

Opinion

MARGARET BRENNAN AND ANDY PHIPPEN

“Youth-Involved Sexual Imagery”—A Better Term to Challenge Blame Culture in Youth Sexting Cases? 73

Given that minors who generate and share sexual images of themselves are frequently blamed when images are spread further, terms such as “youth-produced” and “self-generated” do little to move the focus of responsibility away from the victim. While there is undoubtedly involvement by the victim in the generation of the image, these terms fail to acknowledge the production might have been as a result of, for example, pressure, coercion or extortion. We propose the term “youth involved sexual imagery” as a more realistic term and one that reflects the complexity of the context in which an image might be generated.

Articles

SIMON GOODBODY

Florence Foster Jenkins: Joint Authorship, Costs and “the World’s Worst Opera Singer” 77

This article takes a closer look at the judgment in *Martin v Kogan* [2017] EWHC 2927 (IPEC) and discusses what we can learn about current state of the law on joint authorship of copyright. A review of the subsequent costs judgment considers the effect of Pt 36 offers of settlement in IPEC and the effect of introducing a Pt 20 defendant on the court’s fixed cost regime.

Comments

LUXMI RAJANAYAGAM

Caspian Pizza Ltd v Shah—Court of Appeal Shows Amore for Local Goodwill 83

In *Caspian Pizza Ltd v Shah*, the defendants were able to rely on their local goodwill to invalidate the claimants’ UK trade marks. The Court of Appeal found prior local goodwill, which is sufficient to bring a claim in passing off, can successfully challenge an application for or the validity of a UK trade mark.

PETER SMITH

Defamation of the Dead: MAC TV SRO v Slovakia 85

The European Court of Human Rights has handed down judgment in the unusual case of *MAC TV S.R.O v Slovakia*, finding that the Slovakian Broadcasting Council breached a domestic broadcaster’s art.10 rights when it issued a fine for showing a programme critical of the late President of Poland, who had died two days before the programme was broadcast. In the context of the case this article summarises conflicting ECtHR jurisprudence on whether a dead person could have an actionable cause of action in defamation.

NATASHA HOLCROFT-EMMESS

Serafin v Malkiewicz: A Cautionary Tale for Defamation Claimants 87

In *Serafin v Malkiewicz*, the High Court dismissed defamation and misuse of private information claims brought by a Polish émigré against a Polish language newspaper circulated in London. The defendants succeeded in establishing the defence of publication in the public interest and, for most imputations, truth. The judgment provides guidance on the interpretation of “statement” in s.2(2) of the Defamation Act 2013 and sets out a “cautionary tale” for prospective claimants.

ALEXANDER ROSS

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This article considers the rather nebulous judgment of the Court of Justice in *Vcast Ltd v RTI SpA* (C-265/16) concerning the legitimacy of a cloud-based commercial remote video recording service, specifically whether such a service can benefit from the private copying exception in art.5(2)(b) of the Copyright Directive (2001/29). While the CJEU’s decision will for the most part be welcome to rights owners, it throws up a number of uncertainties which are likely to require further guidance from the CJEU.

LEIGH SMITH

General Court Partially Annuls Board of Appeal Decision in Respect of the Validity of the BET365 Trade Mark 91

This article considers the ruling of the EU General Court in *Bet 365 Group v EUIPO* which partially annulled a decision of the Fifth Board of Appeal that the mark BET365 had not acquired distinctiveness through use. In particular, the court found the Board of Appeal had erred in its assessment of use of the mark in a figurative and composite form, and use of the mark as part of the proprietor’s domain name, www.bet365.com.

JENNIFER AGATE AND HELEN
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Morrisons Found Vicariously Liable for Actions of Rogue Employee in First Data Breach Group Litigation 93

An article on the recent decision in *Various claimants v WM Morrisons Supermarket Plc*, the first group litigation in a data breach case to be heard by the UK courts, setting out the practical steps businesses can take to reduce their risk profile.

MICHELLE SLOANE

Spurs 2:0 HMRC—Payment on Early Termination of Fixed Term Contract Not Taxable as Earnings 95

This article considers the Upper Tribunal case of *HMRC v Tottenham Hotspur* [2017] UKUT 453 regarding the frequently contentious area of the taxation of severance payments.

JENNIFER AGATE

Blackmail as a Form of Harassment: LJY v Persons Unknown 97

This case comment considers a recent decision in which the High Court ordered an injunction to prevent harassment in the context of an anonymous blackmail threat.

Book Reviews

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Medium Law by Daithí Mac Síthigh 100

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Media Freedom as a Fundamental Right by Jan Oster 100