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Aim Higher and Go Bigger: Strategies for Claiming IP Infringement Damages in China 729

IP owners who litigate in China often complain about the low damages awarded by the courts, which then has limited deterrent effect on infringers and can erode the worth of enforcement steps. This article discusses the use of a number of strategies through which IP owners can reduce or shift the high evidential burden placed on them in China to prove infringement damages. Some cases from the Chinese court will be discussed to illustrate the application of these strategies.

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The Life of IP: Accounting and Tax Treatments of Trade Marks and Goodwill in New Zealand 733

This article examines goodwill and trade marks from the perspectives of accounting and tax, running through their lifecycles. We raise and challenge four propositions. These pertain to the tax and accounting treatment of trade marks and goodwill as being of less value than patents and copyright, as being static in nature, being indefinite, and the relationship between black-hole expenditure and investment in intangible assets.

FRANZISKA KURZ

Trade Mark Exhaustion after Brexit 743

This article analyses the impact of Brexit on trade mark exhaustion, as a paradigmatic case study of the conflicting interests surrounding the exhaustion of IP rights more generally. The doctrine of exhaustion relates to the restriction on the right holder's power to prevent the importation of goods by "exhausting" their IP rights on the first sale of the product under certain circumstances. Hitherto, the UK doctrine of exhaustion has been an EEA-wide concept. Particularly in the event of a no-deal Brexit, the question arises whether right holders will be able to control the importation of goods into the UK by the assertion of their IP rights. It is argued that, in the event of no agreement on trade mark exhaustion, the UK would be free to choose from three options: (1) regional exhaustion; (2) national exhaustion and (3) international exhaustion. However, any post-Brexit exhaustion scheme will need to balance the different interests of right holders, competitors, consumers and sector-specific market needs. It is suggested that this balancing task should be achieved by a doctrine of international exhaustion softened by exceptions for situations in which the right holder has legitimate reasons to prevent parallel trade.

DR. OLIVER BALDUS

A Practical Guide on how to Patent Artificial Intelligence (AI) Inventions and Computer Programs within the German and European Patent System: Much Ado about Little 750

Patenting of computer programs represents a challenge for many applicants. Yet this need not be the case if only a few issues are addressed correctly. Prevailing legal norms in patent law do not substantially differentiate between computer-implemented and "normal" inventions. This article sheds light on problems that can arise when patenting computer programs and identifies common pitfalls encountered in day-to-day professional work. It offers a valuable hands-on guide on how to patent and protect and patent computer inventions, such as artificial intelligence (AI) inventions and other explicitly excluded subject-matter.

MATTHIEU DHENNE

Calculation of FRAND Royalties: An Overview of Practices Around the World 755

This article aims to give an overview of the methods of calculating FRAND royalties applied by the jurisdictions all around the world.

Regulating the Destruction of Public Sculpture through the Moral Right of Integrity: A Balance between the Artist, the Public, and the Owner 766

The article examines the role of the moral right of integrity in regulating the destruction of public sculpture, and evaluates the adequacy of the current law through a comparative study of UK and US law. It addresses the role of public sculpture in the development of culture, and discusses the way in which the decision to maintain or destroy public sculpture should be made, as well as the role the moral right should play in the decision-making process. It argues that the current moral right scheme is inadequate and disables the artist from controlling the fate of his sculpture; and that, in reforming the law of moral right, a mechanism should be implemented whereby public discourse is facilitated by taking into account the interests of all parties concerned.

Comment

MARK HYLAND AND THOMAS PERRY

Not so Happy Campers: *Happy Camper Productions Ltd v BBC* 778

The recent judgment in *Happy Camper Productions Ltd v British Broadcasting Corporation* illustrates the difficulties in obtaining an interim injunction where there is an allegation of alleged copyright infringement. As the judge explained, in such situations, there are three questions that need to be considered. The first is whether there is a serious question to be tried. Secondly, if there is, would damages be an adequate remedy? Thirdly, what would the balance of convenience be?

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The Life of Sir: Accounting and Tax Treatment of Trade Marks and Goodwill in New Zealand 793

The article examines the accounting and tax treatment of trade marks and goodwill in New Zealand. It discusses the legal nature of these intangible assets and the challenges faced by accountants and tax practitioners in valuing and reporting them. The author highlights the need for a more consistent approach to the treatment of these assets across different jurisdictions.

Trade Mark E-licensing after *Interflora* 801

This article explores the impact of the *Interflora* decision on the licensing of trade marks in the digital age. It discusses the challenges posed by the ease of online distribution and the potential for trademark infringement. The author argues for a balanced approach to trademark protection that respects the rights of trademark owners while also promoting innovation and competition in the marketplace.

A Practical Guide on how to Patent Artificial Intelligence (AI) Inventions and Computer Programs within the European Patent System: Dutch Approach 810

The article provides a practical guide for patenting AI inventions and computer programs in the European Patent System, specifically from a Dutch perspective. It discusses the legal requirements for patentability, such as novelty, inventive step, and industrial applicability, and offers practical advice on drafting patent applications for these types of inventions.

Classification of TRADE Markings: An Overview of the Practical Aspects of the World 823

The article aims to provide an overview of the practical aspects of classifying trade markings. It discusses the various types of trade markings, such as words, symbols, and colors, and the challenges involved in determining their eligibility for trademark protection. The author provides a comprehensive overview of the legal and practical considerations in this area.