

This issue of the Cole Schotz newsletter provides updates from the following departments:

- Restaurant and Hospitality Group
- Real Estate
- Corporate, Finance & Business Transactions
- Intellectual Property

Additionally, our attorneys are speaking on a host of topics in the coming months. Visit our [Events](#) page for a schedule.

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Restaurant and Hospitality Group Launches

On February 21st, we announced the formal launch of our [Restaurant & Hospitality Group](#) led by New York-based members [Jordan A. Fisch](#) and [David A. Rubenstein](#). The Group brings together a multidisciplinary team of attorneys drawn from the firm's Corporate, Real Estate, Tax, Employment and Intellectual Property practice groups to provide counsel at every stage of the business lifecycle.

"We've been counseling entrepreneurs, restaurant groups, celebrity chefs, craft brewers, and hotel owners for years," said Mr. Fisch, co-chair of the firm's Corporate Department and a member of the Real Estate Department. "Creating a Restaurant & Hospitality Group is a natural progression for us and a focused, strategic benefit for our clients."

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Jordan Fisch



David Rubenstein

Cove Property Group West Side Acquisition Ranked 42nd Largest Deal in the Country

We represented Cove Property Group, in partnership with Blue Sky Alternative Investments, in the purchase of a 423,000-square-foot office building located at 441 Ninth Ave. in Manhattan's far West Side. The sale closed on December 6, 2016. This was ranked the 42nd largest deal in the country by [Real Estate Alert](#).

Our team consisted of members [Leo V. Leyva](#), [Jordan J. Metzger](#), [Christopher J. Caslin](#), [Gerald H. Gline](#), [Jordan A. Fisch](#), [Rab N. Nalavala](#), [Jan Lewis](#) and [Joseph Barbieri](#); special counsel [Robyn A. Pellegrino](#); and associates [Patrick Quinn](#), [Elizabeth C. Navatto](#), [Matthew S. Schneid](#) and [Joseph Armenti](#).

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Cole Schotz Represents Wiredrive in Business Combination with MediaSilo

Cole Schotz represented Wiredrive in a business combination with MediaSilo. Both companies are industry leaders in providing secure video collaboration and sharing solutions for creative professionals. The merger creates the largest video collaboration SaaS provider with more than 1,800 customers in advertising and media and entertainment. The joint entity also raised \$7M in growth capital from Boston-based private investment firm, Schooner Capital, in connection with the deal to support rapid growth and development of the next generation of rich media collaboration tools for agencies, brands, production houses, and entertainment companies.

Our team consisted of [James G. Stefanick](#), [James Kim](#), [Alan Rubin](#), [Rimma Tsvasman](#) and [Sara Veith](#).

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Upcoming Events

- [David Rubenstein](#) will be a moderator on April 4th at the [Bisnow National Retail: East Coast Series](#).
- [Jordan Metzger](#) and [Matthew Schneid](#) will be speakers for the [Loan Guarantees CLE Presentation](#) on March 16th.
- [Ed Kiel](#) is a panelist at the [Connecticut Maritime Association Shipping 2017 Conference](#) on March 20-22.
- [Jan Lewis](#) is presenting, "[Commercial Lease Escalation Issues](#)", live webinar on March 30th
- [Rich Abramson](#) will moderating at the [CIANJ Special Real Property Roundtable](#) on April 6th.

For details on these and other events, visit www.coleschotz.com/events

DON'T MISS DAVID AT
BISNOW'S NATIONAL RETAIL:
EAST COAST SERIES



Tuesday, April 4th

Anticipating an Answer to the Most Vexing Question in Copyright Law?

Arguably one of the "most vexing" questions in all of copyright law will be answered this year. Or at least that is what many in the furniture and fashion industry are hoping.

The question is what test should be used to determine under a feature of a "useful article" is protectable under the copyright laws. As of now, ten different tests have been established by the different federal Circuit Courts of Appeals. In *Star Athletica, LLC v. Varsity Brands Inc.*, the US Supreme Court is expected to decide which of those tests is the right one, or it could choose another test altogether.

"Useful articles" include furnishings, fixtures, clothing, toys, and many other items including cheerleading uniforms, as presented in the *Star Athletica* case. A useful article, in so far as its purely utilitarian features go, is not capable of copyright protection. However, non-utilitarian features of such items can benefit from copyright protection, if that feature can be identified "separately" and exist "independently" from the useful aspect of the item. How to determine this – whether the feature is separable in this way – is the question being decided by the Supreme Court.



Arianna Frankl

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Delaware Court of Chancery Rules on Unambiguous Director Removal Voting Requirements

In a recent decision of the Delaware Court of Chancery, the Court struck down a corporate bylaw provision of NutriSystem, Inc., a Delaware corporation (the "Company"), ruling the provision to be inconsistent with the Delaware General Corporation Law. See *Fletcher v. Zier*, No. CV 12038-VCG, 2017 WL 345142 (Del. Ch. Jan. 24, 2017). The Company's bylaw provision, which had recently been adopted as an amendment to the Company's bylaws, stated that the stockholders of the Company may remove directors, but only upon the vote of "not less than 66 and two-thirds percent...of the voting power of all outstanding shares" of Company stock. *Id.* at *1. This bylaw provision is in contravention of 8 Del. C. § 141(k) under which directors may be removed by a majority vote of corporate shares.

Plaintiff, a shareholder of the Company, brought a class action suit on behalf of the shareholders of the Company against Defendants, who were directors of the Company and the Board of Directors of the Company. *Id.*



Joseph Armenti

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