

Our Mission is to be the organization of choice for in-house lawyers in the greater Charlotte region for their educational, career development, networking, advocacy, pro bono, and community service needs.



Quarterly NEWSLETTER

1ST QUARTER, 2020

PRESIDENT'S MESSAGE

Greetings! Welcome to a new decade and a new year of learning, networking and building our careers as a Chapter. I am privileged to serve as President this year and invite you to join me in harnessing our momentum and making ACC, and the Charlotte Chapter, the premier resource for in-house counsel. This year is already off to a dynamic start with sold-out CLE events, highly attended affinity and women's events and a very successful half day CLE - our first of three this year. Our Annual Gala is March 14, 2020 and we look forward to making it a night to remember with the addition of a live band for dancing and celebrating. We will also graduate our third AMP cohort this month and are proud of that program and its alumni.



I believe that 2020 is a year of clarity and intention. My hope is that every member find a place in this chapter, or at a higher level in ACC, to devote and invest some time. We are the chapter and organization that we create and it takes all of us to keep pushing this chapter forward as we make the 800 member milestone. If you need more information on opportunities to serve, please see our incredible staff or any Board member.

Thank you to our committee chairs, committee members and sponsor liaisons. Your work keeps this chapter alive and engaged and we appreciate your commitment. To our sponsors, we give a tremendous amount of gratitude for recognizing the benefit in partnering with us to bring premier CLE events and fun social events allowing us to build relationships and establish community.

I look forward to seeing you soon at one of our many events this year. Best of everything and wishes for success in your plans.

Sincerely,
Nicole Brunson

PLATINUM SPONSOR:
Parker Poe

Parker Poe represents many of the region's largest local governments and companies in

corporate, finance, regulatory, real estate and litigation matters. Parker Poe has more than 225 attorneys serving clients from eight offices in North Carolina, South Carolina, Georgia and Washington, D.C. Our lawyers are rated among the highest quality attorneys across their respective states with recognition by *The Best Lawyers in America* listing nearly 90 of our attorneys in its rankings, and we are also well-recognized by *U.S. News & World Report*, *Chambers USA*, and other ratings publications. Click [here](#) to learn about what makes working with Parker Poe different.

Parker Poe recognizes that promoting diversity is not only the right thing to do - it is essential to the success of the firm, our lawyers, employees, and clients. When people from various backgrounds feel welcome and respected, it leads to creative ideas and new perspectives, thus enriching the practice of law. Click [here](#) to view Parker Poe's Diversity & Inclusion Report.

Platinum Sponsor Feature Article

Adding '.com' Changes Everything, or Does It? Updates in Fourth Circuit Trademark Law

Can the combination of a generic word and a generic website ending like .com create something distinctive enough to be trademarked? When does a large company's attempt to reduce confusion with a smaller business's slogan actually result in more confusion? And should a company that wins an argument with the government still have to pay Uncle Sam's attorneys' fees?

Judges in the U.S. Court of Appeals for the Fourth Circuit recently answered those important questions for the world of trademark law, and the U.S. Supreme Court has agreed to consider some of their answers. The rulings in *Booking.com v. United States Patent and Trademark Office* and *Fleet Feet v. Nike* have significant implications for the intersection of trademark law and the internet, the competition between larger and smaller businesses, and the cost of being right.

Booking.com and Paying Back Uncle Sam

The Supreme Court will hear arguments this year over Booking.com's attempt to trademark BOOKING.COM, which the Fourth Circuit signed off on last February. The key question posed by the case is whether two generic terms-which separately could not be trademarked-may be trademarked when combined.

Booking.com, a website on which customers book travel and hotel accommodations, has operated under that name since at least 2006. In 2011 and 2012, the company filed four trademark applications for BOOKING.COM. The trademark question before the Fourth Circuit was whether there should be an automatic rule that adding a top-level domain (i.e., ".com") to a generic second-level domain (in this case, "booking") can never yield a non-generic mark.

