

## Table of Contents

### Opinion

MARCUS BONNELL

#### **Risk of AML Own Goals From Football Transfers** 1

This article considers the AML and financial crime risk associated with the increasing flows of money into football at a time when investigations into standards of governance in the game are at their highest and the legislative requirements relating to AML and other financial crime for financial institutions have become far more onerous.

### Articles

SABINE JACQUES

#### **Mash-ups and Mixes: What Impact Have the Recent Copyright Reforms Had on the Legality of Sampling?** 3

Whilst digital sampling is far from being a new phenomenon, this creative endeavour still pushes the boundaries of copyright legislation. This article proposes to come back on the latest UK copyright amendments to determine their impact on the use of unauthorised samplings. Based upon the assessment of the current infringement test and existing defences, this article then considers new private initiatives likely to impact the use of digital samplings.

TED SHAPIRO

#### **The Consultation on the Satellite and Cable Directive** 11

On 24 August 2015, the European Commission published its public consultation on the Satellite and Cable Directive, which was announced in the Strategy for a Digital Single Market. While initially the Commission had focused on extending principles in the Directive to broadcasters' online transmissions and enhancing cross-border access to broadcasters' services in Europe, the questions in the consultations indicate a much more extensive evaluation. The consultation as published seeks views on extending the Directive to "any online content services provided by any service provider." This begs the question of how the review of the Satellite and Cable Directive fits into the larger scheme of EU copyright reform.

JENNIFER AGATE AND ANDY PHIPPEN

#### **Gaming and Young People—The Right Concerns?** 13

This article discusses current concerns and initiatives around gaming by children and young people and the legislative responsibilities of providers.

### Comments

JENNIFER AGATE

#### **Civil Injunction in "Revenge Porn" Case: JPH v XYZ & Persons Unknown** 18

This article considers the interim injunction granted in *JPH v XYZ* to prevent the publication of intimate photographs, videos and information in a so called "revenge porn" case.

STEPHANIE WICKENDEN

#### **Graffiti Art: The Rights of Landlords, Tenants and Artists: The Creative Foundation v Dreamland Leisure Ltd** 19

*Creative Foundation v Dreamland Leisure Ltd* [2015] EWHC 2556 (Ch) results from a dispute between a landlord and tenant over rights to an unsolicited Banksy graffiti work on an external wall. The rights of the landlord prevailed over those of the tenant, as would be expected, but consideration of Banksy's rights was notable by its absence. This article summarises the position between landlord and tenant, and goes on to propose a number of ways Banksy may have attained rights in the work under intellectual property and personal property law.

HUGH TOMLINSON QC

#### **Brett Wilson LLP v Persons Unknown, Corporate Damages and Injunction Against Unknown Operators of Website** 22

In the case of *Brett Wilson LLP v Persons Unknown* [2015] EWHC 2628 (QB) (16 September 2015) Warby J granted a permanent injunction against the unknown operators of the "Solicitors from Hell UK" website. He also awarded damages of £10,000. This is the first case under the Defamation Act 2013 in which a court has made an award of damages to a "body that trades for profit".

MARTIN OCHS

#### **Prison Sentence for Persistent Infringement of Copyright** 24

On 22 June 2015, the High Court heard a committal application in the matter of *Phonographic Performance Limited (PPL) v Fletcher*. Arnold J ruled against John Fletcher of Newport, finding him in contempt of court for breaching an earlier injunction to prevent him from playing sound recordings in public without a licence from PPL.

EILEEN WEINERT

### **Vladimir Sloutsker v Olga Romanova: £110,000 Libel Damages Awarded Against Russian Journalist in Absentia 26**

The High Court has awarded £110,000 damages against Olga Romanova, a Russian journalist who accused the Russian Claimant in Russian publications of murder plots against her husband, corrupting judges and perverting the course of justice. The Court considered whether to adjourn or proceed in the Defendant's absence and assessed the appropriate level of damages for such serious allegations.

PATRICK MITCHELL AND ALASDAIR MULLER

### **British Boxing Board of Control knocks out High Court challenge 29**

In *Baker v British Boxing Board of Control* [2015] EWHC 2469 (Ch), the High Court has held that the British Boxing Board of Control's appeal procedure is properly categorised as an "arbitration" and therefore final and binding, challengeable in limited circumstances only.

TIFFANY STIRLING

### **Oopsie Daisy! Ofcom Upholds ATVOD's Determination That Brightonrock Communications Ltd's Daisy Rock Service Constitutes an ODPS Under the Communications Act 2003 31**

In what may be one of its last appeal decisions before taking over from ATVOD as the regulator for on-demand programme services from January 2016, Ofcom has upheld ATVOD's determination that a website dedicated to the adult performer, Daisy Rock, constitutes an on-demand programme service under the Communications Act. As a result, the website operators are obliged to notify ATVOD, pay the requisite fee, and comply with statutory rules to keep hard-core pornographic material out of the reach of under-18s.

JULIANE ALTHOFF

### **European Commission Consultation on the Audiovisual Media Services Directive 34**

Following its consultation on media convergence in 2013, the European Commission has consulted on a number of issues that are to be considered in an overhaul of the Audiovisual Media Services Directive. The Commission asked for respondents' opinions on various alternative options provided by the Commission for the future in each key area of the Directive, including views on how well the current audiovisual framework works, how it should be improved, what roles and responsibilities market players should have, how to protect viewers (particularly children), how to promote European works and how to regulate advertising in the audiovisual online sphere.

ALICIA MENDONCA

### **European Court Highlights Limits to a University's Right to Reputation 37**

This article considers the recent European Court of Human Rights ruling in *Kharlamov v Russia*, in which the court considered the limitations to a university's right to reputation.

ELEANOR STEYN

### **Blinging Up Baby—Taking "Due Care" of Children's Welfare and Dignity 39**

Ofcom has found Channel 5 in breach of the Ofcom Broadcasting Code in relation to "Blinging Up Baby", a television documentary. The programme showed a four-year-old child's performance in a beauty pageant, in which the child wore a "Hooters"-themed costume and performed a routine that could be considered to be sexualised. In Ofcom's view, Channel 5 did not take due care of the girl's welfare and dignity, even though her mother had given consent for her to appear in the programme.

OLI MURPHY

### **Former Royal Butler Given Go Ahead for Privacy Claim Against Max Clifford 42**

The High Court has refused to strike out former royal butler Paul Burrell's breach of confidence and privacy claim against Max Clifford. The court held that the claim could not be struck out as an abuse of process as there was an arguable claim with the prospect of more than nugatory damages. The claim did not fall foul of limitation as s.32 of the Limitation Act applied.

## **Book Reviews**

RICHARD SAMBROOK

### **Beyond Contempt: The inside story of the phone hacking trial by Peter Jukes 44**

DUNCAN BLOY

### **International Handbook Of Social Media Laws by Paul Lambert 45**