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Public Notice A-4
Utah Patents &
Trademarks A-15

Pokemon no-go: New Jersey resident sues over trespassing players – A New Jersey man has a message for the millions of players obsessed with the mobile game Pokemon Go: “Get off my lawn!”

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Designers come out for Apple in patent fight with Samsung – Apple Inc deserved the hundreds of millions of dollars in damages Samsung Electronics Co Ltd paid for infringing patented designs of the iPhone, because the product’s distinctive look drives people to purchase it, a group of design industry professionals told the U.S. Supreme Court on Thursday.

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Business groups sue over new U.S. limit on tax-driven foreign buyouts – Two business groups sued the Obama administration on Thursday over a crackdown on U.S. companies that try to reduce their U.S. taxes by rebasing abroad in a process known as inversion.

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U.S. FCC votes to limit inmate phone call rates – The U.S. Federal Communications Commission on Thursday voted to limit inmate phone call rates – but set the cap at a higher level than it proposed last year.

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U.S. charges nearly 50 suspected Mafia members – U.S. authorities arrested dozens of suspected Mafia members on Thursday, charging them with extortion, loan sharking, smuggling, arson, gun trafficking and other crimes.

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US Justice Department will not modify music licensing agreements – The Justice Department said on Thursday that it will not alter agreements that it reached with ASCAP and BMI, music licensing giants, in 1941 that established how music is licensed.

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Texas professors seek U.S. court help to ban guns in their classrooms – Three University of Texas professors plan to ask a U.S. judge on Thursday to give them the option of barring students from bringing guns into their classroom after the state gave some students that right under a law then went into effect this week.

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U.S. DISTRICT COURT OF UTAH / HON. MAGISTRATE JUDGE PAUL M. WARNER

Utah's Judge Warner is a refreshing mix of candor and civility

“I probably talk more than any federal judge. I love to joust with the lawyers.”

—Hon. Magistrate Judge Paul M. Warner

Sona Schmidt-Harris

The Intermountain Commercial Record/Salt Lake Times

Outside of Judge Paul Warner’s sonorous and authoritative voice, it is his candor that is most apparent. “The longer I’m on the bench, the more I realize I was a better lawyer than I thought I was,” Judge Warner said. While he believes that Utah has a good, quality Bar, he would like to see more prepared attorneys in his courtroom. He would also like to see lawyers “concede the obvious,” “less combativeness for the sake of combat,” and fewer “motions that waste time.” Not surprisingly, he would like to see more candor. He added, “Civility is important. It’s part of competence.”

As for plaintiffs and defendants in Judge Warner’s courtroom, his advice is don’t lie. The judge said that telling the truth will get you further with him than almost anything. He feels that he is particularly good at perceiving deception.

Judge Warner’s candor belies a genuinely genial nature. “I probably talk more than any federal judge. I love to joust with the lawyers. I like trial lawyers.” He asks a lot of questions and asserted, “Answers are better than arguments.”

Born in Seattle, Washington and raised in Salt Lake City, Judge Warner attended East High School. Originally interested in being a physician, he soon found that his talents lay elsewhere, and graduated with a BA in English from Brigham Young University. He was later a member of BYU’s Charter Class of the J. Reuben Clark Law School in 1976. Later, he earned a Master’s degree in Public Administration from the Marriott School of Management.

Judge Warner began his career as a trial lawyer in the Judge Advocate General (JAG) Corps of the U.S. Navy. He returned to Utah in 1982, and worked for the Utah Attorney General’s office for seven years where he was Chief of the Litigation Division and later Associate Chief Deputy. In 1989, he moved to the U.S. Attorney’s Office. There, he worked as First Assistant United States Attorney, interim United States Attorney, and Chief of the Criminal Division. In 1998, Judge Warner was appointed U.S. Attorney for the District of Utah by President Bill Clinton. He was later reappointed by President George W. Bush and confirmed by the Senate for a second term.

