

EDITORIAL FOR THE SPECIAL ISSUE 2023

It is with great pleasure that we write this introduction to the EJLT BILETA special issue for 2023.

Dr Xiaochen Mu, of Nottingham Ningbo, China, has provided a paper looking at virtual property. Xiaochen proposes a new theoretical and protection system for virtual property, arguing that there has been insufficient consideration of such property. Only when the concept of property is fully drawn up and understood, will it be possible to protect such property. Xiaochen tackles the thorny question of when certain types of information that are not copyrightable but otherwise valuable should or should not obtain a form of virtual legal protection.

Building on this, Dr Fulya Teomete Yalabik, of University of Greenwich, UK, assesses the 'Future of Non-Fungible Tokens in the entertainment industry: No longer the "Wild West" of Intellectual Property law?' While NFTs can be a good device to enable artists and/or film producers licensing their products to streaming and sharing platforms, the paper argues that Intellectual Property (IP) owners need to reconsider both, IP protection and licensing strategies in view of new technologies such as NFTs. To solve the digital ownership problem, Teomete Yalabik suggests that NFTs maybe a helpful solution, but the question remains as to what ownership implies if one cannot sell or swap the digital asset. Her paper concludes that NFTs are likely to shape the future of the entertainment industry by bearing in mind different prospects when it comes to approaching blockchain technology.

Engaging with the theme of the transfer of personal data to third countries, Yueming Zhang, of Ghent University, Belgium, considers 'Processing of Personal Data by Public Authorities in China: Assessing Equivalence for Cross-border Transfers from the EU to China'. The paper analyses and examines the laws in China regarding public authorities' access and use of personal data in light of the post-*Schrems II* data transfer standards. For Chinese policymakers, she argues, there is an urgent need to promulgate a specific administrative law governing the processing of personal information for law enforcement and national security purposes by public authorities. The EU's approach may provide a path forward: government access and use of personal information needs to be regulated with clearer limitations to the investigation powers, necessity and proportionality tests, effective oversight mechanisms and effective individual remedies.

Moving on from the data protection context, Alexandra Taylor, of Northumbria University, UK, then explains how creativity has been responsible for some of the greatest inventions and technological progress. Yet, according to her, the notion of creativity in law is, for all intents and purposes, absent. “‘Houston, we have a problem’”: Legal lacunas created by the lack of creativity’ argues that the unknown nature of space exploration has resulted in a palpable lack of Earthly laws, thus being unable to serve as appropriate guidance. The paper suggests that the solution to the space law issue is to focus not only on the need to develop celestial legal equivalents to those existing on earth, but also and perhaps more importantly, embrace creativity in legal solutions. She concludes that all this could be easily achieved by relying on a mixture of both binding and non-binding agreements.

We have an article by Björn Lundell, Jonas Gamalielsson, Andrew Katz and Mathias Lindroth, on ‘Avoiding lock-in effects through obtaining all necessary licences before use of a SaaS solution in a public sector organisation: a case study’. The article considers a case study into a large Swedish public sector organisation addressing licensing issues and lock-in effects during adoption and use of a Microsoft 365 software as a service solution. Issues are raised about the consequences of the failure to adequately consider these issues, and the potential loss of control over public assets.

Finally, but no means least, this issue was to also contain an article from Hiroko Onishi, of Roehampton University (and formerly Kingston University). Hiroko was going to publish on trade mark concepts during the era of artificial intelligence. Sadly, Hiroki passed away before the completion of the work. Hiroko will be remembered as an outstanding colleague, one whom those involved with EJLT and BILETA knew well. Hiroko was honoured at the BILETA Conference 2023 which took place on Thursday 13th April – Friday 14th April 2023, at Vrije Universiteit Amsterdam (Amsterdam Law and Technology Institute). Hiroko would have been hosting the 2024 BILETA conference. We will always treasure the time we had with you. May your playful soul shine on. Gone but not forgotten.

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