The court rejected this extreme approach based on its consideration of the policy underlying trademark law and the evidence submitted by Booking.com. The court's analysis unfolded against the backdrop of the significant consequences faced by an applicant whose mark is determined to be generic. Once a mark is deemed generic, whether by a court or based on public evidence, the mark can never receive trademark protection. Given the severity of this outcome, the court formally held that the USPTO bears the burden of proving that a mark is generic and rejected an automatic, prohibitive rule.

But the court also refused to automatically protect domain names submitted as trademarks. Instead, whether BOOKING.COM could receive trademark protection ultimately turned on what the record showed about the public's understanding of the mark as a whole. The USPTO did not submit convincing evidence that the public used the phrase "booking.com" for purposes other than using the website Booking.com, which failed to meet the USPTO's burden of proving genericness. More persuasive, however, was a methodologically-sound survey submitted by Booking.com that showed that 74.8% of respondents identified BOOKING.COM as a brand name, not a general reference to hotel reservation websites. The court emphasized that this type of survey was "strong evidence" that the public understood that BOOKING.COM referred to the source of the proffered service for booking travel and hotel accommodations.

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MEMBER NEWS

Welcome ACC Charlotte New Members! January 2020 - February 2020

Estella Antwi, VP, Associate General Counsel of American Tire Distributors, Inc.
Patrick Aul, VP, Associate General Counsel of SCOR Global Life Americas
Courtney Ballard, Legal Counsel of SERC Reliability Corporation
Brent Bickings, Staff Attorney of DUAL Commercial LLC
Abbey Boggs, JD, LL.M. of Research Triangle Institute
Mark Bosscher, Legal Counsel of SIM USA
Kevin Brooks, Senior Director & Counsel of Equitable
John Campo, Legal Manager of Siemens Corporation
Christian Cannon, Lead Director and Associate General Counsel of Equitable
Arielle d'Auguste, Senior Director and Counsel of Equitable
Amita Gandhi, Lead Counsel - Global Software & Tech Transactions of CommScope
Hector Geribon, Lead Director and Associate General Counsel of Equitable
Jaren Hagler, Senior Director and Counsel of Equitable
David Hall, Senior Director and Counsel of Equitable
Cynthia Jon-Ubabuco, Associate General Counsel & Director of Bank of America Corp.
Mark Kaplan, In-House Counsel of Kaplan Early Learning Company
Matthew Lanning, Commercial Counsel of Sunbelt Rentals, Inc.
Kurt Meyers, Managing Director, Head of Litigation of Equitable
Amy Mody, Senior Associate General Counsel of Vaya Health
Joseph Morcos, Senior Director & Counsel of Equitable
Brent Plummer, Counsel and AVP of Bank of America, N.A.
John Price, VP, Associate General Counsel of Nuveen Investments
Molly Shah, Assistant General Counsel of AmWINS Group, Inc.
Elizabeth Southern, Deputy General Counsel & Assistant Secretary of Hanesbrands Inc.
Jordan Sykes, Counsel of Wells Fargo Bank, N.A.
Laura Thompson, General Counsel of Commercial Credit Group
Evan Turnball, Counsel of Lowe's Companies, Inc.
Joanna Wade, Associate General Counsel and Senior Vice-President, Outside Counsel Management Strategy of Bank of America Corp.
James (Jamie) Wallace, VP and General Counsel of Montauk Energy Holdings, LLC
Jourdan Williams, Assistant Media Counsel of NASCAR Media Group

DO YOU HAVE MEMBER NEWS?

Help us feature our members each quarter! If you or someone you know has been in the news recently, let us know so that we can share their successes in our next newsletter!

