Strategy provides additional measures to ensure that the trademark register does not end up being cluttered by marks that are not being used properly—a practice sometimes known as "trademark squatting."

"The way we are dealing with this issue of trademark cluttering and squatting is relatively novel in the international space," says Mr. Schaan.

"I'm not aware, from an international benchmarking position, of others who have looked at it in this way. There are other mechanisms, such as the U.S. domestic application

system, that require use and submission of samples, but in terms of being able to take trademarks off the roll and provide tools to declutter, this is relatively novel."

Mr. Schaan adds that the reforms provide two clear benefits for trademark owners, the first being a "well-curated and manicured trademark registry which improves the value and efficacy for those rightfully holding trademarks and who are not looking to exploit the system." Quite simply, "the value of a Canadian trademark goes up," he says.

Second, he says, the notion that a party "might be up against noxious behavior of someone looking for a quick settlement by threatening an unused trademark can give trademarks a bad rap," so the changes improve the overall reputation of trademarks.

Mr. Schaan says practitioners should be aware of the Strategy as a whole, "because it recognizes we have taken IP seriously and that Canada is a good place to be practicing in the realm of IP." The government is now trying to raise awareness about the initiative.

There have been challenges in the process, he says, including trying to look at the myriad ways that one can

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The Canadian government is committed to reinforcing the importance of IP in the modern economy.

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exercise and leverage IP in a strategic way in the service of innovation and economic growth. In particular, drawing on and responding to the more than 200 Canadians who participated in the consultations that led to the Strategy was a challenge.

Next Steps

With the Strategy now laid out, Mr. Schaan's work on the project is only halfway complete. He and his team will have to steward the implementation and "pass the baton" to those responsible for implementing the new tools, as well as Canada's lawmakers, who will ultimately need to sign off on the legislative changes.

"As with all areas of policy, we will also continue to monitor progress to ensure we stay current with trends," he says.

As Mr. Schaan notes, the Strategy has essentially made a commitment to legislation, but the specific timeline for that has not yet been released.

However, Mr. Schaan emphasizes, the government is "very committed to aggressively moving forward with implementation. We need to ensure the Strategy is implemented quickly and well." ●



Mark Schaan

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The way we are dealing with this issue of trademark cluttering and squatting is relatively novel in the international space.

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Canada's Intellectual Property Strategy is divided into three pillars: IP awareness, education, and advice; strategic IP tools for growth (including expedited dispute resolution); and IP legislation.

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Tobacco Plain Packaging: A Judge's View from Germany

Unlike some other EU member states, Germany has not implemented tobacco plain packaging legislation. Ed Conlon spoke to Judge Neugebauer of the Düsseldorf Higher Regional Court about the key questions in this area.

“My prediction is that tobacco plain packaging will arrive in Germany only when the European Union prescribes it for the whole Union. I don't think the German government will do anything that it doesn't have to do,” says Ralf Neugebauer, a Judge at the Düsseldorf Higher Regional Court (Germany).

Judge Neugebauer—an IP specialist who sits on a panel with two other judges at the appeals court—explains that tobacco plain packaging legislation is not mandatory for EU member states. In 2014, the European Union did adopt Directive 2014/40(EU), which places restrictions on the manufacture, presentation, and sale of tobacco and related products, but it does not require tobacco products to be placed in plain packets.

Only a handful of member states have implemented plain packaging provisions in their national legislation, including the United Kingdom and France. In 2012, Australia became the first country in the world to introduce such laws, sparking intense discussions about the legality and effectiveness of plain packaging. Germany has yet to follow suit, despite having implemented Directive 2014/40/EU provisions on health warnings, which appear on the front, back, and sides of tobacco packets.



istockphoto / peepo

Asked why his home nation has chosen to steer clear of plain packaging laws, Judge Neugebauer, who handles approximately 200 cases on trademarks, designs, copyright and unfair competition every year, says he assumes the German government thinks the measures provided by the Directive are sufficient for protecting health. “As far as I know, there is no law in the making,” he says. He admits, however, that “you can't rule it out—sometimes politics takes an unpredictable path.”

