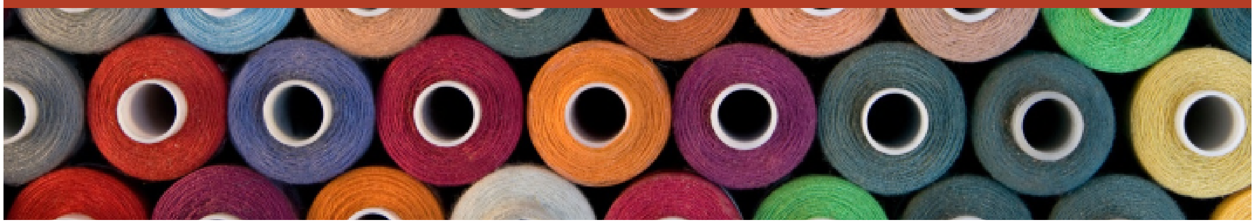
KAYE SCHOLER

Winter 2015



Trademark, Copyright & False Advertising Newsletter

Unanimous Supreme Court Holds That Trademark Tacking Must Be Decided by the Jury

Paul C. Llewellyn Partner, **Richard A. De Sevo** Of Counsel and **Kyle D. Gooch** Associate

Courts have long recognized that a trademark owner can make small changes to its mark without losing priority. This doctrine—known as trademark "tacking"—applies only if the new mark creates the "same, continuing commercial impression" as the old mark, such that the two marks are "legal equivalents." Federal courts of appeal agreed on the substantive test for tacking, but were split as to whether tacking should be decided by the judge or jury. The Federal Circuit and Sixth Circuit held that tacking was an issue of law for the judge to decide, while the Ninth Circuit held that it was an issue of fact for the jury. In a unanimous ruling that could have implications in another significant trademark context, the Supreme Court recently held that trademark tacking is a mixed question of law and fact that must be decided by the jury.

IN THIS ISSUE

Justice Sotomayor, writing for the Court, reasoned that the test for tacking depends on "an ordinary consumer's understanding of the impression that a mark conveys," which is something that "falls comfortably within the ken of a jury." The Court noted that it has long held in other legal contexts that where a question turns upon the reaction of an ordinary person or community, the "fact-intensive answer" should be decided by a jury, not a judge.

The Court expressly noted that its opinion would not prevent judges from deciding tacking issues as a matter of law when appropriate, such as on a motion for summary judgment. Nor does the Court's opinion limit the ability of a judge to act as factfinder in a bench trial. The Court was also careful to note that the doctrine of tacking was developed by lower courts rather than by Supreme Court precedent, and that the substantive standard for tacking was not at issue.

The Court noted that it has long held in other legal contexts that where a question turns upon the reaction of an ordinary person or community, the "fact-intensive answer" should be decided by a jury, not a judge.

Although the issue decided by the Court was, on its face, limited to the context of tacking (a doctrine that arises comparatively rarely), the Court's opinion could well affect a circuit split on a more pervasive issue in trademark law: whether the ultimate issue of likelihood of confusion should be decided by the judge or the jury. While the majority of circuits hold that likelihood of confusion is an issue of fact to be decided by the jury, the Second, Sixth and Federal Circuits have held that the ultimate determination on the issue is a question of law. *E.g.*, *Plus Prods. v. Plus Disc. Foods, Inc.*, 722 F.2d 999, 1004–05 (2d Cir. 1983) ("the district court's determination of each of the [likelihood-of-confusion] factors is a finding of fact"; but the court's "determination of likelihood of confusion based on the balancing of or relative weight given to each of its findings is a legal conclusion"). Given the Supreme Court's ruling and reasoning in the tacking context, it is probable that litigants will point to this new Supreme Court decision in order to challenge the approach of the Second, Sixth and Federal Circuits, potentially leading to a reexamination by those circuits of their approach on the question of likelihood of confusion.

The case is *Hana Financial, Inc. v. Hana Bank*, 574 U.S. ____, 2015 WL 248559, 2015 U.S. LEXIS 754 (Jan. 21, 2015) (No. 13-1211), *aff'g*, 735 F.3d 1158 (9th Cir. 2013).

Federal Circuit Holds That Advertising of Services on Internet Did Not Constitute Use of the Mark for Those Services

Paul C. Llewellyn Partner, **Richard A. De Sevo** Of Counsel and **Kyle D. Gooch** Associate

In 2008, David Couture applied to register PLAYDOM as a service mark in connection with entertainment services under Section 1(a) of the Lanham Act. For a specimen of use, he submitted a screen capture of a webpage using the mark to advertise those services. The registration issued in 2009, but Couture did not actually provide any services under the mark until 2010.

