

QUARTERLY IP Digest

Spotlight

Our Most Read Articles Last Quarter

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Takeaways | Subject Matter Eligibility, Inventorship, and Artificial Intelligence

Sameer Vadera was a panelist on the “Subject Matter Eligibility, Inventorship, and Artificial Intelligence” panel co-hosted by the Pauline Newman IP American Inn of Court and the PTAB Bar Association. The panelists discussed the application of *Alice* and the USPTO’s 2019 Revised Patent Subject Matter Eligibility Guidance to patent prosecution and AIA trials, as well as best practices for prosecution of AI inventions before the USPTO, best practices for actions before the PTAB, and AI as inventor.

Written by Sameer Vadera

Trademark Modernization Act Becomes Law: Establishes New Procedures to Remove Deadwood Registrations, Restores Presumption of Irreparable Harm, and Protects the Independence of the Trademark Trial and Appeal Board

On December 27, 2020, the Trademark Modernization Act of 2020 (“TMA”) became law after it passed Congress and was signed by the President as part of the year-end Consolidated Appropriations Act for 2021. The TMA, which will become effective one year after its signature into law, introduces significant amendments to the Lanham Act designed to modernize trademark examination procedures and combat the increasing numbers of trademark registrations covering marks not used in commerce.

Written by Theodore H. Davis Jr. and Rita Weeks

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The Real Life of Fictional Trademarks

In his 1990 New Yorker story “Coyote v. Acme,” humorist Ian Frazier scripted the opening statement of trial counsel for the plaintiff Wile E. Coyote in a products liability suit against Acme Company, Coyote’s regular supplier “of such specialized products as itching powder, giant kites, Burmese tiger traps, anvils, and two hundred-foot-long rubber bands” for the intended purpose of thwarting his nemesis, Roadrunner. (For those unfamiliar with the Roadrunner cartoons, the products invariably backfired.) While there are no reported decisions in that (fictional) lawsuit, fictional brands like Acme have given rise to real legal disputes. Those disputes just more typically arise under U.S. intellectual

property than product liability laws.
Written by Lisa Pearson

4 Key Takeaways | Section 101 Update: Alice at Six

Six years ago, the Supreme Court's *Alice* decision significantly changed the landscape for patent eligible subject matter. Kilpatrick Townsend's Steve Borgman recently joined other expert panelists at the 25th Annual Advanced Patent Law Institute to present an update on this year's patentable subject matter cases and other important developments.

Written by Steve R. Borgman



5 Key Takeaways | Review of U.S. Federal Case Law and TTAB Developments

At the recent INTA 2020 Annual Meeting, Kilpatrick Townsend's Ted Davis delivered an analysis of major decision rendered by the U.S. courts and the Trademark Trial and Appeal Board (TTAB) over the past 12 months.

Written by Theodore H. Davis Jr.

Legal Alerts & Perspectives

[Monthly Minute | Protecting and Enforcing Your Trademarks](#)

A strong trademark or brand name sets a business apart from competitors and is key to business success and building goodwill among customers.

[What to Watch in 2021: Big Changes for Drug Companies in China](#)

For several years, China has been evaluating changes to its drug approval system to promote drug innovation and patient access to medicines. The year 2020 saw China begin taking steps towards adopting some of those changes.

[7 Key Takeaways | Thought Experiment: Is Our Patent System Ready for a Potential Future of Brain Interfacing?](#)

In a recent article, Kate Gaudry and Mark Mathison summarized current non-invasive brain-machine interface technology and theorized its effect on patent law if its advancement flourishes like that of the Internet and smart phones.

[AdvanSE Life Sciences Conference Afternoon Keynote](#)

Partner Tina McKeon interviewed Dr. Jeremy Levin, CEO of Ovid Therapeutics, during the afternoon keynote of the AdvanSE Life Sciences Conference.

[5 Key Takeaways | Licensing in a Crisis](#)

Marc Lieberstein moderated a brand licensing program for the first ever virtual INTA Annual Meeting to provide legal and business perspectives about the brand licensor-licensee relationship during and after the current COVID 19 crisis.

[Monthly Minute | November 2020](#)

Businesses often begin to commercialize an invention before filing a patent application to protect the invention.

[5 Key Takeaways | Brexit: Issues for U.S. Retail and Consumer Goods Businesses](#)

Kilpatrick Townsend recently co-hosted a discussion with UK law firm Mishcon de Reya about the implications of Brexit for U.S. retail and consumer goods businesses doing business in Europe.

[6 Key Takeaways | Protecting Your IP: Confidentiality & the Small Business Innovation Research Grant Process](#)

Joseph R. Snyder recently presented on "Confidentiality & The Small Business Innovation Research Grant Process." He discussed how to handle intellectual property and confidentiality in interactions with potential partners and investors.

