

The August issue of Sterne Kessler's **MarkIt to Market™** newsletter is all about monkey business, including an analysis of the copyright debate between British photographer David Slater and Wikimedia Commons over "selfies" taken by a monkey, a reminder as to the important distinction between copyrighted artistic works and use of elements from those works as trademarks, and 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**, **Tracy-Gene G. Durkin**, **Ivy Clarice Estoesta**, or **Julie D. Shirk**.



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The Next Time Your Pet Takes a Selfie...

It has been two years since British nature photographer David Slater first asked Wikimedia Commons to remove several photos of a crested black macaque from its online collection of public domain images (the images can be viewed [here](#)). Slater claimed to own the copyright in the photos, some of which show the monkey staring directly into the camera and grinning in a very human way.

Wikimedia took the position that Slater did not own the copyright to the photos because they were "selfies" taken by the monkey itself when Slater momentarily left the photo shoot site, and his camera unattended. And since monkey's can't own copyrights, Wikimedia maintained that it was free to keep the photos on its website.

▶ [Read more](#)



Why FLYING MONKEY WINE Never Got Off the Ground

Continuing our primate theme for this month's newsletter, we thought this would be as good a time as any to remind our readers as to the important distinction between copyrighted artistic works, and use of elements from those works as trademarks.

By way of illustration, several years ago a Kansas winery attempted to register the trademark names associated with the Wizard of Oz, for wine - including FLYING MONKEY WINE. Warner Brothers opposed registration based on a number of trademark applications and registrations for marks referencing elements of the *Wizard of Oz* book, covering merchandise.

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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 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.

▶ [Read more](#)

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