While Germany has chosen not to require plain packaging, the overall tobacco advertising regime in the country is about to become stricter. Beginning in 2020, all tobacco advertising will be banned. Such advertising is already banned on media, including TV, radio, print, and the Internet, so the restrictions kicking in in 2020 will apply to advertisements appearing in other areas, including the cinema and on street placards.

This will mark a big change in Germany, since currently, “there are tobacco commercials in movie theaters and at every corner,” Judge Neugebauer says.

One of the core legal issues in the tobacco plain packaging area is the amount of brand restriction necessary to constitute expropriation. He explains that courts in several countries have ruled that even when 80 percent of the package has to be covered by health warnings that does not count as an expropriation.

“I think that's reasonable; you can still recognize the brands,” Judge Neugebauer says.

“But I'm not so confident for plain packaging because if you can't use your trademark anymore, you could argue it's an expropriation,” he says. In Germany, expropriation without compensation to the brand owner is forbidden, including by national law and free trade agreements, he explains.

The counter argument is that a trademark does not give the proprietor the right to use it *per se*; it merely allows the owner to prevent others from using the mark—which would mean the removal of the mark would not amount to expropriation.

INTA adopted a Board Resolution in 2015 stating that “plain and highly standardized packaging measures being considered or imposed by governments should be rejected or repealed since they violate various international treaties and national laws on trademark protection” and that “governments should use less drastic alternatives to address health and safety goals, such as public educational campaigns which do not violate international and national law and expropriate valuable trademark rights.”

Judge Neugebauer believes “this issue needs some more discussion, as there have been some decisions (including from the Court of Justice of the European Union) indicating that the trademark from registration onwards transfers a right to the owner to use it; on the other hand, some decisions say it's a negative right only, by which you can keep others from registering it.”

Germany doesn't have a jury system, but Judge Neugebauer jokes that “the jury's still out” on this particular issue.

Non-Use

One question that Judge Neugebauer has been pondering concerns non-use of a restricted trademark. If a rights owner is prevented from displaying its trademark on its product, that might be a legitimate reason for non-use, Judge Neugebauer says. “But for how long?” he asks.

“Let's say a company does not put a trademark on its product for 20 years—will it still be on the register and can the company still prevent others using it, maybe for different products?”

The issue of non-use does not appear to have been addressed by courts in jurisdictions that have adopted plain packaging laws, Judge Neugebauer adds.

Even though Germany has yet to implement plain packaging, and may be unlikely to do so, Judge Neugebauer says “you never know when the law may be changed, so I monitor what other jurisdictions have done.” He admits he cannot speculate on how successful plain packaging laws have been, noting that measuring success is not an easy task. ●



Judge Neugebauer

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If you can't use your trademark anymore, you could argue it's an expropriation.

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Germany has yet to implement plain packaging provisions in their national legislation, despite having implemented Directive 2014/40/EU provisions on health warnings, which appear on the front, back, and sides of tobacco packets.

Top 10 Trademark Developments from China

Anna Mae Koo and Ann Xu of Vivien Chan & Co. (Hong Kong SAR, China, and China) discuss the top 10 updates this year from the China Trademark Office and the Trademark Review and Adjudication Board.

1. Greater Transparency of TRAB Decisions

As of December 2017, all decisions of the Trademark Review and Adjudication Board (TRAB) have been put online and made searchable. The time lag is around one month from the date of the decision.

This provides greater transparency over the rulings of the TRAB and allows the Board to adopt a more consistent approach. However, as the public will now have access to the relevant arguments put forward, appellants should be more cautious in preparing arguments to ensure they do not offer inconsistent views in connected cases.

2. Greater Use of Precedent

Judge Yang Jing of the Beijing IP Court provided guidelines regarding the use of precedent in an article published in the *People's Court Daily* in July 2017. She pointed out that no more than three precedent cases, each with a summary of less than 800 words, should be used and submitted in respect of each line of argument. Cases should be exchanged between the parties seven days before the hearing.



Anna Mae Koo

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New examination centers have been established in Guangzhou, Shanghai, and Chengdu in the last few months.

