

Comments

PETER SMITH

“Struck off” Libel Claims Against the BMJ Fails 143

This article reviews *Onwude v Dyer* in which the High Court upheld defences of qualified privilege and public interest on an NHS doctor’s libel claim against the British Medical Journal, its editor and a legal journalist.

JESSICA WELCH AND DIONNE CLARK

Meghan Markle Wins Privacy and Copyright Claims Against Associated Newspapers 145

The High Court has granted summary judgment to the Duchess of Sussex, ruling that she had a reasonable expectation of privacy in the contents of a private letter that she wrote to her father, and it was fanciful to think otherwise. The court rejected the publisher’s arguments that her right was outweighed by the interests of her father and the public, and found the extent of publication to be wholly disproportionate. The publisher was also found to have infringed copyright in the letter, and the judge rejected defences of fair dealing and/or public interest.

ALEXANDER ROSS

VG Bild-Kunst v SPK—Putting the Illegality Back into Being Framed 149

This article reviews *VG Bild-Kunst v Stiftung Preußischer Kulturbesitz* (C-392/19) in which the Court of Justice of the European Union ruled that the framing on a website (A), using embedded links, of copyright works which are freely available to the public on another website (B) with the copyright holder’s consent, is a “communication to the public” on website A where the copyright holder has adopted technical measures on website B to restrict framing.

MARC DAUTLICH AND SOPHIE FRENCH

True Vision Productions Ltd v Information Commissioner—Unfair Processing of Sensitive Personal Data Obtained During the Making of a Channel 4 Documentary 151

This article reviews the decision of the First-Tier Tribunal in *True Vision Productions Ltd v Information Commissioner*. Judge Edward Jacobs agreed with the Information Commissioner that it was appropriate to penalise the production company for the unfair processing of sensitive personal data obtained during the making of its Channel 4 documentary on stillbirths, but reduced the monetary penalty from £120,000 to £20,000.

RACHEL ALEXANDER

Music Piracy Blocking Cases Tackle Cyberlockers and Stream Ripping Services 153

This article reviews *Capitol Records v BT* and *Young Turks Recordings v BT* in which the High Court granted major and independent record company members of BPI and PPL blocking injunctions requiring the six major UK internet service providers (ISPs) to impede access to services that promote and enable music piracy.

SARAH MOUNTAIN AND ELLIE WARD

Oh (No) Polly—Clothing Brand Infringes Design Rights in Competitor’s “Bodycon” Dresses 156

This article reviews *Original Beauty Technology Co Ltd v G4K Fashion Ltd* in which the High Court upheld claims of infringement of design rights in the claimant’s “bodycon” garments but rejected a claim in passing off in the absence of evidence that consumers had been deceived into thinking that there was a connection between the claimant and the defendant.

PETER SMITH

English Court has Jurisdiction Over Malicious Falsehood Claim Arising From “Al Arabiya” Video 159

This comment reviews *Qatar Airways Group v Middle East News FZ LLC* in which the English High Court rejected a jurisdiction challenge made by the broadcasters of an international Arabic news channel against a claim relating to the publication of a video allegedly showing violent interference with the claimant’s aircraft.

NICHOLAS TALL

Westminster City Council v Sport and Leisure Management Ltd—COVID and “Change in Law” Clause Interpretation 164

This comment reviews the ruling of Kerr J in *Westminster City Council v Sport and Leisure Management Ltd* on liability for losses under a contract arising from closure of leisure facilities during the COVID pandemic, and specifically the interpretation and application of a clause dealing with changes in law.

MATHILDE GROPPA

Gilham v MGN Ltd—A Restatement of the Principles Applicable to the Determination of Compensation in an Offer of Amends Case 165

This comment reviews the High Court's ruling in *Gilham v MGN Ltd* [2020] EWHC 2217 (QB), a Pt 8 claim which followed the acceptance of a qualified offer of amends pursuant to s.3 of the Defamation Act 1996. In the light of the parties' inability to agree the amount of compensation, the Claimant applied to the Court for an assessment of compensation pursuant to s.3(5) of the Act. Applying well-established principles, the judge awarded the Claimant £49,000.