GRAUR International Journal of European and International IP Law

Published by the German Association for the Protection of Intellectual Property (GRUR)

In collaboration with the Max Planck Institute for Innovation and Competition

www.ip.mpg.de

3/2021 Volume 70 – March 2021

Table of Contents

Editorial	213	MICHEL VIVANT Thinking IP: A Game of the Mind?
Articles	215	LÉON E. DIJKMAN Does the Injunction Gap Violate Implementers' Fair Trial Rights Under the ECHR?
	228	ANNETTE KUR 'As Good as New' – Sale of Repaired or Refurbished Goods: Commendable Practice or Trade Mark Infringement?
	237	KAROLINA SZTOBRYN In Search of Answers to Questions about Electronic Sports and Copyright
Opinions	245	BARBARA SANDFUCHS The Future of Data Transfers to Third Countries in Light of the CJEU's Judgment C-311/ 18 – Schrems II
	250	DANIELA GSCHWINDT Temporary Relief of Pay-for-Delay: The ECJ as Specifically Different Antidepressant
Official Statement China	t 257	Provisions of China's Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Administrative Cases Concerning Patent Grant and Confirmation

Decisions

Decisions		
Canada	261	PATENT LAW Federal Court of Appeal 15 September 2020 – 2020 FCA 141 Principles Governing an Accounting of Profits as a Remedy for Infringement – Nova v Dow
Germany	275	Federal Supreme Court (Bundesgerichtshof) 17 December 2019 – X ZR 115/17 Inventive Step in the Use of a Generally Available Tool – Autoantibody Detection [Autoantikörpernachweis]
Switzerland	280	Federal Supreme Court (Bundesgericht) 1 May 2020 – 4A_570/2019 Combining Different Teachings from a Single Piece of Prior Art – Sandoz v Eli Lilly
Norway	285	TRADE MARK LAW Supreme Court of Norway (Norges Høyesterett) 2 June 2020 – HR-2020-1142-A Importation of Goods Affixed with a Trademark Concealed by a Removable Marker – iPhone Screens (case note by Kristina Stenvik)
Benelux	291	Benelux Court of Justice 15 June 2020 – C2019/6/9 Standard of Descriptiveness and Evidence to Prove Acquired Distinctiveness – Pet's Budget
Italy	294	COPYRIGHT LAW Supreme Court, Section I (Corte Suprema di Cassazione Sez. I) 7 February 2020 – 2981/2020 Reproduction of a Portrait Sculpture without the Consent of the Author – Bronze Bust
EU	299	DATA PROTECTION LAW CJEU 16 July 2020 – C-311/18 EU-US Privacy Shield Agreement: Legality of Data Transfers to Non-EU Countries – Schrems II
Bibliography	010	

313 Bibliography of Intellectual Property Law and Competition Law