



**MarkIt to Market™ - February 2016**

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The February issue of Sterne Kessler's **MarkIt to Market™** newsletter discusses the trademark implications of so-called "zombie" brands, examines Reddit reactions to the Fine Brothers' attempts to register and monetize the mark REACT, and provides an updated list of the Sunrise periods currently available for new gTLDs.

Sterne Kessler's Trademark, Advertising, and Anti-Counterfeiting **practice** is designed to help meet the intellectual property needs of companies interested in developing and maintaining strong brands around the world. For more information, please contact [Monica Riva Talley](#) or [Tracy-Gene G. Durkin](#).



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**Zombie Trademarks - When is a "Dead" Mark Really Alive, and Able to Bite?**

By: [Monica Riva Talley](#)

Earlier this month, Macy's won a ruling against a company that revives out-of-use, but well-known brands. Strategic Marks LLC is in the business of reviving abandoned brands, sometimes referred to as "zombie" brands, using them on T-shirts and similar items.



The zombie nickname turned out to be particularly apt in the Macy's/Strategic Marks case, because Strategic Marks learned that even though a trademark may be technically "dead" – no longer in use, and no longer protected by a trademark registration – it can still have some teeth when it comes to enforcing against a would-be infringer.

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**Reddit Community to Fine Brothers: REACT Registration Not So Fine**

By: [Shana L. Olson](#) and [Monica Riva Talley](#)

Benny and Rafi Fine, also known as the **Fine Brothers**, are well-known YouTube® content producers – they publish videos that show groups of people watching and reacting to things. Some recent examples include [Elders React to the Oscars](#), [Adults React to Super Bowl Commercials](#), and [Kids React to Furby](#). Between 2011 and 2012, the Fine Brothers applied for, and ultimately registered on the Principal Register, the marks [KIDS REACT](#), [ELDERS REACT](#), and [TEENS REACT](#) for their various video series, without much attention.



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**gTLD Sunrise Periods Now Open**

As first reported in our December 2013 newsletter, the first new generic top-level domains (gTLDs, the group of letters after the "dot" in a domain name) have launched their "Sunrise" registration periods. Please contact us or see our [December 2013 newsletter](#) for information as to what the Sunrise Period is, and how to become eligible to register a domain name under one of the new gTLDs during this period.

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