

Computer and Telecommunications Law Review

12 MAR. 2014

2014 Vol.20 Issue 2
ISSN: 1357-3128



Table of Contents

Articles

PAUL HARRIS AND DR JANET
STRATH

***HTC v Nokia: A Brief Comparison of UK and US Exhaustion/First Sale Doctrines* 31**

This article looks at the recent patent infringement case involving the Finnish telecoms group Nokia and the rival Taiwan-based HTC Corp. By virtue of an agreement between Nokia and Qualcomm, a company which supplied some of the chips in the alleged infringing HTC smartphones, HTC argued that Nokia could be deemed to have consented to the allegedly infringing acts, or else that the sale exhausted Nokia's patent rights. Mr Justice Arnold's rejection of HTC's defences raises once again whether the doctrine of international exhaustion of patent rights should be a shield or a sword.

OLIVER STACEY AND MARK
SIMPSON

Consolidation in Mobile Telecoms: Part 2—Network Sharing 37

Recent pronouncements by competition (antitrust) authorities signal brighter prospects for M & A and network sharing deals in the mobile telecoms sector.

TARUN KRISHNAKUMAR

The Legal Recognition of Electronic Evidence in India with a Focus on the Authorship Requirement: a Comparative Study 40

The increasing levels of ubiquity and societal integration of modern digital and internet technology have resulted in the creation of a new plane for human interactions, communications and transactions. Activities that were earlier carried out manually are now automated or carried out by digital or computerised processes. This paradigm shift has created numerous challenges to existing legal frameworks. However, while governments hasten to upgrade their substantive law frameworks to meet these challenges, procedural and evidentiary laws are often left behind. This creates a dichotomy where there exist internet-age substantive rights and duties, but the traditional procedural frameworks of civil or criminal law are not flexible or dynamic enough to cater to their effective enforcement. This article focuses on this issue in the context of the recognition and use of electronic evidence by courts in India, referring to US and English law where appropriate. Specifically, this article addresses the Indian approach to the appreciation of electronic evidence under the Indian Evidence Act 1872. After introducing the statutory amendments that define the Indian approach, this article attempts to take a brief comparative look at some of the issues that arise generally in such appreciation—including those such as the hearsay and best evidence rules that have been extensively traversed by authors, and those such as the authorship requirement that have not.

NILOUFER SELVADURAI

Raising the Standard of Inventiveness for the Registration of Patents 51

Amendments to the Australian Patents Act 1990 (Cth) have raised the standard of inventiveness for patents registration in Australia, and served to harmonise the Australian standard of inventiveness with other major patent jurisdictions such as the United Kingdom. The present article considers the merits of the amendments in the context of the theoretical justifications commonly advanced for patents protection and the law reform discourse that preceded the amendments.

KIRSTEN TOFT

The Case of *SAS Institute Inc v World Programming Ltd* 59

The Court of Appeal has upheld the decision of Mr Justice Arnold in the High Court (which followed a preliminary ruling from the Court of Justice of the European Union) finding that the functionality and underlying elements of a computer program are not protected by copyright under either the Software Directive (91/250) or the Copyright Directive (2001/29).

ALI SAHIN

New EU Data Protection Laws: European Parliament Proposes Restrictive Data Protection Laws in Europe 63

The European Parliament has proposed a new legal framework for data protection in the European Union (New Data Protection Regulation). The New Data Protection Regulation will require companies to increase their efforts to comply with EU data protection laws and imposes severe sanctions for violations. Companies will therefore be required to extensively revisit their compliance programs.

QUENTIN ARCHER AND NICK
WESTBROOK

EC Computing, Telecommunications and Related Measures N-21

DAVID E. HALLIDAY

US Federal Computing, Telecommunications and Related Measures N-36