

Table of Contents

Opinion

ANTHONY MARTINO

Literary Inferno (Burn Baby Burn) 137

This year marks the 30th anniversary of *The Satanic Verses* controversy, a magical realist novel whose publication was met by what the western media described as a fatwa: Ayatollah Khomeini, the Supreme Leader of the Islamic Republic of Iran, called for the death of its author and publishers. In this opinion piece the author interrogates this moment and asks what we have learnt.

Articles

ANDY PHIPPEN AND EMMA BOND

Aldi “Teatime Takedown”—Are Data Breaches and Online Abuse the Best Ways to get Children to Come Down for Dinner? 140

This article presents the recently aborted Aldi “Teatime Takedown” advertising campaign as an example of the need for organisations, and associated partners, to reflect upon their social responsibilities when promoting activities that might have an impact in the home, or engage in online behaviours.

ED BADEN-POWELL AND RACHAEL
HEELEY

Copyright in the Digital Single Market—Long-Debated Directive Approved 143

The European Council has approved the final text of the Directive on Copyright in the Digital Single Market, which has been the subject of intense debate since its initial proposal in 2016. It must be implemented by EU member states within 24 months after coming into force. It forms part of a broader EU initiative to modernise copyright, and introduces measures that aim to achieve a well-functioning marketplace for copyright. This article reviews and comments on the three main sets of new provisions that are noteworthy in a media and entertainment context: (a) sharing platform obligations; (b) author and performer rights; and (c) a press publication right.

TED SHAPIRO AND COLLETTE
RAWNSLEY

Comment on the EU’s Update of the “SatCab” Directive: A Brave New Digital World for the Audiovisual Sector? 148

The Broadcaster Directive began as a hefty proposed Regulation but emerged as a relatively slim, albeit complex, Directive. This hotly contested instrument extends two longstanding EU rights-clearance mechanisms tentatively into the digital environment. The outcome is mostly a relief for the audio-visual sector. However, the important principles of copyright territoriality, individual exercise of rights and contractual freedom have taken another, albeit limited, hit at the hands of the EU legislator.

Comments

CHRISTOPHER BÜLLER

EZMIX Considered Descriptive for Music Production Services 152

This article reviews the decision of the Court of Justice of the European Union in *Toontrack Music AB v EUIPO* (C-48/18 P) dismissing an appeal from the EU General Court’s ruling that the word mark EZMIX was descriptive for music production services.

TOM WILKIN

Lifetime Anonymity Orders—The Intense Focus in *Venables v News Group Papers* 154

A case comment on the judgment in *Venables v News Group Papers* [2019] EWHC 494, in which Sir Andrew McFarlane, President of the Family Division, considered an application to amend the terms of an order preventing the publication of the identity of one of James Bulger’s killers, Jon Venables,

DÉSIRÉE FIELDS

EU General Court Says “No” to MARRY ME Trade Mark 156

Upholding an EUIPO Board of Appeal refusal, the EU General Court has confirmed that an EU trade mark application for the word mark MARRY ME was descriptive of various goods and services in Classes 9, 38 and 45, including computer software, chatroom and dating services as they all ultimately had the purpose of connecting individuals who desired to find a partner for marriage.

MARCUS ROWLAND

New Proposals to Prevent the Misuse of “Gagging Clauses” in the Workplace 158

This article examines the recently announced Government consultation on ways of reforming the law on the use of confidentiality clauses in response to concerns that they are being used inappropriately by employers to silence victims of workplace harassment and discrimination.

ERIKA FEDERIS-COX

The Law Does Not Condone Anonymous Online Abuse: Suttle v Walker 160

A case comment considering the recent decision in *Suttle v Walker*, in which the court deliberated the severity of online abuse, and the importance of revealing the identities of those hiding behind anonymity when it comes to abusive behaviour online.

EILEEN WEINERT

Host of Internet Forum Not Liable for Abuse Online—Status Quo But for How Much Longer? 162

A case comment on *Høiness v Norway* in which the European Court of Human Rights ruled that the refusal of the Norwegian court to impose civil liability on an internet forum host after vulgar comments about Ms Høiness had been posted on the forum did not infringe Ms Høiness's right to privacy under art.8 of the European Convention on Human Rights.

CAROLINE KEAN AND ANNA DOBLE

High Court Refuses Interim Injunction to Block Broadcast of Comedy Drama 163

A case comment on *Happy Camper Productions Ltd v BBC* in which the High Court refused an application for an interim injunction, based in alleged copying of a script, to restrain the BBC from broadcasting a comedy drama called "Pitching In".

FIONA MCALLISTER AND ALASTAIR FATEMI

Secondary Ticketing Safeguards Imposed on Ticket Resellers and Event Organisers 165

After securing a court order against viagogo in November 2018, the Competition and Markets Authority (CMA) issued a reminder to viagogo, StubHub and Ticketmaster that, by midnight on 17 January 2019, they were each required to have overhauled their processes to improve information on tickets listed for resale. It also published an open letter to secondary ticketing websites, reminding them of their obligations under consumer law, stressing the relevance of the court order to any website that facilitates the resale of tickets, even if that is not the primary purpose of the website. The CMA published a separate open letter to event organisers on how to ensure that information on event tickets is disclosed on secondary ticketing websites, as well as the steps that users of restrictions on resale can take to reduce the risk of enforcement action.