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DR SARAH LEGNER

Are Works of Artificial Intelligence in Need for Further Protection? 71

Owing to technological advancement, artificial intelligence can create works of art and literature which easily meet the threshold of creativity that copyright laws demand for protection. Traditionally, however, copyright legislation, notably in continental Europe, focuses on work created and conveyed by the human spirit. The missing protection of machined-authored work has led to the question of whether the legal framework still meets the spirit of the time or rather needs to be adjusted to face the spread of creative artificial intelligence. This opinion considers whether free access to machine-made work should be constrained.

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The Other Side of the Ledger: Blockchain Makes a New Entry in the Historical Record of Copyright Law and Technology 83

Copyright law continues to be in crisis owing to its historical relationship with technology. Taking an Australian focus and a “ledger-centric” view of the economy, the authors propose that copyright law has been challenged by technology in two distinct ways. First, advances in production technologies allow for new forms of creative expression—leading to legislative changes to enhance copyright coverage. Secondly, advances in information and communications technologies enable new types of storage and wider distribution of copyright material—leading to legislative changes to overcome enforcement issues. Blockchain technology does not have an obvious historical parallel as it is not a production or an information and communications technology. Specifically, blockchain is an institutional technology that reveals new possibilities for governing copyright rights. The authors conclude by discussing the implications of blockchain technology’s new entry into the historical record of copyright law and technology.

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Illicit Distribution of Live Sport Events: The Italian Case Law on Dynamic Injunctions and the New Administrative Fast-track Procedures 98

The impact of the illegal distribution of audio-visual content is growing and the IP enforcement is an important part of the reaction against this illegal phenomenon. In the last year some important improvements in the fight against piracy were made in Italy, especially with regards to sport events, through orders against internet service providers issued by the Court of Milan on the basis of complaints filed by the *Lega Calcio*. Also, the system of administrative enforcement of the Italian telecommunication authority (AGCOM) against distribution of illicit contents over the Internet has been recently strengthened with the introduction of: (1) interim protective measures, where there is an alleged threat of imminent, serious and irreparable harm; and (2) measures against the reiteration of violations already declared by the Authority, on the basis of a mere notice and without the need to start a new procedure.

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Copyright-protected Works of Artistic Craftsmanship: Some Comparative Observations 105

Identifying the artistic quality required for copyright protection of works of artistic craftsmanship has proved problematic. Despite sharing similar statutory definitions, judicial decisions in Australia, New Zealand and the UK have proved inconclusive and contradictory. This article draws on a range of sources, including interviews with design practitioners, to propose ways of engaging with applied arts that have contemporary relevance but also connect with the ethos that informed the seminal Arts and Crafts movement.

DR ARNESH VIJAY

Study on the Principles Applied to Assess Individual Character of Designs in UK and Europe 116

There are two very basic eligibility criterion that a design must fulfil for protection, first, it should be “new” and secondly, it must have “individual character”. Whilst the requirement to fulfil novelty is quite straightforward in terms of the design being new, the criteria for assessing individual character seem a bit more complicated. Here, the general logic applied is that the informed user must be capable of distinguishing new ones from those of existing product designs. Despite various guidelines being well defined in the UK and Europe, there yet seem gaps in understanding those principles. Pondering on this, with analysis of relevant case laws applicable in both British and European courts, the following paper critically discusses those principles applied and analysis the specificities surrounding the assessment of individual character in the rapidly evolving creative design industry.

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With Opinion G3/19 (*Peppers*) rendered on 14 May 2020, the Enlarged Board of Appeal of the European Patent Office reversed its Decisions G2/12 (*Tomatoes II*) and G2/13 (*Broccoli II*) by excluding the patentability of products exclusively resulting from essentially biological processes. While previous case law was as questionable as it was discussed, analysis of this reversal reveals that it weakens legal certainty, particularly in the biotechnology sector.

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The TRIPS Agreement provides for several obligations on the enforcement of IP rights. This article explores the implications of the recent decision by the WTO Panel in the case *Saudi Arabia-Protection of IPRs* clarifying the scope of some of these obligations in light, in particular, of prior WTO cases.

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When Your Trade Mark Is Not Ale It's Cracked Up to Be 129

In *Urban Alley Brewery Pty Ltd v La Sirène Pty Ltd*, O'Brien J dismissed a claim for trade mark infringement against La Sirène Pty Ltd brought by Urban Alley Brewery Pty Ltd for a breach of its URBAN ALE trade mark. In the process, O'Brien J held the URBAN ALE trade mark should be removed from the register because it was not distinctive, and on account of the mark being likely to deceive or cause confusion under s.88 of the Trade Marks Act 1995 (Cth). The decision highlights the perils of registering descriptive trade marks and the advantage of adopting truly distinctive beer labels. And as much as the new generation of craft brewers want to set themselves apart from traditional breweries, they might want to take some pointers from their antecedents—who adopted elaborate devices for their labels. After all, history has shown those labels hold enduring value.

ANNA MARIA STEIN AND SABRINA PERON

Concept Store Layout and Copyright: Italian Supreme Court, Civil Division, Judgment No.8433 of 30 April 2020 138

In a recent decision, the Italian Supreme Court has confirmed that plans and layouts of a concept store are eligible for copyright protection as “works of architecture” if the furnishing elements are “creatively combined”, irrespectively of any “aesthetic character”. Parasitic competition has to be ascertained in a “timely manner” and “precisely”. Although copyright infringement damages are “in re ipsa”, equitable assessment of damages cannot be arbitrary.

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