Protecting Your Products Using Design Patents in the Era of Copycats

Insightswithout intellectual property (IP) protection for your product, very few remedies are available.

Drafting Pre-Litigation Demand Letters

InsightThe early stages of a legal dispute are often marked by the exchange of demand letters.

How to Minimize Judicial Review of ERISA Fiduciary Decisions

InsightsOne of the enduring paradoxes of ERISA litigation is the judicial standard of review of fiduciary decisions.

No-Third-Party-Beneficiary Clauses and the “Ever-Evolving Contractual Arms Race”

InsightsA recent Delaware decision suggests that we cannot be reminded too often of the importance of carefully modifying the standard no-third-party-beneficiary clause so that it … does not do more harm than good.

What Is the Worst Type of Online Privacy Policy … and Why Does it Matter?

InsightsEven if the title is click-bait, this is not a trick question. There is one type of online privacy policy that is objectively worse than all of the others.

Former KAABOO Owner Satisfies $7 Million ‘Thunder on the

Mountain’ Judgement

NewsKansas promoter Brett Mosiman was ready to chase former KAABOO owner Bryan Gordon to the end of the earth to collect a $7 million judgement delivered by a Kansas jury in February, but that will no longer be necessary after the men settled their claims last week over the canceled 2015 Thunder on the Mountain festival in Ozarks, Ark.

Lien Inception

Insights

When owners file bankruptcy or projects otherwise go south, lien priority often comes to the forefront. The idea is relatively simple. Priority is how courts determine which creditors get paid first.

Court Examines Intended Third Party Beneficiaries of Indemnification Provision

Insights

In CHS/Community Health Systems, Inc. et al v. Steward Health Care System LLC, the Delaware Court of Chancery examined who was an intended third-party beneficiary of an indemnification provision in an Asset Purchase Agreement.

7 Most Common Legal Problems Businesses Face in Their Operations

Insights

Business owners in the U.S. are often faced with various legal problems that can be crippling to their business. One of the best ways for them to circumvent these legal problems is to identify potential problem areas early and prepare for them by having a trusted business lawyer.

New Jersey Finally Gets a Roadmap to Creating a Valid Arbitration Clause

Insights

New Jersey’s Supreme Court approved as legally binding an arbitration agreement provided to employees electronically, concluding the arbitration agreement was effectively, clearly, and unambiguously communicated to the company’s employees.

Indemnification Provisions in Incentives Agreements: Best Practices and Special Public Entity Issues

Insights

Indemnification provisions are an important part of the fine print of many contracts. These clauses generally operate to protect one party against the other party's actions or failures to act that lead to a loss claimed by a third party.

Specific Language of Operating Agreements Key in Chancery Court Dismissal of "Laundry List" of Claims

Insights

77 Charters, Inc. brought a suit against several defendants for a series of alleged 'wrongful acts' in connection with the management and sale of a shopping mall.

What is the Twombly Motion-to-Dismiss Standard for Antitrust Cases?

Insights

As a long-standing antitrust attorney in Europe, making the decision to move from Madrid to San Diego a few years ago to practice law in the U.S. has been a life-changing experience.

NLRB Enforces Strict Requirements for Savings Clauses in Employee Arbitration Agreements

Insights

The National Labor Relations Board … has recently issued a half-dozen decisions addressing the lawfulness of employee arbitration agreements.

COVID Impact as a Standalone

Indemnity in M&A Transactions

Insights

The COVID virus has ushered in unprecedented and challenging times for our country and the global community.

The Function of University Waivers

Insights

Nancy Kim writes about university liability waivers and how they seem to be very different from regular liability waivers.

6th Circuit Bolsters Employer’s Right to Contract for Chosen Law

Insights

The enforceability of restrictive covenants often depends on which state’s law applies to the dispute.

Interpreting Insurance Contracts: Fairness and Reasonableness

Insights

A court may not refuse to enforce contractual terms on the basis that the enforcement would, in its subjective view, be unfair, unreasonable or unduly harsh.

The Potential Divorce of Simon and Taubman

News

Simon Property Group, Inc. (“Simon”) wants out of a deal to acquire its competitor, Taubman Centers, Inc. (“Taubman”), due to the COVID-19 pandemic.

The Separation of Voting and Control: The Role of Contract in Corporate Governance

Insights

In corporate democracy, the default system is voting, but shareholders are free to contract over their votes. In private

companies, shareholders routinely do so, using shareholder agreements – contracts amongst the owners of a firm – to bargain directly over directorships and other rights of control.