

OXFORD

FIFTH EDITION

# Computer Law

*Edited by*

CHRIS REED  
and JOHN ANGEL

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UNIVERSITY PRESS

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Great Clarendon Street, Oxford OX2 6DP

Oxford University Press is a department of the University of Oxford.  
It furthers the University's objective of excellence in research, scholarship,  
and education by publishing worldwide in

Oxford New York

Auckland Bangkok Buenos Aires Cape Town Chennai  
Dar es Salaam Delhi Hong Kong Istanbul Karachi Kolkata  
Kuala Lumpur Madrid Melbourne Mexico City Mumbai Nairobi  
São Paulo Shanghai Singapore Taipei Tokyo Toronto  
with an associated company in Berlin

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Published in the United States  
by Oxford University Press Inc., New York

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First published 2003

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British Library Cataloguing in Publication Data  
Data available

Library of Congress Cataloging in Publication Data  
Data available

ISBN 0-19-926350-7

1 3 5 7 9 10 8 6 4 2

Typeset in Times  
by Cambrian Typesetters, Frimley, Surrey  
Printed in Great Britain  
on acid-free paper by  
Antony Rowe Limited, Chippenham, Wiltshire

## Preface to the Fifth Edition

The first edition of *Computer Law* was published in 1990. The area of law covered by the book has developed considerably over the last thirteen years but there is a sense now that computer law has become an established area of law with a more stable content. This is reflected by the fact that, while the book as a whole has been thoroughly revised, updated and extended, there are no real additional chapters to the book in contrast with previous editions. In fact we have dropped a separate chapter on semiconductor chip protection because of the lack of developments in the area. The two Internet-related chapters have been combined into one under the title of 'E-Commerce' (Chapter 9). The chapter on European computer law has been replaced by relevant updates to all the other chapters together with the addition of 'EC Competition Law and the New Economy of Information Technology' (Chapter 12) which, as its title indicates, concentrates on the increasingly new and difficult competition aspects of the subject matter of the book.

The original concept of this book came from Chris Reed's desire to provide a textbook for students on the University of London's LL M course which could also combine as a useful book for practitioners. The fact that the course is taught by academics and practitioners, and that they are the authors of the book, makes *Computer Law* a unique contribution to the field which is clearly recognized as such as it now goes into its fifth edition. Chris Reed continues to make an enormous contribution to the book but I have tried to take more of the burden from him in my co-editorial role, for example, by writing this preface.

My thanks go to all the authors, who because they are very successful academics and practitioners in their own right have little time available in their busy schedules, but have still produced excellent contributions, largely on time! Lorraine Mulpeter, our Institute's administrator, deserves particular thanks for co-ordinating all the authors and ensuring that the electronic manuscript was received by the publisher on time. Also many thanks go to OUP for continuing to support the book since their acquisition of Blackstone Press, the previous publishers. Lastly I would like to thank my co-editor Chris Reed for his inspiration which continues to make this book a success.

John Angel  
March 2003

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From 1997 to 2000 Chris was Joint Chairman of the Society for Computers and Law, and from 1997 to 1998 he acted as Specialist Adviser to the House of Lords Select Committee on Science and Technology. Chris participated as an Expert at the European Commission/Danish Government Copenhagen Hearing on Digital Signatures, represented the UK Government at the Hague Conference on Private International Law and has been an invited speaker at OECD and G8 international conferences.

