SIGNIFICANT DEVELOPMENTS IN U.S. TRADEMARK LAW 2011

BEIJING

BRUSSELS

LONDON

NEW YORK

SAN DIEGO

SAN FRANCISCO

SILICON VALLEY

WASHINGTON

COVINGTON

COVINGTON & BURLING LLP

WWW.COV.COM

SIGNIFICANT DEVELOPMENTS IN U.S. TRADEMARK LAW 2011

CONTENTS

1. Changing Tack, Ninth Circuit Directs Courts to Consider All Confusion Factors in Internet-Related Trademark Cases................ 3

2. First Circuit Holds That Equitable Principles of *eBay v. MercExchange* Apply to Preliminary Injunctions in Trademark Infringement Cases.. 3

3. Court Finds That Third-Party Use of Trademarks As Search Keywords Can Create Consumer Confusion............................ 4

4. Ninth Circuit Holds That Mark Owner Need Not Establish That a Junior Mark Is "Identical or Nearly Identical" to Succeed on Dilution Claim.. 5

5. Ninth Circuit Finds Web Hosting Company Liable for Statutory Damages for Contributory Trademark Infringement. 5

6. Court-Mandated Splash Screen Disclaimer Raises Concerns As a Burden on Free Speech, Ninth Circuit Finds. 6

7. Evidence That Allegedly Infringing Website Has In-State Users Is Insufficient to Establish Personal Jurisdiction, Seventh Circuit Rules.. 7

8. Eighth Circuit Determines That Actual Confusion Is Not Required for Award of Defendant's Profits Under Lanham Act. 7

9. TTAB Holds That Written Responses to Document Requests May Be Made of Record by a Notice of Reliance Even Though Documents Produced in Response May Not. 8

10. Seventh Circuit Rules That Trademark Licenses Are Not Assignable in Bankruptcy Proceedings Without the Licensor's Permission. 8

A Notable Non-Development 9

Recent Trademark and Copyright Publications by Covington Attorneys 10

Primary Contacts in the Trademark and Copyright Practice............... 11

Below are the selections of Covington's Trademark/Copyright Group for the ten most significant and interesting developments in U.S. trademark law during 2011.

1. CHANGING TACK, NINTH CIRCUIT DIRECTS COURTS TO CONSIDER ALL CONFUSION FACTORS IN INTERNET-RELATED TRADEMARK CASES.

The Ninth Circuit, like every circuit, has its particular list of likelihood of confusion factors. In a widely influential 1999 decision, *Brookfield Communications, Inc. v. West Coast Entertainment Corp.*, the Ninth Circuit held that where similar marks are both used on the Internet, a "troika" of factors—the similarity of the marks, the relatedness of the goods or services offered, and the simultaneous use of the Web as a marketing channel—would almost always be determinative. Not so after a new decision, *Network Automation, Inc. v. Advanced Systems Concepts, Inc.*, 638 F.3d 1137 (9th Cir. 2011).

Two direct competitors selling job-scheduling and management software found themselves in conflict when the plaintiff purchased advertising that would accompany search results for certain keywords on major Internet search engines, including Google and Bing. Among these keywords was "ActiveBatch," the name of the defendant's competing product and its registered trademark. After cease-and-desist demands, the plaintiff sought declaratory judgment of non-infringement. The defendant counterclaimed and sought a preliminary injunction. The district court reasoned that the plaintiff had used the defendant's mark to sell a directly competing product on the Internet, thus creating a likelihood of confusion under the *Brookfield* troika, and granted the preliminary injunction.

On appeal, the Ninth Circuit criticized courts in Internet-related trademark cases for relying too rigidly on the *Brookfield* troika. Though highly relevant for domain name disputes, the court cautioned, those three factors did not necessarily offer sufficient guidance in other types of trademark cases. Rather, courts should look to all of the likelihood of confusion factors and apply them in a flexible way tailored to the facts of the cases before them, taking into account additional considerations as appropriate. Focusing on a different set of factors—the strength of the mark, the evidence of actual confusion, and the type of goods and degree of care likely to be exercised by the purchaser—as well as an additional consideration it found apt in the keyword advertising context—"the labeling and appearance of the advertisements and the surrounding context on the screen displaying the results page"—the Ninth Circuit found no likelihood of confusion and reversed the preliminary injunction.