[5 Key Takeaways | Building a Successful Patent Program](#)

The Georgia IP Alliance recently held its "14th Annual Corporate IP Institute." Kilpatrick Townsend's Rob Curylo moderated a session addressing the topic of "Building a Successful Patent Program."

[5 Key Trends | AI Application Examination](#)

What does examination of an AI application typically look like? Kilpatrick Townsend's Kate Gaudry and Leron Vandsburger offer five key trends.

[Technology-Specific Patent Filing Trends During the Pandemic](#)

How might a pandemic impact biotechnology patent filings as compared to computer-centric patent filings? The answer might surprise you.

[IP in China: The Value for U.S. Companies, Protection and Enforcement, and How to Win the Battle](#)

Charles Gray and Sindy Ding-Voorhees participated in a panel with Whirlpool Corporation's Pervin Taleyarkhan and Oxford Industries' Mary Margaret Heaton at the Association of Corporate Counsel (ACC) Virtual Annual Meeting.

Publications

[Compulsory Licensing To Cut Drug Costs Could Harm Public](#)

Law360

Written by Gabrielle Markeson, Akkad Y. Moussa and April Abele Isaacson

[Thought Experiment: Is Our Patent System Ready for a Potential Future of Brain Interfacing?](#)

IP Watchdog

Written by Kate Gaudry and Mark P. Mathison, P.E.

[Chapter 8: Helsinn Healthcare v. Teva Pharmaceuticals and the Evolving On Sale Bar to Patentability](#)

Chemistry and Patent Law: U.S. Supreme Court Decisions 2000–2020

Written by Justin L. Krieger

[Chapter 5: Clearing Freedom to Operate for New Agrochemical Products](#)

Chemistry and Patent Law: U.S. Supreme Court Decisions 2000–2020

Written by Justin L. Krieger

[Determining the Likelihood that an AI Patent Application Will Be Allowed at the USPTO](#)

IP Watchdog

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

[Tracy Chapman v. Nicki Minaj: Commercial Purposes Can be Fair Use, but Minaj May be 'Sorry'](#)

Washington State Bar, NWSidebar

Written by Leron Vandsburger, Ph.D.

[Enforcing the New Rule 34](#)

NYSBA Bright Ideas | Summer 2020 | Vol. 29 | No. 2

Written by Bryan J. Wolin

[Fed. Circ. Patent Indefiniteness Ruling Bears Drafting Lessons](#)

Law360

Written by Stephen J. E. Dew

[Deciphering the USPTO's Material Alteration Standard for Amending Marks](#)

Intellectual Property Strategist

Written by Christopher P. Bussert

Firm News

[Three Kilpatrick Townsend Partners Named BTI Client Service All-Stars 2020](#)

[Kevin W. Miller Joins Kilpatrick Townsend in Silicon Valley](#)

[Kilpatrick Townsend Argues Two of the Ten Biggest Patent Cases of 2020](#)

[Thomas Fuller Joins Kilpatrick Townsend in Silicon Valley](#)

[2020 Barrister's Best | Tom Franklin - Barrister's & People's Choice: Best IP Non-Litigator](#)

[Barrister's Best | Kris Reed People's Choice: Best IP Litigator](#)

[Generic.com Brands Fear Uphill Battle Despite USPTO Guidance](#)

[Kilpatrick Townsend Attorneys Achieve 41 Individual Rankings on the 2019–2020 *International Who's Who of Business Lawyers*](#)

[Patent Filings Dropped As Pandemic Gripped US](#)

[Kilpatrick Townsend's Trademark Practice Receives Widespread National Acclaim](#)

[Kilpatrick Townsend Earns Recognition in *U.S. News – Best Lawyers® 2021 “Best Law Firms”* Rankings](#)

[INTA Interview with Ty Lord | Brands, Diversity, and Inclusion](#)

[Kilpatrick Townsend Welcomes April Abele Isaacson As Partner](#)

[Brian O'Reilly, Wab Kadaba, and April Abele Isaacson Quoted in *The Recorder*](#)

[On the Move: Tracking the Ins and Outs of California Lawyers](#)

[Kilpatrick Townsend Lands National Life Sciences Patent Litigation Team in New York, San Francisco, and Seattle](#)

[Kimberlynn Davis Named One of the Emory University Alumni Association's 40 Under Forty](#)

Wab P. Kadaba

Patent

+1 404 532 6959

wkadaba@kilpatricktownsend.com

Bill Brewster

Trademark and Copyright

+1 404 815 6200

bbrewster@kilpatricktownsend.com

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1100 Peachtree Street Suite 2800, Atlanta, GA 30309-4528