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## Table of Cases

A&M Records Inc v Napster DC (No CV-99-05783MHP) .....	211
Abele, <i>In Re</i> (1982) 684 F 2d 902 .....	152, 157-9
Acuson Corp v Aloka Co Ltd, 257 Cal Rptr 368; 209 Cal App 3d 1098; 209 Cal App 3d 425; 1989 Cal App Lexis 317; (1989) 2 <i>The Software Law Bulletin</i> 146 .....	272
Adams v Lindsell (1818) 1 B&Ald 681 .....	336
ADI (UK) Ltd v Willer [2001] IRLR 542 .....	94
Advanced Systems of Michigan Inc v MAI Systems Corporation (1994) 845 F Supp 356 (ED Va) .....	368
Affaire Estelle Hallyday v Altern, Tribunal de grande instance de Paris, 9 June 1998; Cour d'appel de Paris, 10 February 1999 .....	386
Alappat, Re (1994) 33 F 3d 1526 .....	159-62, 164
Alcan/Aluminium alloys [1995] EPOR 501 .....	171
AKZO v Commission (Case 62/86) [1991] ECR I-3359 .....	460
Allen [2000] IRLR 119 .....	94
ALS Scan Inc v RemarQ Communities Inc (2001) 57 USPQ 2d 1996 .....	210-1
Amazon.com Inc v Barnesandnoble.com Inc (1999) 239 F 3d 1343 .....	165
Amway Corporation Ltd v Eurway International Ltd [1974] RPC 82 .....	271
Anacon Corporation Ltd v Environmental Research Technology Ltd [1994] FSR 659 .....	177, 237
Andersen Consulting v CHP Consulting Ltd, 26 July 1991, Ch D (unreported) .....	53
Anns v Merton London Borough Council [1978] AC 728 .....	123
Anton Piller KG v Manufacturing Processes Ltd [1976] Ch 55 .....	231
Apple Computer Inc v Computer Edge Pty Ltd [1986] FSR 537 .....	8
Apple Computer Inc v Franklin Corporation (1983) 714 F 2d 1240 .....	216
Argyll v Argyll [1967] Ch 302 .....	262
Ashburton v Pape [1913] 2 Ch 469 .....	284
Ashington Piggeries v Christopher Hill Ltd [1972] AC 441 .....	15
Assidoman Multipack v The Mead Corporation [1995] RPC 321 .....	152, 174
AT&T v Excel Communications (Case 98-1338) .....	162
Atari Games Corp v Nintendo of America, Inc, 897 F 2d 1572 (Fed Cir 1990) .....	465
Atkins and Goodland v Director of Public Prosecutions [2000] 2 All ER 425 .....	301
Attorney-General v Blake [2001] 1 AC 268 .....	263
Attorney-General v Guardian Newspapers Ltd (No 2) [1988] 3 All ER 545; [1990] 1 AC 109 .....	261, 268
Attorney-General v Jonathan Cape [1976] QB 752 .....	263
Attorney-General's Reference (No 1 of 1991) [1992] 3 WLR 432 .....	304, 311
ATT/System for generating software source code (Case T 204/93) .....	148
Australasian PRA v Miles [1962] NSW 405 .....	370
Australian Broadcasting Corp v Lenah Game Meats Pty Ltd (2001) 185 ALR 1; [2001] HCA 63 (High Ct of Australia) .....	286
B&I Line v Sealink Harbour [1992] 5 CMLR 255 .....	462
Bartletts de Reya (A Firm) v Byrne, <i>The Times</i> , 14 January 1983 .....	340

Bateman v Mnemonics Inc, 79 F 3d 1532 (11th Cir 1996); 6 CCH Computer Cases 47,356 .....	222
BBC/Colour television signal (Case T 163/85) [1990] EPOR 599 .....	141, 151
Beattie/Marker [1992] EPOR 221 .....	151
Bedworth case .....	305
BellSouth Advertising & Publishing Corp v Donnelly Information Publishing Inc (1991) 933 F 2d 952 (US Ct of Appeals 11th Cir No 89-5131) .....	237
Ben Ezra, Weinstein & Co v America Online (DNM 1999) .....	380
Berezovsky v Forbes Inc, <i>The Times</i> , 19 January 1998 .....	391
Beta Computers (Europe) Ltd v Adobe Systems (Europe) Ltd [1996] FSR 367 .....	17, 49
Betts v Brintel Helicopters [1997] IRLR 361 .....	94
Bild.de/T-Online (Case B6-144/01) .....	484
Biogen Inc v Medeva plc [1997] RPC 1 .....	138
Blumenthal v Drudge (1998) 992 F Supp 44 .....	380
Bolton v Stone [1951] AC 850 .....	129
Bosch/Electronic computer components [1995] EPOR 587 .....	143, 149, 171
Brinkibon Ltd v Stahag Stahl und Stahwarenhandelgesellschaft mbH [1982] 1 All ER 293 .....	336-7
British Gas Trading Limited v The Data Protection Registrar, 24 March 1998 .....	450
British Horseracing Board Ltd and Others v William Hill Organization Ltd, CHANL/2001/0632/A3 .....	251, 254, 256
British Leyland Motor Corporation Ltd v Armstrong Patents Co Ltd [1986] AC 577 .....	226
British Midland v Aer Lingus [1993] 4 CMLR 596 .....	471
British Steel plc's Patent [1992] RPC 117 .....	400
British Sugar v NEI Power Projects Ltd and Another (1998) 87 BLR 42; [1998] ITCLR 118 .....	41, 81, 111
Broderbund Software Inc v Unison World Inc (1986) 648 F Supp 1127 .....	217
Brown v United States (1984) 599 F Supp 877 .....	127
Brown Bag Software v Symantec Corp (1992) 960 F 2d 1465 .....	220
Bush v Goldman Sachs (1989) 544 So 2d 873 .....	266
Butler Machine Tool Co v Ex-Cell-O Corporation [1979] 1 WLR 401 .....	306
Byrne v Van Tienhoven (1880) 5 CPD 344 .....	336
Byrne Brother (Formwork) Ltd v Baird and Others [2002] IRLR 96 .....	395
Cammell Laird & Co Ltd v Manganese Bronz & Brass Co Ltd [1934] AC 402 .....	15
Campbell v Mirror Group Newspapers Limited [2002] HRLR 28; [2002] EWCA Civ 1373 .....	442, 446
Canalt and Bertelsmann OJ C168 (1995) (Commission) .....	479
Candler v Crane Christmas & Co [1951] 2 KB 164 .....	121
Canon Kabushiki Kaisha v Green Cartridge Company (Hong Kong) Ltd [1997] FSR 817 .....	226
Cantor Fitzgerald International v Tradition (UK) Ltd [1999] Masons CLR 157; [2000] RPC 94 .....	216, 244
Caparo Industries plc v Dickman [1990] 2 AC 605 .....	117, 121
Carlill v Carbolic Smoke Ball Co [1893] 1 QB 256 .....	354
Catnic Components v Hill & Smith [1982] RPC 182 .....	216
CBS Songs UK Ltd v Amstrad [1988] RPC 567 .....	370
CCN Systems Ltd v Data Protection Registrar (Case DA/90 25/499) 25 February 1991 .....	449
Central Maine Power Co v Foster Wheeler Corporation, 1988 (unreported) .....	127
Centre Belge d'Etudes de Marche (CBEM) v Telemarketing (Case 311/84) [1985] ECR 3261 .....	469

