

# Santa Clara University

## Online Trademark & Marketing Law Trends

Prof. Eric Goldman

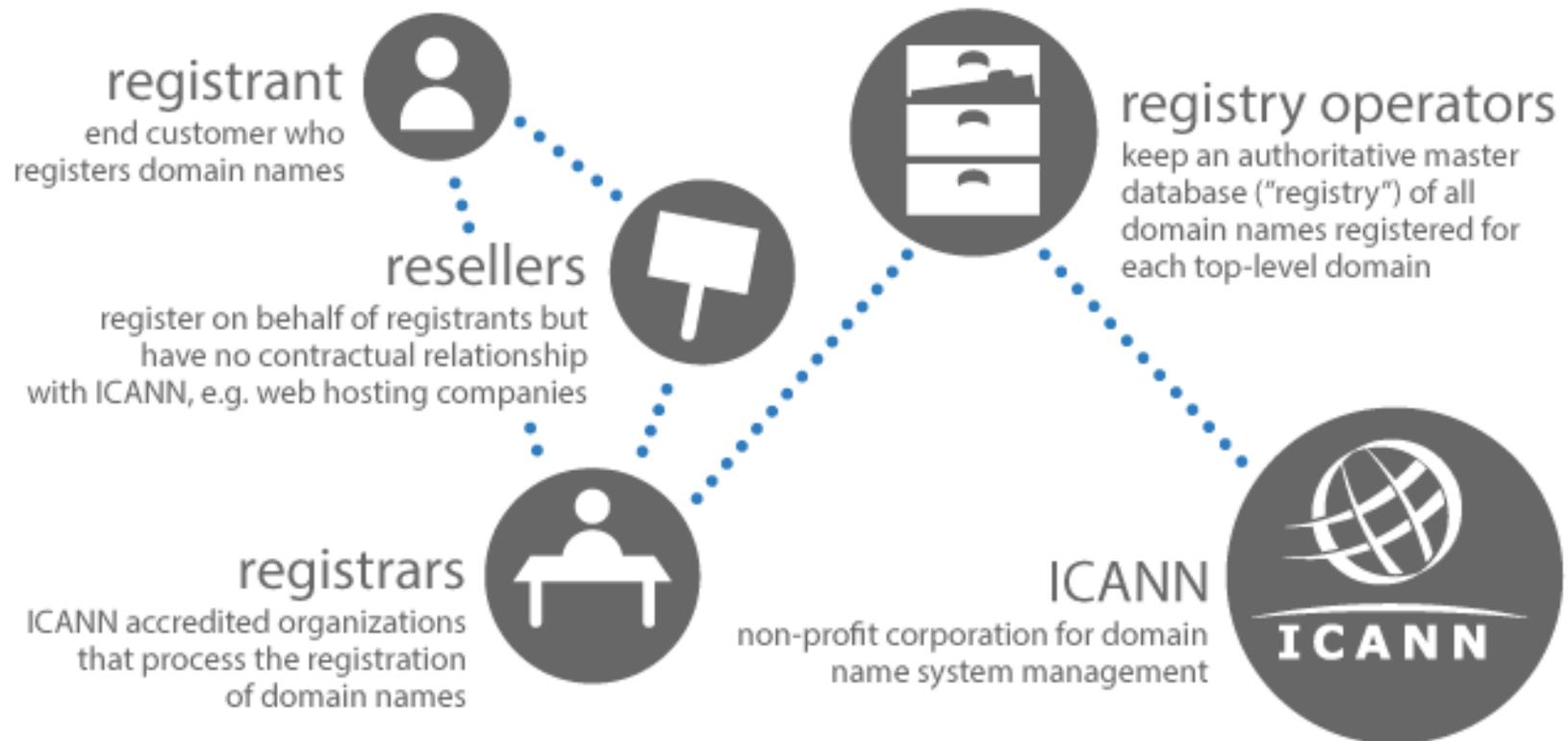
<http://www.ericgoldman.org>

[egoldman@gmail.com](mailto:egoldman@gmail.com)

# On the Decline



# Declining: Domain Names



domain registry process

# Declining: Metatags

<http://www.mcgillswarehouse.com/> source code (archive.org, Dec. 3, 2003)

```
<TITLE>McGills Warehouse</TITLE>  
<META NAME="keywords" CONTENT="pallet jacks, diamond saw blades,  
refractories, soldering irons, marbles, furnance, glass blocks,soldering  
iron,metal springs,stained glass,glass nuggets,great american ,pallet  
truck,stained glass tools,kilm shelf,glass cutters,circular saw blades, wood  
saw blade, polishing pads, slate, tools, thermal insulation,cotton work gloves,  
masking tape, packing tape, stationery tape, electrical tape">  
<META NAME="description" CONTENT="Best prices for quality products that  
you need most.">
```

# Declining: Keyword Advertising



mercedes

Search

[Advanced Search](#)  
[Preferences](#)

Web [Show options...](#)

Results 1 - 10 of about 152,000,000 for mercedes. (0.14)

## [Mercedes Luxury Vehicles](#)

[www.bayareamercedes.com](http://www.bayareamercedes.com) View Pictures, Specs & More. Find a Local Mercedes Dealership Today.