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3. Stricter Requirements for Court Formality Documents

In 2017, the Beijing IP Court adopted a more stringent requirement on formality documents. Common issues faced by companies include:

- Difficulty in proving the person signing the Certificate of Identity of Legal Representative (ICLR) has been duly authorized (Issue 1); and
- Company documents cannot be retrieved from the relevant government registry (Issue 2).
- Failure to abide by these requirements will lead to the abandonment of the cases. Here are a few solutions (see Table 1):

4. Stricter Well-Known Status Requirements

A high-profile anti-corruption case involving the inappropriate awarding of 10 trademarks with well-known status in Guangzhou was concluded last year and widely reported in the media in March 2018. As such, the China Trademark Office (CTMO) has become extremely cautious and conservative in the granting of new well-known trademarks and re-recognizing old well-known trademarks.

Hence, brand owners should rely on other grounds, such as bad faith or prior right and/or establishing a relationship with the trademark squatter to obtain a favorable ruling.

5. Electronic Filing More Broadly Available

Through e-filing, brand owners are able to obtain application numbers in one working day and obtain filing receipts within one month, in contrast to three to six months for paper filing. This is

important for brand owners who need to have an application number earlier to enter e-commerce platforms such as Tmall.

However, e-filing is applicable only to trademark filings or license records which use standard specifications of goods/services. Further, the e-filing system does not apply to applications filed under the Madrid System.

6. Importance of New Filings

When filing oppositions/invalidations/non-use cancellations against a third party's prior mark, brand owners should always remember to file their subject mark simultaneously; otherwise, their mark may be re-filed by a third party.

Also, the TRAB will not suspend the examination to wait for the outcome of any actions. New filings should be made to reserve rights.

7. Relying on Prior Right

Since well-known status is difficult to obtain, brand owners may look to establish prior rights to bolster their actions. Copyright is especially useful as it is a cost-effective defensive mechanism against other marks and is not class specific.

8. Faster Examination Timeframe

The CTMO and the TRAB have generally been able to abide by the regulatory requirements of the law. In fact, the CTMO is looking to further speed up examinations. New examination centers have been established in Guangzhou, Shanghai, and Chengdu in the last few months. The current time frames of examination are as below (see Table 2):

Item	Time frame (months)
Filing receipt	4 to 6
Assignment	10 to 12
TRAB Appeal	
Review on refusal	6 to 8
Non-use cancellation review	9 to 12
Invalidation application	11 to 14
Opposition review	to 14

9. Consolidation of Administration and Enforcement of IP Rights

In March 2018, the National People's Congress approved the proposal to restructure agencies under the State Council, which includes:

- The State Intellectual Property Office (SIPO) will take over registration of trademarks and also registration of geographical indications; and
- SIPO will be subordinate to a new State Administration for Market Supervision (SAMS), which will also be responsible for enforcement of patents and trademarks.

This is a big structural change unifying the offices that administer patents, trademarks, copyright, etc. The restructuring is not yet completed, but has caused some confusion over the responsible officers. We expect it to clear up in the next few months.

10. Fighting Bad Faith and Other Dishonest Behavior

The CTMO has announced potential additional measures to stem trademark squatting behavior, including the development of a database of bad-faith trademark applicants. This may be used as evidence of bad faith in the future. ●

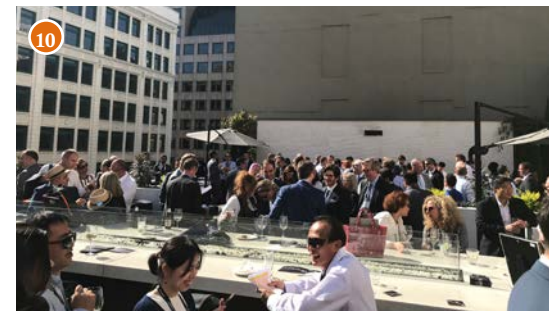
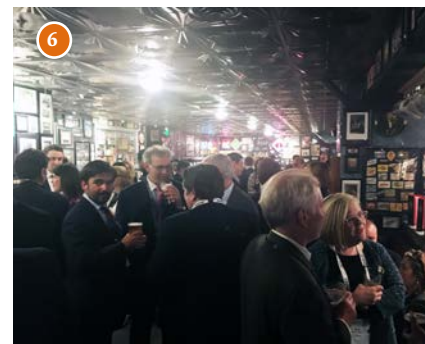