Chandler v United States (1988) 687 F Supp 1515 .....	128
Chapman v Smethurst [1909] 1 KB 927 .....	339
Charge Card Services Ltd, Re [1986] 3 All ER 289 .....	355
Charles Rickards Ltd v Oppenheim [1950] 1 KB 616 .....	30, 33
Chernick v Fasig-Tipton Kentucky Inc, 1986 (unreported) .....	126
Chikuma, <i>The</i> [1981] 1 All ER 652 .....	355
Christian Franceries/Traffic regulation [1988] 2 EPOR 65 .....	138, 151
CK Security Systems Inc v Hartford Accident and Indemnity (1976) Co 137	
Ga App 159 .....	126
Clarke v Dunraven [1897] AC 59 .....	348, 365
Coco v AN Clark (Engineers) Ltd [1969] RPC 41 .....	261, 266, 279
Cognotec Services Ltd v Morgan Guarantee Trust Company of New York, 862 F Supp 45 (SDNY 1994); 5 CCH Computer Cases 47,143 .....	222
Coin Controls Ltd v Suzo International (UK) Ltd and Others [1997] FSR 660 .....	132
Columbia Picture Industries v Robinson [1986] FSR 367; [1987] Ch 38 .....	232, 373
Comprehensive Technologies Int'l v Software Artisans Inc, Civil No 90-1143-A (ED Va, 2 June 1992) .....	220
Computer Associates v Altai (1992) 23 USPQ 2nd 1241 (2nd Cir); (1992) 3 CCH Computer Cases 46,505 .....	220-2, 224, 403
Connolly v Lancashire County Council [1994] RTR 79 .....	327
CoStar Group Inc v LoopNet Inc (2001) 164 F Supp 2d 688 .....	211
Country Kids 'n Slicks Inc v Sheen, 77 F 3d 1280 (10th Cir 1996) .....	222
County Trust Co v Pascack Valley Bank, 225 A 2d 605 (1966) .....	125
Covisint (Case COMP/38.064) OJ C49, 15 February 2001; PR IP/01/1155, 31 July 2001 .....	482
Cox v Riley (1986) 83 Cr App R 54 .....	107, 308
Credit Suisse Asset Management Ltd v Armstrong [1996] ICR 882, 892 (CA) .....	278
Cresswell v Board of Inland Revenue [1984] IRLR 190 .....	394
Cubby Inc v CompuServe Inc (1991) 776 F Supp 135 (SDNY) .....	370
Cuisenaire v Reed [1963] VR 719 .....	212
Cuisenaire v South West Imports Ltd [1969] SCR 208 (Canadian Supreme Ct) .....	212
Curtice v London City and Midland Bank Ltd [1908] 1 KB 293 .....	354
D&F Estates v Church Commissioners [1989] AC 177 .....	117
Dalgleish v Lothian and Borders Police Board [1991] IRLR 422 (CS) .....	404
Data Protection Registrar v Amnesty International (British Section), <i>The Times</i> , 23 November 1994 .....	448
Data Protection Registrar v Francis Joseph Griffin, <i>The Times</i> , 5 March 1993 (QBD) .....	431
Data Protection Registrar v PLP Motors Ltd, 24 April 1995 (unreported) .....	408
Delbrueck and Co v Manufacturers Hanover Trust Co (1979) 609 F 2d 1047 .....	355
Dembiczak, <i>In Re</i> 175 F 3d 994 .....	165, 167
Denco Ltd v Joinson [1991] IRLR 63 (EAT) .....	414
Deta Nominees v Viscount Plastic Products [1979] VR 167 .....	278
Diamond v Diehr (1981) 450 US 175 .....	157-9, 163
Digital/Olivetti, 1994 OJ L294/10 .....	461
Donaldson, <i>In Re</i> (1994) 16 F 3d 1189 .....	159
Donoghue v Allied Newspapers Ltd [1938] Ch 106 .....	212
Donoghue v Stevenson [1932] AC 562 .....	116, 121
Douglas v Hello! Ltd [2001] QB 967; [2003] 2 All ER 289 .....	263, 420
Dow Jones & Co Inc v Joseph Gutnick [2002] HCA 56 .....	392
DPP v A & BC Chewing Gum Ltd [1967] 2 All ER 504 .....	381