Meanwhile, in 2009, Playdom Inc. applied to register the mark, but its application was rejected by the USPTO. Playdom petitioned to cancel Couture's mark, arguing that it was void *ab initio* because he had not used the mark in commerce at the time that the application was filed. The TTAB agreed, and canceled Couture's registration.

The Federal Circuit affirmed, holding that the offering of a service, without the actual provision of a service, is not sufficient to constitute use in commerce. The Court of Appeals found that the result was compelled by the plain language of Section 45 of the Lanham Act, which defines "use in commerce" to include instances where a mark is "used or displayed in the sale . . . of services *and the services are rendered.*" 15 U.S.C. § 1127 (emphasis added). The court noted that its decision was in agreement with decisions from the Second, Fourth and Eighth Circuits, as well as a leading trademark treatise, McCarthy on Trademarks and Unfair Competition.

The Court of Appeals found that the result was compelled by the plain language of Section 45 of the Lanham Act.

If Couture had filed an intent-to-use application under Section 1(b) instead of claiming actual use under Section 1(a)—or even if he had amended his application to Section 1(b) before his registration issued—he would have been able to claim priority over Playdom based on his earlier filing date, provided that he commenced use within six months of the notice of allowance (which may be extended by five additional six-month periods). However, the TTAB denied Couture's request to allow him to retroactively amend the filing basis of his application to Section 1(b). The Federal Circuit agreed, noting that such an amendment is only proper during the pendency of an application, not after a registration has issued.

The case is *Couture v. Playdom, Inc.*, No. 2014–1480, 2015 WL 859524, 2015 U.S. App. LEXIS 3135 (Fed. Cir. Mar. 2, 2015).

Second Circuit Holds That *Res Judicata* Is No Bar to Post-Judgment Suit for Continuing Infringement

Paul C. Llewellyn Partner, **Richard A. De Sevo** Of Counsel and **James Lyons** Associate

The Second Circuit recently reaffirmed that *res judicata* does not bar a trademark holder who previously won a judgment of infringement and received damages and an injunction from instituting a second suit seeking relief for subsequent infringement by the same infringer. The case was the latest in a long-running dispute between manufacturers of jeans and other clothing. Marcel Fashions Group Inc. (Marcel) sold jeans under the federally registered trademark GET LUCKY since 1986. In 1990, Lucky Brand Dungarees Inc. (Lucky Brand) began selling jeans and casual apparel under a variety of marks incorporating the word "lucky," including the marks LUCKY BRAND and LUCKY BRAND DUNGAREES for which it owned registrations. A 2001 dispute resulted in a settlement agreement.

Three years later, Marcel licensed the GOT LUCKY mark to a third party, which began marketing jeanswear and sportswear under the mark. Lucky Brand sued the third party for infringement; Marcel counterclaimed, asserting infringement of its GET LUCKY mark and breach of the earlier settlement agreement. A jury found that Lucky Brand's use of the GET LUCKY, LUCKY BRAND and LUCKY BRAND DUNGAREES marks, and any other marks including the word "lucky" after the date of the earlier settlement agreement constituted infringement of Marcel's GET LUCKY mark, and awarded compensatory and punitive damages. Although the final order and judgment entered stated that Lucky Brand's use of the disputed marks after the date of the earlier settlement constituted infringement, the injunction that was issued only barred the future use of the GET LUCKY mark. Marcel had initially proposed language that would have enjoined further use of all of the marks found to be infringing, but this language was dropped from the proposed order after Lucky Brands refused to agree to it.

Less than a year after the entry of the final order and injunction, Marcel filed a new suit alleging that Lucky Brands was infringing its GET LUCKY mark by using the LUCKY BRAND and LUCKY BRAND DUNGAREES marks, which were not covered by the injunction, "'in the identical manner and form and on the same goods for which they were found liable for infringement'" in the earlier action. The district court granted summary judgment to Lucky Brands, holding that Marcel's claims were barred under the doctrine of *res judicata*, because they were essentially the same as its earlier claims, for which a final judgment had been entered.

Claim preclusion requires that "'the claims asserted in the subsequent action were, or could have been, raised in the prior action.'"

