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Covid-19 and India's and South Africa's Attempt to Reopen the TRIPS Pandora's Box: A Proposal Made in Vain? 349

This opinion discusses a proposal submitted by India and South Africa to the TRIPS Council in October 2020 which, if approved, would inactivate the obligations of protection of WTO Member States relating to copyright, industrial designs, patents and undisclosed information (e.g. know-how) until the Covid-19 pandemic is over. Although the proposal is unlikely to be approved, it has had the virtue of further raising awareness within WTO circles regarding the need to take additional steps to ensure that Covid-19 vaccines are promptly available to everyone, everywhere.

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Jamaica now takes seriously protection of geographical indications (GIs). In 2018, it modified its laws to provide stronger protection to GIs for all products (such a strong protection was before reserved to just wines and spirits). This allows GI owners in Jamaica to prevent others from not only exploiting the name in order to mislead consumers based on the geographical origin and quality of the product, but also from using such a name in a manner that does not produce confusion but is nevertheless capable of capitalising on the evocative power of the designation. This article focuses on three major Jamaican products whose names are already protected ("Jamaica Jerk" and "Jamaica Rum") or could be protected ("Blue Mountain Coffee") as a GI.

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When patented life-saving drugs are inaccessible to patients owing to high prices, it is evident that the system does not perform its intended function and urgently requires reforming. This article discusses the evidence recently revealed by the US House Committee on Oversight and Reform that directly contradicts pharmaceutical companies' traditional argument justifying strong patent protection as a vehicle for recouping their R&D investments. It further suggests that structural and comprehensive changes are necessary, including a rigorous investigation into pharmaceutical pricing and patenting practices, ensuring adequate access to the drugs developed with public funds, and assuming the responsibility for public health by governments.

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This article discusses whether current trade mark law needs revisiting in order to reflect recent consumers' behavioural changes brought by the use of AI-technology in the purchasing decision-making process. The author concludes that the current trade mark concepts are still fit for purpose if minor adaptations are made to reflect consumers' behavioural changes. This strategy can be achieved by means of statutory interpretation rather than wholesale reform.

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On 4 September 2020, the Tribunal Judiciaire de Paris ruled that the mobile game Woodturning 3D was not original enough to enjoy copyright protection, but nonetheless granted an injunction and other remedies against a “clone” of the game on unfair competition grounds. This article comments on the decision and analyses the topics of copyright subsistence for video games, copyright protection for (combinations of) game mechanics and unfair competition as an additional weapon against game cloning.

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By a judgment of 17 September 2020, the European Court of Justice (ECJ) dismissed an application for annulment filed by the EUIPO and the MASSI trade mark holder of a General Court decision that confirmed the rejection of an opposition based on the trade mark “Massi” registered by a Spanish company for cycling equipment and clothing. The ECJ ultimately ruled that the famous Barcelona club footballer's personal reputation creates a conceptual difference between “MESSI” and “MASSI” that counteracts the visual and phonetic similarities between the signs. As a result, the court ruled out any likelihood of confusion and allowed Lionel Messi to register his name as an EU graphical trade mark. The judgment reopens the question of understanding reputation as a justification to reduce the risk of confusion with an earlier trade mark.

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