

# Internet Newsletter for Lawyers

By Delia Venables

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## On-line Legal Services - Are They a Dead Duck? By Michael Kaye

Every solicitor's office is affected by the introduction of the new anti-money laundering regime. There has been much publicity about the reporting obligations of solicitors and indeed, one unfortunate solicitor has already been jailed for failing to report his suspicions. As yet, few realise the full extent of the changes that will have to be made in the way that every solicitor, whether as part of a multi-national firm or a one man band, must make to the way in which the office is run in the future.

In order to fully appreciate the way in which the legislation has been implemented it is necessary to understand the concept behind its enactment. The anti-money laundering legislation mounts a two pronged attack on crime. The first, as we all know, is the creation of a series of new crimes, the majority of which are contained in the Proceeds of Crime Act 2002 and which have achieved considerable publicity. The second, more subtle, line of attack is the imposition of a **civil compliance regime** which impinges dramatically on the day to day operation of the office. Value Added Tax turned us into tax collectors and the civil compliance regime will turn us into policemen.

While the civil compliance regime contains detailed regulations, its main thrust is towards due diligence testing. **You must know your client AND you must know his matter.** We have all become increasing familiar with "know your client" due diligence as an ever widening section of society asks us to produce passport and utility bill for even the most mundane transaction.

| Training    |              |             |                     |                  |
|-------------|--------------|-------------|---------------------|------------------|
| Wills ?     | Conveyancing | Mortgages   | No Win No Fee       | Unfair Dismissal |
| Probate ?   | Buying       | Remortgage  | Change of Name X    | Liquidations     |
| Intestacy ? | Selling      | Redemptions | Power of Attorney X | Director Disq.   |

Part of the Kaye Tesler & Co. ([www.kt.uklaw.net](http://www.kt.uklaw.net)) site showing the services currently offered and indicating the ones which may now need to be reviewed or discontinued.

We must examine every transaction and ask ourselves whether it makes commercial sense and whether it is in line with the client's general trade or business and we must satisfy ourselves absolutely that there is not the remotest suspicion of money laundering involved. Both the Government and the Law Society have made it clear that our profession is likely to be targeted by increasingly clever money launderers looking to hide behind the respectability of our profession for their nefarious tasks.

The anti-money laundering regime is so complex that it is impossible in a short article to consider its effect in any detail. This article asks the question whether on-line services are a dead duck in the light of the due diligence requirements that now fall on us. If you wish to know more about money laundering in general, then with the editor's permission, I mention that I have published two aids. Firstly, a two hour lecture available on audio CD aimed at principals (£75+VAT) and secondly, a web based training scheme for both principals and staff at [www.moneylaundering.uklaw.net](http://www.moneylaundering.uklaw.net) (the demo is free) by which firms can comply with their obligation to train staff.

Read the Newsletter  
on the web at  
[www.venables.co.uk/  
n0307rea.htm](http://www.venables.co.uk/n0307rea.htm)  
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## How on-line web services may be affected

As the creator of the first interactive scheme providing on-line services to clients, I have been forced to completely rethink the way in which on-line services can be offered. The "know your client" element of the civil compliance regime appears to drive a coach and horses through the basic on-line concept of providing legal services interactively via the web. However, that is just the first impression given by the legislation. Not every service and not every provider is affected so let us take a moment to analyse on-line services more closely before coming to the view that the whole concept has been killed by due diligence requirements.

Websites offering on-line legal services basically have three components.

1. A "brochure" component as clients obviously need to know who you are and what services you offer.
2. A "point of contact" component where you may receive initial instructions for matters over the web which in their ordinary course will be completed over a period of time e.g. a conveyance.
3. The true on-line component where complete legal services are effected on-line.

Turning to the first component, clearly having your brochure on-line would not of itself fall foul of the legislation.

The second component that I call "point of contact" may equally continue, provided that when offering such services, measures are put in place that will enable you to undertake both client and matter due diligence.

It is in the third component that extra care has to be taken and indeed some elements may have to be discontinued.

The true on-line services in reality constitute a completed document service. My practice was the first to offer such complete "buy over the counter" style services. These are services such as deed poll change of name or power of attorney. The client completes a questionnaire on line and the information is merged to relevant precedents. Other "buy on-line" services such as will drafting or obtaining grants of probate or letters of administration, may go a little further with more contact with the client. The service consists not only of drafting the requisite affidavit but also of lodging and receiving the Grant.

The very essence of on-line services is that they are offered electronically without ever meeting the client and not undertaking client and matter due diligence. "Over the counter" services such as deed poll drafting clearly can no longer be undertaken on-line as indicated with a "X" in the picture on the previous page. Some other on-line services as indicated by a '?' may still be possible but serious consideration will be necessary. We must never forget that under the regulations, client due diligence is a personal obligation.

Hopefully, variations in procedure relating to instructions received via either the brochure or "point of contact" components of a website, will enable client and matter due diligence to be undertaken, but those tests impinge dramatically on the third element of an on-line service website making them virtually impossible without some lateral thinking e.g. consider using a webcam, or one of the latest generation of mobile phones that can send photographs – just some food for thought!

Operators of on-line websites should understand that money launderers are becoming ever more desperate and ever more wily in their attempts find routes to clean their dirty money. It takes but a moments thought to see how they could use a solicitor's on-line service to achieve their ends. Let us look at some examples.

### *1. How could an on-line service providing an application for a grant of probate be used by a would be money launderer?*

It would be not be beyond the realms of his imagination on the death of a relative to claim that a large sum was found stuffed in a mattress and then clean the cash as part of the deceased's estate.

### *2. How could an on-line service drawing forms of power of attorney be used by a would be money launderer?*

Imagine the money launderer obtaining a power of attorney over the affairs of a dementia patient. He places his dirty money into the dementia patients bank account over which he has gained control and proceeds to use it for his own ends.

### *3. How could a change of name deed be used by a money launderer?*

The money launderer knows that he will be asked for proof of identity. He takes a tenancy of a flat and applies for gas and electricity. He sends the utility company his correct identity together with a deed poll showing that he has changed his name and asks for the utility bills to come in his new name and hey presto – new documents of the type that he requires in due course will arrive through the post. He tells anyone asking that he has never been abroad and has no passport.

