

Articles

CIARA CULLEN, SOPHIE TUSON AND
LEWIS MANNING

Green Claims: Key Takeaways From the CMA's First Investigation 179

On 27 March 2024, the UK's Competition and Markets Authority published the results of its investigation into green claims made by ASOS, Boohoo and George at Asda. This article reviews and comments on the outcome of the investigation which focused on the fashion sector but delivered important lessons for all businesses making green claims in the UK.

LEE YOONG HON

AI in the Movie Industry: Should Actors and Writers be Concerned? 182

Artificial intelligence (AI) can be a boon and a bane. While its potential to businesses and industries is no doubt awe-inspiring and powerful, its downside nonetheless, can be damaging and even disturbing. The movie industry's experience with it is no exception. Despite the many astounding possibilities in filmmaking made possible by AI, there have been notable pushbacks by the stakeholders. Evidently, many in the sector, i.e. actors and writers, are concerned about the implications of AI and have been critical of movie studios over its increasing use. This paper tackles the issue from several perspectives and opines that their concerns are overplayed and premature.

ALEXANDER DITTEL AND SOPHIE FRIIS
SMITH

Transparency in AI and ADM under the UK GDPR: Does it Exist? 189

Under the UK GDPR, privacy notices should provide transparency about the processing of personal data in relation to AI and automated decision making (ADM). However, organisations will often not know enough about how their AI or ADM system works. This article considers how transparency obligations under the EU's new AI Act could help organisations comply with the UK GDPR should the UK decide to adopt similar rules.

Comments

PETER VAUGHAN

Flower Power; The Banksy v Full Colour Black Saga Returns With Another Decision 193

This article reviews and comments on the recent EUIPO Cancellation Division decision in *Pest Control Office Ltd v Full Colour Black Ltd* which considered whether a trade mark registration for a Banksy artwork was valid or should be held invalid for being descriptive, devoid of distinctive character and bad faith. The article highlights the loophole in the findings of partial bad faith and the potential impact, and criticises the lack of engagement with the devoid of distinctiveness line pleading and suggests a need for further discussion in this area.

SEAN IBBETSON AND FARIHA
CHOWDHURY

Puma SE v EUIPO: Puma's Registered Community Design Held Invalid Because it was Disclosed by Rihanna 195

This article considers the ruling of the EU General Court in the case of *Puma SE v EUIPO*. The judgment considers the circumstances in which a registered Community design will be invalidated by a disclosure of it prior to the application being filed. It serves as a valuable reminder of the steps which need to be taken by a designer in the period before they seek a design registration, particularly when the risks of a disclosure are heightened by the designer collaborating with a celebrity.

ROHAN MASSEY

CJEU Confirms Oral Disclosure of Personal Data to a Television Production Company would Constitute "Processing" under the GDPR 197

This article reviews and comments on the ruling of the Court of Justice of the European Union in *Endemol Shine Finland (C-740/22)* that the oral disclosure of personal data to a television production company seeking to clarify the criminal status of a participant in a competition it was running would constitute "processing" under the GDPR.

BEN GERSHINSON

The Francis Libel Claims—Frankly, Delay Not an Abuse of Process 198

In two separate libel claims brought by a Mr Francis, which were considered in a combined judgment, the High Court has struck out the defendants' applications for strike-out. The claims were brought by Mr Francis against his neighbours over allegations of assault and stalking. The defendants sought to have the claims struck out as an abuse of process, either for inordinate delay or for lack of a real or substantial tort, but on the facts the court dismissed the applications on both grounds.

JAKE PALMER

Supermarket Showdown Round 2 (Lidl v Tesco)—Trade Mark Infringement, Passing Off and Trade Mark Invalidity, but No Copyright Infringement 201

Following the report by the same author in this journal on the first instance decision in *Lidl v Tesco*, this article reviews the Court of Appeal's judgment and comments on the difficulties in overturing first instance findings of fact, the value of evidence of actual consumer confusion in trade mark infringement disputes, and the fact that even relatively simple logos can be protectable by copyright.

IVA GOBAC

The Experience Continues: Action Brought by Companies Claiming to Own Rights in Jimi Hendrix Experience Sound Recordings Continues as High Court Dismisses Sony's Latest Challenge 205

This comment reviews and comments on the High Court decision in *Noel Redding Estate Ltd v Sony Music Entertainment UK Ltd* dismissing an application for summary judgment and/or strike out of a copyright and performers' rights infringement claim brought by two companies said to have succeeded to the rights in sound recordings owned by the two other members of the Jimi Hendrix Experience, namely bassist Noel Redding and drummer Mitch Mitchell.