Interestingly, the court was particularly critical of the district court's analysis of the marketing channel factor, commenting that because the Internet had become an ubiquitous marketing channel, its use by both parties shed little light on likelihood of consumer confusion. The court also rejected as outdated its conclusion in *Brookfield* that consumers on the Internet by and large exercise a low degree of care. The net result of the *Network Automation* decision is to raise the bar for a claim of likelihood of confusion on the Internet—at least in the Ninth Circuit.

2. FIRST CIRCUIT HOLDS THAT EQUITABLE PRINCIPLES OF *EBAY V. MERCEXCHANGE* APPLY TO PRELIMINARY INJUNCTIONS IN TRADEMARK INFRINGEMENT CASES.

The Supreme Court's decision in *eBay Inc. v. MercExchange, L.L.C.* (2006) held that equitable principles of injunctive relief—and not a presumption of irreparable harm—govern patent infringement cases, making injunctive relief less of a sure thing. Since then, several circuits have applied this rule in copyright cases, and now a recent First Circuit ruling has applied it in

the trademark context. *Voice of the Arab World, Inc. v. MDTV Medical News Now, Inc.*, 645 F.3d 26 (1st Cir. 2011).

Voice of the Arab World ("VOAW") and Medical News Now both began using the "MDTV" mark as early as 1998. Beginning in 2000, Medical News Now made several attempts to limit VOAW's use of the mark, such as sending cease and desist letters. Finally, in September 2009, VOAW filed an action seeking a declaration of non-infringement. Medical News Now responded by counterclaiming and seeking a preliminary injunction against VOAW's use of the MDTV mark. The court granted the preliminary injunction based on First Circuit law instructing that Medical News Now's demonstration of a likelihood of success on the merits of its trademark infringement claim entitled it to the presumption that it would suffer irreparable harm in the absence of an injunction.

On appeal, the First Circuit held that preliminary injunctions in trademark cases are subject to the traditional equitable principles articulated in *eBay*. Accordingly, whether to grant injunctive relief is in the discretion of the court, not subject to "categorical" or "general" rules. Nonetheless, the court declined to decide whether the presumption of irreparable harm on a showing of likelihood of success was such a rule. Not only had the parties not adequately briefed the issue, the court said, but it was unnecessary to decide it, "because—even if we assume without deciding that said presumption is good law—we still find that the district court abused its discretion in applying the presumption here, in light of the fact that such presumption has been held inapplicable in cases where the party seeking injunctive relief excessively delays in seeking such relief." So, unsurprisingly, Medical News Now's nine-year delay in seeking relief precluded a preliminary injunction in any event.

3. COURT FINDS THAT THIRD-PARTY USE OF TRADEMARKS AS SEARCH KEYWORDS CAN CREATE CONSUMER CONFUSION.

Last year's Top Ten reported that the recent focus of litigation involving the sale and use of third-party trademarks as ad-triggering keywords had shifted from whether such conduct constitutes trademark use in commerce to whether and when such uses are likely to cause consumer confusion. While a series of decisions last year had concluded there was no likelihood of confusion in that scenario, a district court in New York reached the opposite result in *CJ Products LLC v. Snuggly Plushez LLC*, 2011 WL 3667750 (E.D.N.Y. Aug. 22, 2011). The plaintiff created and sold the popular "Pillow Pets" line of plush pillows that, as one might guess, looked like common pets. Defendant, who made a line of knock-off pillows, purchased the trademarked phrases "Pillow Pets" and "My Pillow Pets" through Google's AdWords program, so that a Google user entering those two search terms would see a sponsored link to defendant's website above Google's "organic" search results. Plaintiff sued on a variety of theories, and the court granted plaintiff's motion for a preliminary injunction.

The court began its analysis by observing that plaintiffs had a protectable interest in the marks at issue and that their use as AdWords was a "use in commerce" as required for a Lanham Act claim. Next, the court turned to the "sine qua non" of a trademark claim: whether the use of the marks was likely to cause consumer confusion. While most of the likelihood of confusion factors weighed in favor of plaintiff, the court focused on two. First, there was a strong similarity between the sponsored advertisement triggered by use of the AdWords mark (which invited users to visit "PillowPets.co" [sic]) and plaintiff's marks, and defendant's website was virtually identical in color, format, font, and phrasing to plaintiff's website. Second, there was compelling evidence of actual consumer confusion, as data showed that total visits to defendant's website rose in tandem with total visits to plaintiff's website. Moreover, after

defendant changed the name of its website to "PillowPets.co" and began to mimic the look and feel of plaintiff's website, traffic to the knock-off site increased substantially.