Regarding his position as U.S. Attorney

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Judge Paul M. Warner, United States Magistrate Judge for the U.S. District Court of Utah.

Utah's Judge Warner is a refreshing mix of candor and civility

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Judge Warner said, "I was born to be U.S. Attorney. It showcased my strengths . . . I was a change agent." He further said that it was an exciting time to be U.S. Attorney following 9/11 and during the 2002 Winter Olympics. Likely, part of the reason Judge Warner is successful is that he has neither fear of public speaking nor confrontation.

Judge Warner resigned as U.S. Attorney in February 2006 when he was appointed as a federal Magistrate Judge. He has served in that position ever since.

When asked what the difference is between a federal District Court Judge and a federal Magistrate Judge, Judge Warner explained that

Article III of the Constitution provides that District Court Judges are life-appointed, and have all powers of the Federal Court. Federal Magistrate Judges were created by Congress under Article I, serve eight-year terms, and can only sentence misdemeanors, not felonies in criminal cases. Magistrate judges were created primarily to assist Article III judges.

Among his many achievements on the bench, Judge Warner is particularly proud of creating the first federal veterans' treatment court in the nation where veterans with criminal issues are encouraged to get help.

Judge Warner received the NAACP Dr. Martin Luther King Jr. Award for Civil Rights in

2008, Honored Alumni of the Year for the J. Reuben Clark Law School at BYU, Utah State Bar's 2004 Dorothy Merrill Brothers Award for Advancement of Women in the Legal Profession, and NAACP's 2002 Community Relations Award for Civil Rights.

Judge Warner also found time to teach at paralegal and law schools. He taught paralegal students at Westminster for years and found many of the students' life stories compelling. He is an adjunct professor at the J. Reuben Clark Law School at BYU. He teaches criminal trial practice, criminal trial advocacy, and white collar crime. Regarding his desire to teach, Judge Warner believes that it's in his

blood. Both his mother and his grandfather were teachers.

Judge Warner, father of four children, three lawyers and one FBI agent, said fatherhood helps him a lot on the bench, "I had to preside over and settle childish disputes, analogous to some discovery disputes," he quipped.

Being a father helped me to see "there's always two sides to the story." Also a grandfather of fourteen, Judge Warner said that being a grandfather helped him to "keep my mouth shut and be patient—good qualities in a courtroom" He added, "a good dose of humility helps in this job."

Pokemon no-go: New Jersey resident sues over trespassing players

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Jeffrey Marder of West Orange has filed a federal class action against the companies behind the game, Nintendo Co Ltd, Niantic Inc and Pokemon Company International, claiming it has brought unwanted trespassers to his house and countless other private properties.

Using mobile devices, players search for and capture virtual characters that appear on their screens in real-life locations such as offices and restaurants.

The immensely popular game has prompted numerous safety concerns and complaints. Within days of its launch, four Missouri teen-

agers used it to lure unsuspecting victims into armed robberies, according to police; the game was blamed for an illegal border crossing from Canada into the United States last month by two young players who lost track of their surroundings.

The U.S. Holocaust Museum asked players not to use the game on its premises, calling it "extremely inappropriate."

Some places have been designated by the game's designers as "Pokestops" and "gyms," where players can earn valuable items or engage other users in battles.

Many of those sites are either on or adjacent to private property, according to Marder's lawsuit, which was filed in federal court in Oakland, California, near the San Francisco headquarters of Niantic.

"Plaintiff discovered as much when, during the week of Pokemon Go's release, strangers began lingering outside of his home with their phones in hand," the lawsuit said, adding that five people knocked on Marder's door seeking access to his backyard to capture creatures in his yard.

The lawsuit, which seeks class-action status

for all people who own property that is either designated as a Pokemon site or is adjacent to such a location, appears to be the first of its kind since the game launched in July.

Representatives for Pokemon Go did not immediately respond to a request for comment. Nintendo holds a 32 percent stake in Pokemon Company, which developed the game jointly with Niantic.

