Kluwer Copyright Blog

Top 3 Posts of the Spring from our IP Law Blogs

Kluwer Copyright Blogger · Wednesday, June 6th, 2018

To ensure you don't miss out on interesting IP law developments reported on our other IP blogs, we will, on a regular basis, provide you with an overview of the top 3 most-read posts from each of our IP law blogs. Here are the top posts from March, April and May.

Top 3 Kluwer Copyright Blog posts of March/April/May

1) Copyright reform: a new right for press publishers – to have or not to have? by Eugenie Coche

"On 14 September 2016, a proposal for a Directive on Copyright in the Digital Single Market saw the light of day. The proposal is part of the EU copyright reform package, which has as its objective to modernise EU Copyright rules for the digital age, thereby attaining the objectives set out earlier in the Digital Single Market Strategy."

2) First blocking order in Germany to prevent access to copyright infringing website by Benjamin Lotz and Lutz Reulecke

"A recent decision of the Munich Regional Court marks the first-ever blocking order in Germany against a copyright infringing website (judgment of 1 February 2018 – BeckRS 2018, 2857; English translation available here). If confirmed by higher courts (the judgment is subject to ongoing appeal proceedings), the decision will indeed have paved the way for a much-needed legal means against pirate websites in Germany."

3) Text and Data Mining in the Proposed Directive: Where Do We Stand? by Bengi Zeybek

"The Proposal for a Directive on Copyright in the Digital Single Market, published on 14 September 2017, addresses legal uncertainty as regards TDM practices within the European Union by introducing a mandatory exception for TDM in Article 3. The proposed exception applies only to non-commercial research organisations that mine content to which they have lawful access for scientific research purposes. Article 3(2) of the Proposal further stipulates that the exception shall not be overridden by contracts.This blog post briefly analyses the proposed exception and its legislative trail, including the amendments proposed by several committees of the European Parliament."

Top 3 Kluwer Trademark Blog posts of March/April/May

1) CJEU puts old seniority claims at stake: If national marks were vulnerable when they lapsed or were surrendered, they still are! by Verena von Bomhard

"On 19 April 2018, the CJEU handed down its judgment in the matter Peek & Cloppenburg (PUC), a referral from the German Supreme Court in a litigation between two German companies of that same name (one of which runs under the name of Peek & Cloppenburg [PuC] "North", the other "West") (C?148/17)…The CJEU decided that, in the context of a later invalidity or revocation action brought against a national mark that has been surrendered or allowed to lapse, the conditions for cancellation of the mark are to be assessed only as at the time of the surrender or expiry of that mark."

2) The CJEU on the technical function exception for EU designs by Erica Vaccarello and Fabio Angelini

"EU Design law denies protection to designs which are solely dictated by a product's technical function (art. 8(1) CDR). But how to determine if a product's appearance is solely defined by its technical function in order to deny protection to a design?…With decision C-395/16 DOCERAM GmbH v CeramTec GmbH of 8 March, 2018, the European Union Court of Justice ("CJEU") has now indicated that EUIPO's approach is the correct one."

3) Important changes to BENELUX trade mark law as per June 1, 2018 by Charles Gielen

"As per June 1, 2018, all appeals from decisions of the BOIP (refusals, oppositions etc.) have to be brought before the Benelux Court of Justice (BCJ). This Court established a new chamber consisting of judges from national courts of the Member States of the Benelux. This will result in a more consistent and harmonious case law."

Top 3 Kluwer Patent Blog posts of March/April/May

1) The EPO's Vision (III) – Quality by Thorsten Bausch

"In summary, my take on EPO quality is that not all is bad and a lot of people are still doing a good job. However, it is presently not at all the case that quality is outstanding or "setting worldwide standards". Even worse, the trend of quality is downwards, which is most likely caused by the current EPO policy focusing too much on "production". Honesty and a sober and realistic approach by EPO management would be needed to really improve quality and to bring the EPO closer to its vision."

2) The EPO's Vision (V) – Trust by Thorsten Bausch

"This is the last post of my series on the EPO's vision and the current reality, this time dealing with the issue of EPO and "trust", including trust-building measures such as transparency, fairness and respect…And I dare say, albeit with much regret, that the management under President Battistelli and the EPO's Administrative Council have spectacularly failed in this category more than in any other."

3) The EPO's Vision (IV) – Efficiency by Thorsten Bausch

"Among other things, the EPO's official vision also includes to set world-wide standards in efficiency, so let us look into this goal a bit more closely. To begin with, what is efficiency? Wikipedia defines it as follows: 'Efficiency is the extent to which time or effort is well used for the intended task or purpose.' Thus, we need to talk about (a) the intended task or purpose and (b) the extent to which time or effort is well used, when a patent is searched and examined by the European Patent Office."

Read further posts on the Kluwer Copyright Blog here, the Kluwer Trademark Blog here and the Kluwer Patent blog here.

This entry was posted on Wednesday, June 6th, 2018 at 7:21 pm and is filed under Case Law, inter alia, for ensuring that EU law is interpreted and applied in a consistent way in all EU countries. If a national court is in doubt about the interpretation or validity of an EU law, it can ask the Court for clarification. The same mechanism can be used to determine whether a national law or practice is compatible with EU law. The CJEU also resolves legal disputes between national governments and EU institutions, and can take action against EU institutions on behalf of individuals, companies or organisations.">CJEU, European Union, Legislative process
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