

LLB&L

Locke Lord Bissell & Liddell LLP

Advertising and Marketing Law: Emerging and Hot Topics

A complimentary seminar presented by Locke Lord Bissell & Liddell LLP

Thursday, May 13, 2010

The Offices of Locke Lord Bissell & Liddell LLP
Three World Financial Center
New York, New York

Topics to be discussed include:

Clearing Your Ads - Why an ounce of prevention is worth a pound of cure

That's Unfair! - Halting competitors who bend the truth

Internet Advertising - Unique issues for protecting your brands, products, trademarks and keywords against abuse and counterfeiting online

Hot Topics - The latest issues buzzing in the advertising and marketing legal community

Green Deceptive Advertising - Overview of the law governing greenwashing

Locke Lord Bissell & Liddell LLP has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of CLE in the state of New York from 2009 to 2012.

Advertising & Marketing Law Section

- Advertising Production
- Clearance of Terms, Names,
Slogans and Logos
- Compliance with State and
Federal Regulations
- Counseling and Compliance
- Disputes and Litigation
- Drafting Contracts and Agreements
- Execution of Promotional Campaigns
- Licensing of Rights
- Mergers and Acquisitions
- Substantiation of Advertising Claims

Billions of dollars are spent each year on advertising the latest products or services, as companies constantly strive to keep their brands before consumers. Often advertisers do not consider that consumers are not the only group scrutinizing their advertisements. More and more, government agencies and competitors are challenging the content of advertisements in the market place. To reduce the risk of defending a costly challenge and the potential loss of profits, advertisers are increasingly seeking legal review of their advertisements prior to publication as well as legal review of their competitor's advertisements.

This workshop will provide tools to help understand the compliance and legal risks and strategies associated with advertising in today's market. We will provide an overview of certain federal and state laws that address the way brands are presented and marketed to the public and that govern disputes among competitors. We will also discuss the potential impact of non-compliance, and outline the scope of the risks faced.

Why Locke Lord Bissell & Liddell?

We have helped a number of clients work through the complicated areas of advertising law, whether to challenge or defend allegations relating to claims made in advertising, to develop a promotion that complies with multiple states' laws, or to identify potential sources of risk in advertisements. We have worked with advertisers and advertising agencies alike in both regional and national advertising campaigns. This experience allows us to guide clients in avoiding risk and responding to their competitors' actions in the market place.

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Why an ounce of prevention is worth a pound of cure

That's Unfair!

Halting competitors who bend the truth

Internet Advertising

Unique issues for protecting your brands, products, trademarks and keywords against abuse and counterfeiting online

Hot Topics

The latest issues buzzing in the advertising and marketing legal community

Green Deceptive Advertising

Overview of the law governing greenwashing

RSVP by May 10th
Grace Lykins
T: 646-217-7957
glykins@lockelord.com

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8:30 - 9:00 a.m.

Continental Breakfast

9:00 - 9:40 a.m.

There will be a 5 minute question and answer time after each session.

Session 1: Clearing Your Ads - Why an ounce of prevention is worth a pound of cure Mike Schulman and Jason Mueller

This session will focus on the need to have experienced counsel review advertisements prior to publication. This presentation will navigate through the claims analysis process, including examples of several types of claims. The presenters will discuss the importance of adequate substantiation, and how claims have been challenged in public and private forums. The examples chosen show a range of marketing techniques, and how practical guidance from expert legal review might be applied.

9:40 - 10:20 a.m.

Session 2: That's Unfair! Halting competitors who bend the truth David Greene and Steve Wilson

This session will focus on some of the key cases that have shaped the law of false advertising, including *Time Warner v. DirecTV* and *Pizza Hut v. Papa Johns*. The discussion will focus on the standards courts use in evaluating whether advertising materials are false or misleading. In particular, the presenters will discuss puffery and the materiality requirement.

10:20 - 10:30 a.m.

Break

10:30 - 11:10 a.m.

Session 3: Internet Advertising and Marketing - Unique issues for protecting your brands, products, trademarks and keywords against abuse and counterfeiting online Greg Casamento and Sean Fifield

This session will provide legal strategies for protecting advertising, trademarks and brands on the Internet and detecting and stopping imitation, abuse and counterfeiting. Ideas will be given for trademark and copyright protection of advertising and brands on the Internet. Highlighted will be how to stop restrict competitors from improperly using keyword advertising triggered by your brands and steps to avoid the improper use of keywords including your competitors' brands. Strategies for stopping domain name abuse and auction counterfeiting will be covered.

11:10 - 11:50 a.m.

Session 4: Hot Topics - The latest issues buzzing in the advertising and marketing legal community Steve Meyer and Alan Sack

Topics in this session will include: the penalty for falsely marketing a product with a patent number; the risks associated with User Generated Content; regulation of product placement advertising, the issues before the FTC; the latest on behavioral advertising; what's happening with Mobile Device Marketing; CAN-SPAM updates; and the latest restrictions associated with direct marketing tactics.

11:50 - 12:30 p.m.

