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The Rubber Meets the Road: The Interim Decision in *Bridgestone v Panama* 417

In December 2017, the arbitral tribunal sitting in *Bridgestone v Panama* issued a Decision on Expedited Objections. This decision breaks new ground in clarifying the status of trade marks and trade mark licences under international investment law, and raises interesting questions as to how these IP rights may be valued. This article aims to provide a brief overview of the tribunal's key holdings, and considers the potential effects on IP right holders and the development of international investment law.

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The Patents Act 1977 has, for over 40 years, provided a compensation scheme for employees whose inventions vest in their employer. Yet there have been few reported cases in which employees have successfully obtained compensation under the statutory provisions. This article will explore the purpose of the scheme against this judicial and legislative background. It will be argued that the underlying rationale behind the scheme derives from residual natural rights and reward theory. This article will also address how claimants repeatedly struggle to satisfy the statutory thresholds, and finally, this article will consider whether reform is necessary.

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A comparative analysis of trade mark applications for THE SLANTS demonstrates a widening gulf between US and Australian approaches to the registration of scandalous trade marks.

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Reusing Images Uploaded Online: How Social Networks Contracts Facilitate the Misuse of Personal Images 435

Social networks allow users to communicate and exchange various pieces of information online; however, a number of issues arise with the use of images uploaded on social networks. One issue that arises is when uploaded images are re-used by third parties. When this occurs it often results in the user's loss of control over the use of their image. Another issue that arises when people upload their images online is that the use of the images is regulated by the social network's contract terms. This article examines the way that three popular image sharing networks, specifically Facebook, Twitter and Instagram, regulate the use of personal images uploaded online when users subscribe to the service via the network's terms of use. The article highlights that users often lose the ability to control their images once those images are uploaded online.

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The article comparatively discusses the different approaches towards copyright in public art in Japan, South Africa, Ecuador, the UK, Sweden, China and the US. It argues against UK law, which blindly exempts infringement of copyright in the exploitation of the public work for whatsoever purposes. It further addresses the conflict of laws issues from the perspective of English law as pertaining to the exploitation in the UK of public sculptures located both within and outside the EU. It demonstrates the complexity of cross-border litigation and advocates an international convention akin to the EC Directive harmonising the conflict of laws rules.

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Information is a crucial factor in technology transfer activity. In this article, I will attempt to illustrate the role of patent information in technology transfer. I will also suggest a new business idea and new financing strategy in order to encourage, promote and boost the activity of technology transfer.

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Open Source is in the air. It even occasionally meets the standardisation process, even if the latter is dominated by the FRAND licence mechanism, which is based on another philosophy. However, the two models are not incompatible: a distinction must be made between the elaboration and implementation of the standard which should be possible in Open Source.

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Spot of Bother: Failure to Register an Exclusive Patent Licence Proves Costly 472

It was common ground (in *L'Oréal Société Anonyme v RN Ventures*) that s.68 of the Patents Act 1977 prevented the recovery of patent infringement costs by the proprietor of the exclusive licence but, in this particular case, the claimants consisted of both the patentee and the exclusive licensee. As a matter of discretion, Mr Justice Henry Carr decided to reduce the overall amount recoverable by the claimants in order to reflect the purpose of s.68, namely to ensure the accuracy and completeness of the register by providing a costs sanction for failure to register an exclusive licence within six months of the parties entering into such a transaction. At the trial of the infringement claims, the judge upheld the patent infringement claim on normal principles of interpretation, but, applying the principles set out by the Supreme Court in *Actavis v Eli Lilly*, rejected L'Oréal's alternative case based on the

JOHN HULL

An Employee's Theft of his Employer's Trade Secrets: Fraud by Abuse of Position 476

Employees frequently misappropriate their employer's trade secrets, either for their own benefit or for the benefit of a new employer. The previous employer's remedies are an injunction, damages, disclosure and delivery up. But the criminal law has had a very limited role to play in these common scenarios, mainly because information, however valuable, is not regarded as property for the purposes of the Theft Act. A recently reported case—*R. v Secretary of State for the Home Department Ex p. Corbiere Ltd*—a judicial review decision which focused attention on whether or not the ex-employee in question should be deported, also shed some light on an alternative criminal offence which might have some role to play in this area. The offence is "fraud by abuse of position" under the Fraud Act 2007. This note considers the decision and its potential implications for employers who have had their trade secrets "stolen" by their ex-employees.

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