Sponsored Link

Sponsored Links

## [Mercedes-Benz - Home of C. E. S. CLK. CLS. CL. SLK. SL. SLR. R...](#)

Welcome to MBUSA.com, the official site for Mercedes-Benz USA. Explore the 2009 models, Build Your Own, or Find a Dealer.

[www.mbusa.com/](http://www.mbusa.com/) - [Cached](#) - [Similar](#)

## [MB Worldwide - Mercedes-Benz International](#)

The official website of Mercedes-Benz International presents highlights of the brand world and model information about Mercedes-Benz vehicles.

[www3.mercedes-benz.com/international\\_home/en/](http://www3.mercedes-benz.com/international_home/en/) - [Cached](#) - [Similar](#)

## [Mercedes-Benz - Wikipedia, the free encyclopedia](#)

Mercedes-Benz is a German manufacturer of automobiles, buses, coaches, and trucks. It is currently a division of the parent company, Daimler AG (formerly ...

[en.wikipedia.org/wiki/Mercedes-Benz](http://en.wikipedia.org/wiki/Mercedes-Benz) - [Cached](#) - [Similar](#)

## News results for mercedes



[Mercedes Campaign Focuses on Image, Not Recession](#) - 3 days ago

Mercedes sales in the United States are down 28.7 percent this year from the same time in 2008.

One of the print ads for the E-Class Series, which was last ...

[Channel 4 News](#)

[New York Times](#) - [54 related articles »](#)

[Mercedes-Benz does the driving for you, almost](#) - [CNET News](#) - [4 related articles »](#)

[Stuck accelerator sends Supreme Court justice's car into store](#) -

[Las Vegas Sun](#) - [170 related articles »](#)

## Local business results for mercedes near San Jose, CA - [Change location](#)



A. [Beshoff Motorcars Mercedes Benz](#) - [beshoffmotorcars.ndssearch.com](http://beshoffmotorcars.ndssearch.com) - (408) 493-0117 -

[6 reviews](#)

B. [Roadsport](#) - [www.roadsport-usa.com](http://www.roadsport-usa.com) - (888) 494-5952 - [8 reviews](#)

C. [Mercedes Benz Repair Specialist, MS European](#) - [www.mseuropean.com](http://www.mseuropean.com) - (408) 280-0400 -

[3 reviews](#)

D. [Tri-Star Motorsports Mercedes](#) - [www.tri-starmotorsports.com](http://www.tri-starmotorsports.com) - (408) 374-6641 - [9 reviews](#)

E. [Mercedes Collision Specialist](#) - [germanautobody.com](http://germanautobody.com) - (408) 727-3368 - [3 reviews](#)

F. [Smythe European Mercedes-Benz](#) - [www.smythe.com](http://www.smythe.com) - (408) 983-5200 - [More](#)

G. [Pro Sservice bmw-audi-mercedes](#) - [www.pro-service.us](http://www.pro-service.us) - (408) 371-3380 - [More](#)

## [Beshoff Mercedes- CA](#)

San Jose Mercedes Dealer.

Browse our Inventory Online.

[www.BeshoffMotorCars.com](http://www.BeshoffMotorCars.com)

## [The Mercedes-Benz Store](#)

Bay Area's Most Complete Inventory

At Huge Savings 800.779.5609

[www.MercedesBenzOfMarin.com](http://www.MercedesBenzOfMarin.com)

San Francisco-Oakland-San Jose, CA

## [The New 2010 Volvo XC60](#)

Switch to Volvo and say hello to

\$1000 off your new XC60. Learn how.

[www.VolvoCars.com/us/XC60](http://www.VolvoCars.com/us/XC60)

## [Smythe European Mercedes](#)

Lease for as Low as \$399 /mo.

Request a New Mercedes Quote Now!

[SmytheMercedesOffers.com](http://SmytheMercedesOffers.com)

## [Mercedes-Benz Liquidation](#)

All Remaining '09 Models Must Sell!