Email Kathleen at CharlotteAED@accglobal.com

RECENT CHAPTER EVENTS

MARCH CHAPTER MEETING: "Stop the Madness! Effective Ways to Protect Your Organization Against FMLA Abuse"

Sponsored by Littler - 3/4/20



The Family and Medical Leave Act (FMLA) is generally considered to be an employee-friendly law and employers have often felt helpless to do anything but approve leave requests under FMLA and similar laws. But we shouldn't feel helpless! [Steven Nigh](#) of Littler provided practical suggestions on how you can address suspected FMLA misuse in your workplace, focusing on the steps you can take (as opposed to the steps you can't take) to root out and minimize FMLA abuse.

Thank you to [Littler](#) for sponsoring this presentation.

WOMEN'S EVENT: "An Evening of Shopping, Champagne and Support of Charlotte's Women-Owned Businesses"

Sponsored by Bradley - 2/25/20



Bradley teamed up with the [KNOW Charlotte Tribe](#) - whose mission is to empower women to break glass ceilings in their respective fields, promote women-owned businesses, and encourage networking among top-level women in our community - to create a pop-up shop featuring women-owned businesses. Businesses in attendance were [DryBar](#), [Roses & Azalea Organic Beauty Products](#), [Green Brothers Juice](#) and [AR Workshop](#). ACC Charlotte women members had the chance to meet with these fabulous local women business owners and sample and purchase their products and services. Swag bags included a copy of the KNOW Tribe Book.

Thank you to [Bradley](#) for sponsoring this fun women's event!

HALF DAY CLE EVENT:
"2020: An Employment Law Odyssey"
Sponsored by Ogletree Deakins - 2/18/20



Session one of this half day event was kicked off by [Mike Ray](#) of Ogletree with a CLE entitled "Coming Attractions: New and Evolving Developments in Employment Law for 2020." They looked ahead to identify and discuss key issues in 2020. This high level presentation was presented by Ogletree shareholders to include independent contractor issues, trends in class and collection actions, arbitration, the effects of political speech in the workplace, pay equity, and sexual orientation protection under the Title VII of the Civil Rights Act. They gave attendees a glimpse into key statistics, trends, and developments for 2020 and how they will impact business.

The second session focused on mental health/substance abuse in "As Good As It Gets: Recognizing and Responding to Emotional Health Issues" and was presented by [Kelly Hughes](#) and [Brandon Shelton](#) of Ogletree. The session examined how in-house counsel can identify mental health issues and appropriately respond and assist when they or others in their organization are struggling with chronic or episodic depression, anxiety, addiction, or other related issues. Ogletree attorneys discussed how to recognize symptoms, seek help and provide support.

The third and final session: "Rolling Out the Red Carpet: A Discussion with Preeminent In-House Employment Experts about Pressing Issues and Practical Strategies Applications" was a panel presentation featuring some of the area's leading subject matter experts. Moderated by Mike Ray of Ogletree, Aaron Longo of Bank of America, Mindy Staley of Novant Health, Makila Scruggs of Ingersoll Rand and Kathleen McKay of Duke Energy discussed the most notable labor and employment challenges for employers and pragmatic approaches to ensure

compliance and limit liability. Each significant, timely issue was fully outlined from a strictly legal perspective,

Thank you to [Ogletree Deakins](#) for sponsoring this half day event.

"Mischief Managed: Best Practices in Developing a Crisis Response Program"

Sponsored by Moore & Van Allen - 2/13/20



[Todd Taylor](#) and [Karin McGinnis](#) of Moore & Van Allen joined forces with Mary Gamble of m_PAC and Jonathan Wackrow of Teneo Risk to form a panel of industry experts. The panel presented best practices in both (a) the development of a cyber/data security crisis response program, and (b) implementing that program when faced with a cyber/data security incident. An element of this event included a discussion of the processes to be followed when conducting a digital forensics investigation in the wake of a cybersecurity incident.

