

Annual IT Law Update

Roger Bickerstaff, Barry Jennings, Simon Shooter,
Andrew White, Graham Smith, Ian Edwards, Treena
Dunlea-Peatross and Martin von Haller Grønbæk

ROGER BICKERSTAFF: We hold the annual IT Law update each year to give in-house solicitors working in this field and commercial IT law people a chance to understand the issues which are relevant to them so they can deal with them themselves in their own practice.

ANDREW WHITE: There have been many significant contract law developments this year including in the field of liquidated damages how contracts are interpreted particularly complex contracts and also the granting of injunctions but to my mind the most important single development is in the field of good faith which affects how parties co-operate how they communicate and how they take decisions under long term contracts and all of these developments will affect a wide range of IT contracts.

GRAHAM SMITH: We have seen new case law around on-line copyright. We've seen the continuing fallout from the Snowden revelations and we have also got new rules about online selling. One of the really significant changes we've seen was the ECJ decision in the Svensson case which was about whether you infringe copyright if you link to somebody else's copyright work on-line. Some of the future developments that we can look forward to firstly the new social media offences such as revenge porn and the increase in the prison sentences to 2 years for malicious communications, secondly the consumer rights act which will create a new category of digital goods on-line with new rights and obligations which on-line sellers will need to be

aware of.

BARRY JENNINGS: Customers are using cloud computing to support their businesses in terms of flexibility of their workforce on a global basis but also to support the delivery of innovations like the internet of things wearable technology driverless task the political and legal complexity of upheaval caused by Snowden is problematic for customers and suppliers as any uncertainty is. Some forecasters predict that US vendors will lose 10 to 20 % of their overseas markets yet.

SIMON SHOOTER: When it comes to cyber security obviously expense is important and the budgets are limited so you need to spend your money wisely to get the best effect. Really the key is to address education and knowledge. Educating your workforce, making sure that they are aware of the risk and how to react to it but in a sensible way. The more difficult you make it for your staff the easier they will find ways around your provisions and your policies. So it is a measured approach, a sensible approach but education is probably the best expenditure of cash.

IAN EDWARDS: There is currently a lot of policy making activity around the world in relation to cyber security. Whilst the intentions of this are laudable it does create the risk of creating a very complex landscape for organisations to navigate particularly if they operate in multiple countries. In particular I think there is a risk of overlap between cyber security rules and existing regimes like data protection

particularly around areas like notification of breaches.

MARTIN VOH HALLER GRONBAEK: First, open sources are they really part of the mainstream and it's all about IT strategy and IT business all organisations today usually it's small or large you cannot avoid it and you shouldn't try to avoid it open source gives you as a business model a lot of opportunities for saving costs and creating new types of revenue. You should really try to have your organisation embrace it and try to realise some of these opportunities. Second you should know that open source is all about licensing so you should know what software your organisation is using and under which open source licences. The good news here is that this is not really complicated because all open source licences give you far more user rights than restrict you as a user. But specifically you have to know whether there is open source software realised under the so called cubby left open source licences. So basically what you have to do is that you have to establish some kind of procedure that enables you to discover what kind of open source software that flows into and out of your organisation and if you done that you have to come up with some kind of policy that tells your employees how to react when they want to use open source software and maybe more proactively if they also want to contribute to open source software.

TREENA DUNLEA-PEATROSS: Having understanding of how US IT contracts are drafted can be tremendously helpful in working through key commercial issues faced by our clients because I think often as US or UK lawyers we have still many things in common so many similarities whether it's language, whether it's a common law base that we often forget to step back and really consider the

differences in approach.

ROGER BICKERSTAFF: Well we've had a great set of workshops this morning and the presentations this afternoon have gone really well as you can hear from the noise behind me the discussions are still continuing and everybody is having a great time.

END

twobirds.com

Abu Dhabi & Beijing & Bratislava & Brussels & Budapest & Copenhagen & Dubai & Düsseldorf & Frankfurt & The Hague & Hamburg & Helsinki & Hong Kong & London & Lyon & Madrid & Milan & Munich & Paris & Prague & Rome & Shanghai & Singapore & Skanderborg & Stockholm & Warsaw

Bird & Bird is an international legal practice comprising Bird & Bird LLP and its affiliated and associated businesses. Bird & Bird LLP is a limited liability partnership, registered in England and Wales with registered number OC340318 and is authorised and regulated by the Solicitors Regulation Authority. Its registered office and principal place of business is at 15 Fetter Lane, London EC4A 1JP. A list of members of Bird & Bird LLP and of any non-members who are designated as partners, and of their respective professional qualifications, is open to inspection at that address.