The Second Circuit vacated the grant of summary judgment, determining that the district court's *res judicata* holding was based on principles of claim preclusion and stating that claim preclusion requires that "'the claims asserted in the subsequent action were, or could have been, raised in the prior action.'" The court reasoned that claims based on sales of the infringing products that occurred *after* the earlier case was filed were not barred by claim preclusion, because the Second Circuit had previously held that a new claim "'premised on facts representing a continuance of the same course of conduct'" as a prior claim does not give rise to claim preclusion. The court rejected Lucky Brand's arguments that Marcel was already compensated for the infringement, as the earlier jury award covered infringements "after [the date of the settlement agreement]," and that Marcel's failure to seek an injunction covering all of the marks constituted an abandonment of that right. On the first point, the court held that a jury could not lawfully award damages for actions occurring after the date of the award, as Marcel could not show in the first suit that it was entitled to them. On the second point, the court held that, because of the variety of reasons for which a district court could deny an injunction, Marcel's failure to seek an injunction may represent a strategic and economic preference that is not based on the validity of a party's claim.

The case is *Marcel Fashions Grp., Inc. v. Lucky Brand Dungarees, Inc.*, No. 12–cv–4341, 2015 WL 774560, 2015 U.S. App. LEXIS 2794 (2d Cir. Feb. 25, 2015).

Literally False Comparative Advertisement Leads to "Reasonable Inference" of Irreparable Harm

Paul C. Llewellyn Partner, **Richard A. De Sevo** Of Counsel and **Kyle D. Gooch** Associate

Plaintiffs in false advertising cases used to rely on a presumption that a defendant's literally false advertising would cause irreparable harm unless it was enjoined. But since the US Supreme Court's decisions in *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006), and *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7 (2008), courts have increasingly abandoned presumptions of irreparable harm, not only in the false advertising context, but also in trademark infringement cases and other areas. Indeed, in August 2014 the Third Circuit held in *Ferring Pharms., Inc. v. Watson Pharms., Inc.*, 765 F.3d 205 (3d Cir. 2014), that a party seeking a preliminary injunction in a Lanham Act case was not entitled to such a presumption. But more recently, in late 2014, the Third Circuit clarified that courts may still draw a "reasonable inference[]" of irreparable harm on a case-by-case basis, depending on the facts.

Euro-Pro and SEB sell competing electric steam irons. On several of its models, Euro-Pro advertised that its products offered "MORE POWERFUL STEAM" or the "#1 MOST POWERFUL STEAM" when measured by grams per shot or grams per minute. But tests conducted by SEB and an outside lab hired by SEB showed the opposite—that SEB's products actually delivered more grams of steam per shot and per minute than Euro-Pro's products did. SEB filed suit against Euro-Pro and obtained a preliminary injunction.

On appeal, the Third Circuit held that the district court correctly declined to apply a presumption of irreparable harm in light of *eBay* and *Winter*. However, the appellate court further held that the district court had erred in applying a relaxed standard—that the plaintiff established a "'reasonable basis for the belief that it is likely to be damaged as a result of the false advertising'"—which was contrary to Third Circuit precedent.

Despite the district court's incorrect statement of the legal standard, however, the Third Circuit agreed that SEB presented sufficient evidence to demonstrate that it would likely suffer irreparable injury absent a preliminary injunction. Specifically, SEB presented evidence that its products enjoy a strong reputation among consumers, that the parties' products are sold side-by-side at retail stores, and that relative steam power is an important factor to consumers. Given these factors, and given the "literally false comparative advertising claims at issue," it was permissible for the district court to draw a "reasonable inference[]" that "that SEB is likely to suffer irreparable harm to its brand reputation and goodwill." The "inference" drawn by the court differs from a "presumption" in that it does not operate as a general rule, but is drawn on a case-by-case basis from the specific facts in the record. Thus, while a presumption of irreparable harm no longer applies, the "logic underlying the presumption can, and does, inform" how courts may draw inferences from the evidence.

Given the shifting standards for irreparable harm in the wake of *eBay* and *Winter*, the Third Circuit's decision provides important guidance for plaintiffs in false advertising and trademark cases when attempting to make a showing of irreparable harm.

The case is *Groupe SEB USA, Inc. v. Euro-Pro Operating LLC*, 774 F.3d 192 (3d Cir. 2014).

Court Reins in Right of Publicity Claims Arising From Historical NFL Footage

Rhonda R. Trotter Partner and **Oscar Ramallo** Associate

Former NFL players John Dryer, Elvin Bethea and Edward White sued the NFL for violating their right of publicity in using their names and likenesses in NFL Films production videos. A Minnesota federal court granted summary judgment in the NFL's favor in a ruling that strongly constrained the scope of right of publicity claims involving historical footage.