The game has increased Nintendo's market value by 50 percent since its debut. (Reporting by Joseph Ax; Editing by Jonathan Oatis)

Designers come out for Apple in patent fight with Samsung

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Setting up a clash with a number of Silicon Valley companies that have come out on the side of Samsung, more than 100 designers and educators signed on to a new court brief supporting Apple.

They include famous fashion names Calvin Klein, Paul Smith and Alexander Wang, the industrial design director at Parsons School of Design, the design director for Bentley Motors, and Tony Chambers, the editor-in-chief of Wallpaper magazine.

Samsung has appealed to the Supreme Court part of the \$548 million it paid Apple last December related to a jury verdict from 2012. Samsung says the \$399 million of that amount, awarded for copying the designs of the iPhone's rounded-corner front face, bezel and grid of

icons, is excessive, adding that they contributed only marginally to a complex product.

Apple sued in 2011, claiming the South Korean electronics company stole its technology and the look of the iPhone.

Last May, the U.S. Court of Appeals for the Federal Circuit in Washington upheld the 2012 patent infringement verdict but overturned Samsung's liability for trademark infringement.

Samsung asked the Supreme Court to review the case, and in March, the justices agreed to examine whether the total profits from a product that infringes a design patent should be awarded if the patent applies only to a component of the product.

The designers on Thursday said that in the minds of consumers, the "look of the product

comes to represent the underlying features, functions, and total user experience."

Stealing a design can lead to a lost sale, and Apple deserves to be compensated for that with the infringer's entire profits, they said.

Samsung has had a number of trade groups come out on its side, including The Internet Association as well as Silicon Valley heavyweights Facebook Inc and Alphabet Inc unit Google, which makes the Android operating system used in Samsung's phones.

If not reversed, the Federal Circuit decision "could lead to diminished innovation, pave the way for design troll patent litigation and negatively impact the economy and consumers," Samsung spokeswoman Danielle Meister Cohen said in an email on Thursday.

The case is *Samsung Electronics Co., Ltd. v. Apple Inc.*, in the Supreme Court of the United States, No. 15-777. (Reporting by Andrew Chung; Editing by Alexia Garamfalvi and Steve Orlofsky)

"Yesterday is history, tomorrow is a mystery, and today is a gift; that's why they call it the present."
--Eleanor Roosevelt

Democrats and Republicans reverse their traditional roles

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and inclusion as the new Americanism. That's a clever and promising strategy, especially as Trump becomes the new face of the Republican Party.

Democrats need a new face, too. Clinton has been in public life for almost 40 years. Last week's convention was an effort to give her a progressive facelift.

(Bill Schneider is a visiting professor in the Communication Studies Department at the University of California - Los Angeles. The opinions expressed here are his own.)

11th Circuit Court finds reasonable investigations needed for consumer disputes

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investigation accordingly."

Applying the above principles, the 11th Circuit concluded that a jury could find Midland did not conduct "reasonable" investigations for the two accounts because it made no attempt to obtain account-level information and because the electronic information that it did review was insufficient to "verify" the disputed information.

The 11th Circuit also rejected two defenses. In response to Midland's argument that it had no obligation to investigate an account because it stopped reporting the account to CRAs, the 11th Circuit suggested that a furnisher's obligation to investigate under § 1681s-2(b) may continue even after the furnisher stops reporting the account to CRAs. Midland also argued

that, by sending the plaintiff a letter requesting documentation to support her dispute, the burden shifted to the plaintiff to show the disputed information was false. The 11th Circuit found nothing in the FCRA that "permits a furnisher to shift its burden of 'reasonable investigation' to the consumer in the case of a § 1681s-2(b) dispute."

Hinkle instructs a furnisher to conduct a "reasonable" investigation of consumer disputes that accounts for the furnisher's status, the account information available to the furnisher, and the furnisher's knowledge of the dispute. Additionally, in cases where the furnisher elects to report information as "verified," the furnisher must have evidence that establishes a disputed fact is true.

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