Ann Xu

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They can both be contacted at: vivchan@vclawservices.com

Jurisdiction of Trademark Owner	Solution
United States (Delaware, New York, California)	Issue 1: "Delegation of Authority" signed by the managing director authorizing a person (usually another senior executive) to sign the ICLR. An ICLR signed by an individual who is authorized by the by-laws to sign on behalf of the company may be accepted Issue 2: For listed companies, company documents may be retrieved from the U.S. Securities and Exchange Commission.
United Kingdom	Issue 1: ICLR to be signed by director(s) together with a copy of section 44 of the Companies Act 2006, which states a document is validly executed by a company if it is signed by a director in the presence of a witness.



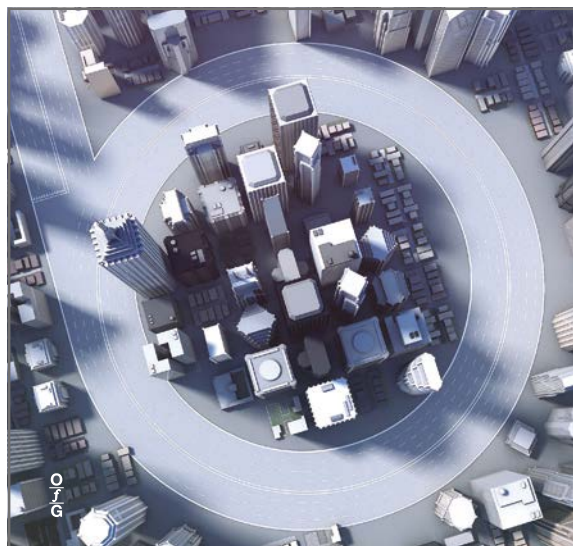
1. Arnold & Siedsma, Greg Kucera Gallery
2. Alprin Law Offices, P.C., Safeco Field
3. Advance China I.P. Law Office, Fairmont Olympic Hotel
4. Perkins Coie LLP
5. Becerril, Coca & Becerril, S.C., Pop Culture Museum
6. Brinks Gilson & Lione, Pike Pub
7. Wanhuida Peksung IP Group, AQUA by El Gaucho
8. H. K. Acharya & Co, The Renaissance Hotel
9. Bereskin & Parr LLP, Benaroya Hall
10. Appleyard Lees, Frolik, The Motif Hotel
11. Clarke, Modet & Co, Columbia Tower Hotel
12. Dumont Bergman Bider & Co., S.C., Union Station

