

## Articles

JOSHUA COLBY

### **It's the End of the (Online) World as We Know It? The Dangers of Hyperlinking 161**

Linking to websites containing copyright works without authorisation from the rightholder infringes the right to communication to the public under certain circumstances. Liability for copyright infringement has the potential to deter the provision of hyperlinks, ending the online world as we know it. This article will consider (1) whether hyperlinks are "communications"; and (2) the uncertainties of the "knowledge" requirement, introduced in GS Media.

## Comments

JOSHUA CHARALAMBOUS

### **Indian Sports Broadcast Network "Bowled Out" for Breach of a Media Rights Agreement 167**

This article considers *New Zealand Cricket (Incorporation) v Neo Sports Broadcast PVT Ltd* in which the High Court exercised its discretion and lifted a stay to allow the claimant, New Zealand Cricket, to successfully obtain summary judgment on a breach of contract claim with elements of bad faith counter-arguments.

DÉSIRÉE FIELDS

### **MAXPLAY Rejected as an EU Trade Mark for Video Games: Mere Absence of a Word in a Dictionary does not Negate a Finding of Descriptiveness of a Sign 169**

The EU General Court has found the mark MAXPLAY to be descriptive and non-distinctive as it lacked any unusual element in its syntax and consumers would immediately and intuitively understand the mark to mean "maximum play" or "best play" in relation to computer and video games, devices for those games and connected services. The fact that the mark did not appear in any dictionary did not alter this finding.

NEDIM MALOVIC

### **Online Copyright Enforcement in Sweden: The First Blocking Injunction 171**

In a landmark 2017 decision, the Swedish Patent and Market Court of Appeal granted the first blocking injunction ever in a copyright case. This article reviews the process (and obstacles) that have ultimately culminated in the adoption of the order against a major Swedish access provider to block access to Swefilmer and The Pirate Bay.

ALEXANDER ROSS

### **Verwertungsgesellschaft Rundfunk GmbH v Hettegger Hotel Edelweiss: A Rare Victory for the Hotel Industry 174**

After being battered by a string of judgments confirming that hotel chains are liable for the communication to the public of copyright works in hotel rooms, the hotels finally win on a related rights claim: hotels 1, broadcasters nil.

ALEXANDER ROSS

### **CJEU Dismisses the Validity of the "Same Area Retransmission" Exception under English Law and Replaces it with a "Same Area Retransmission" Exception under EU Law 176**

The CJEU has found that s.73 of the CDPA, which is due for repeal, is contrary to EU law as going beyond the communication to the public exceptions allowed under art.5 of the Copyright Directive, but in a swiftly following case has ruled, on essentially the same facts, that retransmission of the type permitted by s.73 does not require authorisation under EU law.

PETER SMITH

### **High Court Upholds Public Interest in Naming Individual in Newspaper Article Concerning Police Investigation 178**

This article considers a recent High Court decision, *ZXC v Bloomberg LP*, in which a businessman attempted unsuccessfully to force online news publisher Bloomberg LP to remove information about him from an internet article concerning an investigation into alleged corruption.

HILARY STEWART-JONES AND GREG  
MASON

### **FutGalaxy and “Skin Betting” 181**

In the first successful prosecution of its kind by the GB Gambling Commission (the “GBGC”) the two men behind the unlicensed eSports betting website, *FutGalaxy.com*, were convicted of offences under the Gambling Act 2005 in relation to offering illegal gambling parasitic upon the popular FIFA series of football video games. The proceedings have raised significant questions for the burgeoning eSports and gambling industries, particularly with the rapid growth of virtual currencies and so-called “skin betting”, prompting the GBGC to open a public consultation and to issue a report entitled *Virtual currencies, eSports and social casino gaming - position paper*.

NICOLA CAIN

### **The Days of CFAs in Freedom of Expression Cases may be Numbered 183**

In *Times Newspapers Ltd v Flood*; *Miller v Associated Newspapers Ltd*; and, *Frost v MGN Ltd* [2017] UKSC 33, the defendant media organisations each brought an appeal to the Supreme Court in relation to the obligation that they pay additional liabilities pursuant to the Access to Justice Act 1999 and relevant Civil Procedure Rules in cases engaging their right to freedom of expression. While each of the appeals was dismissed, the Supreme Court indicated that there was a powerful argument that the obligation to pay additional liabilities in freedom of expression cases will normally infringe the media’s art.10 rights.

## **Book Review**

PETER COE

### **Media Law and Policy in the Internet Age by Doreen Weisenhaus and Simon Young (eds) 186**