Top 3 Posts from March and April from our IP Law blogs

Kluwer Patent Blog
May 5, 2017

Kluwer Patent Blog

Please refer to this post as: Kluwer Patent Blog, 'Top 3 Posts from March and April from our IP Law blogs', Kluwer Patent Blog, May 5 2017, http://patentblog.kluweriplaw.com/2017/05/05/top-3-posts-from-march-and-april-from-our-ip-law-blogs/

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 and April.

Top 3 Kluwer Copyright Blog posts of March/April

1) Comments on the 'value gap' provisions in the European Commission's Proposal for a Directive on Copyright in the Digital Single Market (Article 13 and Recital 38) by Adj. Prof. Dr Silke von Lewinski

"In the current debates on the 'value gap' provisions in the European Commission's DSM proposal (Art. 13 and Recital 38, see here and, e.g., here), it has been suggested that these provisions would modify the current scope of the exclusive right of communication /making available to the public and the liability exemptions of the E-commerce Directive and should therefore be deleted or amended. This article shows, as set out below, that the ***proposal does not modify relevant EU law****, but* ***only*** *clarifies..."*

2) The UK's first 'live' blocking order prevents users accessing Premier League football streams by Theo Savvides and Sean Ibbetson

"Over the last decade, in particular, the English courts have shown a strong resolve to tackle online infringements of IP rights, and also an ability and willingness to be flexible in the remedies which they can provide to assist IP rights holders in tackling the ever evolving challenges which new technologies have created.

A recent example of the court's flexibility can be seen in Arnold J's recent judgment in FAPL v BT [2017] EWHC 480 Ch. This case addresses what Arnold J described as the "growing problem" of live streaming of Premier League football matches."

3) Private copying levy in Italy: potential impact of the CJEU ruling in case C110/15 and Italian Council of State decision by Gianluca Campus

"As reported previously on the Kluwer Copyright Blog, on 22 September 2016 the Court of Justice of the European Union ('CJEU' or 'Court') ruled on Case C-110/15 (Microsoft Mobile Sales International and others Vs MIBACT and SIAE) regarding the private copying exception in Article 5.2 b of Directive 2001/29/EC (the 'InfoSoc Directive')." This article discusses the potential impact of this ruling on Italian law.

Top 3 Kluwer Trademark Blog posts of March/April

1) Riding on the coat-tails of Pandora – what is acceptable in Denmark? by Lasse Søndergaard Christensen and Louise Thorning Ahle

"In the affordable luxury segment one finds the highest growth rate within the Class 14-goods at the moment. As a result we see a lot of new starts-ups in this business – one of them trying to stand out by riding on the coat-tails of the market leader in the affordable luxury segment: Pandora A/S."

2) The "artistic" Vespa? by Erica Vaccarello and Fabio Angelini

"Can a scooter enjoy, contemporaneously, protection as a three-dimensional trademark (hereinafter 3D mark) and under copyright law? Apparently it can, at least according to the Court of Turin, which recently said so, with its decision no. 1900/2017 dating March 17, 2017."

3) Sweden: The backlash of the preliminary injunction by David Leffler

"In a recent case, the Swedish Supreme Court clarified the calculation of damages awarded to a defendant based on a claim of loss of profit due to a preliminary injunction in an unsuccessful infringement case. The court held that the claimant has a strict liability for such damages and that the defendant does not have an obligation to sell the goods under a different brand in the interim."

Top 3 Kluwer Patent Blog posts of March/April

1) The EPO and the Problem of the Right Speed (II) – Examination Proceedings by Thorsten Bausch

"The current President of the EPO claims in his blog that there is a general demand from the users of the EPO – i.e. primarily the applicants – to have a timely delivery of the work product of the EPO. In his words (emphasis added):

"But, as with any good service, good products need to be delivered on time. This is particularly so for our users, as innovators and investors look for certainty at an early stage in the process.... Timeliness is therefore a key issue not just for applicants, but also those potentially affected by pending patent rights. Our users have stressed that it is a priority for them and, as such, timeliness is a priority for the EPO."

... In my personal opinion, receiving an early and well-reasoned search report is, indeed, of great value for many users of the EPO. However, as concerns the examination stage, there are practical consequences of the President's program, which may, in fact, be highly undesirable and will not be liked by applicants and their representatives."

2) The EPO and the Problem of the Right Speed (I) – Introduction by Thorsten Bausch

"How long should proceedings before the EPO ideally take? Admittedly, this is a tricky question because various stakeholders will usually have different interests and thoughts as to what the "right" or "ideal" speed is. Let us tackle this question by beginning with a simple distinction. I posit that the answer depends

considerably on whether the proceedings are ex parte or inter partes."

3) The EPO and the Problem of the Right Speed (IV) – Appeal Proceedings by Thorsten Bausch

"The duration of proceedings before the Boards of Appeal (BoA) currently is the EPO's biggest problem in regard to speed. According to the latest Annual Report by the Boards of Appeal, the average length of inter partes proceedings is 37 months (up 1 month from 2015), i.e. more than three years. In 2016, two appeals were pending that were filed in 2008, six that were filed in 2009, and 33 were filed in 2010, that was eight (!), seven or six years pendency before the decision date. This is clearly not acceptable."

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