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START	END	NAME	LOCATION*
CONCURRENT SESSIONS			
11:45AM	1:00PM	CT20 Celebrities Everywhere! Analysis of the Use of Personal and Image Rights of a Celebrity in Different Jurisdictions <i>Intermediate Level</i>	Room 6C
11:45AM	1:00PM	CT21 3D Trademarks after Rubik's Cube <i>Advanced Level</i>	Room 6AB
11:45AM	1:00PM	CT22 Protecting Unregistered Marks via Passing Off and Unfair Competition: Reputation Versus Goodwill (and Everything In-Between) <i>Advanced Level</i>	Room 602 - 604
11:45AM	1:00PM	RT20 Regional Update: Law and Practice in China, Korea, and Japan—Distinctiveness of Marks <i>Intermediate Level</i>	Room 605 - 607
12:00PM	1:00PM	SPEED NETWORKING	Hall 4EF
12:15PM	1:30PM	Working Towards the 21st Century IP Office Workshop Agenda Lunch	Room 613 - 614
12:15PM	2:15PM	Association Leaders Business Meeting- NGO Coordination Meeting (by invitation only)	Room 617
COMMITTEE MEETINGS			
1:15PM	2:15PM	Right of Publicity Full Committee	Room 303
1:15PM	2:45PM	Internet Committee – Rights Protection Mechanisms Review Subcommittee	Room 307
1:15PM	2:45PM	Internet Committee – Whois/Registrant Directory Services Subcommittee	Room 308
1:15PM	3:15PM	Anticounterfeiting Committee – Customs Training	Conference Center - Skagit 2
1:15PM	3:15PM	Global Advisory Council – India	Room 310
1:15PM	3:15PM	Global Advisory Council- North America	Room 302
1:15PM	3:15PM	In-House Practitioners Committee	Room 3B
1:15PM	3:15PM	Managing Partner Meeting	Room 620
1:15PM	3:15PM	Publications Committee	Room 3A
1:15PM	3:15PM	Trademark Litigation Web Series Project Team	Room 301
1:15PM	3:15PM	Young Practitioners Committee	Room 610
SESSIONS			
1:15PM	3:15PM	Lunch and Learn: Get Big Things Done: The Power of Connectional Intelligence	Room 608 - 609
1:15PM	3:15PM	LUNCHEON TABLE TOPICS	Room 6E
1:30PM	2:30PM	SPEED NETWORKING	Hall 4EF
COMMITTEE MEETINGS			
2:15PM	3:15PM	Right of Publicity Full Committee – Education & Awareness Subcommittee	Room 303
2:15PM	3:15PM	Right of Publicity Full Committee – Minimum Standards Subcommittee	Room 303
2:15PM	3:15PM	Right of Publicity Full Committee – Outreach/Collaboration Subcommittee	Room 303
2:15PM	3:15PM	Right of Publicity Full Committee – State of the Law/Fact Finding Subcommittee	Room 303
SESSIONS			
2:15PM	3:30PM	Trademark Scholarship Symposium – Session III (<i>Academic Series</i>)	Room 615
2:15PM	3:30PM	Trademark Scholarship Symposium – Session III (<i>Academic Series</i>)	Room 616
COMMITTEE MEETINGS			
2:30PM	3:30PM	Latin America Associations Meeting	Room 309
SESSIONS			
1:30PM	2:45PM	Adjunct Professor Panel: Crossing the Interdisciplinary Bridge	Room 602 - 604
3:00PM	4:00PM	SPEED NETWORKING	Hall 4EF
COMMITTEE MEETINGS			
3:30PM	4:30PM	Anticounterfeiting Project Team (<i>Legal Resources</i>)	Room 306
3:30PM	4:00PM	Famous and Well-Know Marks Committee – Full Committee	Conference Center - Tahoma 4
CONCURRENT SESSIONS			
3:30PM	4:45PM	CT50 Bad Faith and Trademarks at the EUIPO: Beyond the Hercules Pillars	Room 6C
3:30PM	4:45PM	CT51 IP Checklist for Investments in Latin America <i>Intermediated Level</i>	Room 605 - 607
3:30PM	4:45PM	CT52 Planning for BREXIT <i>Intermediate Level</i>	Room 602 - 604
3:30PM	4:45PM	IT50 Industry Breakout: Food Revolution: Branding and Trademark Issues Arising in the Rapidly Changing Food Industry <i>Intermediate Level</i>	Room 6AB
SESSIONS			
3:30PM	5:30PM	INTA and CTA Joint Session on the New Practice of China Trademark Law	Room 608 - 609
COMMITTEE MEETINGS			
3:30PM	5:30PM	Anticounterfeiting Committee – Brand Owners Meeting	Room 3B
3:30PM	5:30PM	Enforcement Committee – Opposition & Cancellation Standards and Procedures Subcommittee	Room 303
3:30PM	5:30PM	Enforcement Committee – Trademark Enforcement Policy Advocacy Subcommittee	Conference Center - Skagit 2
3:30PM	5:30PM	Leadership Development Committee	Room 610
3:30PM	5:30PM	Trademark Administrators Committee	Room 3A
3:30PM	5:30PM	Trademark Office Practice – TM5 Subcommittee	Room 304
SESSIONS			
4:00PM	5:00PM	INTA PAC Open Informational Session	Room 613 - 614
COMMITTEE MEETINGS			
4:00PM	5:00PM	Famous and Well-Known Marks Committee – Canada Subcommittee	Conference Center - Tahoma 4
4:00PM	5:00PM	Famous and Well-Known Marks Committee – East Asia & Pacific Subcommittee	Conference Center - Skagit 3
4:00PM	5:00PM	Famous and Well-Known Marks Committee – Europe & Central Asia Subcommittee	Conference Center - Tahoma 4
4:00PM	5:00PM	Famous and Well-Known Marks Committee – Latin America and Caribbean Subcommittee	Conference Center - Yakima 2
4:00PM	5:00PM	Famous and Well-Known Marks Committee – Middle East, Africa and South Asia Subcommittee	Conference Center - Skagit 4
4:00PM	5:00PM	Famous and Well-Known Marks Committee – United States Subcommittee	Conference Center - Skagit 1
5:00PM	6:00PM	Latin America and Caribbean Reception (<i>By invitation only</i>)	Level 4 - Atrium Lobby
5:00PM	6:00PM	China Reception (<i>By invitation only</i>)	Skybridge Lobby
5:00PM	6:00PM	Middle East Reception (<i>By invitation only</i>)	2AB Lobby
5:00PM	7:00PM	Legal Resources Contributor Reception (<i>By invitation only</i>)	Room 616
5:30PM	7:00PM	Political Action Committee (PAC) Reception	Sheraton Seattle - Presidential Suite
5:30PM	6:30PM	Government Officials Reception	Conference Center - Yakima 1

