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South Africa's Draft Copyright Amendment Bill to Incorporate Exception for the Visually Impaired 387

On 27 July 2015 the South African Government published the Draft Copyright Amendment Bill for comments. What makes this Draft Copyright Bill such an achievement is that it includes copyright exceptions for the visually impaired, in the spirit of the Marrakesh Treaty. However, the dismal nature of the Draft Copyright Bill as a whole threatens to compromise this momentous achievement.

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Many have argued that digital technologies used to protect copyrighted works usually go beyond the letter of the law and subsequently impinge on interests relating to freedom of information and expression, privacy and free choice. This article assesses digital text-watermarking in light of these concerns from a comparative law perspective, particularly the civil law and the common law traditions.

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The CJEU has brought hyperlinking on the internet under the right of communication to the public. This article argues that this decision decreases copyright protection and increases the risks for internet users and companies, especially if it is unclear whether the availability of the works on a referred site is authorised by the right holder. Indirect infringement is put forward as an alternative.

LUCAS S. MICHELS

The Effectiveness of the Trans Pacific Partnership's Internet Service Provider Copyright Safe Harbour Scheme 409

After prolonged negotiations, Member States of the Trans Pacific Partnership (TPP) concluded a trade agreement that has the potential to significantly affect online copyright enforcement both in TPP Member States and beyond. Backed by the US and others, the TPP agreement calls for the establishment of an internet service provider (ISP) copyright contributory liability safe harbor—commonly referred to as a notice and takedown system. While resembling similar ISP copyright safe harbours in the US and other notice and takedown system jurisdictions, the TPP's notice and takedown system has the potential to provide right holders, from TPP Member States and beyond, with an enhanced tool for cross-border online copyright enforcement beyond those provided in existing international copyright treaties. Yet, unlike existing notice and takedown systems in the US and other notice and takedown system jurisdictions, several important features of the TPP's notice and takedown system are omitted or ambiguous, ultimately impacting how TPP Member States implement their TPP notice and takedown system obligations, and how effective each TPP Member State's notice and takedown system is as being an effective online cross-border copyright enforcement tool for right holders.

RAMI OLWAN

The Adoption of the American Fair Use in the Gulf States: A Comparative Analysis of Authors' Exceptions in Common Law and Civil Law Countries 416

The fair use doctrine is one of the most important and enigmatic doctrines in the copyright law of the US. Copyright scholars and experts have suggested introducing flexible open-ended copyright exception such as fair use instead of the restrictive exceptions currently adopted in developing countries to accommodate copyright laws to suit social and cultural needs, and keep pace with digital technological developments. The article studies the merits and demerits of this proposal from the perspective of Gulf States that follow the continental European system of author's rights. It reviews limitations and exceptions in the copyright laws of the Gulf States and compares them to the US, UK, Australia, Canada, France and Germany. The article argues that reforming exceptions in the copyright laws of Gulf States is critically needed to suit the ambitious agenda of these countries to become knowledge-based economies that foster innovation and creativity. It examines the various options available to legislators in Gulf States to reform their copyright regimes, and suggests the adoption of liberal system of exceptions to suit citizens' digital needs in the 21st century. Finally, the article provides recommendations and suggestions for reforming copyright laws and limitations and exceptions in Gulf States, and concludes with a summary of its main conclusion.

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This article provides a comparative analysis of different legal and institutional aspects of the utility model patent systems in Austria, China, the Czech Republic, Finland, France, Germany and Italy, and discusses relevant experiences from Belgium and the Netherlands. It provides insights for policy-makers responding to challenges in their own utility model patent systems and those considering instituting such a system for the first time.

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The Court of Appeal has rejected Twentieth Century Fox Film Corp's appeal against the High Court's findings that it had infringed the UK registered trade mark of Comic Enterprises Ltd through its television programme Glee. The Court of Appeal also rejected Comic Enterprises Ltd's cross-appeal that the use of "Glee" constituted passing off. The judgment examines in detail so-called "wrong way round" confusion and its relevance to trade mark infringement proceedings.

BONITA TRIMMER AND GILES
PARSONS

Trunki's Crazy (Registered Design) Ride: *PMS International Group Plc v Magmatic Ltd* 451

In *PMS International Group Plc v Magmatic Ltd* (the *Trunki* case), the Supreme Court has confirmed the Court of Appeal's approach and its finding of non-infringement, and in doing so it has reiterated the difficulty of enforcing a registered design in the English courts.

SUSANNE VAN LEEUWEN

CJEU: "Direct Injection" Broadcasting not an Act of Communication to the Public: *SBS Belgium NV v SABAM* 458

On 19 November 2015, the Court of Justice of the EU issued its preliminary ruling in *SBS Belgium NV v SABAM*, providing that art.3(1) of Directive 2001/29 (the InfoSoc Directive) must be interpreted as meaning that a broadcasting organisation does not carry out an act of communication to the public when it transmits its programme-carrying signals exclusively to signal distributors, who then send those signals to their respective subscribers so that they may watch those programmes, unless the intervention of the distributors is just a technical means.

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