



Computer and Telecommunications Law Review

2013 Vol.19 Issue 1
ISSN: 1357-3128

Table of Contents

Articles

FIONA MACLEAN

European Union (CJEU) has Delivered its Long-Awaited Decision in *UsedSoft GmbH v Oracle International Corp* 1

This article discusses the recent judgement by the CJEU in the case of *UsedSoft GmbH v Oracle International Corp*. Following the CJEU's decision that an author of software cannot oppose the resale of "used" licences, this article considers what this means for the software industry and whether this opens the door to a secondary digital market in the European Union.

STEPHANIE LISTON

The Race for 4G has Started—But with Only One Runner? 3

Ofcom recently approved an application by Everything Everywhere (EE) to use its existing spectrum to deliver 4G services which meant that EE was the first operator to offer 4G services in the United Kingdom—a year's head start over other operators. This article reviews Ofcom's decision and discusses its potential impact on the mobile sector in the United Kingdom.

JULIA SHEPPARD

Does eBay UK's "Defamation Policy" Go Far Enough to Protect Sellers from Defamation Through Detailed Seller Ratings, and does the Buyer-Friendly Feedback Policy Leave eBay Open to Defamation Claims Under UK Law? 5

It is alleged that eBay's Detailed Seller Ratings system can be used with impunity by malicious competitors to cause substantial reputational and pecuniary damage to business. US law has declined to acknowledge that the system is flawed. This article examines why eBay stands by this much maligned system, and how it might fare if challenged under UK defamation law.

SAROSH KHAN

Can the Trolls be Put Back Under the Bridge? 9

Internet trolling has developed at such a rate that the courts have struggled to keep up with the latest developments but the response has been stiff. One such judicial attempt to provide clarity is the Draft Defamation Bill; however, analysis reveals the mechanism in the change will not be as successful as perceived and there is need for reconsideration.

DR. OLEKSANDR PASTUKHOV

The Right to Oblivion: What's in the Name? 14

The article is a reaction to Prof. Jeffrey Rosen's piece on the new EU right to be forgotten and to erasure (or, as it is often referred to, the right to oblivion), in which he interprets the new right as creating a duty for the data controller to identify third parties who re-published the content that the data subject wishes to be erased and secure its takedown. Dissenting, this article analyses the origins, nature and scope of the newly-proposed right as provided for by a draft Regulation that would replace the EU Privacy Directive. The article starts with drawing lines of demarcation between the three different legal rights that have become known under the name of the "right to oblivion": the right to oblivion of the judicial (criminal) past, the right to oblivion that can be derived from the already existing EU personal data protection rules, and the new, digital, right of oblivion of the type created by Spanish courts. It continues by examining, one by one, the duties of the data controller under the new rule and exceptions thereto. The article concludes that none of the draft Regulation's provisions in their current reading can possibly be seen as creating a meaningful right to oblivion of the third type and that only the draft Regulation's new and, as the article argues, fundamentally wrong definition of personal data as "any information relating to a data subject" would give ground to suggesting otherwise.

Special Briefing

DR NOPPANUN SUPASIRIPONGCHAI

The Development of the Provisions on the Protection of Technological Protection Measures (TPMs) in the Light of the Prospective Thailand-United States Free Trade Agreement (FTA) and its Possible Impacts on Non-Infringing Uses under Copyright Exceptions in Thailand: What should be the Solution for Thailand? 21

This article considers the challenges to the digital copyright protection in the Thai education sector in the light of the prospective Thailand-United States Free Trade Agreement (FTA). It argues that the introduction of the provisions on the protection of Technological Protection Measures (TPMs) and its exceptions is necessary but such provisions should be developed alongside the non-infringing uses under the copyright exceptions of the Thai Copyright Act 1994.

Book Review

44

QUENTIN ARCHER AND MATTHEW SHARKEY

EC Computing, Telecommunications and Related Measures N-1

DAVID E. HALLIDAY

US Federal Computing, Telecommunications and Related Measures N-16