Bezpečnostní softwarová asociace-Svaz softwarové ochrany v Ministerstvo kultury: Copyright in a Graphic User Interface

The European Court of Justice has ruled that the graphic user interface (GUI) of a computer program is not protectable under the Software Directive (91/250/EC) but may be a copyright work in itself. In addition, television broadcasting of a GUI does not constitute communication to the public.

TRADE MARKS

Joined Cases Chocoladefabriken Lindt & Sprüngli AG v OHIM and August Storck KG v OHIM: Animal Shapes Lack Distinctive Character for Chocolate Goods

In joined cases involving the Office of Harmonization for the Internal Market (OHIM), the EU General Court has confirmed that the shapes of various chocolate animals, including the Lindt gold bunny, are devoid of distinctive character for the purposes of the Community Trade Mark Regulation (207/09/EC).

PASSING OFF

Lifestyle Management Ltd v Frater: Domain Names and Instruments of Fraud

Pointing domain names, which are similar to a former principal's website, to websites that closely resembled the home page of the former principal has been found to be an act of passing off.

Cowshed Products Ltd v Island Origins Ltd: Interim Injunction and The Risk of Injustice

In a case that shows the difficulty of applying the American Cyanamid principles to passing off and trade mark infringement, the judge follows the approach in John Walker & Sons v Rothmans International and Management Publications v Blenheim Exhibitions and examines where the risk of injustice lies.

PATENTS

European Commission Proposal For Enhanced Cooperation in Unitary Patent Protection

Twelve EU Member States have addressed a formal request to the European Commission indicating that they wish to establish a limited unitary patent between themselves. On 14 December 2010, the Commission published a Proposal for a Council decision authorising enhanced cooperation in the area of the creation of unitary patent protection.
Cephalon Inc v Orchid Europe Ltd: Generics, Interim Injunctions and “Clearing The Way”

The High Court of England and Wales has refused to grant an interim injunction to Cephalon against Orchid Europe Ltd’s generic version of Cephalon’s patented sleeping disorders drug, modafinil. Floyd J concluded that the balance of convenience was in favour of the Defendants.

DATABASES

Football Dataco Ltd v Yahoo! UK Ltd: Database Right and Database Copyright

The Court of Appeal of England and Wales has confirmed that sui generis database right does not subsist in football fixture lists. However, it has referred questions to the European Court of Justice relating to the scope of protection of database copyright under Article 3 of the Database Directive (96/9/EC).

DATA PROTECTION


The Article 29 Working Party—the European advisory body on data protection and privacy—has adopted an Opinion on applicable law (WP 179) aimed at clarifying the scope of application of the Data Protection Directive (95/46/EC). In particular it looked at Article 4, which determines which national data protection laws adopted pursuant to the Directive may be applicable to the processing of personal data.

COMMERCIAL

OFT Response to Green Paper on Policy Options For Progress Towards a European Contract Law for Consumers and Businesses

The Office of Fair Trading (OFT) has issued a response to the call from the Ministry of Justice for evidence and views on the European Commission’s Green Paper on policy options for progress towards a European contract law for consumers and businesses. The OFT advocates a conservative and cautious approach to the EC’s proposed policy options.

Fairstate Ltd v General Enterprise & Management Ltd: Purposive Construction, Rectification and Effectiveness of Guarantee

This case demonstrates that there is a point at which material terms are insufficiently clear for a court to exercise its powers of purposive construction or of rectification to correct errors in a document that is relied upon to satisfy the requirements of the Statute of Frauds.

MEDIA

Jane Clift v Slough Borough Council: Defamation, Public Authorities, Qualified Privilege and The Human Rights Act

The Court of Appeal of England and Wales has held that, as Slough Borough Council was a public authority, the correct test to apply in this case was the duty/interest test, not the established relationship test.

E-COMMERCE, IT AND BANKING TECHNOLOGY

Joined Cases Peter Pammer v Reederei Karl Schlüter GmbH & Co KG and Hotel Alpenhof GesmbH v Oliver Heller: Circumstances in Which an Online Trader “Directs Its Activities” to Another Member State
In these cases, the European Court of Justice considered circumstances in which an online trader “directs its activities” to another Member State within the meaning of Article 15(1)(c) of the Brussels Regulation.