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Photographs of Children in Public: The Wider Significance of *Weller v Associated Newspapers* 197

When someone may take and publish photographs of another person has been considered in a string of domestic and European cases, most recently by the Court of Appeal in *Weller v Associated Newspapers*. This case is significant in confirming that publication of innocuous photographs of the children of public figures may justify a claim under the law of misuse of information, even when those photographs were taken in public place. What is unclear, however, is whether the judgment in *Weller* is of wider relevance, for example when the claimants are not the children of famous parents and where the defendants are not the media. This article considers why it might be appropriate to extend the reach of the decision to all children, and how the approach adopted in *Weller* might be applied to such “ordinary” individuals.

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Landmark Privacy Ruling in the “Celebrity Threesome” Case 202

The Supreme Court has ruled in favour of a claimant, PJS, against News Group Newspapers in the so-called “celebrity threesome” case, which is the most significant decision since Naomi Campbell’s privacy claim reached the House of Lords in 2004. The court overturned the previous lifting of an interim injunction, finding that PJS had a continuing right to protection of privacy in spite of previous online publications of the story, both outside and within the jurisdiction.

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This article considers the ongoing dispute between the live streaming service Playmedia and the French public service broadcaster France Télévisions and in particular the ruling of the Paris court of appeal in February 2016. The case can be compared to the well-known US cases *Aereo* and *FilmOn* and the *TVCatchup* case in the UK.

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Free Wi-Fi Providers not Liable for Users’ Copyright Infringements 207

In the Advocate General’s opinion, the provider of a public, free Wi-Fi service is not liable for copyright infringements committed by its users. In this case the Court of Justice of the European Union has been asked to help to determine whether: (a) a store owner could be liable for a third party’s infringement committed on his free Wi-Fi network; (b) he could rely on the “mere conduit” defence under the E-Commerce Directive; and (c) it is possible to obtain an injunction against a free Wi-Fi operator to prevent or terminate infringement.

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This case comment investigates the central issues in the case: Was Max Clifford authorised to send Mr Butler’s confidential letter to the News of the World? Was Max Clifford hired to broker the sale of the Mr Butlers’ story or to help protect him from press interest? Was it too late for Mr Burrell to complain of events which took place in 2002? What was the right level of damages?

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The European Court of Human Rights has found that the privacy of a footballer’s children was sufficiently protected by the German government, despite repeated publication of photographs by two German magazines in breach of a court order. The German government had fulfilled their positive obligations by providing the possibility of imposing fines on the publisher when in breach of the ban, and by providing an appeals procedure. This amounted to sufficient protection under art.8, and the German courts were correct in ruling that additional compensation should not be awarded.

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The High Court in *Axon v Ministry of Defence* held that a military officer, dismissed from a position of command, had no reasonable expectation of privacy over the circumstances of his dismissal, despite the release of the information, by a corrupt MoD employee, being unauthorised.

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This article considers the ruling of the EU General Court in *Novomatic AG v EUIPO* (T-326/14) EU:T:2016:221, which concerned an opposition to the registration of a figurative “Hot Joker” sign as an EU trade mark, and in particular the significance for the gaming sector of the court’s analysis of the similarity between “hardware and software” in Class 9 and “games” in Class 28 of the Nice Agreement.

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In *Sousa Goucha v Portugal* (Application no.70434/12) the Fourth Section of the European Court of Human Rights held that the dismissal of a domestic defamation action by a gay television presenter was not a breach of his Article 8 right to reputation or of the prohibition of discrimination in art.14. The Court deferred to the reasoning of the domestic court that a “joke” suggesting that the applicant was female was not defamatory.

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Ultimate Fighting Championship Battles its Way to Victory and Acquires Distinctive Character 225

This article considers *Zuffa LLC v EUIPO* (T-590/14) EU:T:2016:295 in which the EU General Court allowed the registration of ULTIMATE FIGHTING CHAMPIONSHIP as an EU trade mark insofar as it had acquired distinctive character for those goods and services which were intended for a specialist public of English-speaking mixed martial arts fans.