

# manatt

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## ADVERTISING LAW

NEWSLETTER OF THE ADVERTISING, MARKETING & MEDIA PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

### IN THIS ISSUE

- **FTC Wants E-Card Sites To Be COPPA-Compliant**
- **Domain Name Front Running Suspicions Quelled**
- **ValueClick Settles with FTC for \$2.9 Million**
- **France's First Couple Wins \$90,000 From Airline**

### FTC Wants E-Card Sites To Be COPPA-Compliant

The Federal Trade Commission has started directing Web site operators to get parental consent before permitting users aged 12 and under to send an e-card that includes the sender's e-mail address or first and last name.

Previously, the FTC said site operators could allow kids under 13 to forward items to their friends as long as the site deleted the e-mail address provided by the sender. The FTC recently posted the revisions to its guidelines implementing the Children's Online Privacy Protection Act of 1998 ("COPPA"), which governs online marketing to kids.

Previously, e-cards were considered an exception to COPPA notice requirements.

But recently, government regulators have increased enforcement efforts under COPPA. Last month, social marketing site Imbee.com was fined \$130,000 for collecting data from its tweenage users without seeking parental consent. Late last year Texas Attorney General Greg Abbott accused two online companies - gaming fan site GamesRadar.com and cartoon doll site TheDollPalace.com - of violating the Act by collecting personal information from children under 13 without their parents' consent.

[back to top](#)

### Domain Name Front Running Suspicions Quelled

An Internet committee investigating suspicious domain name transactions has found no evidence that insider information is

### UPCOMING EVENTS

**October 21, 2008**

**ACI: Sports Sponsorship Advertising and IP**

**Topic:**

"When Retired Players Sue From Coscarart v. Major League Baseball to Parrish v. NFLPA"

**[Ronald S. Katz](#)**

"Morality and an Agreement Mortality--Taking Appropriate Measures to Avoid the Termination of an Endorsement Deal"

**[Linda Goldstein](#)**

The Carlton Hotel  
New York, NY

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**October 22, 2008**

**D.C. Bar CLE Seminar**

**Topic:**

"Copyright Law and Litigation"

**[Kenneth M. Kaufman](#)**

D.C. Bar Conference Center  
Washington, D.C.

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**November 20-21, 2008**

**PMA's 30th Annual Promotion Marketing Law Conference**

**Topic:**

"Navigating the Potholes: The Evolving Landscape for Sweepstakes, Games

being used to grab desired Internet addresses to make money off the individual or business that actually wants to register them.

The Security and Stability Advisory Committee of the Internet Corporation for Assigned Names and Numbers (ICANN) said the 120 claims of "domain name front running" it reviewed generally resulted from misunderstandings about how the domain name industry works.

"When Internet users are unable to distinguish among different market activities, they often appear to conclude that they have fallen victim to a domain name front runner," the committee said in a new report.

The ICANN committee said cases suspected of front running often turned out to be coincidence, with multiple parties interested in the same names.

The committee found that the separate practice of domain name tasting might be causing problems. Domain name tasting occurs when an individual or company uses a loophole to test the financial viability of a name for up to five days and then returns it for a full refund. Companies use computer programs to rotate through millions of domain names for free, tying up these addresses although they have little or no intent of actually buying them.

ICANN has proposed charging its existing fee of 20 cents per domain name even if the name is returned, making tasting masses of names more expensive. During ICANN meetings in New Delhi many parties complained that the fee would penalize legitimate returns, such as typo correction, said Paul Twomey, ICANN's chief executive. The board has taken no action so far.

[back to top](#)

## ValueClick Settles with FTC for \$2.9 Million

Online marketer ValueClick has reached a \$2.9 million settlement with the Federal Trade Commission to resolve allegations that the company engages in deceptive online marketing practices, and violated provisions of the CAN-SPAM and FTC Acts.

The company said that it agreed to the settlement payment without admitting liability or conceding it violated any laws, and that the settlement is based only on past practices of its Hi-Speed Media unit.

ValueClick added that the company and the FTC have agreed on standards regarding ValueClick's lead-generation business.

ValueClick is a "lead-generation" firm that uses online

Contests"

### [Linda Goldstein](#)

**Topic:**

"Consumer Product Safety: Hear from the Regulators How the New Laws Affect Your Promotion"

### [Kerrie L. Campbell](#)

Marriott Downtown Magnificent Mile  
Chicago, IL

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### **December 4-5, 2008 Film & Television Law**

**Topic:**

"Product and Music Placement Branded Entertainment: Issue and Litigation"

### [Linda Goldstein](#)

**Topic:**

"The Value of Fame: Understanding the Right of Publicity"

### [Mark S. Lee](#)

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promotions and other incentives to deliver potential customers to its clients. The FTC probe, launched in mid-2007, centered on Web sites claiming to offer a free gift of significant value, as well as the Web- and e-mail-based mechanisms ValueClick used to draw traffic to those sites.

"We have worked with the FTC and have reached an agreement on the standards and practices that will govern our lead generation business going forward," said ValueClick's COO of U.S. media David Yovanno in a statement. "We believe this settlement will also help set the guidelines for the lead generation industry as a whole, and we will continue to participate in the Internet Advertising Bureau to help establish best practices to that end."

**[back to top](#)**

## **France's First Couple Wins \$90,000 From Airline**

French President Nicolas Sarkozy and France's new first lady Carla Bruni have won a lawsuit against Irish budget airline Ryanair for featuring a photo of the couple in an ad campaign.

The Paris court earlier this month ordered Ryanair to pay Bruni 60,000 euros (\$90,000) in damages, well short of the 500,000 euros the former supermodel-turned-pop star-turned first lady was seeking for the use of her image without her consent.

Sarkozy was awarded a symbolic sum of one euro in damages, as he had requested.

The ad featured a photograph of the couple smiling dreamily while a caption next to Bruni reads "With Ryanair, my whole family can come to my wedding."

The airline, based in Dublin, was also ordered to have the court ruling printed in Le Parisien newspaper, where the ad appeared last week.

The 53-year-old Sarkozy's highly-publicized whirlwind romance with the 40-year-old Bruni was wrapped up by their wedding last month. Bruni's lawyer had accused Ryanair of harming Bruni's image as a "model, composer and singer of talent," saying she "has the right to choose her advertisers."

Ryanair's lawyer had drawn attention to the light-humored nature of the ad, while presenting the company's "deep" apologies to the couple.

In December, Ryanair reached an out-of-court settlement with Sweden's former prime minister Goeran Persson for using his picture in an ad campaign without his consent.

That ad showed Persson and ex-foreign minister Laila Frievalds under the caption "Time to flee the country?" after the government was shaken by a crisis of confidence.

[back to top](#)

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