



## MarkIt to Market™

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The March issue of Sterne Kessler's [MarkIt to Market™](#) newsletter provides 5 considerations for prioritizing your global trademark protection, identifies takeaways from a recent trade dress decision, and provides an updated list of the Sunrise periods currently open 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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### Global Trademark Protection — 5 Practical Considerations

By [Lauriel F. Dalier](#) and [Monica Riva Talley](#)

It is the rare business that has the budget to protect every single mark in every single jurisdiction. Following are five factors to consider in determining how to prioritize foreign filing resources. These include where you'll be doing business, whether your mark is unique and memorable, and whether counterfeit products could harm your consumers.

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### Single Color Mark — Functionality Does Not Necessarily Preclude Protectability

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

The Ninth Circuit's recent decision in *Moldex-Metric, Inc. v. McKeon Products, Inc.* clarifies that even when a single color trade dress has a function, and even when the color is marketed as such, this fact alone does not preclude trade dress protection.

Moldex-Metric, a manufacturer of earplugs tinted a particular shade of green, sued to enforce its trade dress against competitor McKeon Products. The district court granted Defendant McKeon's summary judgment motion, finding Moldex's trade dress unenforceable because the bright neon green color of the earplugs served a function by allowing supervisors of workers wearing the earplugs to confirm use from a distance. Moldex's own advertisements touted the color's usefulness to industrial buyers.

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### INTA Annual Meeting

[Monica Riva Talley](#), [Julie D. Shirk](#), and [Ivy Clarice Estoesta](#) will be in attendance at this year's International Trademark Association Annual Meeting. Monica will present a topic on "Strategies for Combating Counterfeiting."

If you'd like to meet with us while we're in the San Diego area in early May, please contact us.

### 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 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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