

## **XXIV. ELECTRONIC MAIL REGULATION**

### **A. CASE LAW**

#### **1. U.S. District Courts**

- a. *Asis Internet Services v. Subscriberbase Inc.*  
2010 WL 1267763**

The U.S. District Court for the Northern District of California ruled on April 1, 2010 that the CAN-SPAM Act did not preempt state law in the field of “falsity and deception.” The court found that the question of whether the subject line of mass commercial e-mails is deceptive and violates state law is a question of fact for the jury, unless no reasonable trier of fact could conclude otherwise.

## **XXV. FALSE ADVERTISING**

### **A. CASE LAW**

#### **1. U.S. District Courts**

- a. *QVC Inc. v. Your Vitamins Inc.*  
96 USPQ2d 2008**

The U.S. District Court for the District of Delaware ruled on July 23, 2010 that plaintiffs have failed to satisfy their burden, for preliminary injunction purposes, of showing, literal falsity of statement on defendant's comparative advertising blog averring that plaintiffs' dietary supplements consist of "99% additives", since statement is largely correct, and defendant did not state that additives in question are harmful or render plaintiffs' products inferior.

## **XXVI. LANHAM ACT/STANDING**

### **A. CASE LAW**

#### **1. U.S. Courts of Appeal**

- a. *Harold H. Huggins Realty Inc. v. FNC Inc.*  
81 BNA's PTCJ 558**

The U.S. Court of Appeals for the Fifth Circuit ruled on February 24, 2011 that four residential real-estate appraisers have standing to challenge a software developer's anti-competitive conduct under the Lanham Act. The appraisers used an online portal for getting appraisal requests from lenders and for submitting the results of their appraisals. The data they submitted was allegedly inappropriately used in order to build a database to support a competing online appraisal service.