

Focus on Fashion & Retail- September 2016

September 27, 2016

Publications

Deadlines to Request Duty Savings Fast Approaching! ITC to Kick-Off New MTB Process in October

By Jennifer E. McCadney

Earlier this year, a new law revived the process for suspending tariffs on various products imported into the United States – known as the Miscellaneous Tariff Bill or MTB. The key change is moving from a legislative process (a separate legislative bill was introduced for each tariff suspension) to a petition driven process largely administered by the International Trade Commission (ITC).

Rio, Swimming, Lies, and Moral Clauses

By Gonzalo E. Mon

Four companies announced that they were cutting ties with Ryan Lochte after the swimmer admitted to lying about being robbed at gunpoint during the Olympics. Speedo, for example, said that although they enjoyed the relationship they've had with Lochte for over a decade, "we cannot condone behavior that is counter to the values this brand has long stood for." If your company is working with a celebrity who does something that runs counter to your values, do you have the right to terminate your agreement?

New gTLD Sunrise Periods for Fashion and Retail

By Andrea L. Calvaruso

The following open gTLD Sunrise Periods may be of interest to companies in the fashion and retail industries that wish to register their trademark as a domain name. Each new gTLD operator must provide a window during which only owners of brands registered with the Trademark Clearinghouse may purchase domain names reflecting their registered marks before offering second level domains to the general public. ICANN is announcing the new sunrise periods in rounds as new gTLDs are delegated. As explained in our previous [advisory](#), you must register your company's marks in order to participate in the sunrise periods for the new gTLDs.

What the Seventh Circuit's Recent Title VII Ruling Means for Sexual Orientation Discrimination

Matthew C. Luzadder

On July 28, 2015, the United States Court of Appeals for the Seventh Circuit ("Seventh Circuit") ruled that Title VII does not protect against sexual orientation discrimination. See, *Hively v. Ivy Tech Cmty. Coll.*, 2016 BL 244172, 7th Cir., No. 15-1720, 7/28/16. The Seventh Circuit ruling is the first by a federal circuit to address the question since the EEOC held in an [administrative ruling](#) that bias based on sexual orientation is sex discrimination violating Title VII.

FTC Ponders Disclosures in Celebrity Posts

By Gonzalo E. Mon

Bloomberg ran an [article](#) suggesting that the FTC is about to “crack down on paid celebrity posts” that aren’t labeled as ads. If you read this blog, you already know this is a big priority for the FTC. In fact, the agency has launched investigations against a number of companies who used influencers to promote their brands without requiring the influencers to disclose their relationship to the companies. That’s not new. But what may be new are the suggestions from the FTC that some of the methods influencers commonly use to disclose those relationships may not be adequate.

Workplace Video Monitoring: What Employers Need to Know

By Mark A. Konkol and Barbara E. Hoey

The omnipresence of video cameras is a fact of life. The average American, aware or not, is caught on surveillance camera more than 75 times a day. Given the availability and effectiveness of inexpensive video equipment, many companies use video to monitor their entire operations for safety, security and quality control. But video surveillance can have unintended consequences well beyond its intended purpose. For example, one big-box retailer instructed a breastfeeding employee to use the store’s computer server room for lactation. After using it two or three times a day, she discovered it had a monitored surveillance camera. Now the company is facing a lawsuit.

Do's and Don'ts for the Internet of Things: Lessons Learned from FTC Privacy and Security Enforcement

By Alysa Zeltzer Hutnik

Connected devices, like home automation systems, vehicles, wearable devices and even “smart” yoga mats within the Internet of Things provide consumers and business with enormous benefits. However, consumers often neglect Federal Trade Commission (FTC) requirements related to connected devices. The author provides ten tips to navigate consumers through privacy laws and the Internet of Things.

Five Class Action Trends for Retailers and How to Stay Out of Trouble

Consumer litigation across the retail industry has been on a continuous rise with allegations that companies have falsely advertised their products or violated consumer protection laws. The authors explain trends retailers can expect to see in 2016 and provide compliance guidelines to assist companies in staying out of trouble. They expound on class action trends in misleading sales prices, Made in USA labels, the Telephone Consumer Protection Act, the Americans with Disabilities Act, and gift card redemption rules. Understanding class action trends and compliance regulations in these areas can help retailers avoid becoming a target.

NAD Addresses Disclosures in Native Ads

By Gonzalo E. Mon

When the FTC issued its guidance on native advertising last year, the Commission emphasized the importance of ensuring that consumers are able to distinguish ads from editorial content. If the line between the two gets blurred, companies may need to label ads as such. Where the label is placed can be critical, because the FTC believes that consumers should know that something is an ad before they interact with it. Last week, the NAD issued a decision that addresses the placement issue.

News

[Kelley Drye Represents General Growth Properties in Unique Aeropostale Acquisition](#)

**[Modern Counsel Quotes Partner Michael J. Zinna in Feature Article about BCBG Max Azria](#)
[GC Erica Alterwitz Meierhans](#)**

[E-Commerce Law & Policy Quotes Gonzalo Mon on Facebook Adblocker Policy](#)

[TalksonLaw Features the Internet of Things](#)

[Law360 and the Class Action Reporter Report on Kelley Drye Litigation Partners Securing Dismissal of TCCWNA Class Action for Client PC Richard](#)

Upcoming Events

LGBT Rights in the Workplace

October 26, 2016

NEW YORK, NY

ALM In-House Innovates East

Barbara E. Hoey and Mark A. Konkel

CONTACT

If the topics discussed here raise a legal question for you, please do not hesitate to contact us at infashion@kelleydrye.com for additional information. For more information on Kelley Drye's Fashion and Retail practice, please [click here](#).