Not every on-line service would however give rise to suspicion of money laundering, e.g. completion of a divorce petition or an application to an industrial tribunal. Quite clearly therefore providers of on-line services must consider very carefully which on-line services they will be able to offer in the future and what measures need to be taken to ensure that they know their clients and their matters.

Ironically non-qualified service providers who may, for example, provide divorce services or other legal documents on-line but who are nothing other than the sellers of precedents, are probably not affected by the civil compliance regime. The regulations are such that a legal service to be affected must, "involve participation of a financial or real property transaction..." One can well see those precedent sellers arguing strongly, and probably correctly, that they are not affected.

Interestingly, those form providers who draft wills may however be caught as the regulated sector includes any person who provide "by way of business.... services in relation to the formation, operation or management of a trust." Conceivably therefore companies selling forms creating wills which create trusts might be caught by this provision.

Whatever the ultimate view, legal practice will never be the same again.

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*The legal conflict between the creator's rights, the consumer's rights and the community at large.*

## Digital Rights Management by Laurence Kaye

The current debate about digital rights management (DRM) has all the best and worst features of modern politics. There is no shared understanding of DRM but everyone seems certain that it is either a very good, or a very bad, thing.

Although DRM is concerned with technical standards and technical protection measures, it is really part of a wider, web-driven re-thinking of how copyright could and should work in a networked world.

### Technical Standards

Standards make it possible for digital content to be created, distributed and "consumed" (i.e. viewed on screen, stored, printed etc.) using different technical devices and platforms. They specify how to describe content and rights by using defined grammars and vocabularies such as XML. By doing so, it becomes possible for content to move from machine to machine and, whatever the machine, it can understand what the content is and what permissions attach to the use of the content e.g. "read only", "copy three times" or even "read, copy and freely distribute."

There is nothing really controversial here. Everyone would agree that common standards are a "good thing." Visionaries like Tim Berners-Lee, the inventor of HTML and widely recognised as the inventor of the Web, are talking increasingly about the "Semantic Web", the next generation of the Web. This is about tools that convert all of the information on the net into machine readable form. These tools, such as a rights data dictionary, are based on standards. In terms of creating an overall framework for DRM, the most important body is probably MPEG-21, a subcommittee of the International Organisation for Standardisation (ISO), [www.iso.org](http://www.iso.org).

Above all, standards are intended to be technology neutral. It is perfectly feasible for documents marked up in XML to move around the web in an unencrypted, unrestricted form.

### Technical Protection Measures

The DRM controversy surrounds its second component – technical protection measures used to enforce rights. An example is SealedMedia's technology that "seals" (i.e. encrypts) content. Their system allows content owners to revoke or modify individual or group permissions to access sealed content after it has been distributed. In the music industry, Apple Computer uses technical protection measures to limit how customers can reuse music that is downloaded from the iTunes music store.

At one level, the ability of rights owners to use technology to control the access and use of their works in the digital environment is uncontroversial. The losses suffered by the audio-visual industries as a result of the online distribution of pirate copies of their materials are well documented. The law, as noted below, therefore provides remedies for rights owners to combat the unauthorised circumvention of

technical protection measures and the removal or tampering with rights management information embedded in digital content.

However, at the heart of the controversy is the fact that the use of technical protection measures may prevent consumers from accessing and using copyright works for "fair use" or other lawful purposes.

### Peer to Peer – muddying the waters

The DRM debate is further confused by the ongoing legal controversy about copying of materials over "peer to peer" networks (P2P) such as Napster and Grokster. In the recent US District Court (California) decision in *MGM v. Grokster*, The Court held that Grokster was neither guilty of contributory or vicarious copyright infringement. Although users of Grokster's P2P software had infringed the plaintiff's works, Grokster itself was not liable for contributory infringement because, under that theory, they must have actual knowledge of infringement at a time when they can use that knowledge to stop the infringement. The Court found that they could not stop the infringement by consumers. The court also concluded that, unlike Napster, Grokster did not contribute toward infringement by providing support services, such as a files directory, to enable users to find and download the music they wanted.

Napster, Grokster and the other P2P cases are not about DRM per se but they are about re-defining the boundaries of copyright infringement on the Web. By raising questions about copyright's "jurisdiction" on the Web, they inevitably raise questions in the public mind about the legitimacy of technical means of controlling the copying and distribution of copyright works over the Internet.

### DRM law

DRM law, if one can call it that, is not all that new. Under the World Intellectual Property Organisation (WIPO) Copyright Treaty of 1996, Article 11 requires contracting parties to provide "...adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law." So, by implication if the act is permitted by law, for example fair dealing or use within a library exemption, those legal remedies are not available. There is a corresponding provision (Article 12) that deals with rights management information.

Articles 11 and 12 of the WIPO Treaty are also reflected in Articles 6 and 7 of the EU Copyright Directive (still not implemented into UK Copyright law!) and in the US in Section 1201 of the Digital Millennium Copyright Act.

Article 6 of the EU Copyright Directive is broader than its US counterpart. This is because it creates a legal sanction against the circumvention of "effective technical measures". These include measures which control the access or use of a work. In contrast, section 1201 of the DMCA applies to access only, leaving open the issue of whether the "post circumvention" use of the work is, or is not, lawful.

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### Whither the "lawful user"?

To answer the question it is probably helpful to distinguish between fair use exceptions such as research and private study and the vexed question of digital private copying of consumer works.

For the "fair user", the copyright law position is more clear cut in the EU than in the US. Fair use under US copyright law is a broad concept. It includes such use for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research. The anti-circumvention provisions contain an express exemption for non profits libraries, archives and educational institutions who gain access to a work to decide whether or not to buy it.

US Copyright law, unlike many continental European countries, contains no exception for private copying of audio-visual works. Accordingly, a consumer only becomes a lawful user by acquiring the material with the copyright owner's consent e.g. by buying a copy in digital or analog form. As a result, the consumer lobby in the US argues that the rights of the "fair user" (e.g. a researcher or student in a library), and the lawful user of audio-visual works, to gain access and use of technically protected material should be enshrined in law.

