

European Intellectual Property Review

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Table of Contents

Opinion

JANE CORNWELL

Preserving the Traditional English Approach to Originality in UK UDR 483

The lower-level English courts have been contemplating reframing the first part of the two-step UK UDR originality test to align with CJEU-led developments on copyright originality. This Opinion argues that this is wrong in principle and, in light of recent developments on copyright and functionality in *Brompton Bicycle* in particular, fundamentally misaligned with one of the core tenets of UK UDR, namely that UK UDR can subsist in wholly functional designs.

Articles

PROF. DR NORBERT GRONAU AND
DR MARTIN SCHAEFER

Why Metadata Matters for the Future of Copyright 488

In the copyright industries of the 21st century, metadata is the grease required to make the engine of copyright run smoothly and powerfully for the benefit of creators, copyright industries and users alike. However, metadata is difficult to acquire and even more difficult to keep up to date as the rights in content are mostly multi-layered, fragmented, international and volatile. This article explores the idea of a neutral metadata search and enhancement tool that could constitute a buffer to safeguard the interests of the various proprietary database owners and avoid the shortcomings of centralised databases.

WIETSE VANPOUCKE

Copyright Challenged by Art Created by Artificial Intelligence 495

Advancing technology in the field of artificial intelligence (AI) is rapidly gaining momentum, evidenced by the emergence of sophisticated AI algorithms that are capable of learning and creating. In this context, recent examples of art created by AI significantly challenge the EU copyright acquis. Following a critical comparison of the European approach regarding these creations with the legal framework as used in the UK, this article tackles the fundamental question as to whether computer-generated works should be granted copyright protection in the European legal framework. To this end, the theoretical and traditional foundations and goals of copyright law, including the deontological and utilitarian justifications, will be identified and applied to art created by AI. Additionally, this article explores possible alternatives for protection.

GETACHEW MENGISTIE ALEMU AND
MICHAEL BLAKENEY

Intellectual Property and Innovation in the Agricultural Sector in Least-developed Countries 504

This article examines the legal context in which agricultural innovation occurs in least-developed countries (LDCs). It commences with a survey of the agricultural sector in LDCs, identifying the contemporary challenges for that sector. The relationship between intellectual property rights and agriculture is explored. It considers those intellectual property (IP) laws which are most relevant to agricultural innovation: patenting plant variety rights protection, geographical indications and trade marks, and looks at the extent to which LDCs have the appropriate IP infrastructures to make use of these tools and the challenges to the effective use of IP tools in LDCs. This article concludes with a discussion of the use of emerging technologies to enable LDCs to cope with the increasing demand for food of their growing populations.

SHUJIE FENG

The Application of Unfair Competition Law in the Field of Trade Mark Law: A Way to Enhance the Trade Mark Registration System in China 518

The trade mark registration system is the legal origin of three major problems that China faces: trade mark squatting, absolute protection of trade mark rights and the emerging trade mark trolling. As Chinese legislators have attempted every reform possible within the confines of trade mark law without satisfactory results, re-defining the relationship between unfair competition law and trade mark law may be a new way out in the Chinese legal context. Notably, the application of unfair competition law in the field of trade mark law can facilitate the application of the bona fide principle, as well as providing the appropriate legal basis for protecting the right of publicity and character merchandising in the fight against trade mark squatting, for re-thinking the superiority of registered trade marks over non-registered trade marks and even for holding trade mark trolls liable to victims.

Legal, Socio-ethical and Access Considerations in 3D Bioprinting: A Literature Review 528

This article focuses on specific issues which are mostly related to the future and sustainability of 3D bioprinting technology. It analyses its legal complexities, including an examination of its intellectual property implications, its regulatory landscape, ownership, commercialisation of 3D bioprinted products and product liability. Socio-ethical issues relating to cost, informed consent, source of materials, potential for body modification and religious/cultural considerations are also examined. It is anticipated that this research will contribute to the legal discourse on issues surrounding the technology for the purpose of advancing its successful development and sustainability in developing countries.

PROF. RAJINDER KAUR, PROF.
RASHMI AGGARWAL AND NAMITA
BHARDWAJ

Shift in Accountability of Intermediaries for Intellectual Property Violations: A Critical Analysis of Laws in the US, EU and India 540

The intermediary industry has made the infringement of intellectual property and its dissemination on the internet accessible. Countries have developed the doctrine of limited liability of intermediaries to protect intellectual property rights, implying a duty on intermediaries to take down the infringing material on attaining knowledge or getting the notice for taking down infringement. In recent times, the role of intermediaries has expanded from functioning passively to actively being involved in moderating the user-generated content on its platforms. This article focuses on determining the efficacy of safe harbours extended to intermediaries under the limited liability doctrine in the present context. A comparative analysis of laws of the US, EU and India suggests the need for revisiting the adequacy of the doctrine of limited liability of intermediaries in light of the expanded functions being performed by intermediaries.

Comments

MICHAEL HOWARD AND DR MARK
HYLAND

Beyond Words—Applying the New Test for Joint Authorship in Copyright Law: *Martin v Kogan* 546

This comment discusses the second trial in the case of *Martin v Kogan*. It discusses the impact of the Court of Appeal's decision in the earlier ruling on the determination of joint authorship of copyright, applying the new test for joint authorship to a factual matrix and the potential evidential issues and raises the problems of the new definition in real-world situations.

ANNA MARIA STEIN

Fringe: A Trade Mark or an Open Performing Arts Festival? Court of Milan, Interim Decision 15 June 2020 550

The Court of Milan issued an interesting interim decision (not appealed) on the enforceability of the registration of some Italian trade marks including words "Fringe" and "Festival".

Book Review

CHARLES OPPENHEIM

Information Sources in Patents 553