

Opinion

TONY MARTINO

Mussolini's Honour (or, Defamation Italian Style) 165

La dolce vita is a distant memory. These are turbulent times for the baffling yet beguiling peninsula: press freedom has been degraded by a nativist and authoritarian government, with cabinet ministers (and mob bosses) issuing libel lawsuits like confetti. What is going on?

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We Need To Talk About Pornography 170

In recent debates around the Online Safety Bill, there is evidence of an increase in rhetoric around both the harms that pornography has on the population, and how legislation needs to be in place to tackle this, particularly in the prevention of access by young people. However, analysis also suggests a selective choice of evidence and a lack of critical thinking around this, which has the potential to bring in overreaching powers that will still not achieve the intended goals of the legislation.

CIARA CULLEN AND HETTIE
HOMEWOOD

Digital Markets, Competition and Consumers Bill—Bolstering Consumer Protection and Sharper Teeth for the CMA 178

The Digital Markets, Competition and Consumers Bill was introduced into Parliament on 25 April 2023. This article takes a first look at the Bill and considers its likely impacts on consumer brands and retailers. The digital markets and competition aspects of the Bill will be considered in articles by RPC to be published in this journal.

LAUREN CURY AND ANNA KURIAN
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Human AI-thorship: Copyrightability of AI-generated Works and Implications for Litigants 181

To what extent can AI-generated works be copyrightable? And what are the implications for copyright litigation more broadly? This article explores these questions, and others, from a US perspective in light of the US Copyright Office's human authorship requirement and its potential impact.

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It's an Easylife—Easylife Ltd's 1.48m Fine for Customer Profiling Slashed Upon Appeal 183

On 6 October 2022, the UK Information Commissioner's Office fined the household catalogue retailer Easylife Ltd £1,350,000 for using personal information, including special category data, of 145,400 customers to profile and target them with health-related products, in contravention of the GDPR. This article reviews the ICO's decision and notes its subsequent agreement with Easylife to reduce the penalty by approximately 80% to £250,000.

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Past Age-Assurance Failures: "TikTok should have known better. TikTok should have done better." 185

The UK Information Commissioner's Office has fined TikTok £12.7 million for the unlawful processing of data of children under the age of 13 without parental consent in breach of UK GDPR. This article considers how TikTok could have "done better" to safeguard children and questions the timing of the ICO's action given the lack of guidance about the effectiveness of age-assurance measures at the time.

CATHERINE ARNOLD

Grand Chamber of the European Court of Human Rights Rules Restrictions on Publication of Pro-LGBTI Children's Book a Violation of Author's Article 10 Rights 187

This article reviews *Macatė v Lithuania* in which the Grand Chamber of the European Court of Human Rights held, unanimously, that the applicant's right to freedom of expression had been violated by the decisions of the Lithuanian University of Educational Sciences to suspend the distribution of her children's book, *Amber Heart (Gintarinė širdis)*, and to subsequently disseminate the book with a warning label which stated that it contained content which could be harmful to children under age 14.

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The article examines the first reported case in which an individual who was sexually assaulted and named their perpetrator successfully relied on the defence of public interest under the Defamation Act 2013 s.4. The analysis explores the significance of this rare ruling for survivors of sexual abuse against the backdrop of the MeToo movement, considers its limitations and spotlights the financial challenges that sexual assault victims may face when defending defamation actions.

JAKE PALMER

Lidl v Tesco—Lidl’s Logo Infringed by Tesco’s “Clubcard Price” Signs 194

This article considers the judgment of the High Court in consolidated claims *Lidl v Tesco* and *Tesco v Lidl*. Regarding the former, the High Court found in favour of Lidl. The judge held that Tesco’s use of its “Clubcard Price(s)” signs infringed Lidl’s trademarks for the Lidl logo, amounted to passing off, and infringed copyright in the Lidl logo. Regarding the counterclaim, the High Court found in favour of Tesco: certain of Lidl’s trademarks for the wordless background to the Lidl logo were invalid for bad faith. However, Tesco was still liable for infringing the valid trade mark (being the Lidl logo as a whole).

KIRAN DHOOT

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This Comment on the case of *Parker-Grennan v Camelot UK Lotteries Ltd* considers whether a set of website terms clearly set out the mechanism by which prizes were determined. It also considers incorporation, fairness, interpretation and clarity of website terms to players in the case of software errors.

EMMA DIXON AND GEOFF STEWARD

Dream On: Sport Brand’s Geometric Logo Trade Mark Not Infringed 199

This article reviews *Iconix Luxembourg Holdings v Dream Pairs Europe* in which the owners of the Umbro sports brand brought action in the High Court against a Chinese shoe manufacturer which it claimed infringed the Umbro logo trade mark. The case is notable for the court’s detailed analysis of the law relating to the Trade Marks Act 1994 ss.10(2) and 10(3).

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Data Subject Access Requests—Data Subjects Must be Given a “Faithful and Intelligible Reproduction” of their Data 201

This article reviews, and considers the practical implications of, the Court of Justice of the European Union’s ruling in *FF v Österreichische Datenschutzbehörde* that, to comply with a data subject’s right to obtain a copy of their personal data under GDPR art.15, the data subject must be given a “faithful and intelligible reproduction of all those data”.