The Digital Choice & Freedom Act of 2002 was introduced by Congressman Zoe Lofgren. To paraphrase her words, the Bill re-affirms the application of the principles of fair use to analog and digital transmissions. It would allow lawful consumers to make backup copies and display digital works on the devices of their choice. It also provides that lawful consumers can sell or give away their copies of digital works, in the same way that they can with traditional hard media. It also permits lawful consumers to bypass technical measures that impede their rights and expectations.

In the EU, the onus remains with the rights holders, with back-up legal powers of compulsion. Article 6.4 of the EU Copyright Directive gives member states the power to take compulsory measures against rightsholders if they fail to take voluntary measures to "unlock" material protected by technical protection measures for the "fair user".

In relation to consumer copying of audio-visual material, the position is essentially the same. However, it should be appreciated that not all member states (e.g. the UK) will enact an exception to allow consumer copying of these works. If the member state does not allow this private copying exception, it leaves the rights owner free to use technical protection measures to prevent unauthorised copying. Equally, the rights owner in these member states will not enjoy any form of compensation such as levies that applies in those member states that do permit consumer copying of audio-visual materials.

However, the lawful user in the EU is still in a position of uncertainty. If he or she has lawfully acquired a technically-protected work, what rights, if any, does he have to deal with it e.g. making back-ups or passing a copy to a friend?

In Norway, Jon Leech Johansen (alias "DVD Jon") was recently cleared by the Oslo District Court on charges of unauthorised data access. This case pre-dates the implementation of the Copyright Directive but the Court's approach is nonetheless important to note. The charges stemmed from his participation in decoding the Content Scrambling System (CSS) technical protection system. This system is licensed by DVD Copy Control Association Inc to protect DVD movies produced by Motion Picture

Association against copying. Johansen admitted to using a decoding program on the movies *The Matrix* and *The Fifth Element*. But the court found that he had bought both movies legally in stores, and thus he could not be convicted for his own use of the program. The Court concluded that he had not committed a crime by developing and distributing the program.

### DRM – a technical issue with a non-technical solution

Everyone in the content chain, from creators to distributors, publishers and users, has a vested interest in the development of the standards component of DRM. There is an irresistible demand across the entire spectrum for content to move seamlessly and interchangeably across networks and technical platforms.

But the debate about technical protection measures is not essentially about technology nor will their future role depend solely upon the legal measures that underpin them.

In a networked world, rights owners have to reinvent their content distribution and licensing models. The common denominator is finding the appropriate model that meets customer needs, is perceived as fair and enables rights owners to receive an appropriate return on their investment.

For some, DRM in the sense of technical protection measures play no role or only a minor role. Taking their cue from open source software, Creative Commons ([creativecommons.org](http://creativecommons.org)) have made available on the web a set of licences intended to encourage a more open approach. Those using the licences can stipulate qualifying conditions, including that use is only permissible for non-commercial purposes.

For other publishers, contractual arrangements rather than technical protection arrangements will continue to be the basis of their business. Site licences between publishers and library consortia or academic institutions are examples.

On the other hand, it is clear that for the audio-visual industries, technical protection measures will still remain an indispensable part of their online distribution strategies. The challenge for them is to build sustainable and viable business models that fulfil customer expectations in terms of choice of product, price and scope of use.

### The Digital Citizen

And lastly, what of the digital citizen? Let us not forget that the starting point of all of the P2P cases was that consumers were infringing copyright by distributing and copying works over the networks. Those cases turned on whether the P2P network was contributing to, or was vicariously liable for, those infringements.

Whilst it is all well and good to talk about the challenges that the content industries face, and the need to fulfil the consumers' legitimate expectations, it is also true that the digital citizen has also to accept his or her responsibilities to use copyrighted material in a responsible way.

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We continue here the series of articles from the major legal publishers, explaining what they do and how the different parts of their "empires" fit together. Last time it was Sweet & Maxwell/Westlaw. This time it is Butterworths/LexisNexis and, on the next page, Context.

## New face, new name for Butterworths By Caroline Phelps

There have been some changes over the last couple of years at Butterworths ([www.butterworths.com](http://www.butterworths.com)), a trend that is set to continue as the company follows through on a business refocus that includes global branding and investment in global content and technology.

The company is owned by the Anglo-Dutch Reed Elsevier ([www.reedelsevier.com](http://www.reedelsevier.com)) publishing empire, which has four divisions. The global legal information division is called the LexisNexis group due to the fact that the largest business in that division is LexisNexis, based predominantly in the USA. It supplies legal research, directories, and news and business information to lawyers and corporates.

Following customer research, all the businesses in the LexisNexis group are adopting LexisNexis as the global legal brand, hence Butterworths has changed its corporate identity to LexisNexis UK ([www.lexisnexis.co.uk](http://www.lexisnexis.co.uk)), and LexisNexis is being used in association with its local brands. Butterworths has not been bought, nor will its brands disappear.

The benefit of the closer association with the LexisNexis sister company is that it gives the UK business access to US content, which is of great value to larger customers.

The global rebranding is in preparation for the launch of new global technology and products that will change the way LexisNexis' online services look and function over the next five years, building them into a single coherent suite of services.

The strength of Reed Elsevier (currently the leading performer in its sector) makes investment in this kind of project possible. It is a huge innovation to bring together the "gold standard" in legal research and news and business information from around the world, into one service, available from one login. It will mean that, in time, the UK online services will change the way they look and some of the functional features. The content and the quality will remain.

In addition to considerable investment in online services, LexisNexis UK will continue to produce its hardcopy products, such as Halsbury's Laws, the All England Law Reports and the Encyclopaedia of Forms and Precedents. In the words of newly appointed MD, Helen Mumford, "There will always be a market for printed information, it's a complement to online, used in a different way, not competition to it."

Helen Mumford joined LexisNexis UK at the beginning of May this year. She was previously at Gartner, a global publisher of information services for the IT industry where she ran Gartner's European Operation and one of its worldwide divisions. Her early career included roles in Andersen Consulting, Kleinwort Benson and Ernst and Young, before taking the job of IT Director for GE Capital Insurance Services. From there Helen moved to Wentworth Research, which was subsequently acquired by Gartner.