See Prices from Overstocked Dealers

[Mercedes.ConnectWithLife.com](http://Mercedes.ConnectWithLife.com)

## [Luxury Motors Las Vegas](#)

All Luxury Makes & Models for Less.

Save thousands today!

[www.luxurymotors.com](http://www.luxurymotors.com)

California

## [2009 Mercedes](#)

Buying a New Mercedes? Get

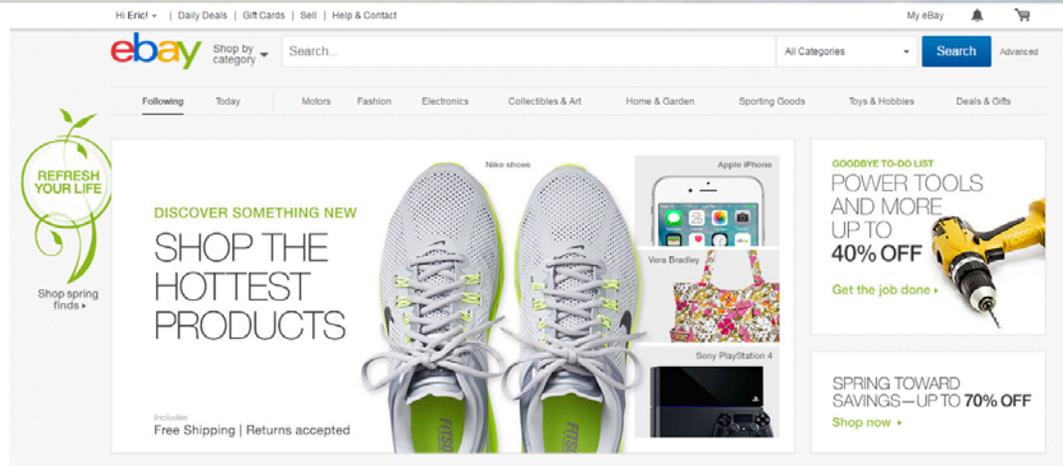
multiple prices from local dealers.

[PriceQuotes.com/Mercedes](http://PriceQuotes.com/Mercedes)

## Declining: Initial Interest Confusion



# Declining: Marketplace Liability



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GET IT ON  
**Google Play**



# On the Rise



# Rising: Ads v. Editorial Content

- What is an ad?
- When is a label necessary/sufficient?
- Who must do the labeling?



**Justin Bieber** ✓

@justinbieber



 Follow

Everybody knows I love [#MyMom!](#)  
[@1800flowers](#) Mother's Day is on Sunday!  
Love your momma! Love u [@pattiemallete](#)  
- [bit.ly/YmjAJ1](http://bit.ly/YmjAJ1)

 Reply  Retweet  Favorite  More

**75,770**  
RETWEETS

**51,690**  
FAVORITES



8:30 AM - 9 May 13



**Kim Kardashian West** ✓

@KimKardashian

Follow

OMG. Have you heard about this? As you guys know my #morningsickness has been pretty bad. I tried... [instagram.com/p/5Vr42NOS0B/](https://www.instagram.com/p/5Vr42NOS0B/)

6:14 PM - 19 Jul 2015

555 2,312



kimkardashian

FOLLOWING

464k likes

1w

kimkardashian OMG. Have you heard about this? As you guys know my #morningsickness has been pretty bad. I tried changing things about my lifestyle, like my diet, but nothing helped, so I talked to my doctor. He prescribed me #Diclegis, I felt a lot better and most importantly, it's been studied and there was no increased risk to the baby. I'm so excited and happy with my results that I'm partnering with Duchesnay USA to raise awareness about treating morning sickness. If you have morning sickness, be safe and sure to ask your doctor about the pill with the pregnant woman on it and find out more [www.diclegis.com](http://www.diclegis.com); [www.DiclegisImportantSafetyInfo.com](http://www.DiclegisImportantSafetyInfo.com)

view all 10,983 comments

imoumaima @youssefchorfi

flawlessfashionstore ldk if shes getting paid for this and do not care. But it is safe for mom & baby. I called my doctor because i couldn't even keep water down.

Add a comment...



