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JASON HAYNES

Critically Reconceptualising the United Kingdom's Fair Dealing Exception to Copyright Infringement in Light of the Government's Most Recent Proposals for Reform and Lessons Learnt from Civil Law Countries 811

The current state of the fair dealing defence in the United Kingdom does not provide an appropriate basis for learning and the promotion of an innovative economy in the 21st century. Indeed, the defence, given its much publicised inconsistency and "lock down on the individual" and not the peer group, operates unfairly and should thus be amended, in light of the changes proposed in the Government's most recent intellectual property consultation paper, so as to "avoid piggy-backing" on much-needed developments in this area.

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TSHIMANGA KONGOLO

Towards an International Legal Instrument on Exceptions and Limitations to Copyright for Visually Impaired Persons/Persons with Print Disabilities: Current International Negotiations 823

Negotiations taking place at the Standing Committee on Copyright and Related Rights (SCCR) of the World Intellectual Property Organization (WIPO) on exceptions and limitations to copyright for visually impaired persons/persons with print disabilities are progressing well. Several proposals from the following countries/groups have been on the table of negotiations: Brazil, Ecuador and Paraguay, endorsed by Mexico, the United States, the European Union and the African Group; and the Proposal of the Chair, called the draft international instrument on exceptions and limitations to copyright for visually impaired persons/persons with print disabilities, which is at the final stage of negotiations at the SCCR. Yet the legal nature of the instrument to be adopted is hitherto unknown. As proposed by the SCCR, the General Assembly may decide in an extraordinary session whether or not to convene a Diplomatic Conference in 2013 to adopt this instrument.

WEI-LIN WANG

A Study on Conflicts of Interest in Academia-Industry Co-operation: The Defence for and Modifications to the Bayh-Dole Act (Part 1) 834

Although it is believed that the Bayh-Dole Act has had positive influences on the development of technology and the economy, there are at least two criticisms regarding its side effects: (1) by allowing universities to retain patent rights and encouraging technology transfer to private industry, the Bayh-Dole Act creates or aggravates conflicts of interest; and (2) that patenting research results will transform knowledge into personal property, and hence limit the free dissemination of knowledge. The first part of this article will refer to various surveys demonstrating that the concerns regarding conflicts of interest may be exaggerated, and provides for resolutions for easing the problem.

DR ANAN SHAWQI YOUNES

Trade Marks and Domain Names: Exploring the Inadequacy of Existing Protection for the Economic Value of Trade Marks 847

This article concerns the extent to which investments made by trade mark proprietors and domain name holders into their assets are protected by law. The article clarifies obstacles that prevent cyberspace being a secure environment for the investment under investigation. The article demonstrates the need for reviewing the related provisions, such as trade mark laws and the UDRP.

PING-HSUN (QUINCY) CHEN

China as a Technology Exporter: A Question Mark after the Third Amendment of the China Patent Law in 2009 853

This article examines the latest change in the Chinese patent law in terms of whether the new patent law will encourage technology transfer from China to foreign countries. Articles 10 and 20 of the new patent law are particularly discussed because they relate to foreign patent filing of a China-made invention. The new patent law claims to lift the control over foreign patent filing and patent title transfer. Those changes could lead to an open door for technology export. However, after investigating the laws regulating technology export, this article concludes that because the Chinese Government still controls technology export to foreign entities and the patent law itself does not really lift the control over foreign patent filing, the latest amended Chinese patent law cannot transform China into a country of technology export.

Comments

YIN HARN LEE

Play Again? Revisiting the Case for Copyright Protection of Gameplay in Videogames 865

Recent controversies within the videogame industry have highlighted the importance of a copyright framework which takes into consideration the gameplay aspect of videogames as well as their graphics, sounds and underlying computer code, as the perceived lack of recourse for developers whose gameplay has been "cloned" by opportunistic competitors is seen as detrimental to the creative health of the industry. However, the establishment of such a framework appears to be precluded by the decision of both the first instance and appellate courts in *Nova Productions Ltd v Mazooma Games Ltd*. This article examines the arguments for and against copyright protection of gameplay, and offers an alternative reading of the decision which leaves room for the possibility of such protection.

JAMES GREEN

Apotex Inc v AstraZeneca Inc: IP Experts Take the Plunge into the Hot Tub 874

Concurrent expert evidence is becoming a common feature of litigation in many jurisdictions, including Canada. Canada's Federal Court has allowed for adverse expert witnesses to testify concurrently since 2010, but only recently was this procedure used in an intellectual property case. This is an interesting and important development, but uncertainty remains about how and when the Federal Court's concurrent evidence procedure will be employed. The experience of courts in other jurisdictions provides guidance as to relevant factors the Federal Court should consider when contemplating invoking its concurrent expert evidence procedures in future cases.

PESSI HONKASALO AND SANNA KAISTINEN

Smiley Faced Down: the Finnish Supreme Administrative Court decides that Emoticon cannot be Trade Marked 877

This is a comment on the Finnish Supreme Administrative Court judgment in *Viestinnän Keskusliitto ry v Mattila* which decided that a trade mark consisting of punctuation marks :) should not be registered because of the absence of distinctive character and the need to preserve the right of competitors to use a descriptive sign.

JOHN A. TESSENSOHN

Pink Lady Publicity Rights Pursued by Supreme Court of Japan 879

This landmark Supreme Court of Japan decision elaborated on the scope of protection of publicity rights of celebrities in Japan when it dismissed the claim of one of the most famous pop idols in Japan's pantheon of entertainment culture, Pink Lady, the mid-1970s Japanese pop phenomenon. The Supreme Court rejected the claim of damages and injunction asserted by the plaintiffs against the publishers of a magazine article which used their image without permission when it discussed a weight-loss method using dance routines to the duo's songs.

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