Her view on the UK market for legal information and LexisNexis UK's competitors is, "Competition is good for

the customers and for us. The growth of free information in the market over the last few years, like BAILII, has undoubtedly affected how we operate. We've sharpened our customer focus and the emphasis on value-added features they require, like authoritative commentary provided by qualified lawyers, and faster updating and hypertext linking. Where we feel we differ from the approach of our competitors is that we have made a point of creating successful partnerships with some organisations that could be perceived as being competition. For instance, we partner with the Health and Safety Executive to create and build HSE Direct, as well as with many of our customers, such as Eversheds where we created a joint venture to launch Eversheds.com knowledge banks."

LexisNexis UK also differs from many of its competitors by integrating current awareness and business information with its research services, making them available from the one screen. For example, Legal Updater, the current awareness and research service that offers free daily email updates, is available from [lexisnexis.co.uk/law](http://lexisnexis.co.uk/law) where customers can also access all the other services they subscribe to, such as cases, legislation, forms and precedents.

The marketplace for legal information has changed a great deal over the last couple of years, and LexisNexis UK has lead from the front in responding to those changes. The business has grown successfully via acquisition over recent years. Tolley, the tax publisher, was acquired in 1996, and IRS Eclipse in 2000. The focus now is on organic growth.

Integration is a key driver to the way that LexisNexis products and services will develop over the next few years. Integrating content from around the global legal division, we can build services that offer a blend of current awareness, news, business and legal information, that can be as "local" or as "global" as customers want.

The Company is committed to getting closer to its customers and their businesses and to find better ways to use its expertise to enhance their services to their clients. The investment in global technology and the benefits of leveraging the LexisNexis database to create faster, more targeted, research services will put LexisNexis UK in a powerful position to give customers what they want.

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## E-Business Basics for Law Firms

E-Business Basics for Law Firms by Christina Archbold, is published by the Law Society at £29.95 and is available from Marston Book Services, 01235 465656.

The book starts with an extensive section about the internet and how it is constructed with many concepts and buzzwords explained. This section would be useful for the less experienced person but is also a good set of revision notes for more experienced users.

The book then moves on to how law firms are using the web for e-business at the moment and distinguishes various ways in which this is done including providing documents online, reporting on matters online, processing cases online and e-conveyancing.

She then describes the process of designing and developing a website, including how to choose a developer and how to manage the project.

## Developments at Context by Justin Needle

Context ([www.context.co.uk](http://www.context.co.uk)) is an independent electronic publisher concentrating on United Kingdom and European Union legal and official information. Its extensive range of full-text legal CD-ROM and Internet titles is sold under the *Justis* name. In addition to legal information, Context publishes two related online services based on official data sources: *Parlianet*, an index to the proceedings and publications of both Houses of Parliament, and *Tenders*, a database of European public procurement contracts.

Context is now also positioning itself as a legal information intermediary. Recognising that users of legal information will continue to rely upon a wide range of services - both free and commercial, print and electronic - from a variety of suppliers, its strategy is to act as a bridge between legal content and its users by providing a single point of entry to these highly disparate information sources. As an independent player in the marketplace, with numerous successful, ongoing publishing partnerships to its credit, Context is ideally placed to fill this neutral role.

Based in North London, Context is privately controlled and is a member of the Scandex group. Established in 1972, the group consists of a number of information handling and software development companies, including Capscan (a leading supplier of domestic and international address management software), Noetica (call-centre and customer relationship management software) and Travel InfoSystems (journey planning software for public transport systems, used by Eurostar and the London Underground system).

Context was established by venture capital in 1985 and was a pioneer in the field of electronic legal publishing. The first database developed by Context was a dial-up service offering full-text European Community law (CELEX), which at that time was not being covered by any other service in the UK. This proved a commercial success and in 1989 Context released *Justis CELEX*, the first legal CD-ROM to be published in the UK. This was followed, in 1991, with the launch of *The Weekly Law Reports* and, the following year, of *UK Statutory Instruments*, the first ever CD-ROMs of UK case and statute law. With the coming of age of the Internet as a reliable medium for information transfer, Context launched its web-based service, *Justis.com*, in 1999.

Today, Context's customers come from government, industry and commerce, the legal and financial professions and the academic community. CD-ROMs still have a substantial user base, and this will remain the case for the foreseeable future due to their portability and usefulness as archives. Recently, however, subscriptions to Context's Web-based titles overtook CD-ROM subscriptions for the first time and, increasingly, new titles are released in Internet-only versions, on *Justis.com*.

Because Context is not an originator of content, its relationships with its publishing partners continue to be of central importance. Having initially partnered with EUR-OP (the European Union's official publisher) and The Incorporated Council of Law Reporting for England & Wales (ICLR), the list of Context's partners has expanded to include The Times, Jordans, The Incorporated Council of Law Reporting for Ireland, and others.

Context's portfolio now includes a wide range of primary and specialist case law titles (such as *The Law Reports*, *The Weekly Law Reports* and *Industrial Cases Reports*); EU case law, legislation and official information; and the most comprehensive databases of UK statute law available.

Recent additions include an online version of *Irish Reports and Digests* (the primary source of Irish case law), *OJ Daily* (a daily update service covering EU law) and specialist case report series covering mental health, prison and police law.

Context has also recently reached agreement with The Scottish Council of Law Reporting to make *Session Cases*, Scotland's most authoritative law reports, available on the Internet for the first time from October 2003 (see page 7).

Users of *Justis* titles benefit from a straightforward user interface that incorporates a range of powerful search options, with an ever-increasing set of technologically sophisticated features. In recent years Context has begun to place even greater emphasis on the technology-related aspects of its business. In particular, the company was a pioneer in automatic hypertext linking technology and its unique *J-Link* feature, released in 1998 and available to all *Justis* subscribers, exploits legal references by enabling end-users to link automatically to the full text of a document from almost any reference to it within the text of a Web page, word-processing document or email message, simply by highlighting the reference and clicking on a button.

The technology behind *J-Link* has recently been used to create a standalone, customisable Windows application, *Link Studio*, which allows law firms, publishers and other organisations to automatically convert references within their content into hypertext links, not only to *Justis*, but also to other external and in-house information resources.