To start its analysis, the court described the videos as "more than just highlight reels." Quoting a Fortune magazine article, the court said the productions were "artistry" that "altered forever the way sports is presented on film." After giving the videos this lofty description, the court held that the NFL's First Amendment rights tipped the case decidedly in the NFL's favor, that the videos met the newsworthiness defense under many state laws, and that the claims were preempted by the Copyright Act.

In its First Amendment analysis, theccourt concluded that the films were not commercial speech, even though the NFL "certainly reaps monetary benefits from the sale and broadcast of these productions." It reasoned that the NFL was capitalizing "on the drama of the game itself," not the likenesses of the individual players. The balancing in favor of the NFL's constitutional rights against what the court viewed as a minimal impingent on the players' right of publicity was thus an easy task.

The court held that the NFL's First Amendment rights tipped the case decidedly in the NFL's favor, that the videos met the newsworthiness defense under many state laws, and that the claims were preempted by the Copyright Act.

The court also analyzed newsworthiness defenses under California, Texas, Minnesota, and New York law. Animated by the same policies underlying its First Amendment analysis, the court found the players' claims failed under the law of all four states.

Finally, the court found that, even if the NFL's First Amendment and state law defenses did not bar the players' claims, the players' claims were preempted by copyright law. The players had argued that the NFL violated their right of publicity by improperly preparing and distributing derivative works to the original copyrighted broadcasts of football games. The court rejected this argument because these uses, such as preparing derivative works, "are encompassed by copyright law." Importantly, the court noted that the players conceded that the NFL had permission to record the games and did not argue that the NFL was prohibited from exploiting the original game broadcast.

The court's highly favorable decision to owners of historical films is currently on appeal to the Eighth Circuit and provides a counterbalance to recent cases in the video game context, such as *Keller v. Electronic Arts Inc.*, 724 F.3d 1268 (9th Cir. 2013). Similar to the NFL's successful argument in *Dryer* that it was capitalizing on the historical fact of football's drama, Electronic Arts argued that its use of videogame avatars that mirrored real college players' jersey numbers, height, weight, build, skin tone, hair color, and home state was a virtual recreation of real-world football games. *Keller* rejected this argument, finding the video game was "not a publication of facts about college football; it is a game, not a reference source." *Id.* at 1283. The Ninth Circuit in *Keller* stressed that Electronic Art's case was "considerably weakened by its decision not to include athletes' names along with their likenesses and statistical data." *Id.*

The case is *Dryer v. Nat'l Football League*, No. 09–cv–2182, 2014 WL 5106738, 2014 U.S. Dist. LEXIS 144362 (D. Minn. Oct. 10, 2014).

Flo & Eddie Score Back-to-Back Wins for Pre-1972 Owners of Sound Recordings

Rhonda R. Trotter Partner and **Oscar Ramallo** Associate

Congress has never provided copyright protection to sound recordings created prior to 1972. Instead, it left the protection of such sound recordings to whatever rights or remedies that may exist under state common law or statutes. 17 U.S.C. § 301(c).

The practice in the record industry has long been not to pay royalties for public performances of pre-1972 sound recordings. Flo and Eddie Inc., a corporation owned by two original members of the Turtles, nevertheless brought three lawsuits against Sirius XM Radio seeking such compensation. To the surprise of many, Flo & Eddie scored victories in both California and New York, with no substantive ruling yet issued in Florida.

To the surprise of many, Flo & Eddie scored victories in both California and New York, with no substantive ruling yet issued in Florida.

The Central District of California ruled first in September. *Flo & Eddie Inc. v. Sirius XM Radio Inc.*, No. 13–cv–5693, 2014 WL 4725382, 2014 U.S. Dist. LEXIS 139053 (C.D. Cal. Sept. 22, 2014). The court interpreted California Civil Code § 980(a)(2), which gives owners of a sound recording "exclusive ownership therein . . . as against all persons except one who independently makes or duplicates another sound recording that does not directly or indirectly recapture the actual sound fixed in such prior recording" as naturally including an exclusive right of public performance. Addressing the disconnect between decades of past practice and its decision, the court noted that the issue had "never been presented in a California court." The court refused to treat this "judicial void" as reason to alter its interpretation of the statute. The court also brushed aside Sirius XM's Dormant Commerce Clause preemption argument in a footnote, stating that Congress had expressly authorized such state regulation in 17 U.S.C. § 301(c).

