

Articles

MARK SHERWOOD-EDWARDS

The Redundancy of Originality Revisited 129

Twenty-two years ago, an article in Entertainment Law Review, *The Redundancy of Originality*, argued that originality was redundant, and that copyright would work better without it. A year later, *In Defence Of Originality* made the case for originality. This article picks up the dialogue at a time when the shift towards an increasingly digital world makes it even more important that the reasoning behind what we propertise, and how we propertise, is internally coherent and rational. If the reasoning adopted by legislators and courts is wrong—and this article argues is that it often is—then that does not bode well for our ability to get the most out of the digital world.

Comments

JAMIE DRUCKER

IAB Europe’s Transparency & Consent Framework does not Comply with the GDPR 134

The Belgian data protection authority has found that IAB Europe’s Transparency & Consent Framework does not comply with the GDPR. This article reviews the decision and its ramifications for the adtech industry.

EMMA L. FLETT, BEN ZERIS, AND GRACE MCCLELLAND

Tecnica’s Moon Boot: One Small Step for Man ... One Step Too Far for Trade Mark Protection 137

This case comment reviews the EU General Court’s ruling in *Case T-483/20 Tecnica Group SpA* that the Italian sportswear and moon boot maker’s trade mark in the shape of the arguably iconic moon boot should be invalidated for lack of distinctive character for footwear and similar goods.

ELIZABETH WIGGIN AND NATALIE BRUNSDON

High Court Awards Marketing Expert Damages of £10,000 and £25,000 for Libel and Harassment Respectively in Relation to Irrational and Persistent Social Media Campaign 140

In *Davies v Carter* [2021] EWHC 3021 (QB), successful libel and harassment proceedings were brought as a result of a prolific social media campaign of online harassment against the claimant.

JESSICA WELCH AND LOUISE JORDAN

Not Entirely a Life of Riley: High Court Considers Libel Defences in the Twitter Age 143

The TV presenter Rachel Riley was awarded £10,000 in damages following a libel claim over a 2019 tweet by Laura Murray, a former aide to Jeremy Corbyn. Ms Murray had vehemently criticised a sarcastic post by Ms Riley about an egg attack on Mr Corbyn, and her tweet had been found at an earlier hearing to have been misleading about the content of Ms Riley’s post. The amount of the award took account of the relevant factors, including the “provocative” nature of the post, as well as the fact that the ruling itself contributed to Ms Riley’s vindication.

DIONNE CLARK

Forensic Review of Jurisdiction over Publications by Foreign Publisher within the UK 146

The Court of Appeal has upheld the High Court’s decision to allow service out of the jurisdiction in a defamation claim against Forensic News, while allowing a cross-appeal against the refusal of permission to serve out in a claim under the GDPR. The judgment clarifies a number of legal issues in relation to jurisdiction under s.9 of the Defamation Act 2013, as well as the territorial scope of the GDPR where publishers are located out of the jurisdiction, which will be instructive for practitioners.

EILEEN WEINERT

Don’t Bother with Libel: Sue for Privacy Instead Following *Bloomberg v ZXC* 149

This article reviews the Supreme Court ruling in *Bloomberg v ZXC* which confirmed that, as a general rule, a person has a reasonable expectation of privacy in the fact and detail that they are the subject of a police investigation, up to the point of charge.

STEPHANIE FOY AND DR JANET STRATH

Tears for Souvenirs: IPEC finds Designs for London Souvenir Hoodies and T-shirts Invalid Over Prior Art 154

This case comment considers the registered design infringement claim in *Erol v Posh Fashion Ltd* [2022] EWHC 195 (IPEC) (8 February 2022), in which the court found the designs at issue were invalid for lack of novelty and individual character. The decision illustrates the problems of originality which are particularly faced by the souvenir market.

RACHAEL HEELEY

## **Domino Effect: Four Tet Allowed to Add Heads of Claim in Dispute with his Label 161**

In proceedings which touch on significant issues for the recording industry, the IPEC in *Hebden v Domino Recording Company Ltd* granted a recording artist permission to add additional heads of claim, introducing additional allegations of breach by the label of a recording agreement. The artist had claimed breach of a digital release commitment and reversion of copyright on an alleged repudiatory breach. The court could not decide summarily that the claims faced no real likelihood of success, and so found no need to address the label's application for summary judgment.

**Book Review**

167