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Variable Sell-on Clauses: Arsenal Wins Against FIFA in Extra Time 1

In disciplinary and appeal rulings FIFA found that variable sell-on clauses included in transfer contracts of players sold by Arsenal breached FIFA's rules prohibiting third-party influence. FIFA ruled that, where a clause would cause a greater percentage of a sell-on fee to be paid if a player is transferred to one club rather than another, that would impair the freedom of the selling club and as such would violate FIFA's rules. But Arsenal appealed, and the Court of Arbitration for Sport ruled in Arsenal's favour, finding that Arsenal did not have undue influence over any transfer.

ANDY PHIPPEN AND VICTORIA BAINES

We're Going on a Fact Hunt: The Dangers of Being an Online Harms Denier, with the burden of Evidence and Critical Thinking 4

With the ever-growing political spotlight on social media providers and the wishes of governments to better control "big tech", the rhetoric around the nature of online harms sometimes get lost in a whirlwind of moral panic, conjecture, headline grabbing and social media shares. However, if we are to best understand the reality of online harms and how to best regulate, an evidence based approach is needed and critical voices need to be listened to, not dismissed as online harms denial.

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The COVID-19 Pandemic v Black Widow: The Pressure for Change in Film Distribution 10

This article surveys the shifting landscape for theatrical distribution of motion pictures, in the light of the increasing strength of online streaming platforms and the persistent demands of exhibitors. In examining the significance of the Black Widow dispute, it discusses the lasting effects of COVID-19 on the film industry as movie theaters emerge from the shadow of the pandemic.

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NFTs: A Matter of Trust? 15

Along with new opportunities, the new virtual age presents risks associated with delving into largely uncharted territory without the benefit of regulatory oversight, meaning that NFT transactions have been known to proceed simply on the basis of 'trust' in the NFT's creator. This article explores some of those risks and how brands and other companies (including in the media and entertainment spheres) that are interested in entering this virtual arena can seek to protect themselves.

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McNally v Saunders: When is a Twitter Campaign Harassment? 19

This article reviews *McNally v Saunders* in which the Hough Court granted a citizen journalist summary judgment on a claim against him for harassment as a result of his "private eye" inspired tirade against a member of Sandwell Borough Council for revealing her struggle with mental health.

JESSICA WELCH AND ALEXANDRA
VYVYAN

Rare Procedural Exceptions Allowed for Slanderous Grooming Allegations 21

The High Court found that words spoken to three of the claimant's close friends had the meaning that he had groomed under-aged girls. The court ruled that: (a) it was equitable to disapply the limitation period to allow him to rely on one of those conversations, which he had not pleaded as a result of his legal advisers' failure; (b) he fell within both exceptions to the rule that a slander claim is actionable without proof of special damage, as the words imputed a crime for which he could be made to suffer physically by way of punishment, and were calculated to disparage him as a teacher and performer of Irish dance; and (c) the allegations of criminal behaviour and consequential damage to his business caused him serious harm.

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SkyKick Loses as Court of Appeal Finds Sky did not Act in Bad Faith 24

The issue in *Sky v SkyKick* was whether Sky, well-known for broadcasting, telephony and broadband provision, could use its registered trade marks for SKY to prevent the defendants from using the sign SKYKICK in relation to email migration and cloud storage services. The answer to this question is, according to the Court of Appeal, "yes". This article reviews, and considers the implications of, the Court of Appeal's finding on the bad faith counterclaim which SkyKick brought in order to defend the infringement claim made against it.

NICK EZIEFULA AND RACHEL HEELEY

Waiting All Night: A Rudimental Lesson About Coincidental Similarities 27

The High Court has dismissed a claim for copyright infringement in relation to the hit Rudimental song *Waiting All Night*. Kelly-Marie Smith, the composer and lyricist of a song called *Can You Tell Me*, brought an action against the Rudimental band members and associated parties, claiming that the lyrics and melody of the *Waiting All Night* chorus were copied from *Can You Tell Me*. Yet, despite the similarities, unusual contemporaneous evidence of the creative process for *Waiting All Night* suggested that its chorus was written independently.

EILEEN WEINERT

Anything But the Truth: High Court Awards Syrian Schoolboy Refugee £100,000 for Tommy Robinson Libel 31

This article reviews *Hijazi v Yaxley-Lennon* in which the High Court awarded a Syrian schoolboy and refugee, Jamal Hijazi, damages of £100,000, against the far-right English Defence League co-founder known as Tommy Robinson whose evidence was described by the court as falling “woefully short” of that required by the defence of truth on which he sought to rely.

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This article reviews the recent judgment in *Warren v DSG Retail* which provides much needed clarity in relation to the availability of causes of action that are commonly asserted by claimants in pre-action correspondence alongside claims for breach of data protection legislation. It is likely to have a significant impact on the future recoverability of ATE premiums.

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Pistols at Dawn: Johnny Rotten Loses Battle with Former Bandmates Over Consent to Song Use 36

The former Sex Pistols drummer and guitarist succeeded in a claim against former singer John Lydon, after the frontman tried to veto the use of band songs in a TV drama. The dispute turned on the enforceability of a band agreement, which entitled a majority to outvote the minority on licensing decisions. Mr Lydon argued that, on its true construction, he was not obliged to consent, even if outvoted, or that the claimants were estopped, as the agreement had never been relied on. Yet the High Court found an implied term that he would give his consent once outvoted, and that the claimants retained the right to outvote him.

MATTHEW DANDO

ITV Cleared by OFCOM Over Piers Morgan’s Comments on the Duchess of Sussex’s Interview with Oprah Winfrey 38

Ofcom has dismissed complaints about on-air comments by Piers Morgan concerning the Duchess of Sussex and her interview with Oprah Winfrey. Whilst accepting the comments were potentially harmful and offensive, Ofcom found the broadcast to have sufficient balance and context in a robust debate on a subject of high public interest.