As well as adding new titles to the *Justis* range and continuing to innovate and adapt to new ways of using information, Context is now, as mentioned above, also becoming an independent legal "infomediary". Two new services in particular underpin this shift in emphasis. *JustCite*, Context's legal citator, is a fully cross-referenced index to a rapidly expanding collection of key UK and European legal and official information drawn from numerous sources, with direct links to full-text documents on services from, for example, Butterworths, BAILII, HMSO and Smith Bernal, as well as *Justis*.

The second service, *JustLink*, a neutral, *multiple-source* linking system and a successor to *J-Link*, allows users to select a reference within any document and be offered a variety of services to link to. For example, highlighting a case reference or case name will permit users to view the full text on *Justis.com*, All England Direct or BAILII, or be taken to other related information on *JustCite* or an internal know-how system.

The company's primary aim has always been to add value to legal information, and make it more widely and easily accessible, by means of the imaginative application of technology.

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## The Lawyer.com expands Lawyer Diary

The Lawyer Diary ([www.thelawyer.com/lawyerdiary](http://www.thelawyer.com/lawyerdiary)) now offers a database of 6,000 events from 40 course organisers. A user can search by subject area, course organiser, keyword, date and location or on various combinations of these. Courses can also be "browsed" by subject area.

The main lawyer site ([www.thelawyer.com](http://www.thelawyer.com)) is pretty good for breaking news, too, with several new stories arriving every working day.

## Session Cases appearing On Line by Anthony Kinahan

Session Cases are Scotland's authoritative law reports. Uniquely amongst Scottish reports the judges have the opportunity to review the text and rubric of reports of their cases. They are quoted in preference to all other series of reports of Scottish cases. From the autumn of 2003 they will be available on line.

The Scottish legal profession established The Scottish Council of Law Reporting, a non-profit making charitable company limited by guarantee, in 1957 to manage publication of Session Cases. The Council's membership includes representatives of the Scottish judiciary, Scottish advocates and Scottish solicitors. For the past few years the Council has been working towards creating a database of its archive of law reports; this process has been accelerated and extended by a substantial financial grant from the Faculty of Advocates, Scotland's bar. By the autumn of 2003 the Council will possess a database of all its decisions back to 1930 and will have routines in place to produce future reports in a format that will allow their quick loading on to on line services.

The Council wishes to make its reports available to the widest audience at as economic a price as possible; as a non-profit making organisation it only seeks to recoup the costs of creating and publishing those reports. To this end, the Council is negotiating with a number of on line legal information vendors to include Session Cases in their services on a non-exclusive basis. Context Electronic Publishers will be launching electronic Session Cases, a database of all the reported cases back to 1930, on justis.com in autumn 2003. Agreement has also been reached with Thomson Legal & Regulatory Europe for Session Cases to be added to their Westlaw services, possibly late in 2004.

As to the future, the Council will continue to look at ways of improving its reporting services and extending its on line archive back in time. Any reserves that it may accumulate will be applied to these objectives and in response to demand from the legal profession that the Council serves.

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## Case Alerter - new from Casetrack by Clair Woodward

Case Alerter ([www.casealerter.com](http://www.casealerter.com)) is a new service from Casetrack, WordWave's online full-text legal judgment service ([www.wordwave.co.uk](http://www.wordwave.co.uk)). The new service provides a comprehensive current awareness bulletin, highlighting important judgments as soon as they are handed down together with succinct case summaries.

Available online as part of Casetrack or as a stand-alone service, the Case Alerter highlights new cases from the previous 24 hours as well as an eight-week rolling archive of earlier judgments. Subscribers can use the service as a daily update or for double-checking that nothing has been missed from the previous two months.

A weekly e-mail bulletin, consolidating the latest case summaries, is also available as part of the service.

Casetrack users and subscribers can link straight through to the full judgment of any approved transcript but if the transcript has not yet been approved then the Pending List service allows you to log an interest in a case and be contacted as soon as it becomes available.

Casetrack users and subscribers will benefit from WordWave's extensive links with the courts - Smith Bernal Reporting who currently hold the Official Contract for the Courts of Appeal, as well as London's Crown Courts, are also part of the same group and their extensive network of court reporters and daily attendance at every hearing in those courts will ensure that Casetrack publishes all case summaries and full-text judgments in the fastest possible timeframe.

Since its launch in 1998, Casetrack has become an invaluable online case resource across the legal profession. It is provided free of charge to all academic institutions, not-for-profit organisations and members of the judiciary and is currently accessible by members of the public through a number of advice organisations, including nationally through the CAB.

*Clair Woodward is Communications Manager at WordWave International. [Clair.woodward@wordwave.co.uk](mailto:Clair.woodward@wordwave.co.uk).*

### ***Highlight... Click... Link!***

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## Barristers can have Intranets too - Intranet for Wilberforce Chambers by Michael Mclean

One of the main problems facing any office is how to manage information in such a way that is easily accessible to everyone. This is especially true of a Barrister's chambers or Solicitor offices which generate lots of legal documents as well as the usual administrative paperwork. Having an office network can improve the situation as documents can be stored electronically in a central place (e.g. a shared drive) for instantaneous access. However, having a large number of files still makes trawling through folders to find a specific file a time consuming task.

What is needed is a system for finding and displaying these documents (and other useful pieces of information) in a single place so they can be easily accessed by anyone with a standard internet browser. Whitespace Software ([www.whitespace.co.uk](http://www.whitespace.co.uk)) have recently completed an intranet for Wilberforce Chambers ([www.wilberforce.co.uk](http://www.wilberforce.co.uk)) to help them do just that.



Part of the opening page of the Wilberforce Intranet

When Wilberforce Barristers and Clerks use the intranet they see a menu with links to different sections of the site (e.g. memos, case documents) and a large area for displaying documents and other information. Selecting a section will show a list of documents that can be accessed by clicking on them. The intention of this is so the user can get to any file in a few clicks.

New documents and sections can be added to the menu from within the intranet using administration pages, allowing the chambers clerks to decide the best way to arrange the information on the site. For example, to add a new case document to a section a clerk just needs to enter its title, choose the "Case Documents" section from a drop down list of those available and then find the file's location on the network using a special browser window.

Legal documents that are added to the site can have extra relevant information about them stored, so a search can be done on a Barrister, Court etc.

As well as those files stored on the local network, clerks can add documents stored on the internet or add external websites to the links section. These are accessed from the intranet in the same way as normal documents so navigating around the site appears seamless.

