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The Effect of Failure to Notify the Spanish and German Ancillary Copyright Laws 263

The Spanish and German “ancillary copyright” laws require online news aggregators to remunerate publishers for excerpts of content published on their pages. In Spain, publishers cannot even waive their right. As a result, Google has withdrawn its news page from Spain, publishers have seen their traffic reduced, and consumers are deprived of useful overviews. This article points out that the laws should have been notified to the European Commission, to avoid fragmentation of the internal market, and explains that the laws are not enforceable since this was not done.

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The Indian Intellectual Property Appellate Board (IPAB) in its decision in *Bayer v India* (2013) held that “working” of a patented invention is not necessarily restricted to local manufacturing within India and that in certain cases importation may constitute “working”. This article contends that IPAB conflated the “legitimate reasons” defence for failure to work with the question of whether importation can satisfy local working requirements.

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The changed nature of information dissemination and exchange, and the convergence of previously discrete computing, telecommunications and broadcasting technologies have eroded the traditional rationale for compulsory copyright licensing schemes. The objective of this article is to consider the continuing merits of compulsory copyright licensing schemes in the context of a converged digital economy characterised by widespread and rapid dissemination and extensive transformative use of information. In considering the issue, the proper relationship between copyright licensing law and competition law will be addressed.

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This article discusses an October 2014 ruling of the Delhi High Court in *World Wrestling Entertainment Inc v M/s Reshma Collection*, which offers a pathbreaking approach to the maintainability of trade mark infringement actions in a jurisdiction where none of the traditional elements of jurisdiction—the plaintiff, the defendant and the cause of action—are physically located. The decision offers guaranteed maintainability outcomes to two previously unconsidered permutations, suggesting that plaintiffs from literally anywhere in the world could sustain trade mark suits in India. The article considers the pros and cons of this proposition before locating the judgment within a proposed 11-step maintainability inquiry which seeks to balance various factual and legal considerations in the Indian context, as the elements of jurisdiction inevitably move further and further apart in the future.

PROF. P.G.F.A. (PAUL) GEERTS

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