

Module: Legal Issues

Thibault Verbiest for the eTTEC
project – Training 2003-10-13 in
Itzehoe (Germany)

Legal Issues - Overview

- *Protection of eContent in European Markets*
- Expansion/Localisation vs Consumer and Privacy Protection
- Applied Legal Aspects on European expansion



Protection of eContent in European Markets

eContent



Protection of eContent Overview

- Copyright
 - Berne Convention
 - Directive 91/250/EEC on the legal protection of computer programs
 - Directive 96/6/EC on the legal protection of databases
 - Directive 2001/29/EC on copyright and related rights in the information society
- Trade marks & trade names
- Company name
- Domain names

eContent



Protection of eContent

- Legal qualification of a website
 - Website as such is protected as a work of multi-media
 - Additional database protection?
 - May contain content protected by copyright (text, photos, sounds, etc.)
 - Is supported by software (e.g. for online payments)
- Associated legal issues
 - Unfair competition: metatags, hyperlinks, domain names

eContent



TIMES ONLINE

on your desktop, 5am GMT

- Archive | Classified | Shopping | Promotions | Games | Fast Times | My Times | Site specials

Search this site
 GO

June 30 2003
SUNDAY TIMES

- Britain
- Comment
- World
- Scotland
- Ireland
- Review
- Football
- Sport
- Business
- 100 Best Companies
- Good Hospital Guide
- Money
- Property
- Magazine
- Travel
- Culture
- Books
- Doors
- Style
- Appointments
- Driving
- University Guide
- Business Technology
- Horoscopes
- Rich List
- Pay List 2002
- Premiership Guide
- Parent Power
- See America
- On Location

- TIMES ONLINE**
- Home
 - Breaking news
 - Britain
 - World
 - Sport



Campbell must go, urge MPs

EBEN BLACK AND JONATHAN CARR-BROWN
Alastair Campbell, the prime minister's communications chief, yesterday faced Labour demands for his position to be abolished and his powers to be curbed

Leader: It's a smokescreen

Watchdog probes Eton and Harrow for fee fixing

ROBERT WINNETT AND JONATHAN CALVERT
Britain's top public schools are facing an official inquiry into allegations that they have been operating illegal cartels to fix fees

Leader: The old school fixers

Hundreds of vitamin pills to be banned

DAVID LEPPARD
Ministers are introducing regulations that will outlaw the sale of 270 minerals and vitamins used by people suffering ailments from arthritis to PMT

BRITAIN



Model behaviour: The supermodel Kate Moss strolls around the Glastonbury festival in Somerset, where more than 100,000 music fans were blessed with blazing sunshine

WORLD

The army admitted that six British military policemen killed by a mob in Iraq last week died because reinforcements sent to help another unit did not know they were there

BUSINESS

MAGAZINE

Her fall from breakfast TV couldn't halt her lust for stardom. Now Kelly Brook is going all out to seduce Hollywood. Has she got the front to do it?

REVIEW

Pictures of a birthday party, forgotten for half a century until they were unearthed by Simon Sebag Montefiore, led him to discover a story of romance and terror at the court of Stalin

SPORT

Tim Henman beat the unseeded Robin Soderling 6-3 6-1 6-4 at Wimbledon. He won in 93 minutes and now faces last year's runner-up David Nalbandian

TRAVEL

Wouldn't it be good if

Protection of eContent

Berne Convention

- protection of the rights of authors in their literary and artistic works
- Authors of an original work shall enjoy the exclusive right of authorizing:
 - Communication to the public
 - Reproduction
 - Modification or translation
- Licence is required if you are not the author

eContent



Protection of eContent Information Society

- Protection of databases:
 - Traditional copyright protection for the structure
 - Sui generis protection for the content
 - Substantial investment
 - Maker of a database has an exclusive right to prevent extraction and/or re-utilization
- Protection of Computer programs
 - by copyright as literary works
 - Authorship: contractor or employee
 - Decompilation
 - Patent?

Protection of eContent Information Society

- Copyright and related rights in the information society:
- The Digital Dilemma:

Traditional world
distribution
involves sale of
physical copy



Digital world

- Digital content is often licensed, not sold
- Temporary copy and reproduction is required
 - Transmission networks
 - Access and use

eContent



Protection of eContent



Copyright and related rights in the information society:

- Directive 2001/29/EC
 - Confirms the exclusive rights of the authors
 - Temporary acts of reproduction
 - Transmission in a network
 - Lawful use
 - Technological measures and rights management
 - « The answer to the machine is in the machine »
 - Anti-circumvention legislation (cf. DeCCS case)
 - Technological measures prevent copyright infringements, but also lawful reproduction

eContent



Protection of eContent

- Trade Marks

- **distinctive sign** (word symbol, logo, color)
- Trade mark = quality label
- Formal protection: register
 - National registration
 - International registration
 - EU Community mark

- Trade Names

- **distinctive sign**
- No formal requirements
- Protected by copyright IF original
- Unfair trade practices (2003 Proposal)



Protection of eContent company name

- Can be protected as a trade mark or under copyright.



- Additional protection if registered in a trade, commercial or similar register

eContent



Protection of eContent Domain Names

- « **first comes, first served** » principle
- Importance to register the necessary
 - Top level domain names:
 - Generic (gTLD): .com, .org, .net, etc.
 - Country code (ccTLD): .be, .nl, es., it., etc.
 - Sub-level domain names: trade marks, trade names
 - <http://www.cocacola.com>
 - <http://www.cocacola.be>
- Where to register? <http://www.icann.org/>

eContent