The intranet has pages for displaying internal and external contacts, an events diary, and a database of the books and publications in the Wilberforce chambers libraries. This puts within reach the information that Barristers and Clerks need to do their day to day business and the means to add to and update it.

Future work on the intranet may include integrating it with

their website so some of the information is available on the internet.

Michael Mclean is an Intranet Developer at Whitespace Software ([www.whitespace.co.uk](http://www.whitespace.co.uk)). email [michael.mclean@whitespace.co.uk](mailto:michael.mclean@whitespace.co.uk).

## Comment about Divorce-Online from Lawrence McNulty

I was intrigued to read in the May/June issue of this newsletter about the "success" of Divorce-Online ([www.divorce-online.co.uk](http://www.divorce-online.co.uk)) and I wonder how many other readers thought about the lessons to be learned from it?

According to the press release you quoted, the site's success is being measured by the 5000 DIY divorce packs it has sold. Of what benefit has that been to the 202 law firms who have paid £150 a year to be in the Divorce-Online Directory? Two of my client-firms signed up for the Directory in response to very upbeat mailers sent to them from Divorce-Online. Regrettably, over a two-year period, one of them received just a single referral, and the other received no referrals at all. Is this typical of the other 200 law firms who, between them, have supported the online site to the tune of £30,000 each year?

Mark Keenan is very open, not to say proud, that the site also offers consent order drafting and separation agreements, not to mention change of name documents plus cohabitation and pre-nuptial agreements. When logging onto the web site a free Will is offered to anyone who buys a DIY divorce pack. The \$64,000 question has to be, why should any law firm want to be associated with such a service as Divorce-Online? Competitive is the word which comes more readily to mind than complementary! This site is quite unique in that its primary purpose for existing seems to be to cut the solicitor out of the legal process, whereas other legal marketing sites purport to have the opposite focus!

Lawrence McNulty is Proprietor of Client Appeal ([www.clientappeal.co.uk](http://www.clientappeal.co.uk)), the pr & marketing consultancy for law firms. email [mcnulty@clientappeal.co.uk](mailto:mcnulty@clientappeal.co.uk).

## Mark Keenan, of Divorce-Online, replies...

The benefit to our subscribed law firms is they get targeted exposure on the UK's leading divorce and separation website for the cost of one hour of one fee earners time for the year. It therefore only takes in reality one minor case to pay for the advertising for a whole year.

We are sorry that his two firms did not perceive a benefit from being in the directory but as with all directories we can only send referrals where the client has requested an appointment through the online form. Most clients will actually telephone the firm directly from the details in the directory and it is up to the member firm to monitor this themselves. Those firms that have a good monitoring process do check and continue to subscribe.

We receive over 60,000 visitors a month from people who are solely concerned with divorce. We also have an extremely good relationship with the media and frequently feature in chat shows and articles.

We continue to have new firms subscribe all the time and the amount of referrals going to our existing firms has grown considerably since we first launched the Directory in October 2001.

Mark Keenan, [mark.keenan@divorce-online.co.uk](mailto:mark.keenan@divorce-online.co.uk).

## Developing a Portal for your Law Firm by Delia Venables

*This article is based on the 2 day conference "Developing a Portal for your Law Firm" presented by Ark Group on 18<sup>th</sup> and 19<sup>th</sup> June, in London.*

A portal is a delivery vehicle which enables the user to find information and also provides services adapted to the user's requirements. Early stages of portal development presented a menu of some form (perhaps as a series of "boxes") from which the user would have to choose, but current and future portals are evolving to provide information across the different embedded systems and to provide a different "view" of the information depending on the role or previous choices of the user.

Information can come from a number of sources, both internal and external, and the job of the portal is to combine these in meaningful ways without burdening the user with the many interfaces and searching methods which probably lie behind the information returned.

A key aspect of a portal is that it is browser-based; thus it becomes a natural extension of the world wide web and the firm's own web site, as well as the firm's intranet (information available internally to the firm) and extranet (information provided to clients). As time goes on, the word portal will probably replace intranet and extranet, since in reality, they are all the same thing, differentiated primarily by the security applied to the different types of information contained within it.

Implicit within the browser concept is that the portal is available from anywhere so that the lawyer, or the client, can be at home, in a different office in the same country or the other side of the world, in an internet café, or indeed anywhere in the world that has internet access. One of the reasons that portal development is being driven by the very large firms is that they are the ones with offices in many countries, as well as international clients, and the prospect of easy access to the firm's system across the world is a very attractive one.

Obviously, security is a key concept here. The conference was not itself concentrating on security but the need for very sophisticated, and very reliable, ways of determining who has access to each part of the embedded systems was lurking behind several of the presentations. This is not a field to enter without serious technological resources.

Eventually, the portal will provide the only framework for email, allowing a more structured and reliable framework for communication with the client and across client groups; at present, unstructured email is one of the big problems (and risks) for law firms.

### Suppliers of the software

According to Janet Day, IT Director of Berwin Leighton Paisner, who chaired the conference, there are 57 varieties of software available! This is partly because the concept of the portal itself is very loosely defined, and many different software suppliers have added on an "umbrella" module to their own software and called it a portal.

Some of the systems available are based on the major Practice Management Systems, some on Document Management Systems, some on Knowledge Management Systems, some on the major search engines and some on the major database structures. All of these have different characteristics.

In fact, if you have any of these types of system running in your firm, your supplier will probably be offering a "portal" to sit on top of it, and (hopefully) to integrate some of the other types of information system available in the firm.

The proliferation of types of software available make it particularly difficult to decide in which direction to go, since any false start could lead to considerable time and money wasted.

Beware also of buying a "portal", probably at great expense, and then finding that it is really a bolt-on module with yesterday's technology.

Microsoft's own portal product, called Sharepoint, was mentioned a number of times, notably by Neil Cameron who said that it would probably win in the end, irrespective of whether it was the best product, but just because it was Microsoft.

### Mainly Internal or Mainly External?

One of the interesting aspects of the conference was seeing the very different types of system which the firms were in fact describing as "portals".