Session 5: Green Deceptive Advertising Paul Van Slyke and Kathryn Barrett

This session will focus on an overview of the law governing greenwashing, the practice of making deceptive, false or misleading advertising claims about the environmental benefits of a product, service, or technology. The impact of the FTC's expected new Guides on Environmental Marketing Claims will be discussed. Also, the application of the Lanham Act and state laws to greenwashing claims will be covered. Several "green" deceptive advertising claims will be shared as well as strategies for developing policies and standards for advertising and marketing that involve claims to environmental benefits.

12:30 p.m.

Lunch

Key Contacts

Kathryn A. Barrett is an associate in Locke Lord's New York City office. Kathryn focuses her practice on complex domestic litigation in the areas of intellectual property, banking and business. She has assisted in federal court and in New York State Court trial preparation by preparing witness depositions, performing legal research and drafting motions. In addition to her litigation experience, Ms. Barrett prepares patent and trademark registrations and reviews corporate transactions. Kathryn can be contacted at kbarrett@lockelord.com or 212-415-8568.

Gregory T. Casamento is a partner in the New York office of Locke Lord Bissell & Liddell LLP. Greg's practice focuses on business, commercial, insurance and intellectual property litigation. He has significant experience litigating matters for his clients before both the State and Federal Courts of New York, and before a variety of New York state administrative bodies. His experience includes advising clients on and litigating false advertising claims, copyright and trademark infringement claims, breach of contract and licensing disputes. Greg can be contacted at gcasamento@lockelord.com or 212-812-8325.

Sean C. Fifield is a partner in the Chicago office of Locke Lord Bissell & Liddell LLP. Sean's practice focuses on intellectual property and licensing and general business contracts. Sean's experience includes advising clients on trademark and copyright protection, enforcement and licensing and the review and clearance of advertising and sweepstake promotions. Sean can be contacted at sfifield@lockelord.com or 312-443-1787.

David G. Greene is the Managing Partner of the New York office of Locke Lord Bissell & Liddell LLP. David has more than 25 years experience in prosecuting and defending complex commercial litigations, including federal and state class actions, multi-district litigations in the federal courts and arbitrating business disputes and arbitrations in the U. S. and Europe. David has prosecuted and defended Lanham Act and false advertising claims as well as intellectual property claims including patent infringement, trademark and copyright disputes. David has also counseled clients and litigated contract, licensing, confidentiality and non-compete claims for businesses and individuals. David can be contacted at dgreene@lockelord.com or 212-812-8338.

Jason Mueller is an associate in the Dallas office of Locke Lord Bissell & Liddell LLP. Jason has worked extensively with advertising agencies and advertisers to provide legal review and analysis of many national advertising campaigns. Jason has also worked with advertisers to design and create rules for national sweepstakes and promotions to ensure compliance with the laws of each state. Jason can be contacted at jmueller@lockelord.com or 214-740-8657.

Steven F. Meyer is a partner in the New York office of Locke Lord Bissell & Liddell LLP. He focuses in patent litigation in the U.S. District Courts and the Court of Appeals for the Federal Circuit, as well as the U.S. International Trade Commission. His experience includes litigating patent false marketing and false advertising claims. Steve has litigated, prosecuted and rendered opinions in patent matters for United States and foreign clients, primarily in the mechanical and medical devices fields. Steve can be contacted at smeyer@lockelord.com or 212-415-7535.

Alan M. Sack serves as Of Counsel in Locke Lord Bissell & Liddell's New York office. Alan is experienced in patent, trademark and copyright litigation, patent interferences, European and Japanese patent oppositions, and domestic and international patent and trademark preparation, opposition, prosecution and licensing. Alan has counseled clients on their use of trademarks in advertising and product packaging, advertising claims and the use of appropriate marking of patents and registered trademarks on product packaging and brochure. Alan can be contacted at asack@lockelord.com or 212-415-8518.

Offices

Atlanta
Austin
Chicago
Dallas
Houston
London
Los Angeles
New Orleans
New York
Sacramento
San Francisco
Washington, DC

Michael R. Schulman is a partner in the Dallas office of Locke Lord Bissell & Liddell LLP. Mike has significant experience in advertising and intellectual property law. His work includes review and clearance of advertising for compliance with legal requirements for advertising agencies and advertisers, resolution of disputes between advertisers, trademark selection, searching and registration, unfair competition law, licensing and transfer of intellectual property, e-commerce intellectual property issues, copy-right registration, and corporate and financing transactions involving intellectual property. Mike can be contacted at mschulman@lockelord.com or 214-740-8612.

Paul C. Van Slyke is a partner in the Houston office of Locke Lord Bissell & Liddell LLP. Paul's experience includes counseling and litigation of claims for advertising, trademark infringement, copyright infringement, keyword based Internet advertising and counterfeiting online. He also assists clients with preventing domain name abuse and obtaining recovery of domain names through purchase, litigation and arbitration. His experience also includes assisting advertisers with legal review of advertising to assure compliance with the state and federal laws and regulations. Paul can be contacted at pvanslyke@lockelord.com or 713-226-1406. Paul can be contacted at pvanslyke@lockelord.com or 713-226-1406.

Stephen D. Wilson is a partner in the Dallas office of Locke Lord Bissell & Liddell LLP. Steve has significant experience litigating false advertising claims and advising advertisers, agencies, and production companies on compliance issues. Steve can be contacted at swilson@lockelord.com or 214-740-8651.

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Attorney Advertising

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