
Abstracts

The following are abstracts of the latest issues of journals of interest:

IDEA: The Journal of Law and Technology, Volume 32 Number 4

*Editor: Professor Robert Shaw
The PTC Research Foundation
2 White Street, Concord New Hampshire 03301, USA
Published four times per year, overseas rate US\$57.00 per year*

Prospects for ADR in Patent Disputes: An Empirical Assessment of Attorneys' Attitudes

Thomas G. Field Jr. & Michael Rose

The article discusses the attitudes of the patent bar to Alternative Dispute Resolution. The article takes the form of a report on the statistical outcome of a questionnaire on this point. The conclusion is that in the ten years in the survey there has been an increase in the acceptance of ADR amongst patent attorneys in large corporations. In particular, mediation is finding increased use.

The 'Use in Commerce' Requirement for Trademark Registration After Larry Harmon Pictures

Peter C. Christensen & Teresa C. Tucker

This article reviews the law relating to 'use in commerce', a requirement for registration of a trademark in the US system. In particular it examines the effect of the recent case of *Larry Harmon Pictures*.

Survey of the Opinion of Software Development Companies Concerning Intellectual Property protection

Linda B. Samuels & Le Thi Cao

A report on a survey of the viewpoints of software development companies in the US regarding the various forms of intellectual property protection, and the direction of judicial, legislative and regulatory developments. As might be expected, there was dissatisfaction with the legal regime for software protection, and some support for the principle that some *sui generis* protection be forthcoming.

The Admissibility and Utility of Expert Legal Testimony in Patent Litigation

Howard G. Pollack

A review of the case law and policy considerations underlying the use of experts in patent cases. The author looks at the question, with particular emphasis on the expanded use of experts and the effect this has on the field.

The Defense of a Trademark Infringement Case

Albert Robin

The author, a practising trademark attorney, explains the strategy and tactics involved in defending trademark infringement cases. Though the US system differs in certain respects from the Australasian principles, much of the discussion is not jurisdiction-specific and is therefore relevant to our law.

Law, Computers and Artificial Intelligence, Volume 1 Number 2 1992

*Editor: Dr Indira Carr
Triangle Journals Ltd
P.O. Box 65, Wallingford, Oxfordshire OX10 0YG, United Kingdom
Published three times per year, overseas rate £70.00 (individuals £36.00) per year*

Compliance with Article 85 in Software Licensing

Thomas C. Vinje

Now that the European Community Software Directive has established the rights of software developers, the author examines the

effect of EC competition law on the exploitation of those rights. The article explores the effect of Article 85, the provision which prohibits any agreement which may affect trade between member states and which has as its object or effect the restriction of competition. The au-

thor examines the likely effect on common computer contract clauses and on particular practices such as reverse engineering and maintenance, amongst others.

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Protecting Computer Databases under the United States Copyright Laws: Implications of the Feist decision

John T. Cross

As computers have proliferated in modern society, there has been a tremendous growth in the numbers and types of computer databases. These databases can be quite costly to prepare. Therefore, in order to reward compilers for taking the time and effort to assemble databases, the courts have protected these databases under various legal theories. In most instances, copyright law provides the best means of protection. The recent decision of the United States Supreme Court in the *Feist* case, however, seriously threatens the availability of copyright for some computer databases. The author divides databases into three main categories and concludes that the *Feist* decision has a substantial impact on only one category of database.

Transactional and Semantic Indeterminacy in Statutory Modelling

David Slee & John Hobson

In creating legal expert systems to represent statutes the aim of the programmer is to design the model with operational paradigms that reflect, as closely as possible, the working of the statutory representation. This is an indeterminate process. Firstly, it must take account of the reduction of disputes to legal codes or forms of action. Secondly, the language of lawyers is indeterminate, elitist and culturally embedded. The paper argues that the justification for these problems, a perception of exactitude and logic, is not true. Statutory terminology is, at the least, subject to implicit codes and meanings whilst, at the other extreme, may even be tautological. Both elements create indeterminacy. The object of the paper is to examine the nature of that indeterminacy and suggest mechanisms for overcoming it.

The Legal Protection of Confidential Information and its Potential Impact on Employment Patterns in the Computing Industries

Allison Coleman

This paper examines the nature of the protection afforded by the rights

in confidential information. In particular it focuses on the effects of employing consultants, a common practice in the computer industry. It examines the nature of the protection afforded by criminal and civil laws.

Case and Comment: Statutory Protection not to be Read too Narrowly in Australia: Autodesk Inc. v Dyason

K. Puri

The author explains the *Autodesk* decision and comments briefly on its effect on the industry.

Case and Comment: The Beginning of a New Era in US Software Protection Law: Computer Associates v Altai

Thomas C. Vinje

The author explains the *Computer Associates v Altai* case, a recent US decision on copying of computer program structure. [See *Computers & Law* issue 20 for a similar case comment—Eds]

The Computer Law and Security Report, January/February 1993, Volume 9 Issue 1

Editor: Mr Stephen Saxby
Elsevier Advanced Technology
Mayfield House, 256 Banbury Road, Oxford OX2 7DH, United Kingdom
Published six times per year, overseas airmail rate £143.00 per year

The Proposed EC Database Directive

Wolfgang Huber

The author considers the practical implications of harmonization of database copyright law in Europe.