The Southern District of New York found a similar right existed under New York law, following general principals of the state's common law. *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, No. 13–cv–5784, 2014 WL 6670201, 2014 U.S. Dist. LEXIS 166492 (S.D.N.Y. Nov. 14, 2014). As in California, no New York cases had considered whether an exclusive right of public performance existed, but the court found this was simply because "the issue was just not on anyone's radar screen until Congress granted a public performance right in more recent sound recordings."

The New York court disagreed with the California court's analysis of the Dormant Commerce Clause, but ruled in favor of Flo & Eddie on the alternate ground that because the creation of a common law copyright in sound recordings applies equally to all persons within the jurisdiction, it was not barred by the Dormant Commerce Clause. *Id.* at *23-24.

For now, the momentum in the courts is strongly in favor of common law copyright holders in sound recordings.

Jury Awards $7.41 Million to Marvin Gaye's Heirs for Copyright Infringement Despite Ruling That the Scope of Protection for Pre-1978 Musical Compositions Is Limited to the Sheet Music Submitted to the Copyright

Rhonda R. Trotter Partner and **Oscar Ramallo** Associate

Robin Thicke's song "Blurred Lines" was one of the biggest hits of 2013, selling more than six million digital copies and receiving over 250 million views on YouTube. The heirs of the late Marvin Gaye alleged that "Blurred Lines" infringed Marvin Gaye's 1976 song "Got to Give It Up." Thicke and his co-composers, Pharrell Williams and Clifford Harris, Jr., sued Gaye's heirs in the Central District of California for a declaration of noninfringement. On March 10, a jury sided with Gaye's heirs, awarding them $7.41 million on their infringement counterclaims. The verdict in favor of Gaye's heirs is noteworthy in light of a pre-trial summary judgment ruling that limited the scope of copyright protection for pre-1978 musical compositions to include only what is contained in the sheet music filed with the Copyright Office and to exclude any of the additional musical features that may be contained in a sound recording of the song, even a song as well-known as Marvin Gaye's "Got to Give It Up."

Scope of Protection of Post-1978 Works

In today's world governed by the 1976 Copyright Act (effective January 1, 1978), obtaining copyright protection for a musical composition is relatively straightforward. As soon as the musical composition is fixed in any tangible medium, including in a sound recording embodying it, a copyright automatically attaches. 17 U.S.C. § 102(a). A sound recording can easily capture every nuance of the musical composition, which allows the author to obtain correspondingly broad copyright protection of every nuance of the composition.

Scope of Protection of Pre-1978 Works

As illustrated by the court's summary judgment decision in the Thicke lawsuit, things were not so simple under the 1909 Copyright Act, which governed until 1978. Under the 1909 Act, statutory copyright in a musical composition could be obtained in only two ways: (1) "publishing" the work with proper copyright notices; or (2) composing, but not publishing, the work, and depositing a copy with the Copyright Office. Importantly, under the 1909 Act, "publication" of a musical composition meant distribution of a *visually* perceptible copy of the composition, such as sheet music; a sound recording did *not* constitute publication. Similarly, the Copyright Office would only accept a visually perceptible copy of the composition, not a sound recording. Under this statutory regime, a sound recording was, thus, irrelevant in determining the scope of the musical composition.

Unfortunately for Gaye (and many other pre-1978 song writers), sheet music submitted to the Copyright Office often only contained a skeleton outline of the musical composition reflected in the sound recording. As a result, the scope of the copyright was limited to the skeleton outline of the song. In the case of "Got to Give It Up," Marvin Gaye did not himself write any sheet music; nor was he even fluent in sheet music. Rather, the sheet music was created by an unknown employee of Jobete Music, whose notation left out many of the most distinctive features of "Got to Give It Up," including (1) the backup vocals on the hooks "keep on dancing" and "dancin' lady"; (2) the recurring descending bass line in the verse; (3) the rhythm of the keyboard part; (4) the distinctive cowbell and open hi-hat rhythm; and (5) the party chatter and noises in the background of the track.

Unfortunately for Gaye (and many other pre-1978 song writers), sheet music submitted to the Copyright Office often only contained a skeleton outline of the musical composition reflected in the sound recording.

Because these features of "Got to Give It Up" were not included in the sheet music, the court refused to consider them in determining whether Thicke should be granted summary judgment of noninfringement. Nevertheless, the court found that there were enough disputes among the parties' experts about the similarity between the sheet music version of "Got to Give It Up" and the recorded version of "Blurred Lines" that the jury would need to resolve the matter.

