

QUARTERLY IP Digest

Spotlight Our Most Read Articles Last Quarter

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7 Key Takeaways | Where's the Beef? Food Supply Chain Innovation and Revolution in the Wake of COVID-19

Kilpatrick Townsend hosted a discussion on the tangible ways the food & beverage industry can not only survive but thrive during the time of COVID-19. Ensuring a healthy food industry supply chain is vital as we cope with the effects of the current pandemic. With shortages in some areas and massive waste in others, the industry must consider ways to pivot their thinking and innovate.

Written by Babak Kusha

Using Trademark Law to Fight Price Gouging: Beware the Exhaustion Doctrine

On April 10, 2020, 3M Company, a well-known manufacturer of scientific and medical products, became one of the first companies to file a lawsuit alleging trademark infringement, likely dilution, and false advertising arising from alleged price gouging during the COVID-19 pandemic. This case raises a number of issues associated with the use of trademark law to combat pandemic-inspired price gouging schemes.

Written by Theodore H. Davis Jr., Jennifer Fairbairn Deal, and Allison Berman

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Patenting Your COVID-19 Transmission Prevention Innovation

As businesses across different industries get ready to reopen and get back to work in the midst of the COVID-19 pandemic, applying for patents may not be high on the reopening to-do list, but maybe it should be. One hurdle in profitably reopening many businesses is physically adapting the places of business to reduce the transmission of COVID-19 in a way that allows "business as usual" to resume as much as possible under the "new normal."

Written by Christopher J. Blizzard

Patent Freedom to Operate for Technology Follower Companies

Often a technology follower company is trying to make a similar product to one in the market, but may not have the budget for a full Freedom to Operate review. However, potential IP litigation risk could be significant to the technology follower company and it

should not be ignored. Even for a limited budget, a targeted review will often identify most of the risks of possible patent litigation down the road.

Written by Paul C. Haughey and Fei Shen

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Legal Alerts & Perspectives

[Video | Monthly Minute: June 2020](#)

Effectively Protecting Your Data - Technical and legal protection of collected data sets is often insufficient, especially considering the enormous value that data can yield.

[Video | Six Things You Should Know About Inter Partes Review](#)

IPR has evolved since its introduction in 2012 and continues to be an economical and potent alternative to litigation.

[Key Takeaways | What You Don't Know About Export Controls as an Attorney Can Hurt You](#)

Kilpatrick Townsend's Gunjan Talati and Patrick Njeim recently presented the ACC Colorado webinar "What You Don't Know About Export Controls as an Attorney Can Hurt You."

[When to Obtain Opinions of Counsel to Avoid Willful Infringement: Guidance for In-House Counsel](#)

Recent decisions illustrate situations where courts find "egregious" conduct under the Supreme Court's Halo standard, and an opinion should be obtained to mitigate the risk of enhanced damages/ willful patent infringement.

[The Supreme Court Abrogates Willfulness as a Bright-Line Prerequisite for Accountings of Profits Under the Lanham Act](#)

For years, the federal courts of appeals have been split on an issue of critical importance to litigants under the Lanham Act, namely, whether a prevailing plaintiff seeking an accounting of the defendant's profits under Section 35(a) of the Act must prove willful misconduct by the defendant as a prerequisite for that remedy.

[Coming Soon to Mexico: Protection for Industrial Designs Under The Hague Agreement](#)

Starting June 6th, companies can use the Hague Agreement Concerning the International Registration of Industrial Designs to protect industrial designs in Mexico.

[Patentability Searches - Bust or Save In-House Counsel Budgets?](#)

In my technical areas of electronics and software, I've often heard in-house counsel say it isn't worth the cost of doing patentability searches. They are trying for a large volume of patents, and it isn't worth a lot of budget on each one.

[Federal Circuit Finds Method of Preparation Claims Patent Eligible](#)

On March 17, 2020, a divided Federal Circuit panel ("CAFC") reversed a District Court decision and found that claims directed to a method of preparing a fraction of fetal cell-free DNA were patent eligible under 35 U.S.C. § 101.

Publications

[How Can Chinese Fashion Designer Brands Protect Original Design and Brand Value in the US?](#)

Fashion China

Written by Cindy Ding-Voorhees

[Assessing the Risks and Challenges on the Road to Owning Training Data](#)

DATAVERSITY

Written by Sameer Vadera

[A Corporate Counsel Guide to Post-Grant Proceedings at the United States Patent & Trademark Office \(USPTO\)](#)

Association of Corporate Counsel

Written by John C. Alemanni, Justin L. Krieger, Michael T. Morlock, and David A. Reed

[Patent Office Improves Open Data Access to File Wrappers](#)

IP Watchdog

Written by Thomas D. Franklin

[New York State Bar Association - Resources for IP Lawyers During COVID-19](#)

New York State Bar Association | Intellectual Property Section

Written by Marc A. Lieberstein, James A. Trigg, and Shireen Nasir

[Across Industries, the Female Inventor Rate is Half the Female Employment Rate](#)

IP Watchdog

Written by Kate Gaudry, Ph.D. and Leron Vandsburger, Ph.D.