The Proposed EC Database Directive

British Computer Society

The Intellectual Property Committee of the BSC airs its views on the Directive and its provision.

EC Database Directive – A US Perspective

C. Ian Kyer & Steve Moutsatsos

The authors consider whether current European Proposals for the reform of database copyright law mark

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the beginning of European jurisprudence in IT law.

Computer Security, Crime and Privacy in the USA – A Status Report, Part III

Robert Bigelow

The author's third part of his update on the US law governing computer security, crime and privacy. In this issue he concentrates on the topic of computer crime.

Trade Secrets

William Cook

The second part of an article examining the issue of trade secret theft in the United States.

Electronic Contracting

Benjamin Wright

The author examines the practical and legal implications of the transfer away from paper to electronic documents when contracting for goods or services.

Transborder Flow of Personal Data

Dr Irini Vassilaki

An empirical analysis of cases in which problems with the transborder flow of personal data have occurred.

The Digital Signature Algorithm

David Birch

The author looks at the arguments for and against the introduction of the Digital Signature Algorithm for secure data transmission.

The Computer Law and Security Report, March/April 1993, Volume 9 Issue 2

Editor: Mr Stephen Saxby

Elsevier Advanced Technology

Mayfield House, 256 Banbury Road, Oxford OX2 7DH, United Kingdom

Published six times per year, overseas airmail rate £143.00 per year

Computer Security, Crime and Privacy in the USA – A Status Report, Part IV

Robert Bigelow

The author's final part of his update of the US law governing computer security, crime and privacy in the USA. He looks at how the spread of new information technology raises privacy questions for regulators and the courts.

Australia – The Circuit Layouts Act 1984

Shelley Einfeld

The author looks at the impact of the Circuits Layout Act in Australia and its interpretation by the courts in the *Nintendo case* and the first instance decision and Full Federal Court appeal of *Avel v Wells*.

Credit Reporting Regulation – Australia

Graham Greenleaf

The author examines recent legislation to enhance credit reporting in Australia and asks whether the new law has done enough.

Credit Reporting Regulation – UK

Data Protection Registrar

The Registrar reports on credit reporting in the UK based on action taken by the Registrar to deal with complaints about certain practices pursued by the four main UK credit reference agencies.

Databases and Copyright

Gary Lea

In this, the first of a two part article, the author looks at the law in a number of jurisdictions so far as the

regulation of computer databases is concerned.

EC Database Directive

Confederation of British Industry

An executive summary from the UK's Confederation of British Industry on the proposed EC Database Directive.

US Computer Crime

August Bequai

The author summarises recent US developments in computer crime.

International Responses to Computer Crime

Ulrich Wuermeling

A report on three important computer crime conferences that took place over three days last Autumn. A summary of the recommendations is also included.

Computer Law and Practice, Volume 9 Number 1, 1993

Editor: Dr Ian Walden et al

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Tolley House, 2 Addiscombe Road, Croydon, Surrey CR9 5AF, United Kingdom

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A privacy law for Europe: back to the data protection drawing board

Simon Chalton

The author explains the new European law of privacy, contained in the amended proposal for a data protection Directive (COM (92) 422 final SYN 287). The article not only discusses the proposal but gives a list of contents and synopsis for it.

Three United States courts take a closer look at the 'look and feel' of computer software

Verne W Vance, Jr

The author describes the cases of *Computer Associates v Altai*, *Lotus Development v Borland*, and *Apple v Microsoft*. He concludes that these

cases show an increasing sophistication of litigants and courts in wrestling with the problem of protection of non-literal elements in software.

Hardware, firmware, software: is the exclusion of software patentability realistic in light of technological developments

Dr Axel von Hellfeld

The author argues that the distinction between hardware, firmware and software is meaningless, and shows the ridiculous way in which the distinction is important for patent claims. He illustrates this with an example of the same algorithm (Fourier transform) in hardware and software in separate patent claims.

Is Whelan losing its teeth?—recent US cases on software copyright

Hilary E Pearson

The author shows that there has been a marked movement away from the landmark *Whelan v Jaslow* and shows how newer cases require different tests.

Copyright, multi-media, interoperability and related technologies—a review

Laurence J Cohen

This article discusses the legal considerations arising out of reverse engineering, computer aided software engineering, interoperability, object oriented programming, multi-media and electronic documents and wireless computer networks.

IDEAS FOR THE JOURNAL...

BOOKS & JOURNALS

As you will have seen, we have increased our coverage of recent books and journals. We are trying to keep our readers up-to-date with guides to information in this burgeoning field. If you know of books or journals which we have not covered we would be delighted to hear from you.

IDEAS

Alternatively, if you have ideas for columns or regular features which you think the readers will find useful, please give us a call. We are also open to suggestions as to themes for upcoming issues of the Journal. If you think there are worthwhile topics which we have yet to cover, let us know.

WE RELY UPON YOUR COMMENTS TO PROVIDE A BETTER JOURNAL FOR ALL READERS!