Kevin Doolan of Eversheds has developed a number of products for clients which can now all be accessed from a uniform entry point. One of these is a "Knowledge Bank" set up in collaboration with Lexis/Nexis and FT, which provides the client with relevant cases, legislation, news and analysis. Eversheds own commentary on breaking news is included, as well as legal precedents in some areas (he thinks that clients will want more and more of these). The external content from FT has "metatags" which enable the client to select the type of information provided.

Eversheds also offer a "deal room" although Kevin says that this is really "just" a filing cabinet online - they have considered complex automatic transactional systems and discounted these, not least because they require the client to undergo a week's training! However, the "simple" requirement of being able to share documents across a team is extremely useful. Eversheds host the deal rooms at IBM and use IBM's own services to handle the security for this - Kevin says that this allows him to sleep soundly. Incidentally, Kevin says that you can charge for deal rooms and Eversheds do indeed charge their clients - apparently, there has been some assumptions around that clients will demand these services for free.

Sarah Hillier, of Clifford Chance, on the other hand, described a "portal" which is intended to provide world wide access for the firm's own staff rather than the firm's clients (for whom there are other systems including "Client Connect"). Clifford Chance have more need than most for such a system, with 7,500 staff across 32 offices in 19 countries. Their system is based on Oracle and Keystone and actually brings 4 different packages together with one point of entry. The system provides 12 different "views", of which 9 are for back-office staff. The content is all in English although the help files are in 5 languages.

### More Types of Portal

Somewhere between the two extremes of "just for clients" and "just for internal users", Heather Robinson, of Bevan Ashford, gave a slightly different definition of a portal as a framework that provides different levels of intranet functionality and interactivity to members based on preferences and business roles. She sees the portal as a self-service environment, like a shop window, where people can find, and obtain, the information they need, and her "audience" includes members of the firm as well as clients.

Heather particularly wants to integrate internal and external sources of information, to reduce training and support requirements, and to promote a feeling of community. Although Bevan Ashford is one of the top 40 firms, with major regional offices, the large number of public sector clients limit the profit to be obtained from the work. Thus, value for money in portal terms is particularly important.

She discussed the importance of content management for a portal and the need for quality control (someone has to be in charge), procedures for updating and currency, and the need for revisions. From the client's point of view, she suggested that you should look for "quick wins" (e.g. contact lists, the ability to track documents and legal guidance material) before undertaking the difficult parts.

Adam Westbrooke, of Taylor Wessing, described the "quick wins" from the internal user's point of view as being able to see what's for lunch, and the vacancy list!

More seriously, he said that the portal is a gateway to the information rather than the information itself, and that even when you have a portal in place, the individual PMS, KM, CRM, DM and other systems will still be working away beneath the surface. The "real" workers will continue to use the underlying systems (e.g. accounts staff will still use the accounts system) but the portal will provide additional ways for non-accounts staff to view the financial information, possibly integrated with information from other systems.

He also said that the portal can only bring together information which is essentially already available - for example, Knowledge Management requires a proper KM system to be in place before offering it to users via a portal. He also said that quality control checks need to be provided in the "real" systems, rather than at the output stage (e.g. the need to check that work in progress is correct should be carried out by the accounts system rather than the portal).

Kate Hodgson, of CMS Cameron McKenna, said that a particular requirement was to bring together different systems originating from the major firms involved in the merger. There were many "information silos" available across the present firm but there were problems with duplication and inadequate updating, as well as the fact that the information was organised by practice area rather than as required for particular tasks.

The firm is using software from a company called LawPort which is based in California. They were the first UK firm to use the software which gave some problems although apparently now Tikit are also providing it. The system enables internal and external resources to be integrated on one screen and these can then be "sliced" in different ways. The information, once included in the portal, can be also be "published" in multiple ways, e.g. across the extranet, the deal room, the website and so on.

She talked about how to develop a taxonomy, which should cover document types, geographical classification, language (not the same as geography), industry classification, jurisdiction and legal subjects - a topic which was then taken up by Neil Cameron.

## Taxonomy

Neil Cameron is a leading consultant and visionary in this field, who has recently come together with a number of other consultants to form Neil Cameron Consulting Group. Neil has been talking about portals for quite a few years - long before it became a "buzz" topic.

He talked about the different types of information available

in computer systems, particularly Practice Management Systems (PMS), back office systems and information/library systems, described further as follows:

\* PMS systems tend to describe information by clients and matters, with work types which are generally unique to the firm and of very dubious quality. The descriptions of the matter are generally completely useless for any categorisation purposes.

\* Office systems, including documents and email, have descriptions which are very varied and generally not useful, with little quality assurance for how they are categorised.

\* Information and library systems have a formalised classification system with good quality control, but these classifications bear no relationship to anything else in the firm.

In other words, the vital types of information contained in the firm cannot be brought together in any consistent way. This is why the firm needs a taxonomy - well actually, several.

It is better to have multiple taxonomies which essentially allow information to be categorised in different ways, including jurisdiction, language, industry, source, transaction type, client and matter. This avoids undue complexity as well as repetition in the structure.

He thinks that matters should be classified at inception and that this is where the burden of work should be placed, involving the professional support lawyer (PSL) at this very early stage rather than (just) later.

He stressed that no-one has produced a full taxonomy for a firm yet! However, it is only if you do classify information in this way that a portal can really "reach" all the information.

## Personalisation

Dave Cunningham, of Baker Robbins & Company, described the move to personalisation as one of the factors which distinguish current types of portal from more advanced - and developing - ones. Different views of the information will become based on peoples' roles and will make the information more instinctive to them.

Adam Westbrooke of Taylor Wessing spoke further about the need to provide different views for different people to improve ease of use and to provide just the relevant information to each user.

Personalisation can be based on the role of the person (or many roles), the particular user, where the type of information required has previously been selected by the user, or by the system itself trying to determine what a particular person would want to see ("other people like him have wanted.....").

However, it is important to allow the user to select further information according to today's needs and not to constrain him/her too tightly. It should be possible to navigate to the desired information in a straightforward way.

He made the point that "who is allowed to see what" is a matter of the security system rather than the personalisation system. He reminded the audience, however, that the security system is also vital.

The respective virtues of "push" and "pull" were discussed - the advantage of "push" is that you can be sure that

important information reaches the person but this can be annoying for the user; this should be kept to a minimum. As far as possible, the user should be allowed to subscribe or unsubscribe to particular types of information, even if a "default subscription" is set up to start with.

