



# News Brief

FALL 2011

## *In this edition:*

- Anne Keays Joins N&M
- .xxx gTLDs
- Case Briefs
- Follow Us
- Upcoming Events

## Neal & McDevitt Welcomes Anne C. Keays

Neal & McDevitt, LLC is happy to welcome Anne C. Keays as Of Counsel. Anne joined our firm in October 2011 after spending over nine years at Levin Ginsburg, Ltd.

Anne's practice continues to focus on providing practical and strategic legal advice on matters relating to information technology, trademark and copyright including the preparation and negotiation of agreements for outsourcing, systems integration, strategic alliances, cloud computing, web hosting, privacy, e-commerce, licensing, software distribution, database protection, and "software as a service."

With the addition of Anne to our team, Neal & McDevitt is excited to expand our service in the technology area.

Anne can be reached at [ackeays@nealmcdevitt.com](mailto:ackeays@nealmcdevitt.com) or at 847.881.2457.

## .xxx Domain Names Can Be Blocked Beginning in December

In March 2011, ICANN approved .xxx as a new general top level domain (gTLD), similar to .com, .org, and the like. While this new gTLD is intended for use exclusively with the online adult entertainment industry, applicants can apply for any .xxx domain name, including those containing someone else's brands or marks. These domain names will be open for registration by members of the adult entertainment industry during a "landrush" period, beginning November 8, 2011.

Brand owners who did not file during the "Sunrise B" period to block their marks from being registered as a .xxx gTLD will have another opportunity to block their name. Beginning on December 6, 2011, brand owners can file defensive applications to block registration of their brands as a .xxx domain name. Brand owners will also be able to utilize the same UDRP actions against offending .xxx gTLDs as with other gTLDs. Contact us to learn how you can protect your marks.



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## Chicago Trademark Case Briefs

Jeremy Roe, Neal & McDevitt, LLC

- In *In re Xmh Corp.*, Case No. 10-cv-2596 (7th Cir. 2011), the Seventh Circuit held that trademark license, otherwise silent as to assignability, is not assignable without the trademark owner's express permission or in the absence of a clause to the contrary in the license agreement.
- In *Georgia-Pacific Consumer Products v. Kimberly-Clark*, Case No. 10-cv-3519 (7th Cir. 2011), the Seventh Circuit took a light-hearted look at the functionality of a particular toilet paper design after G-P filed a claim for trademark infringement against its competitor. Ultimately, the Court affirmed the district court's finding that the quilted diamond design of G-P's toilet paper was indeed functional, based on G-P's own advertising and patent protection. In a later decision, the court denied Kimberly-Clark's motion for attorneys' fees.

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Follow us at [www.twitter.com/chicagotmlaw](http://www.twitter.com/chicagotmlaw)

## Upcoming N&M Presentations

On November 2, 2011, Lisa Iverson will be presenting on *Protecting Your Intellectual Property Globally*, before the International Trade Association of Greater Chicago and in collaboration with the Alliance for Illinois Manufacturing/NORBIC and Chicago IP Alliance (CIPA) in Rosemont, Illinois.

On November 29, 2011, Rick Biagi will be presenting on behalf of the ABA Intellectual Property Law Section at a USPTO Conference in Arlington, Virginia. The impetus for the discussion is the Trademark Technical and Conforming Amendment Act of 2010.

In March 2012, Liz Kunkle will be presenting at the ABA Intellectual Property Law Section Annual Meeting in Washington, D.C. Liz will join co-panelists from the USPTO and the Bureau of Alcohol Tobacco and Tax and Trade Bureau to discuss unique intellectual property issues in the wine and spirits industry.

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