

IT & e-commerce news in brief from around the world

Welcome to the latest on-line edition of our IT and E-commerce Law Bulletin. In this edition we look at a number of current issues including the retention of Internet traffic data, modem-dialler hijacking, attacks on information systems and the Basel II initiative.

We also include some news in brief on [Patentability of Computer-Implemented Inventions](#).

If you have any feedback on this bulletin, please email itelb@twobirds.com.

Belgium

[EU Council takes action against attacks on information systems](#)

Analysis of the Framework Decision 2005/222/JHA, designed to help combat attacks against information systems, such as viruses, website defacement and denial of service attacks.

Peter Van de Velde, Brussels

France

[Retention of internet traffic data](#)

A judgment of the Paris Court of Appeal suggests that companies should be regarded as ISPs in relation to their electronic communications and should be subject to obligations to retain internet traffic data of their employees.

Franklin Brousse, Paris

Germany

[Judicial consideration of responsibilities of parties under an exclusive distribution agreement](#)

A judgment of the District Court of Stuttgart provides clarification on the nature of exclusive software distribution agreements under German law.

Alexander Duisberg, Munich

Hong Kong

[New Hong Kong airport RFID project may raise personal data privacy issues](#)

The Hong Kong International Airport has announced that it has adopted Radio Frequency Identification (RFID) technology in its baggage handling and cargo services in August this year. It is believed to be one of the first such projects to go live worldwide in the industry.

Edward Alder and Alan Lee, Hong Kong

The Netherlands

[Basel II: legal implications for the IT sector](#)

A review of the implications of the Second Basel Capital Accord for the IT environment, for banks and other financial institutions.

Lous Vervuurt and Jeroen van der Lee, The Hague



[Court prohibits dialler hijacking](#)

A recent case in the Swedish Market Court established the need for specific agreements where payment services are provided on the internet. Proposed legislation also seeks to protect consumers from such scams.

Fredrik Malm, Stockholm



[Changes at the Technology and Construction Court](#)

The Lord Chief Justice of England and Wales has announced a shake up to the Technology and Construction Court in order to increase its attractiveness as a forum for hearing IT related disputes.

Graham Smith, London

[EU Commission regulates e-communications in public procurement activities](#)

A review of the new rules on e-communications in public and utilities procurement processes which are contained in the new EU Procurement Directives.

Roger Bickerstaff, London

[Exclusion of liability provisions in an insurance claim against the loss of computer data](#)

The Court of Appeal examines the effectiveness of provisions for exclusion of liability in insurance contracts, regarding loss of computer data in *Tektrol Ltd v International Insurance Company of Hanover Limited [2005] EWCA 845*.

Adrian Chalkley, London

News in brief

European Parliament rejects proposed Directive on Patentability of Computer-Implemented Inventions

On Wednesday 6 July 2005, the European Parliament voted by a surprisingly overwhelming majority to reject the Directive on Patentability of Computer-Implemented Inventions on its second reading. The proposed Directive, designed to harmonise European patent law in this area had been bitterly opposed by supporters of open-source software, who argued that the passing of this Directive would lead to the wider patenting of software.

Having seen the proposed Directive defeated by a margin of 648 votes to 14, the European Commission has stated it will not draw up or submit any more versions of this proposal. This means that for the foreseeable future, national patent offices in Member States will continue to apply their differing interpretations to the patentability of software.

Interestingly, given the concerns that the open-source community had on the Directive, the EU Commission has announced that it plans to provide financial support to the FLOSSWorld research project into open-source software. The FLOSSWorld initiative will examine, amongst other matters, the impact of open source software on skills development and its impact on employment generation.

Roger Bickerstaff and Adrian Chalkley, London

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