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"Copyright infringement" in the UK is defined as the doing of a restricted act without the licence of the owner of the copyright. It can also amount to an infringement of copyright if a person does have the licence of the copyright owner but violates its terms. When a contractual licensee violates a term of the contractual licence, it does not automatically become a copyright infringement. While there are terms the violation of which results in an action for copyright infringement, there are also those that result only in an action for breach of contract—a classic example of the latter being the term stipulating the payment of a licence fee. However, this general distinction between these causes of action has an honourable exception. The violation of a term which may otherwise have resulted only in breach of contract results also in copyright infringement if there is a repudiatory breach. This article explores this relatively obscure area.

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Assessing Trade Mark Distinctiveness in Foreign Words, Pictograms and Dead Languages: An Italian Perspective 37
Assessing the distinctiveness of a sign is always a complex task, which involves the need to place oneself in the perspective of the general public. As is well known, under EUTM Regulation (1001/2017), a sign should not be registered as a trade mark if it consists exclusively of "signs or indications which have become customary in the current language" (art.7(1)(d)). But what is the meaning of "current" language? And what is the applicable law for Latin words, Cyrillic, pictograms and foreign terms? Should they be considered "current" language? This article tries to find an answer to these questions, joining an EU-Italian comparative perspective.

DR KUNLE OLA

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Copyright is meant to serve the interest of copyright owners and users by maintaining balance but copyright's pendulum has failed to maintain the expected equilibrium because current copyright laws which are meant to maintain the balance have become oppressive tools, facilitating imbalance. The system is defective and has systematically created a generation of deviants, criminals and perpetual law breakers. Respect and compliance with the rule of law is fundamental to societal stability but, when the law is at variance with widely accepted practices, people revolt and have a sense of duty to disobey rather than obey. The injustice and unreasonableness of the current copyright system creates an impetus for the open movement initiative which serve a threefold role as a stopgap, substitute and challenge. The goal is "access freedom" and the author postulates that higher educational institutions play a crucial role in accelerating this freedom.

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On 26 August 2020, the UK Supreme Court (UKSC) handed down its long-awaited judgment in the combined appeals in *Conversant Wireless Licensing SARL v Huawei Technologies* and *Unwired Planet v Huawei*. The UKSC confirmed that: (1) if there is at least one valid and infringed UK standard-essential patent (SEP), SEP holders may, under certain circumstances, use the English courts to obtain a global licence against would-be infringers on fair, reasonable and non-discriminatory (FRAND) terms and "FRAND" injunctions for non-compliance (although such licence terms and injunctions only have enforceability in relation to UK SEPs); (2) "non-discrimination" does not have a "hard-edge", granting SEP holders some freedom to commercially negotiate; and (3) in the English courts, EU case law in *Huawei v ZTE* provides guidance only on how SEP holders can prevent abuse of dominant position, not mandatory rules (other than to notify of the infringed SEPs).

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"From Luxembourg with Love": General Court Confirms Internet Slang to Be Taken into Consideration When Assessing Distinctive Character of Trade Marks 60

It seems that the list of languages that have to be considered in the assessment of the distinctive character of a trade mark is getting longer by the day. After Catalan, Turkish and Russian, the General Court recognises the widespread use of "SMS language" and confirms the rejection of a trade mark for lack of distinctive character resulting from its obvious meaning in internet parlance. In relation to goods in classes in Classes 3, 9, 14, 18, 25, the trade mark "XOXO" will be perceived as a laudatory sign which expresses the idea that the goods are well suited to express love, attachment and affection to the recipient of a gift.

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UK Applies Strict Approach to Sufficiency of Disclosure for "Ground-breaking" Invention 63

The UK Supreme Court's decision in *Regeneron v Kymab* considers the requirements for revoking a patent for insufficient disclosure in accordance with s.72(1)(c) of the Patents Act 1977 (art.138(1)(b) EPC) in the context of "breadth of claim" insufficiency. The decision provides clarity for how such insufficiency arguments should be analysed under UK law. Regeneron's patents were held insufficient since they claimed transgenic mice produced with any length of the relevant genetic material but it had been found that the skilled person would only be able to implement the teaching at the priority date with a short length of genetic material.

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