

The International Society of Primerus Law Firms

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Business

GERMANY

Public Offerings and ICOs About to Become Much Easier in Germany?

By [Philipp Meier, Esq.](#)

[WINHELLER Attorneys at Law & Tax Advisors](#)

Frankfurt, Germany

Federal Government is Planning a "Short Prospectus" for Public Offerings of up to Eight Million Euros.

Whenever a company wishes to realize a business project or a large investment, the question about the financing will inevitably arise. Beyond traditional bank financing by loans, a security issue represents a suitable alternative form of corporate financing. Companies that issue securities, for instance, do not need to provide collateral as usually required for loans. Instead, companies have to provide the necessary information about the security and the issuing company in a prospectus that has to be made publicly available.

[Full Article](#)

NETHERLANDS

Proper Due Diligence Investigations

By [Reinier W.L. Russell, LL.M.](#)

[Russell Advocaten B.V.](#)

Amsterdam, Netherlands

Directors may be held liable if they don't conduct or have not commissioned proper due diligence investigations before taking over a company. How can you prevent this?

Before the takeover of a company the board of the buyer usually commissions due diligence investigations (also known as audits) of the company they intend to take over. Is the board required to do so or not? And in the event of investigations - how do they have to be conducted?

[Full Article](#)

HONG KONG

OFC - The Corporate Fund Structure Has Come Into Effect

By [ONC LAWYERS](#)

Hong Kong, Hong Kong

Currently, an open-ended investment fund in Hong Kong can only take the form of a unit trust. This is mainly due to the restrictions on capital reductions in the Companies Ordinance (Cap. 622) ("CO") which restricts a Hong Kong company from altering its share capital freely to meet shareholder subscription and redemption requests. However, Hong Kong based managers will soon have the choice of an alternative structure, the open-ended fund company ("OFC"), for establishing investment funds in Hong Kong. The objectives of introducing OFC is to offer an alternative legal structure for setting up local funds, to attract more funds to domicile in Hong Kong and to boost Hong Kong's status as an international asset management centre.

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Intellectual Property

HONG KONG

Who pays the costs of implementing a website-blocking order in the context of trade mark infringement?

By [ONC Lawyers](#)

Hong Kong, Hong Kong

As a follow up our previous articles, "Website Blocking Order - a Possible Remedy against Trade Mark Infringement on the Internet?" and "English Court of Appeal Affirms Injunctions Against ISPs for Website Selling Counterfeits", we now revisit the topic as the UK Supreme Court handed down its long-awaited judgement in *Cartier International AG and others (Respondents) v British Telecommunications Plc and Another (Appellants)* on 13 June 2018. The UK Supreme Court has overturned the decisions of the lower courts and unanimously ruled that the costs of implementing a website-blocking order in the context of trade mark infringement should be borne by the right-holders, i.e. trade mark proprietors instead of internet service providers ("ISPs"), which are considered as innocent intermediaries merely providing a network which has been abused by others.

[Full Article](#)

UNITED STATES

How Close is Not Close Enough?

By

[Emily Campbell, Esq.](#)

[Dunlap Codding](#)

Oklahoma City, Oklahoma

While most art can be protected by copyright laws, if a "new" piece of art is too similar to an original piece, then it cannot be protected. The work of art, at the very least, must be "a new and original expression of some previous work." *Davidson v. United States*, No. 13-942C,

2018 Fed. Cl. WL 3213604, at *10 (Fed. Cl. Jun. 29, 2018). For instance, there lies a thin line between creating a new embodiment of artistic expression of the Statue of Liberty, and a mere replica. However, this begs the question of where exactly lays the line that separates a mere replica and a new interpretation of art?

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Litigation & Dispute Resolution

AUSTRALIA

Precedent Only A Possibility for Melbourne Man Suing Google for Defamation

By [Murray Thornhill, Esq.](#)

[HHG Legal Group](#)

West Perth, Australia

After a six year, David-and-Goliath battle, Australian man Milorad 'Michael' Trkulja has been given the green-light to sue Google for defamation. The case hinges on the search engine's image-search results and autocomplete predictions, which incorrectly linked Michael to convicted felons from Melbourne's Underworld.

Once leave to bring the action was granted, questions were asked in the media and profession as to what precedent this decision set. The short answer is none. The High Court only ruled on the potential for defamation, directing the parties to the Victorian Supreme Court for trial. There, questions could be raised on whether Google is a primary or secondary publisher, as well as what responsibilities social media and search platforms have in safeguarding reputations.

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Insurance

UNITED STATES

South Carolina Supreme Court Rules on Automobile Insurance Policy Question

By [Pete Dworjanyn, Esq.](#)

[Collins & Lacy P.C.](#)

Columbia, South Carolina

South Carolina law does not require punitive damages be apportioned pro rata between bodily injury and property damage in a split limits automobile insurance policy. In *Government Employees Insurance Company v. Poole*, 2018 WL 3300235, (S.C., 2018), the South Carolina Supreme Court answered "No" to the following question certified to it by the United States District Court for the District of South Carolina: "[W]hen an insured seeks coverage under an automobile insurance policy, must punitive damages be apportioned pro rata between those sustained for bodily injury and those sustained for property damage where the insurance policy is a split limits policy?"

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Labor and Employment

UNITED STATES

How Documenting Hiring, Promotion and Firing Processes Can Protect You Against Discrimination Claims

By [Muliha A. Khan, Esq.](#)

[Zupkus & Angell, P.C.](#)

Denver, Colorado

Documenting all of your employment practices-including hiring, promotion, and firing processes-is a good idea for many reasons, starting with providing your business a firm grasp of your objectives and your employees a clear roadmap to follow.