*All events are in the Washington State Convention Center (WSCC) unless otherwise noted



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START	END	NAME	LOCATION*
7:30AM	5:00PM	Registration	Hall 4B
7:30AM	5:00PM	Hospitality	Hall 4C & EF
8:00AM	10:00AM	Continental Breakfast	Hall 4C & EF
8:00AM	10:00AM	BREAKFAST TABLE TOPICS	Room 6E
COMMITTEE MEETINGS			
8:00AM	9:00AM	Geographical Indications Committee – Full Committee	Room 3B
8:00AM	9:00AM	Parallel Imports Committee – Full Committee	Conference Center - Skagit 4
8:00AM	10:00AM	2018 Middle East and Africa Conference Project Team Meeting	Room 3A
8:00AM	10:00AM	Academic Committee	Room 610
8:00AM	10:00AM	Legislation & Regulation Committee – Model Law Guidelines Subcommittee	Room 302
8:00AM	10:00AM	Legislation & Regulation Committee – Asia-Pacific Subcommittee	Room 305
8:00AM	10:00AM	Public and Media Relations Committee	Room 608 - 609
8:00AM	10:00AM	Trademark Office Practices Committee – EUIPO Subcommittee	Room 307
SESSIONS			
9:00AM	4:30PM	Working Towards the 21st Century IP Office Workshop	Room 611 - 612
COMMITTEE MEETINGS			
9:00AM	10:00AM	Brands and Innovation Committee – Leadership Only	Room 306
9:00AM	10:00AM	Geographical Indications Committee – Enforcement Subcommittee	Room 3B
9:00AM	10:00AM	Geographical Indications Committee – Expansion Subcommittee	Room 3B
9:00AM	10:00AM	Geographical Indications Committee – International Agreements Subcommittee	Room 3B
9:00AM	10:00AM	International Amicus Committee – Leadership Only	Room 620
9:00AM	10:00AM	Parallel Imports Committee – Asia-Pacific and Africa Subcommittee	Conference Center - Skagit 4
9:00AM	10:00AM	Parallel Imports Committee – Europe & Central Asia Subcommittee	Conference Center - Skagit 4
9:00AM	10:00AM	Parallel Imports Committee – Latin America Subcommittee	Conference Center - Skagit 4
9:00AM	10:00AM	Parallel Imports Committee – North America Subcommittee	Conference Center - Skagit 4
9:30AM	10:30AM	Presidential Task Force	Room 301
10:00AM	5:00PM	Exhibition Hall	Hall 4EF
COMMITTEE MEETINGS			
10:15AM	10:45PM	Harmonization of Trademark Law and Practice Committee – Full Committee	Room 608 - 609
10:15AM	11:15PM	International Amicus Committee – Full Committee	Room 3B
10:15AM	11:15PM	Non-Traditional Marks Committee – Full Committee	Conference Center - Tahoma 3
SESSIONS			
10:15AM	11:30AM	Trademark Scholarship Symposium – Session I (Academic Series)	Room 615
10:15AM	11:30AM	Trademark Scholarship Symposium – Session I (Academic Series)	Room 616
CONCURRENT SESSIONS			
10:15AM	11:30AM	CT01 Annual Review of Leading Case Law in the European Union <i>Advanced Level</i>	Room 6C
10:15AM	11:30AM	CT02 The Messy Divorce Between New Zealand and Australian Non-Use Revocation/Cancellation Law <i>Intermediate to Advanced Level</i>	Room 602 - 604
10:15AM	11:30AM	CT03 Ethics at the Movies <i>All Levels</i>	Room 6AB