If it is possible to give the user control over "trivial" things like colours, fonts and pictures, it is worth doing this - people like to personalise their workspace with a picture of their family for example.

### Listen to the Users

As Paul Longhurst, of Herbert Smith said, lawyers do not care about the technology, so keep to concepts when discussing requirements with them! Generally speaking, lawyers want to see their matter files online, they want external access, from wherever they happen to be, they want the access to be fast and reliable, and they want the system to be easy to use.

Time and time again, the speakers came back to the theme of finding out what the users want before implementing new systems - or even selecting which system the firm should purchase. For portals designed for the clients, it is essential to bring the clients into the discussion process at an early stage. They may not tell you what you want to hear, but it is better to hear it earlier rather than later!

In some cases, you may find that you can provide what the users want without expensive new software - there may be some way of using facilities you have already to provide a limited objective.

For systems covering different departments, locations and support groups, a steering group across the firm is highly desirable, with all "stake holders" covered.

### Return on Investment?

Several speakers addressed this issue but mostly to say how hard it is. The classic answer is along the lines of "if every fee earner saves 10 minutes a day, then....". This was generally agreed to be unhelpful since many firms consider that doing the work faster is a way of reducing fees rather than increasing them!

My own feeling here is that, eventually, providing a portal is going to be just one of the things that a firm has to do, whether or not a cost justification can be determined.

### Content of an Intranet

However sophisticated the infrastructure, it is up to the firm itself to find the content. As Ian Figgins, of Lovells, indicated, it is important that the firm's information can survive any particular software structure presenting it.

For "getting started" purposes, it is better to start with a portion of the firm's knowledge, and get the show on the road, rather than waiting until a perfect analysis has taken place (which may never be possible).

### Where are we now?

The conference gave a fascinating snapshot of the way that the larger firms are now thinking. However, it was noteworthy that almost everyone was talking about "what they are doing" rather than "what they have done". This is a moving field and one where the goals are changing as fast as the technology. Not only do "portals" mean different things to different people, but they mean different things to the same people, over time.

### And the Smaller Firm?

It was also noteworthy that there was hardly a mention of the smaller firm - and by this I mean any firm not in the top 40. For everyone else, the portal is an interesting idea but one which is a long way off.

For smaller firms in particular, each step along the way has to be considered, costed and implemented in turn. At the moment, the provision of case tracking online, covered in the previous 3 issues of this newsletter, is probably the most realistic aim, with more exotic applications still far in the future.

*Delia Venables is an IT consultant for Lawyers. She also provides one of the key legal websites for the UK and Ireland ([www.venables.co.uk](http://www.venables.co.uk)) and she is editor of this newsletter. email [delia@venables.co.uk](mailto:delia@venables.co.uk).*

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### A Review of FirstLaw by Nuala Byrne

*Librarian, Office of the Director of Public Prosecutions, Dublin*

FirstLaw ([www.firstlaw.ie](http://www.firstlaw.ie)), the brainchild of Bart D. Daly, BL, is a must for anyone who needs access to an up-to-date, reliable source of Irish primary legal material on a regular basis. Bart Daly is very well respected as a legal publisher in Ireland. He committed himself to providing Irish primary materials in electronic format when they were unavailable elsewhere.

FirstLaw is an electronic online subscription service that gives access to Irish primary legal materials. It is a niche product and although it may not have access to a major series of law reports or major legal journal titles, and its coverage may not include US or other common law jurisdiction content, it provides access to the basic materials required by Irish legal practitioners.

*Continued online and in pdf, as above.*

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### Developments in Irish Firm Sites by Siobhan Heaney

A number of Irish law firms have given their websites a face-lift over the last few months including four of the country's largest firms - A&L Goodbody, Arthur Cox, William Fry and Matheson Ormsby Prentice. All are well designed, easy to navigate and, in most instances, updated on a regular basis.

Their design is faultless - crisp, clean, easy to navigate and to read online. What these firms have in common is a complement of highly qualified and expert staff and impressive premises, but none of them have used their websites as an opportunity to differentiate themselves from their competitors. Their websites have seemed to converge in style to such an extent that these firms could be mistaken as part of the same practice! Has there been a merger between these firms that we don't know of?!

*Continued online and in pdf, as above.*

## **EGi's Legal Service - fully briefed on property law**

EGi's Legal Service at [www.egi.co.uk](http://www.egi.co.uk) is the UK's leading online news, research and information service for property law professionals. Offering fast and easy access, their extensive databases provide up-to-date and comprehensive property law information which includes:

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## **Practical Lease Precedents Online from Sweet & Maxwell** *by Trevor Aldridge QC*

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## **Case Alerter from Casetrack**

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Search by subject, date or simply browse new case summaries from the last 24 hours, last week or last month, to find what's relevant to you.

**[www.casealerter.com](http://www.casealerter.com) from [www.casetrack.com](http://www.casetrack.com)**

## **Data Protection Masterclass from CLT** **2 Day Programme of Lectures and Case Study Workshops, 7th & 8th August, Cafe Royal, London**

This is another in the highly successful CLT series of data protection conferences, produced in association with Bird & Bird. Covering everything from the latest developments on individual rights, to the personal liability of directors and officers for non-compliance, this is a comprehensive review of the key issues, complex problems and latest developments delivered in the form of lecture sessions and workshops. It provides a unique and invaluable opportunity for all those with a need to keep fully up to speed with the law in this difficult and fast-moving area.

*Book via the CLT website at [www.clt.co.uk](http://www.clt.co.uk), email [registrar@centlaw.com](mailto:registrar@centlaw.com) or ring 0121 355 0900 (ask for registrar).*

## **Difficult Issues in Data and Information 2003 from CLT** **30 September 2003, Holiday Inn Bloomsbury, London**

Such are the complexities of the rights, responsibilities and liabilities connected to the use and misuse of data and information that it is very difficult for the busy practitioner to keep fully up to date with all the wide range of recent developments in UK, EU and international law. From a consideration of the information-related offences to the enforcement of rights in relation to international copyright infringement, this is a comprehensive event presented by a panel of speakers, all of whom are experts in their respective fields.

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