Featured Updates: COVID-19

The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

[U.S. Patent and Trademark Office Again Extends Certain Deadlines to September 29, But Still Only For Some](#)

The USPTO previously determined that the CARES Act conditions were met, and published Notices on May 27, 2020, extending some of the previous deadlines and fee waivers. Perhaps because certain areas and sectors of the economy are starting to open up, the extensions allowed under the new Notice are (again) significantly less generous than those announced previously. The USPTO's June 29, 2020, Notice is available.

[U.S. Patent and Trademark Office Extends Certain Deadlines to July 1, For Some](#)

The USPTO previously determined that the CARES Act conditions were met, and published new Notices on May 27, 2020, extending some of the previous deadlines and fee waivers. Perhaps because certain areas and sectors of the economy are starting to open up, the extensions allowed under the new Notices are significantly less generous than those announced previously.

[Patenting Your COVID-19 Transmission Prevention Innovation](#)

As businesses across different industries get ready to reopen and get back to work in the midst of the COVID-19 pandemic, applying for patents may not be high on the reopening to-do list, but maybe it should be.

[European Patent Office COVID-19-Related Extension Period Ends Tuesday, June 2, 2020](#)

We previously published an alert that the European Patent Office (EPO), had issued a Notice that extended the times to file papers that could not be filed due to disruptions caused by the COVID-19 pandemic. The EPO extended most deadlines accruing after March 15, 2020 until April 17, 2020, including deadlines for international applications under the PCT.

[Further Extensions for EPO Deadlines Available](#) *(Published 5/4/2020)*

The EPO extensions, which previously expired on April 17, 2020, have now been extended to June 2, 2020, by a second Notice. As stated in this second Notice, it is otherwise identical to the prior Notice. The same limitations, caveats, and precautions regarding the availability of extensions thus still apply.

[Further Extensions for EPO Deadlines Available](#) *(Published 4/17/2020)*

The EPO extensions, which previously expired on April 17, 2020, have now been extended to May 4, 2020, by a second Notice. As stated in this second Notice, it is otherwise identical to the prior Notice. The same limitations, caveats, and precautions regarding the availability of extensions thus still apply.

[USPTO COVID-19 Prioritized Examination Pilot Program \(PEPP\) Announced](#)

A new COVID-19 Prioritized Examination Pilot Program (PEPP) for certain applications was announced, May 8, 2020, by the United States Patent & Trademark Office (USPTO).

[CARES Act | U.S. Patent and Trademark Office Extends Certain Deadlines to June 1](#)

The USPTO previously determined that the CARES Act conditions were met, and published new Notices of eligibility for 30-day extensions yesterday, April 28, 2020, further extending the time to file certain patent and trademark-related documents and to pay certain required fees, which otherwise would have been due between (or on) March 27 and May 31, to June 1, 2020.

[CARES Act | US Patent and Trademark Office - Additional Extensions Available](#)

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) contains several provisions which are intended to provide resources and assistance for a number of businesses impacted by the current pandemic as various Federal, State and local government agencies enforce mandatory closures of these businesses.

[Maintaining Brand Value During This Time of Crisis](#)

Needless to say, the priority for all retail brand owners should be the safety and health of their workers. Beyond that immediate priority, the Retail & Consumer Goods Industry Team here at Kilpatrick Townsend thought we should share our collective observations about how retail and consumer brands are conducting themselves during this COVID-19 crisis while still maintaining brand value and recognition in the marketplace.

Firm News

[Kilpatrick Townsend Wins Closely Watched U.S. Supreme Court Patent Case for Thryv, Inc.](#)

[KT Client Success | Kilpatrick Townsend Helps Thryv, Inc. Prevail in Closely Watched Supreme Court Case](#)

[KT Client Success | Trademark Fundamentals Win the Day for adidas](#)

[Kilpatrick Townsend Achieves Top-Tier Recognition from *Chambers USA 2020*](#)

[Kilpatrick Townsend Receives Top Rankings in 2020 *Legal 500 US*](#)

[Kilpatrick Townsend Attorneys Named 2020 Managing Intellectual Property IP Stars](#)

[Kilpatrick Townsend Named One of Facebook's Diversity Champion Firms for Second Year in a Row](#)

[Twenty-Six Kilpatrick Townsend Attorneys Recognized in 2020 IAM Patent 1000](#)

[23 Kilpatrick Townsend Attorneys Recognized in 2020 *Washington, D.C. Super Lawyers*](#)

[Three Kilpatrick Townsend Attorneys Named 2020 *Franchise Times* Legal Eagles](#)

[Kilpatrick Townsend Attorneys Honored With 2020 JD Supra Readers' Choice Awards for Thought Leadership](#)

[Kilpatrick Townsend Attorneys Receive USPTO Patent Pro Bono Achievement Certificates](#)

[Alicia Grahn Jones Selected to 2021 Class of Leadership Atlanta](#)

[Young Counsel 'Love' for Pro-Bono Helps Firms Train and Retain](#)

[Partner Marc Lieberstein Discusses Force Majeure on the *Small Business Advocate* Podcast](#)

[Patenting Trends Study by Thomas Franklin and Kate Gaudry Ph.D. was the 5th Most-Read Patent Article in JD Supra's 2019 Readers' Choice Award](#)

To view the latest **Corporate Connection**, please click [here](#).

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