#NYLONshop

FROM OUR FASHION CLOSET TO YOURS

SHOP NOW >>

this season's must-have line

lord & taylor's design lab

by: *nylon* — March 31 2015

#NYLONshop

FROM OUR FASHION CLOSET TO YOURS

SHOP NOW >>

more nylon

prev **rihanna** finally speaks out about dating **leonardo dicaprio**



next stop what you're doing and watch the new 'mad max' trailer



from our friends



Must Know Tips For



view gallery

photos by @theofficialnylonsmag



Every season, there's one collection that you see everywhere—and yet, instead of getting sick of it, you just after it until one day, you finally cave in and get it for yourself. This time around, we're taking out the guess work and introducing you to spring's must-have line: **Lord & Taylor's Design Lab**. You've probably already seen the new contemporary line's asymmetric bandana dress everywhere—from Instagram to your favorite blogs to the streets. But **Design Lab** is filled with many more amazing statement pieces, like festival-ready laser cut tanks and fringed kimonos.

Click through the gallery to see how your favorite bloggers style their **Design Lab** pieces.





\$ 7 ARMY WATCH. \$7 \$47 AMERICAN \$47 LEVER WATCHES.



THE METROPOLITAN FAIR.

ELEANOR. "You had better buy some of my Cigars—come, take one!" YOUNG SWELL. "A—Thank, no—I never smoke!" ELEANOR. "What not if I bite off the End!"

AND FISK & HATCH, Bankers and Dealers in Government Securities, AGENTS FOR THE UNITED STATES FIVE-TWENTY LOAN, No. 38 Wall Street, New York. Watches Given Away.

Agents and Dealers look at the Great Chance to make Money we offer, by engaging in the sale of our NEW NOVELTY STATIONERY PRIZE PACKET. Only \$15 capital required to obtain a WATCH FREE with best order. We also offer SPLENDID STREET ENGRAVINGS \$100 awarded will raise \$50. Never before such inducements were offered. Full particulars in Circulars, mailed free.

G. S. HASKINS & CO., 36 Beekman Street, N. Y.

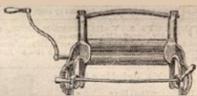
The Oldest Established Puze Package House in the U. S.

WARD'S SHIRTS SENT EVERYWHERE

Pimples and Freckles, may easily be removed. Buy the BALM OF THOUSAND FLOWERS. For having it unparalelled. It is composed of palm oil, honey, and other valuable articles, highly perfumed by its own ingredients, and when used for washing, night and morning, renders the skin soft and white, and free from blemish. Price 20 cents. The Trade supplied by HOWARD SANGR & CO. 105 and 107 Chambers Street, N. Y. and for sale by all Druggists.



The only enameled "Turn-over" Collar made in metal. Sent \$1 for a "Turn-over" or 75 cents for a "Choker," to C. H. WELING, 21 Pine Street, N. Y., and receive it by return mail.



Putnam Clothes-Wringer.

TESTIMONY OF MESSRS JNO W WHEELER, of Cleveland, Ohio, and JOHN C. LEFFERTS, of New York. PUTNAM MFG. CO.

GENTLEMEN: I know from practical experience that iron well galvanized with zinc will not oxidize and rust one particle, can safely last after several years experience in time manufacture of chain, for chain pumps and water-lowers, in which I have tested the strength of iron and zinc that

\$30 AMERICAN LEVERS. \$30

Full Ruber Jeweled, 1 oz. Coin Silver Hunting Case, with Magic Spring, FULL GUARANTEE, only \$30. Seal English Double Case Watch, Massise Silver Hunting Case, full jeweled seven seconds, for Artificers or TIMING PURPOSES, with guarantee, only \$40. Good Watches, for Army use, of all descriptions. We have a number of the above styles of European Watches. Catalogue of trade prices mailed free. Frank Leslie's Illustrated Newspaper, of Feb. 20, 1864, of the "European timekeeper." It is a marvel how, at an interview of the celebrated timekeeper so much in use among the British Army officers, and it is calculated to meet the want of our soldiers in the field. Illustrated News says: "Conject timekeeper, and fine finish they are equal in appearance to \$100 watches." Address: CHAS. F. NORTON & CO., Importers, 38 & 40 Ann Street, New York.

The standard preparation for the hair. Warranted in all cases to restore faded and grey hair and whiskers to their ORIGINAL color. It restores the natural shading of one hair with another, restores the hair its appearance instead of the dull dead black of dyes, so that the most critical observer can not detect its use. It does not require previous soaping and washing and lous for its application. It is used on the hair but it is readily applied and easily wiped from the skin as if by dusting. It does not dry, it makes the hair come down when it has once fallen out, nothing will do that, whatever may be desired to the contrary, but will prevent it from falling out, make it soft and silky, and cleanse it and the scalp from all impurities and humors, and entirely overcome the bad effects of persons use of preparations containing sulphur, soap or other deleterious ingredients.

Hoyle's Imperial Coloring Cream. An appropriate accompaniment to the Hawatha oils and colors the hair at the same time, and changes light and red hair to a beautiful brown or black. Sold everywhere.