Corporate crises have become a question of not if, but when. Companies of all sizes are now facing an increasingly complex crises landscape, with threats arising both internally and externally, and both domestically and internationally. This is especially true in the area of cybersecurity. The panel explored what constitutes a "crisis", how to develop a cyber/data security crisis response program and carry it out under pressure. As part of this panel discussion, they provided an overview of: (a) the key legal issues involved in preparing and implementing a cybersecurity/data incident response program (e.g., federal and state law requirements related to information security and data breach response, processes and tools to be followed and used when conducting an investigation of a cybersecurity incident - including the performance of a digital forensics investigation), (b) the perspective and role of in-house counsel when faced with a cyber/data security incident, (c) escalating to senior management and the Board of Directors, and (d) communicating with customers, law enforcement and impacted individuals.

Thank you to [Moore & Van Allen](#) for sponsoring this event and presentation.

SOCIAL EVENT: "Chopped Challenge!"

Sponsored by Fox Rothschild - 2/11/20



This was the ultimate team-building adventure! The team at Chef Alyssa's Kitchen split the group up into teams and each group competed for two rounds (appetizer and entree). Similar to the TV show "Chopped," each team received a basket of mystery ingredients and had 3 minutes to plan their dish with 30 minutes to execute. Teams were judged on taste, use of ingredients and presentation. Between each round, dinner was prepared by one of the Chef Alyssa's Kitchen chefs and served plated. Dessert was served after round 2 with results and winners announced!

Thank you to [Fox Rothschild](#) for sponsoring this incredibly exciting and fun event!

**FEBRUARY CHAPTER MEETING:
"Cross Border Insolvency: Chapter 15 as a Sword and a Shield, the
Madoff Legacy, and Proposed Model Laws on Multi-Company
Insolvencies and Enforcement of Foreign Insolvency Related
Judgments"**

Sponsored by Shumaker - 2/5/20



This presentation by [David Conaway](#) of Shumaker addressed how Chapter 15 proceedings have been used by foreign-based companies to assert claims against US companies and to enjoin US companies from actions against the foreign-based companies. This included a discussion of many of the impactful rulings in the Madoff and Fairfield Sentry cases. Finally, on the horizon are adoption by the US of UNCITRAL Model Laws regarding reciprocal enforcement of insolvency related judgments (such as avoidance actions) and regarding cross-border insolvencies of multi-national company groups. These issues impact US companies with foreign contract counter-parties, or with foreign affiliates.

Thank you to [Shumaker](#) for sponsoring this presentation.

"Dealing with Distressed Vendors and Customers"



Every organization is seeking to increase cash flow and reduce risk from nonpayment. Collecting cash on a timely basis from customers can be challenging for many manufacturers, particularly if customers are experiencing financial difficulty. Parker Poe's [Chip Ford](#) and [Ashley Edwards](#) are part of team of attorneys in their bankruptcy and creditors' rights practice. They provided insights in a brief presentation with practical guidance for detecting early signs of customers experiencing financial distress (both in and out of bankruptcy) and how to deal with them.

Thank you to [Parker Poe](#) for sponsoring this event and presentation.

**JANUARY CHAPTER MEETING:
"Complexities of Internal Investigations"**
Sponsored by Robinson Bradshaw - 1/8/20



[Mark Merritt](#) and [Pearlynn Houck](#) of Robinson Bradshaw presented "Complexities of Internal Investigations." They addressed some of the more complex issues that arise in conducting an effective and efficient internal investigation. The presentation walked through the preliminary

decisions about whether to conduct an investigation at all, who should conduct and supervise an investigation, and how best to report on and document an investigation. They also addressed tricky issues that can arise in investigations, including privilege, experts, confidentiality, investigations involving company executives, and the overlap of investigations and public relations.

Thank you to [Robinson Bradshaw](#) for sponsoring this presentation.

Did you miss an event? Past presentation materials are available on the ACC Charlotte home page to members only. Please log in as a member at this [LINK](#) and visit our webpage at www.acc.com/charlotte

View Our Upcoming Events

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