

## Articles

EMILY MORGAN AND ALEXANDER  
DITTEL

### **Regulatory Scrutiny of Cookie-less Adtech Continues to be one of Google's Topics** 169

After over 20 years of ever-more-targeted online advertising, the dawn of "privacy-first advertising" is almost palpable. Regulatory pressure has translated into real-world actions by the industry itself. In this article the authors assess the prospects for a privacy-compliant adtech ecosystem as key players in the industry look to a cookie-less future.

ASTRID BULMER

### **Smart Contracts: What are they and what should you look out for?** 172

On 25 November 2021 the Law Commission published some advice for the UK government on smart contracts. It found no need to reform the current statutory framework, but considered that the common law on contracts could be developed in certain respects. In light of the advice, this article examines what a smart contract is, the problems associated with smart contracts, and what parties can do to mitigate the related risks.

## Comments

SEAN IBBETSON AND DHARA  
MULUMUNDI

### **WONDER MUM Defeats WONDER WOMAN: A Cautionary Tale for Trade Mark Owners Preparing Evidence of Use** 178

In reviewing the High Court's ruling in *DC Comics v Unilever* this article considers why the evidence filed by DC in its opposition to Unilever's application for a WONDER MUM trade mark was insufficient, and the lessons which those within the entertainment industry can learn from DC's experience.

EILEEN WEINERT

### **Court of Appeal Applies Brakes to Work Email Privacy Claims** 180

This article reviews the Court of Appeal ruling in *Brake v Guy* which upheld the judgment of His Honour Judge Paul Matthews at first instance that there was no reasonable expectation of privacy in work emails and that the emails were not confidential to the employee.

ROHAN MASSEY

### **High Court Retunes Smart TV Data Protection Claim to the Small Claims Channel** 184

This article reviews *Stadler v Currys* in which the High Court refused to strike out a data protection claim brought by a Currys' customer who returned a defective smart TV which Currys then sold on without wiping the customer's apps, including Amazon Prime, and related data. The court considered that the alleged data protection breaches could not, on the claimant's case, be characterised as "trivial" but that claims for misuse of private

JESSICA WELCH

### **No Pryor Claim, and No Free-Standing Tort of "Breach of Physical Privacy"** 186

The High Court struck out Michelle Pryor's claim against Liverpool Women's NHS Foundation Trust and a midwife for alleged breaches of the claimant's "privacy rights" and of a "duty not to act in conflict of duty". The midwife previously had a relationship with the father of Ms Pryor's child, which only became known to the claimant while the midwife was in attendance. Yet despite the distressing experience, the court found no breach of current law, even if the claim had been correctly pleaded. The case reminds parties of the importance of properly pleading a claim for misuse of private information.

HUGH TOMLINSON

### **IVT v Romania: Broadcast of Interview with Child Without Parental Consent Breached Article 8** 188

This article reviews *IVT v Romania* in which the Fourth Section of the European Court of Human Rights found that the domestic courts had breached an 11-year-old's Article 8 rights in dismissing her claim based on the broadcast of a television interview which had been conducted without obtaining parental consent.

DR JANET STRATH

### **Court Finds Family-run China Tang Takeaway in Cumbria Infringed Park Lane Restaurant's Trade Mark** 190

This comment considers the decision in a recent dispute between the Cantonese restaurant "China Tang" (located inside the prestigious five-star Dorchester hotel in Mayfair) and a Chinese takeaway with the same name located in Barrow-in-Furness, in which the court found the family-run takeaway business liable for trade mark infringement, and rejected the defence of honest concurrent use.



JOSHUA CHARALAMBOUS AND  
NOONIE HOLMES

## **Court Tackles Force Majeure Arguments as European Rugby Loses Media Rights Case 193**

This article reviews the decision of the Commercial Court in *European Professional Club Rugby v Rda Television* which examined whether a party can terminate an agreement in reliance on a force majeure clause which expressly states it will only apply where one party is affected by the force majeure event.

CLAIRE LIVINGSTONE

## **CJEU Confirms Online Ticket Agent, Acting on Behalf of a Third Party, is a “Trader” under Consumer Rights Directive 195**

This article reviews *Case C-536/20 Tiketa UAB v MŠ* in which the Court of Justice of the European Union found that an online ticket agent, acting on behalf of a third party, is a “trader” for the purposes of the Consumer Rights Directive.