NE—Ladies! French hair-dresser in attendance to spin the Hawatha. JOSEPH HOYT & CO., 10 University Place, N. Y.

INFANTRY PIN FOR THE SOLDIER! In Coin Silver!! For \$1.50. Including the engraving of the Name, Co. and Regiment. Also the National Battle Flag, Cavalry and Artillery, Fan, Monitor, Engineer, and Signal Corps Pins.

LOUIS PHILIP & CO. No. 2 Murray Street, New York.

Holloway's Pills cleanse the blood of all impeding particles, and render it a pure and healthy fluid. Its action is gentle, but sure and reliable. Fever, and ague and the periodical diseases most prevalent on this continent are prevented by a timely use of this marvelous remedy, and cured by a course of the same according to the directions that accompany each box. Sold at the manufactory, No. 50 Maiden Lane, New York, and by all Druggists, at 35 cents, 88 cents, and \$1.40 per box.

Coquet: Lots of Implements for this favorite Game, made of well-seasoned wood, in neat cases; price from \$16 to \$40. Also Reid's Rules for playing the game, price 50c., postage paid.

WALTER LOWY, 623 Broadway, New York. Card Photographs. A splendid assortment. Catalogue sent free.

KSAN Disc Jockey Sued for \$200,000 in Free 'Payola' Time

Disc jockey George (Jumpin' George) Oxford and 20 record companies during the past four years while he was drawing \$250 weekly salary from the station. He denied getting \$40,000 for the plugs. The San Francisco station spent plugging records on his show constituted advertising and should have been paid for at the going rate.

It also alleges that Oxford was paid \$40,000 by the unnamed companies during the past four years while he was drawing \$250 weekly salary from the station. He denied getting \$40,000 for the plugs. "This is ridiculous," snapped the rock 'n' roll specialist. "It was understood I was in the record business when I came to KSAN in

Oakland Tribune D 19 Tuesday, March 29, 1961

1955. It was accepted as perfectly all right." Jumpin' George said I trouble with KSAN start when he tried to quit 1 month and go to Station KF in Oakland. Norwood J. Peterson, KSAN general manager, refused to break contract and banished him the control room, Oxford said. The suit was filed in San Francisco Superior Court the Golden Gate Broadcastrs, which controls KSAN.



Quiz show "21" host Jack Barry turns toward contestant Charles Van Doren as fellow contestant Vivienne Neuringer looks on (1957). https://www.loc.gov/pictures/item/00652124/ Santa Clara University

Post Office Appropriation Act of 1912: "all editorial or other reading matter published in any such newspaper, magazine, or periodical for the publication of which money or other valuable consideration is paid, accepted, or promised shall be plainly marked 'advertisement.'"

# Rising: Ads v. Editorial Content

- Defining ads v. content is a centuries-old dilemma
  - We are further away from a single definition than ever
  - We will continue to have many definitions
- What constitutes an “ad”/“commercial speech” may be expanding
- Internet publicity rights litigation is growth area
- Regulators can’t win the labeling battle
  - Too many targets = negative lottery
  - Consumers say they want to know...but overreact to labels



**Duane Reade**  
@DuaneReade

Follow

Love a quick #DuaneReade run? Even @KatieHeigl can't resist shopping #NYC's favorite drugstore [bit.ly/1gLHctI](http://bit.ly/1gLHctI) [pic.twitter.com/uGTc3k1Mii](http://pic.twitter.com/uGTc3k1Mii)

Reply Retweet Favorite More



RETWEETS  
74

FAVORITES  
181



# Rising: Ad Blockers



A screenshot of the Adblock Plus website. At the top left is the ABP logo, a red octagon with 'ABP' in white. To its right is a navigation menu with links for 'Installation', 'About', 'Features', 'Report an issue', and 'Contribute'. A search bar and a language dropdown are also visible. Below the navigation is a video player showing a comparison of a website with and without ads. To the right of the video is the heading 'Adblock Plus' and the tagline 'Surf the web without annoying ads!'. Below this are three bullet points: 'Can block tracking, malware domains, banners, pop-ups and video ads - even on Facebook and YouTube', 'Unobtrusive ads aren't being blocked in order to support websites (configurable)', and 'It's free! (GPLv3)'. At the bottom of the page is a green 'Install for Chrome' button and a row of social media icons.

- Dawning of new power brokers
- Intermediaries hate being disintermediated
- Business model vs. legal resolutions

# Other Topics

- Privacy
- Social media account ownership
- “Parody” accounts
- Crowdsourced Ads
- Gaming consumer reviews