But taking the time and effort to record your workplace processes for posterity has an additional bonus with a potential value you should not underestimate: it could protect you against discrimination claims.

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GERMANY

Concluding Fixed-Term Employment Contracts Easier for Start-Ups in Germany

By [Dr. Eric Uftring, Esq.](#)

[WINHELLER Attorneys at Law & Tax Advisors](#)

Frankfurt, Germany

When starting an enterprise, many steps need to be taken: selecting the business form, registration, opening a business account. For many founders, the recruitment of employees is also on top of their to-do list. There are good reasons why employees mostly wish to get a permanent employment contract. However, permanent contracts may not always be a feasible option for a young enterprise immediately after its foundation. The German legislator wants to support start-ups in the initial phase by allowing them to conclude special fixed-term contracts right after their foundation.

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NETHERLANDS

Timely Consultation of Works Council Before Takeover or Merger

By [Dr. Jan Dop, LL.M.](#)

[Russell Advocaten, B.V.](#)

Amsterdam, Netherlands

Business owners have to request the advice of the works council well in advance of a merger or takeover decision. But what exactly does well in advance mean?

Business owners have to request the advice of the works council (OR) well in advance of a merger or takeover decision. If the business owner fails to make the request for advice timely, the Enterprise Chamber may require him or her to withdraw the decision. Therefore, it is crucial to follow the advisory path correctly and consult the works council well in advance. However, the question is what does "well in advance" mean exactly.

[Full Article](#)

UNITED STATES

The Transparency of Sexual Harassment Training

[Barton LLP](#)

New York, New York

In our April 2018 Barton in Brief newsletter we wrote about the enactment by the NYC City Council of 11 separate bills designed to provide further protection for employees when it comes to sexual harassment in the workplace. Mayor De Blasio signed the bills into law, which apply to nearly all employers in New York City. Governor Cuomo and the State Legislature have followed-suit by incorporating into the 2018-2019 State Budget amendments to the State Labor Law which closely mirror the City's new law. The State's action applies to nearly all employers throughout the State of New York and encompasses sweeping changes to the rules prohibiting sexual harassment. Our synopsis of the key provisions.

Real Estate & Leasing

GERMANY

Real Estate Investments in Germany

By [Boris Piekarek, Esq.](#)

[WINHELLER Attorneys at Law & Tax Advisors](#)

Frankfort, Germany

Due to the excellent market conditions, Germany is the perfect place for real estate investments of companies and private individuals. A fact that becomes apparent within our international network "Primerus". We constantly receive requests asking for support on German real estate investments. Often, also in-house counsel need support when going into Germany with a real estate investment.

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Cyber & Data Breach Liability

UNITED STATES

The Plot Thickens: Companies Face Increased Data Protection And Breach Response Requirements At Home And Abroad

[Jon Macklem, Esq.](#) & [Paul Zimmerman, Esq.](#)

[Christian & Small LLP](#)

Birmingham, Alabama

Just as the cyberliability and data breach legal landscape started to give some semblance of settling down, recent changes have emerged to remind businesses of the complexity and difficulties of compliance on this topic. At the state level, on March 28, 2018, Alabama Governor Kay Ivey signed into law the state's Data Breach Notification Act of 2018. In summary, the Alabama Data Breach Notification Act of 2018 requires "covered entities" doing business in Alabama to do the following: (1) take reasonable steps to protect sensitive customer data; (2) to provide notice if an entity discovers it is the subject of a data breach; and (3) dispose of data in a secure manner.

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Paradigm Magazine



The [2018 Spring Paradigm Magazine](#) delivers articles regarding developments and trends in legal issues relevant to corporate clients around the world, while showcasing Primerus members as leaders with the expertise to assist clients with any legal needs they may have. It is published twice a year and mailed to Primerus members as well as clients around the world.

If you would like to be added to our hard copy mailing list please include your mailing address in a brief email to Derek Mallekoote at dmallekoote@primerus.com.

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The Primerus Client Resource Institute

The Primerus Client Resource Institute (PCRI) is the client section of the Primerus membership intended for in-house counsel, risk managers, claims managers, and corporate executives who are responsible for the legal affairs of their companies. Given the challenges of doing business in today's fast-paced, global economy, it has never been more important for companies around the world to develop trusted relationships with law firms that offer high quality legal services at reasonable fees. Primerus seeks out, screens and audits our firms to make sure we have only the finest, so companies in need of legal services can call upon any Primerus lawyer with complete confidence that he or she is reasonably priced, highly competent, and worthy of your trust.



The PCRI was created with the help of some long-standing Primerus corporate clients, and offers in-house counsel and corporate executives an opportunity to connect with not only great law firms and lawyers, but also with other similarly situated in-house and corporate professionals.

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- Assistance in finding the right Primerus lawyer(s) to meet your needs
- Access to free Primerus educational webinars
- Access to the PCRI Listserv to communicate with other PCRI members
- On-site education programs can be arranged that are customized to your industry and business

It's Easy to Join the PCRI

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Legal Articles

Compendiums:

- [A Survey of the Law of Dram Shop and Alcohol Liability](#)
- [A Survey of the Law of Legal Malpractice - A Professional Liability Practice Group Compendium - September 2015](#)
- [A Survey of The Law of Non-Contractual Indemnity and Contribution - Products Liability Practice Group Compendium - April 2015](#)
- [Compendium of Principles of Law Regarding Bad Faith in the Fifty States and D.C. - 2013 Edition](#)
- [A State by State Update of Tort Reform - 2013 Edition](#)
- [Principles of Law Regarding Establishment and Operation of a Business in Various Countries Compendium - International Transactional Services Practice Group - March 2012](#)
- [Doing Business in the Asia Pacific Region](#)

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