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What Will Brexit Mean for the Future of Geographical Indications? 757

Geographical indications (GIs) are perceived as guarantees of authenticity or quality, and are valuable tools for producers and consumers in the food and drink industry. They allow producers to protect their reputation and facilitate investment in premium products, while ensuring that consumers are not misled. Since UK GIs are protected under EU legislation, Brexit means that the future for UK GIs in the UK and internationally (and indeed for EU GIs in the UK) is uncertain. This article explores the UK Government's plans to establish a national GI scheme and how this will interact with the protection afforded by the EU.

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Google IP Infringements: No Results Found? 759

UK and EU legislators have been slow and unwilling to provide a more robust legal framework to cover the role that internet service providers play in the intellectual property realm. Through an analysis of existing UK and EU case law this article explores whether search engines (which fall within the definition of internet service providers), and in particular the services provided by Google, should be held liable for any copyright or trade infringing data that they provide access to either naturally or through their paid-for services.

NICOLA LUCCHI

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The article focuses on copyright as a possible and additional form of intellectual property protection for engineered DNA sequences. In particular, recent progress in synthetic biology and bioengineering have triggered a resurgence of the debate on genetic copyright. Considering the evolving conception of copyright subject-matter, the current narrow patent-eligible protection over living organisms and the advance of emerging technosciences such as synthetic biology, the article looks with renewed interest at the debate on copyright law as an additional potential form of protection for engineered biological creations. The contribution of this investigation is to reveal that copyright seems not only flexible enough to handle contemporary technologies producing living organisms, but also socially preferable to patent protection for accessing and using essential public knowledge assets in the life sciences.

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This article examines the significance of traditional Chinese medicine (TCM) for the People's Republic of China (PRC). Broadly, TCM may be divided into two categories: (1) the traditional medicinal knowledge of the Han Chinese; and (2) the traditional medicinal knowledge of ethnic minority groups. This article examines the extent to which TCM might be protected from misappropriation under the draft text of a treaty on traditional knowledge which is being developed by the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) of the World Intellectual Property Organization.

KATERINA SHARKOVA

The Author, the Fan and the In-between: In Search of a Copyright Regime for the Everyday Creative 784

This article will analyse the legal and business status quo facing the main players within the creative industries—creators, distributors, consumers and those operating within the grey areas of these categories. It will discuss the possibility of new legal frameworks and novel conceptions of existing law which encourage creativity and better address trends of active interaction with protected creative works.

PAUL TORREMANS

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This contribution looks at recent case law from the CJEU dealing with art.13 of the Enforcement Directive. A first issue that arose was whether compensation can be awarded for moral prejudice. A second issue concerns the thorny issue of the admissibility of punitive damages. The decisions shed light on the damages provision of the Directive, which is one of its key points. By providing a wider background and perspective it is hoped that the impact of the decisions will become clearer.

Comments

URSULA SMARTT

The Three Rs: Remorse, Rehabilitation, Right to be Forgotten: How De-listing is Left up to the Courts in *NT1 & NT2* and *AR v Chief Constable of Greater Manchester* 803

This article re-examines the *Google Spain* (2014) ruling—the “right to be forgotten” (RTBF)—in the light of spent criminal convictions and acquittal at a rape trial and how it is left up to the courts to decide when an order for de-listing or de-indexing can be made on operators of internet search engines (ISEs). It will be shown how the complexities of the Rehabilitation of Offenders Act 1974 (ROA), in conjunction with the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), conflict with the RTBF principle and interfere with an individual’s privacy right under art.8(1) ECHR. Questions will be asked in relation to three claims—all decided in 2018—how different interpretations of “rehabilitation” and “remorse” can lead to personal information being “delisted” (NT2) or not (NT1), and how disclosure on an Enhanced Criminal Record Certificate (ECRC) can show a rape acquittal (AR). 3 Have the courts become moral rather than legal arbitrators in deciding and downplaying the right to privacy and conveniently ignoring the RTBF principle, depending on the type of charge, length of sentence and remorse? It will be argued that the ROA 1974 is not fit for the digital age and is too complex to interpret for de-listing purposes and completion of an ECRC.

NEDIM MALOVIC

The Evolution of Copyright Website Blocking in the UK: Live Blocking Orders 810

Since the first copyright website blocking order issued in 2011, an evolution has occurred in the UK regarding—among other things—the type of blocking. Recently, the High Court of England and Wales granted the application of the Football Association Premier League for a live blocking order against a number of major UK ISPs. The court held that it had jurisdiction under s.97A of the Copyright, Designs and Patents Act to order relevant ISPs to temporarily block access to streaming services giving unauthorised access to the right holder’s content (football matches). This contribution discusses the implications of these decisions against earlier UK case law and comments on possible future developments of s.97A orders.

BEN MILLOY

Just Don’t Do It: Nike’s LDNR campaign halted by UK IP court 814

A decision of the UK’s Intellectual Property Enterprise Court (IPEC) in *Frank Industries Pty Ltd v Nike Retail BV* appears to have put paid to Nike’s recent “Nothing beats a Londoner” advertising campaign after a dispute around Nike’s use of the abbreviation LDNR for Londoner. The ad campaign, which was stopped by an injunction in March this year, has inevitably drawn media attention because it involved a largely unknown sportswear brand bringing Nike’s much-publicised campaign to a premature end via the streamlined, low-cost IPEC procedure. However, the recent judgment is also noteworthy for its interesting discussion of the use of abbreviations in trade marks, particularly in the context of today’s social media age.

DR MARK HYLAND AND MICHAEL HOWARD

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This comment discusses the case of *Martin v Kogan* and the new consolidated tests for joint authorship of copyright works set out by Hacon J. It provides a summary of the new quantitative and qualitative tests, with special consideration of the ultimate arbiter limb, as well as an analysis of the new definition of substantial for the purposes of establishing joint authorship. The article also examines what the new tests mean for the creative industries and practitioners working with companies in that field.

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