10:15AM	11:30AM	IT01 Industry Breakout: Sharing the Pain: Hot Topics, Cool Solutions, and New Trends in Travel and Leisure Trademark and IP Issues <i>Advanced Level</i>	Room 605 - 607
COMMITTEE MEETINGS			
10:15AM	12:15PM	Brands and Innovation Committee – Full Committee	Room 610
10:15AM	12:15PM	Enforcement Committee – Judicial Administration and Trademark Litigation Subcommittee	Room 303
10:15AM	12:15PM	Law Firm Committee	Conference Center - Skagit 5
10:15AM	12:15PM	The Trademark Reporter Committee	Room 3A
10:15AM	12:15PM	Trademark Office Practices Committee – USPTO Subcommittee	Room 304
10:30AM	11:30AM	SPEED NETWORKING	Hall 4EF
COMMITTEE MEETINGS			
10:45AM	12:15PM	Harmonization of Trademark Law and Practice Committee – Free Trade Agreements Subcommittee	Room 608 - 609
10:45AM	12:15PM	Harmonization of Trademark Law and Practice Committee – International Classification Subcommittee	Room 608 - 609
10:45AM	12:15PM	Harmonization of Trademark Law and Practice Committee – International Cooperation Developments Subcommittee	Room 608 - 609
11:15AM	12:15PM	Brands and Innovation Committee – Programming and Communications Subcommittee	Room 610
11:15AM	12:15PM	Brands and Innovation Committee – Research and Policy Development Subcommittee	Room 610
11:15AM	12:15PM	Brands and Innovation Committee – Stakeholder Outreach Subcommittee	Room 610
11:15AM	12:15PM	Brands and Innovation Committee – Technology Impact Monitoring Subcommittee	Room 610
11:15AM	12:15PM	Brands and Innovation Committee – Consumer Impact Subcommittee	Room 610
11:15AM	12:15PM	International Amicus Committee – Asia-Pacific Amicus Subcommittee	Room 3B
11:15AM	12:15PM	International Amicus Committee – Canada Amicus Subcommittee	Room 3B
11:15AM	12:15PM	International Amicus Committee – Europe Amicus Subcommittee	Room 3B
11:15AM	12:15PM	International Amicus Committee – Latin America Subcommittee	Room 3B
11:15AM	12:15PM	International Amicus Committee – United States Subcommittee	Room 3B
11:15AM	12:15PM	Non-Traditional Marks Committee – Europe and Central Asia Subcommittee	Conference Center - Tahoma 3
11:15AM	12:15PM	Non-Traditional Marks Committee – Middle East, Africa and South Asia Subcommittee	Conference Center - Tahoma 3
11:15AM	12:15PM	Non-Traditional Marks Committee – Canada Subcommittee	Conference Center - Tahoma 3
11:15AM	12:15PM	Non-Traditional Marks Committee – East Asia & Pacific Subcommittee	Conference Center - Skagit 1
11:15AM	12:15PM	Non-Traditional Marks Committee – Latin America & Caribbean Subcommittee	Conference Center - Yakima 2
11:15AM	12:15PM	Non-Traditional Marks Committee – United States Subcommittee	Conference Center - Yakima 1
SESSIONS			
11:45AM	1:00PM	Trademark Scholarship Symposium – Session II (Academic Series)	Room 615
11:45AM	1:00PM	Trademark Scholarship Symposium – Session II (Academic Series)	Room 616

Continued overleaf

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