In finding likelihood of consumer confusion and granting an injunction, the decision is something of an outlier compared to the recent trend in keyword litigation. However, as described in last year's Top Ten, in those earlier cases the implicated marks did not generally appear in the advertisements triggered by the AdWords mark. Here, the blatant manner in which defendant used phrases confusingly similar to plaintiff's marks, in both its sponsored advertisements and the website to which those advertisements linked, weighed heavily in the court's decision to grant an injunction.

4. NINTH CIRCUIT HOLDS THAT MARK OWNER NEED NOT ESTABLISH THAT A JUNIOR MARK IS "IDENTICAL OR NEARLY IDENTICAL" TO SUCCEED ON DILUTION CLAIM.

Levi Strauss & Company, owner of a trademark for the "Arcuate" design stitched on the back pockets of its blue jeans, sued Abercrombie & Fitch Trading Co. for using a stitch design on its jeans that allegedly "incorprate[d] the distinctive arching elements of the Arcuate trademark." The district court held Abercrombie was not diluting Levi Strauss' mark, ruling that Levi Strauss was required to demonstrate that Abercrombie's design was "identical or nearly identical" to its mark to prevail on a dilution claim. In a victory for owners of famous marks, the Ninth Circuit reversed. *Levi Strauss & Co. v. Abercrombie & Fitch Trading Co*., 633 F.3d 1158 (9th Cir. 2011).

The Ninth Circuit reasoned that, in adopting the Trademark Dilution Revision Act ("TDRA") in 2006, Congress replaced the Federal Trademark Dilution Act ("FTDA") with a comprehensive statute that did not make reference to the "identical or nearly identical" standard that the court had previously employed. While Abercrombie argued that this standard survived nonetheless, the court emphasized that Congress had re-written the law, not simply amended it. The court also noted that the TDRA used a non-exhaustive list of relevant factors for determining dilution, which included "degree of similarity," suggesting that a mark need not be "identical or nearly identical" to cause dilution. Accordingly, the scope of the TDRA was broader than Abercrombie claimed, and Levi Strauss could pursue its dilution claim based on similar designs.

Levi Strauss mirrors a recent decision of the TTAB, *Nike, Inc. v. Maher*, 100 U.S.P.Q.2d 1018 (T.T.A.B. 2011), in which the Board similarly held that the TDRA requires only that the two marks be similar, not "essentially the same." Together, these developments should open the door for trademark owners to bring claims against a wider range of allegedly dilutive marks.

5. NINTH CIRCUIT FINDS WEB HOSTING COMPANY LIABLE FOR STATUTORY DAMAGES FOR CONTRIBUTORY TRADEMARK INFRINGEMENT.

Trademark owners frequently confront website operators who direct infringing content at U.S. consumers but are based in foreign countries and thus jurisdictionally hard to reach. One strategy to challenge such infringing activity is to seek relief against the U.S.-based entities that support those website operators, such as web hosting companies. Louis Vuitton Malletier, S.A. recently employed just this approach with success in *Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc.*, 658 F.3d 936 (9th Cir. 2011).

Websites selling goods that infringed on Louis Vuitton's trademarks and copyrights were operated in China, but the websites were using IP addresses assigned to California-based

defendants Managed Solutions Group, Inc. ("MSG"), Akanoc Solutions, Inc. ("Akanoc"), and the two companies' manager, Stephen Chen. MSG leased the servers, bandwidth, and some IP addresses to Akanoc, which operated the servers and ran the business. From 2006 to 2007, Louis Vuitton sent these parties eighteen notices of infringement on numerous websites they hosted, receiving no response. Louis Vuitton then sued for contributory infringement of trademark and copyright. A jury found the defendants liable and awarded $10.5 million in statutory damages against each. The district court reversed the judgment as to one defendant, and the other two appealed.

The Ninth Circuit affirmed, holding that appellants were liable for contributory trademark infringement because they (i) had direct control and monitoring of the instrumentality used by the website owner to infringe and (ii) continued to supply services to that entity despite knowing or having reason to know the owner was providing infringing content. The Ninth Circuit explained that "websites are not ethereal; while they exist, virtually, in cyberspace, they would not exist at all without physical roots in servers and internet services. . . . Appellants physically host websites on their servers and route internet traffic to and from those websites. This service is the Internet equivalent of leasing real estate." The Ninth Circuit also rejected Appellants' argument that statutory damages are not recoverable against a contributory infringer. Notably, however, the court held that Louis Vuitton was not entitled to multiple awards for the same infringing activity and thus reduced the multiple awards to a single award of $10.5 million (approximately $807,692 per trademark violated), for which the two defendants were jointly and severally liable.