Implications for Pre- and Post-1978 Works

The court's decision, subject to an appeal to the Ninth Circuit, should have few implications for most musical compositions created since 1978. The Copyright Office now accepts sound recordings as deposit copies for musical compositions, and sound recordings are sufficient by themselves to create a copyright in the musical compositions they embody. The court's decision seems to forever limit protection for similarly situated songwriters of pre-1978 compositions to the scope of whatever sheet music was generated at the time. However, even the barebones sheet music was enough for the jury to find infringement in the case of "Got to Give It Up," which, if not overturned on appeal, should give some solace to pre-1978 copyright owners.

Because these features of "Got to Give It Up" were not included in the sheet music, the court refused to consider them in determining whether Thicke should be granted summary judgment of noninfringement.

The case is *Williams v. Bridgeport Music, Inc.*, 13–cv–6004, 2014 WL 7877773, 2014 U.S. Dist. LEXIS 182240 (C.D. Cal. Oct. 30, 2014).

Precedential TTAB Decision Regarding the Measurement of the Date of Abandonment

Paul C. Llewellyn Partner, **Richard A. De Sevo** Of Counsel and **Kyle D. Gooch** Associate

Nonuse of a trademark for three consecutive years is *prima facie* evidence of abandonment. 15 U.S.C. § 1127. When does that date begin to run? Under TTAB and Federal Circuit precedent, the answer depends on the basis of the mark's registration:

- Registrations under Section 1(a) of the Lanham Act are based upon a statement that the mark is in actual use in commerce at the time of the application. The period of nonuse can begin to run any time after the application—*i.e.*, it can include periods of pre-registration nonuse. *See ShutEmDown Sports, Inc. v. Carl Dean Lacy*, 102 U.S.P.Q.2d 1036 (TTAB 2012).
- Registrations under Section 1(b) of the Lanham Act are based on an intent-to-use application, but the registration does not issue until the applicant files a statement of use. The period of nonuse can begin to run any time after the statement of use—*i.e.*, it can include the time period between the statement of use and the registration, but not the time period between the application and the statement of use. *See Consol. Cigar Corp. v. Rodriguez*, 65 U.S.Q.P.2d 1153 (TTAB 2002).
- Registrations under Section 44(e) of the Lanham Act are based on an intent-to-use application filed by a foreign trademark owner, but unlike a Section 1(b) registration, the registration may issue before a statement of use is filed. Because no use is required in order to obtain the registration, the period of nonuse does not begin to run until after the registration issues. *See Imperial Tobacco Ltd. v. Philip Morris, Inc.*, 899 F.2d 1575 (Fed. Cir. 1990).

When does that date begin to run? Under TTAB and Federal Circuit precedent, the answer depends on the basis of the mark's registration.

In a recent decision, the TTAB considered, as a matter of first impression, the date from which nonuse could be measured where the registration was based on Section 66(a) of the Lanham Act, which relates to an extension of protection of an international trademark registration under the Madrid Protocol. Under Section 66(a), the trademark owner does not need to use the mark in commerce in the US before obtaining a trademark registration.

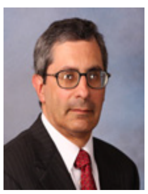
The TTAB, finding that Section 66(a) applications were analogous to Section 44(e) applications at issue in *Imperial Tobacco*, held that the nonuse period for abandonment begins to run no earlier than the date of the registration. Once the registration issues, however, the abandonment period does begin to run, and a Section 66(a) mark that is not used for three consecutive years thereafter risks a petition for cancellation based on a claim of *prima facie* abandonment.

The case is *Dragon Bleu (SARL) v. VENM, LLC*, 112 U.S.P.Q.2d 1925 (TTAB 2014).

Winter 2015 Contributors

Paul C. Llewellyn
Partner
paul.llewellyn@kayescholer.com
+1 212 836 7828

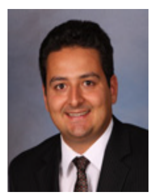
Rhonda R. Trotter
Partner
rhonda.trotter@kayescholer.com
+1 310 788 1053



Richard A. De Sevo
Of Counsel
richard.desevo@kayescholer.com
+1 212 836 8009

Kyle D. Gooch
Associate
kyle.gooch@kayescholer.com
+1 212 836 8195

James M. Lyons
Associate
james.lyons@kayescholer.com
+1 212 836 7143



Oscar Ramallo
Associate
oscar.ramallo@kayescholer.com
+1 310 788 1291