

Articles

IAN DE FREITAS AND OWEN O'RORKE

More than Three Stripes and You're Out: Adidas Loses Trade Mark Case Against Thom Browne 129

This article reviews and comments on *Thom Browne Inc v Adidas*, a significant ruling from the English High Court that examines a range of issues in trade mark and passing-off law in a dispute between sports brand Adidas and high-end fashion brand Thom Browne over the use of stripes on garments and other products.

JAMES MURRAY

Examining the Inadequacy of Current UK Legal Protections for Political Belief and Expression 137

With the passage through Parliament of the Employment Rights Bill, this article takes that opportunity to examine whether political belief, expression and affiliation receive adequate protection under English law, and concludes that they does not. By examining the Strasbourg case law on political expression and assembly, the latter in light of the English employment law regime, as well as the English case law on protected beliefs, the article concludes that English law falls short of what the European Convention on Human Rights requires in terms of equivalent protection for political belief, expression and affiliation. It also suggests that it would be appropriate for the Employment Rights Bill to be amended to address this lacuna.

LEE YOONG HON

Is the Recent Spate of Hollywood Mergers a Concern?: Part I: The Issues at Hand 143

The recent pattern of mergers among players in the entertainment industry underscores the challenges with the new business landscape of the industry. In fact, the incumbents are also facing off against consumer technology companies in addition to their usual competitors, in a new and reshaped industry where entertainment intertwines with technology. As the new business model of streaming entertainment directly to consumers now dominates, entertainment/media companies are reinventing and reorganising themselves strategically, leading to forward and backward integration strategies involving content making and distribution. Such corporate manoeuvrings no doubt have deep implications not just on the related stakeholders but also on the arts as well. This article is Pt 1 of a two-part series assessing the antitrust and welfare issues surrounding merger activities in the entertainment sector, offering an insightful and objective opinion on the matter. Part 2 will appear in issue 5 of this journal. The articles opine that overzealous reaction and policing on such phenomenon may be counterproductive especially since the industry is still evolving.

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This article reviews the Court of Appeal's decision in *Iqbal v Geo TV Ltd*, which considers the interpretation and application of the statutory qualified privilege defence for fair and accurate reports of proceedings at public meetings, in the context of a live broadcast of a speech during a political rally.

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This article reviews and considers the implications of the Court of Appeal's decision in *Prismall v Google UK* dismissing Andrew Prismall's appeal from the High Court's order granting reverse summary judgment and striking out his representative action for misuse of private information against Google and DeepMind.

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Omni-Shambles—TV Format Claim Fails Against Baby Cow 153

In *Rinkoff v Baby Cow Productions*, the Intellectual Property Enterprise Court dismissed a claim by the comedian Harry Deansway against a production company co-founded by the actor Steve Coogan. He argued that Baby Cow's series *Live at the Moth Club* infringed copyright in the format of his sitcom *Shambles*, which also blended live stand-up performances with backstage sketches. Yet the Court found that *Shambles* was not protectable, as it was not capable of being performed, nor identifiable with sufficient specificity. Even if it were, there was no evidence of copying, and any similarities were generic. The decision illustrates that it remains hard for a TV format to constitute a dramatic work.

DR JANET STRATH

Fashion Faux Pas—The Battle of the MKs 156

This article reviews and comments on *Tecom Master v EUIPO*, a significant case for fashion brands in which the EU General Court decided that an application for an EU figurative trade mark containing the initials “MK” and the name “MICHAEL MICHELE” took unfair advantage of an earlier EU figurative mark comprised of the initials “MK” and the name “MICHAEL KORS”.

SARAH HUSSLEIN

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This article reviews and comments on the judgment of the EU General Court in *Kokito I Punt SL v EUIPO* on an appeal from a EUIPO Board of Appeal decision in opposition proceedings brought by the French Football Federation concerning two trade marks featuring stylised representations of a rooster. The case is notable for the Court’s approach to determining the conceptual identity of logos featuring stylised animal motifs of a type that are popular with sports brands.

MATTHEW DANDO

High Court KOs Libel and Privacy Claims Brought by Nicola Adams’ Mother in Relation to Amazon Prime Documentary 161

This article reviews and comments on *Adams v Amazon Digital UK Ltd* in which the High Court granted summary judgment against libel and privacy claims brought by Nicola Adams’ mother in relation to a documentary about her daughter shown on Amazon Prime.

MONICA THORNELL

There Must Be Some Kind of Way Outta Here: Court of Appeal Dismisses Sony’s Latest Challenge in Hendrix Case 163

In the most recent ruling in *Noel Redding Estate Ltd v Sony Music Entertainment UK Ltd*, the Court of Appeal has dismissed Sony Music’s latest challenge to the claims against it, meaning the case will proceed to trial in December of this year. The judgment provides particular insight into the protection offered to legacy performers under copyright legislation.

KATHERINE HOOLEY

Missing in Action—Journalist Pays For Failure To File Defence in Sex for Grades Libel Case 165

In *Northcott v Hundeyin*, BBC journalist, Charles Northcott, obtained judgment in default and a damages award of £95,000 in his libel claim against journalist, David Hundeyin, who failed to file a defence. Mr Northcott had co-produced and directed a documentary called *Sex for Grades: Undercover in Nigerian and Ghanaian Universities*. The claim turned on a 2022 article falsely alleging that Mr Northcott had an inappropriate relationship with a Nigerian woman working on the documentary as an undercover reporter, and that he had treated her favourably as a result and so abused his position. The defendant also publicised the allegations on social media and goaded the claimant to sue, insisting that he would defend the claim.

JAKE PALMER AND TOBY HEADDON

Getty Images (US) Inc v Stability AI Ltd—Representative Claim Not Permitted in AI litigation 168

This article reviews the High Court’s ruling in *Getty Images (US) Inc v Stability AI Ltd*, a copyright action against a generative-AI company, that one of the claimants may not act in a representative capacity on behalf of over 50,000 photographers and content contributors.