6. COURT-MANDATED SPLASH SCREEN DISCLAIMER RAISES CONCERNS AS A BURDEN ON FREE SPEECH, NINTH CIRCUIT FINDS.

Disclaimers are a common form of injunctive relief in trademark cases as a means of reducing the potential for consumer confusion. A particularly aggressive form of disclaimer is a splash screen disclaimer, which appears on a website as it is loading and prevents a visitor from accessing the website's content without clicking "CONTINUE." In *TrafficSchool.com v. EDriver, Inc.*, 653 F.3d 820 (9th. Cir. 2011), the Ninth Circuit addressed whether such a disclaimer could impermissibly burden the free speech of the website operator. The defendants' website, DMV.ORG, was a for-profit website containing sponsored links and collecting fees for referring visitors to vendors of traffic-school courses and other driver-related services. Plaintiffs, who market and sell traffic-school courses directly to consumers, alleged that DMV.ORG violated false advertising laws by actively fostering the belief that it was an official state DMV website. The district court found DMV.ORG violated the Lanham Act's false advertising provision and required the website to present each site visitor with a splash screen reading, "YOU ARE ABOUT TO ENTER A PRIVATELY OWNED WEBSITE THAT IS NOT OWNED OR OPERATED BY ANY STATE GOVERNMENT AGENCY."

On appeal, the Ninth Circuit affirmed liability but concluded that the remedy of a permanent splash screen disclaimer raised First Amendment concerns because it erected a barrier to all content on the website, not just deceptive content. Judge Alex Kozinski's opinion explained that some of the content was informational and was thus fully protected, and the truthful commercial speech on the website was also entitled to significant protection. The permanent nature of the injunction was troubling, Judge Kozinski noted, given that the website content could change over time and had in fact already changed subsequent to the litigation. If the splash screen continued to burden the website's protected content even after all the harm had dissipated, the injunction would burden protected speech without justification. Accordingly,

the Ninth Circuit remanded for the district court to reconsider the duration of the splash screen, noting that if the district court planned to continue to require the splash screen, it must explain its reasons and set out what conditions the defendants must satisfy to have it removed in the future.

7. EVIDENCE THAT ALLEGEDLY INFRINGING WEBSITE HAS IN-STATE USERS IS INSUFFICIENT TO ESTABLISH PERSONAL JURISDICTION, SEVENTH CIRCUIT RULES.

Online dating service be2.com, incorporated and headquartered in Delaware, filed a trademark infringement complaint in Illinois against Nikolay Ivanov, a resident of New Jersey, alleging that the company of which Ivanov was CEO, be2.net, had a confusingly similar domain name and website design. After he failed to appear and a default judgment was entered against him, Ivanov filed a motion to vacate for lack of personal jurisdiction. When the district court denied the motion, Ivanov appealed to the Seventh Circuit.

Despite an evident mistrust of Ivanov's story—including, most notably, his assertion that the title "CEO" actually stood for "Centralized Expert Operator"—the Seventh Circuit reversed, ruling that an Illinois court could not exercise personal jurisdiction over Ivanov. *be2 LLC v. Ivanov*, 642 F.3d 555 (7th Cir. 2011). The court's minimum-contacts inquiry under *International Shoe* hinged on the question of whether Ivanov had "purposely exploited" the Illinois market. The only evidence to this effect was the fact that twenty users had created dating profiles on be2.net using Illinois addresses. The court suggested, however, that these users "may have done so unilaterally by stumbling across the website and clicking a button that automatically published their dating preferences online." In the absence of further evidence, such as an advertising campaign or direct communications between Ivanov and the Illinois-based users, the court found that Ivanov had not exploited the Illinois market and therefore was not subject to personal jurisdiction there.

The decision reaffirms that, in trademark cases as elsewhere, neither operating an "interactive" website accessible in a jurisdiction nor the fact that the website is used by people in that jurisdiction is sufficient to create personal jurisdiction there. For a recent discussion of personal jurisdiction and the Internet in copyright law, see this year's copyright Top Ten, reviewing the New York Court of Appeals' decision in *Penguin Group (USA) Inc. v. American Buddha*.

