

Articles

JULIANE ALTHOFF

EU Council's Approach to Cross-Border Portability of Online Content Services 269

Following the publication of the European Commission's draft regulation in late 2015, the Council of the European Union has now agreed on a general approach on a draft regulation aimed at ensuring the cross-border portability of online content services in the internal market. It has introduced a mechanism by which service providers must verify a subscriber's "Member State of residence", while allowing holders of the rights in the content to derogate from this and authorise portability of their content without verification. Further, the Council has provided some clarifications of certain definitions where the draft of the European Commission left too much scope for a wide interpretation.

OLIVER BRAY AND BEN NICHOLSON

European Commission Guidance on Online Platforms and the Unfair Commercial Practices Directive 271

On 25 May 2016, the European Commission adopted an updated version of its guidance on the implementation/application of Directive 2005/29 on Unfair Commercial Practices (UCPD) (Guideline). This article focuses on the most significant aspect of the updated Guidance, namely its analysis of the UCPD's application to online platforms such as e-marketplaces, app stores and search engines.

Comments

PETER SMITH

Celebrity Wedding was Legitimate Target for Press Intrusion 277

This article considers the decision of the European Court of Human Rights in *Sihler-Jauch and Jauch v Germany* dismissing an application by the very well-known and popular German TV presenter Günther Jauch and his wife, who alleged that their right to privacy had not been sufficiently protected by the domestic German courts.

DÉSIRÉE FIELDS

Red Lights, Stop and Go—Racing Team Potentially Blocked From US \$90 Million Due to Trade Mark Licensing Issue 278

The High Court has ruled that a Formula 1 team had an arguable defence to trade mark infringement claims brought by its former sponsor where it continued to use the sponsor's name after the expiry of the sponsorship agreement, but rejected an acquiescence defence and a defence that the sponsor had consented to the continuing use of the name by virtue of an implied term in an oral agreement with the team's new owner.

RACHEL ALEXANDER AND KATHARINE ALEXANDER

The Future of Site Blocking: Cartier, Counterfeiting and Beyond 281

On 6 July 2016, the Court of Appeal handed down its much-anticipated judgment in *Cartier v BSKyB*. The Court of Appeal found in favour of the Richeumont claimants in dismissing the appeal brought by the UK's five largest internet service providers. The appeal challenged two orders which required the ISPs to block access to certain websites selling counterfeit goods.

JESSICA WELCH

Reports of Criminal Proceedings on Social Media — User Comments and Risk of Prejudice 284

R v F and D Ex p. British Broadcasting Corporation is the first case of its kind to consider how critical fair trial protection can be extended to prevent or control communications on social media. It was brought by way of an appeal against an order under the Contempt of Court Act 1981 which was directed at the press and which was intended to control what has been described as "vile social media comment" posted on Facebook pages of media organisations in a high profile and extremely difficult trial in which two young teenage girls were charged with murder.

GILLIE ABBOTTS-JONES AND ED KILNER

Zoo Refused Injunction Against Animal Rights NGO 286

In an unusual case, the High Court refused to grant an interim injunction in an action for breach of contract, confidentiality and performer's rights. Mr Justice Birss applied s.12 of the Human Rights Act 1998 and the test in *Cream Holdings*, rather than the test in *American Cynamid*, and balanced the claimants' property rights under art.1 against the defendant's art.10 rights. He found that there was not a sufficient likelihood that the claimants would obtain a final injunction at trial to justify the interference with journalistic freedom of speech.

PADDY GARDINER

UK Copyright Tribunal Ruling in ITV's Reference against PRS and MCPS 289

The UK Copyright Tribunal has ruled on a Reference brought by the broadcaster ITV against PRS for Music—its first major decision on a broadcasting licence for almost 20 years. The case concerned the terms on which the “blanket” licence for use of musical works in ITV's programmes should be renewed. The Tribunal agreed with PRS for Music that the base royalty should be adjusted by changes in audience and index-linked to calculate the royalty for 2014, with similar adjustments for subsequent licence years. The ruling is instructive on the Tribunal's approach to applying principles derived from previous decisions.

SHANNON YAVORSKY

High Court Decision in Campbell v Campbell Provides Food for Thought—Rights in the UB40 Name and Arguable Abandonment of Goodwill 291

In *Campbell v Campbell* [2016] EWHC 765 (CH) (21 March 2016), the High Court dismissed the defendants' application for summary judgment and strike out, finding that it was arguable that the purported assignment of the band's name by the liquidator of UB40's record label was ineffective because the company had already ceased to trade, had abandoned the goodwill in the band's activities and as such there were no longer any rights to transfer.

Book Reviews

GILL PHILLIPS

Citizen Journalists: Newer Media, Republican Moments and the Constitution by Ian Cram 294

DAVID J ACHESON

Comparative Defamation and Privacy Law by Andrew Kenyon (ed.) 295

URSULA SMARTT

Newsgathering: Law, Regulation, and the Public Interest by Gavin Millar QC and Andrew Scott 297