8. EIGHTH CIRCUIT DETERMINES THAT ACTUAL CONFUSION IS NOT REQUIRED FOR AWARD OF DEFENDANT'S PROFITS UNDER LANHAM ACT.

Dr. William H. Masters and his wife Virginia E. Johnson—well-known for their work on human sexuality and the treatment of sexual dysfunction—entered into a licensing agreement with UHS of Delaware, Inc., owner and operator of a number of psychiatric hospitals and mental health facilities. The agreement allowed for use of the unregistered service mark MASTERS AND JOHNSON in connection with inpatient treatment programs. Mrs. Masters later sued UHS for breach of the agreement, service mark infringement under the Lanham Act and Missouri law, and common law unfair competition, alleging that UHS exceeded the scope of the license agreement. A jury awarded Masters $2.4 million as a measure of UHS's disgorged profits, and UHS appealed. *Masters v. UHS of Delaware, Inc*., 631 F.3d 464 (8th Cir. 2011)

In the most notable part of its opinion, the Eighth Circuit upheld the verdict against the argument that no profits could be awarded because Masters did not present any evidence of actual confusion. The Eighth Circuit held that principles of equity nonetheless allowed the jury

to make an award for disgorgement of profits. Looking to 15 U.S.C. § 1125(a)(1)(A) and 15 U.S.C. § 1117(a), the court noted that the text of the statute does not require actual confusion, reasoning that "requiring actual confusion would undermine the equitable nature of the Lanham Act's remedial scheme." Here, actual confusion was not necessary for the jury to conclude that UHS willfully infringed the MASTERS AND JOHNSON mark when it used the mark to promote programs that were not contemplated in the license agreement and for techniques unrelated to the Masters' methodology.

9. TTAB HOLDS THAT WRITTEN RESPONSES TO DOCUMENT REQUESTS MAY BE MADE OF RECORD BY A NOTICE OF RELIANCE EVEN THOUGH DOCUMENTS PRODUCED IN RESPONSE MAY NOT.

In a decision believed to be the first in which the Trademark Trial & Appeal Board has squarely addressed the issue, the Board upheld Covington & Burling's contention that *written responses* to Rule 34 document requests may be made of record by a notice of reliance notwithstanding the fact that Trademark Rule 2.120(j)(3)(ii) specifically provides that *documents* produced in response to a Rule 34 request may not. *Spirits International BV v. S.S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birligi*, 99 U.S.P.Q.2d 1545 (T.T.A.B. 2011). Representing opposer Spirits International BV (owner of the famous STOLICHNAYA and MOSKOVSKAYA marks for vodka), Covington argued that written responses are not covered by this Rule and that applicant's responses constituted admissions against interest. This was because the responses stated that the intent-to-use applicant did not have various categories of documents it would be expected to have if it had a bona fide intent to use its MOSKONISI mark for alcoholic beverages.

The TTAB agreed, holding that the written responses were properly made of record by a notice of reliance, and found that the written responses were sufficient to satisfy opposer's initial burden of proving that applicant had no bona fide intent to use its mark on or in connection with alcoholic beverages. In the absence of rebuttal evidence, moreover, the Board found that applicant's written responses to opposer's document requests were fatal for *all* of the products for which applicant sought registration in Classes 32 and 33, including numerous non-alcoholic products. Commentators have recognized the Board's decision as significantly affecting litigation strategy in the TTAB.

10. SEVENTH CIRCUIT RULES THAT TRADEMARK LICENSES ARE NOT ASSIGNABLE IN BANKRUPTCY PROCEEDINGS WITHOUT THE LICENSOR'S PERMISSION.

Typically, after filing for Chapter 11 bankruptcy, a debtor may still assign its rights and responsibilities under the contracts it entered into prior to bankruptcy. Such assignments are prohibited, however, if (a) the other party to the contract does not consent to the assignment and (b) "applicable law" gives that party the right to refuse performance from anyone except the debtor; any contractual restrictions on assignments are irrelevant. 11 U.S.C. § 365(c)(1). When a trademark licensee goes bankrupt and tries to assign its license without permission from the licensor, does trademark law require the licensor to accept performance from an assignee as it would from the now-bankrupt licensee?

The answer, according to the Seventh Circuit, is no: the "universal rule" in trademark law (both federal and state) is that "trademark licenses are not assignable in the absence of a clause expressly authorizing assignment." *In re XMH Corp.*, 647 F.3d 690 (7th Cir. 2011). Judge Richard Posner's opinion explained that this rule derives from the source-identifying role of

trademarks. A trademark owner will normally not want to allow licensees to sublicense the trademark without consent, "because while the owner will have picked his licensee because of confidence that he will not degrade the quality of the trademarked product he can have no similar assurance with respect to some unknown future sublicensee." Further, "[b]ecause this is the normal reaction of a trademark owner, it makes sense to make the rule that a trademark license is not assignable without the owner's express permission a rule of contract law—what is called a 'default' rule because it is the rule if the parties do not provide otherwise (as they are allowed to do)."

Other than an unpublished opinion by the Ninth Circuit, *XMH* marks the first time that a federal appellate court has addressed this intersection of trademark and bankruptcy law, and so should help to clarify the rights of trademark owners in future bankruptcy proceedings.

A NOTABLE NON-DEVELOPMENT

In an unusual series of events, the Ninth Circuit withdrew its controversial opinion involving the classic cartoon character Betty Boop and issued a new, largely unremarkable opinion in its place. *Fleischer Studios, Inc. v. A.V.E.L.A., Inc.*, 654 F.3d 958 (9th Cir. 2011). The case involved claims of both trademark and copyright infringement against merchandise bearing the name and image of Betty Boop. The original decision had held that the use of the character's image qualified as aesthetically functional—because the image was what made the product attractive to consumers, without misleading them as to source or affiliation—and was therefore non-infringing. The court had also held that allowing the trademark claim to proceed where the copyright in Betty Boop had already expired would effectively prevent the work from ever entering the public domain, a result the court viewed as contrary to the Supreme Court's 2003 decision in *Dastar*. These rulings garnered much attention (and criticism), and in its superseding opinion, the Ninth Circuit decided the same trademark claims on far narrower grounds, so that the once-contentious case now appears to have little doctrinal impact.

RECENT TRADEMARK AND COPYRIGHT PUBLICATIONS BY COVINGTON ATTORNEYS

Simon J. Frankel and Jake Freed, “Legality of Search Engine Keywords Gets Personal,” *Daily Journal*, September 15, 2011.

Simon J. Frankel and Leslie Harvey, “Will the Digital Era Sound the Death Knell for the First Sale Doctrine in US Copyright Law,” *Intellectual Property Magazine*, March 2011.

Bingham Leverich, Marie Lavalleye, and Hope Hamilton, “Responses to Document Requests Can Be Fatal!,” *Law360*, August 26, 2011.

Shannon M. Nestor, “Fashioning Copyright Protection for Apparel in the US,” *Intellectual Property Magazine*, May 2011.

Kristina Rosette, “The Sun Rises on a New gTLD Landscape,” *Intellectual Property Magazine*, July/August 2011.

Kurt Wimmer, Eve Pogoriler, and Steve Satterfield, “International Jurisdiction and the Age of Cloud Computing,” *BNA’s Internet Law Resource Center and Internet Law & Regulation*, February 2011.

PRIMARY CONTACTS IN THE TRADEMARK AND COPYRIGHT PRACTICE

BEIJING

2301 Tower C Yintai Centre
2 Jianguomenwai Avenue
Chaoyang Dist., Beijing
100022

Jason Ma
+86.10.5910.0507
jma@cov.com

BRUSSELS

Kunstlaan 44 /
44 Avenue des Arts
1040 Brussels

Alain Strowel
+32.2.549.5269
astrowel@cov.com

LONDON

265 Strand
London WC2R 1BH

Lisa Peets
+44.(0)20.7067.2031
lpeets@cov.com

NEW YORK

The New York Times Building
620 Eighth Avenue
New York, NY 10018

Albert L. Wells
212.841.1074
bwells@cov.com

SAN FRANCISCO

One Front Street
San Francisco, CA 94111

Evan Cox
415.591.7073
ecox@cov.com

Simon J. Frankel
415.591.7052
sfrankel@cov.com

WASHINGTON

1201 Pennsylvania Ave., NW
Washington, DC 20004

Ronald G. Dove Jr.
202.662.5685
rdove@cov.com

Kathleen T. Gallagher-Duff
202.662.5299
kgallagher-duff@cov.com

Hope Hamilton
202.662.5529
hhamilton@cov.com

Marie A. Lavalleye
202.662.5439
mlavalleye@cov.com

Bingham B. Leverich
202.662.5188
bleverich@cov.com

Neil K. Roman
202.662.5695
nroman@cov.com

Kristina Rosette
202.662.5173
krosette@cov.com

Laurie Self
202.662.5458
lself@cov.com

Individual biographies and additional information about the firm and its practice appear on the firm's website, www.cov.com.

© 2012 Covington & Burling LLP. All rights reserved. *January 2012*