DPP v Bignell [1998] 1 Cr App R 1 .....	306–7
DPP v McKeown and Jones [1997] 1 WLR 295 .....	327
Dreamland Ball Room, Inc v Shapiro, Berstein & Co (1929) 36 F 2d 354 (7th Cir) .....	370
 eBay v Bidders Edge (2000) 100 F Supp 2d 1058 (ND Cal) .....	312
ECJ Opinion No 2/94 [1996] 2 CMLR 265 .....	426
ECM (Vehicle Delivery Services) Ltd v Cox [1998] IRLR 416 .....	94
Engineering Dynamics Inc v Structural Software Inc (1994) 4 CCH Computer Cases 47,095 .....	221–2
Entores Ltd v Miles Far East Corporation [1955] 2 QB 327 .....	336
Equifax Europe Ltd v The Data Protection Registrar (1991) (Case DA/90 25/49/7) .....	431
Esswein/Automatic programmer [1991] EPOR 121 .....	172
Eurodynamics Systems plc v General Automation Ltd, 6 September 1988 (unreported) .....	16
European Telecommunications Standards Institute's IPR policy OJ C76/5, 1994; [1995] 5 CMLR 352 .....	486
Evans v Triplex Safety Glass Co Ltd [1936] 1 All ER 283 .....	114
Exchange Telegraph v Gregory [1896] 1 QB 147 .....	192
Expandable Grafts Partnership and Others v Boston Scientific BV and Others [1999] FSR 352 (CA, The Hague) .....	132
Express Newspapers plc v Liverpool Daily Post & Echo plc [1985] 1 WLR 1089 .....	196–7
 Faccenda Chicken Ltd v Fowler [1987] Ch 117; [1985] 1 All ER 724 .....	275, 278, 401, 403
Famous Music Corp v Bay State Harness Horse Racing & Breeding Ass'n, Inc (1977) 554 F 2d 1213 (1st Cir) .....	370
Feist Publications Inc v Rural Telephone Service Co Inc (1990) 113 L Ed 2d 358; (1991) 111 S Ct 1282 .....	221, 237–8
Flamer Intercean Ltd v Denmarc Ltd [1990] 1 Lloyd's Rep 434 .....	22, 25
Flanders case [1993] FSR 497 .....	402
Flyde Microsystems v Key Radio Systems Limited [1998] FSR 449 .....	199
Football League Ltd v Littlewoods Pools Ltd [1959] Ch 637 .....	193
Francome v Mirror Group Newspapers [1984] 1 WLR 892 .....	285
Francovich and Others v Italy (Cases C-6 and C-9/90) [1991] ECR I-5357 .....	443
Franklin v Giddins [1978] Qdr 72 .....	286
Fraser v Evans [1969] 1 QB 349 .....	265, 268
Fraser v Thames Television [1984] QB 44 .....	265
FSS Travel and Leisure Systems Ltd v Johnson [1999] FSR 505; [1998] IRLR 382 .....	271, 276, 402
Fuji/Coloured disk jacket [1990] EPOR 615 .....	151
Fujitsu Ltd's Application [1997] RPC 608 .....	150, 153–4
 GA Cramp and Sons Ltd v Frank Smythson Ltd [1944] AC 329 .....	237
Gale's Application [1991] RPC 305 .....	152
Gartside v Outram (1857) 26 LJ Ch 113 .....	268
Gaskin v United Kingdom (1990) 12 EHRR 36 (ECtHR) .....	431, 443
Gates v Swift [1981] FSR 57 .....	223, 231
Gates Rubber Co v Bando Chemical Industries Ltd (1993) 4 CCH Computer Cases 46,971 .....	221–2
GEC Avionics Ltd's Patent [1992] RPC 107 .....	400
Genentech Inc's Patent [1988] RPC 1; [1989] RPC 147 (CA) .....	137, 152
General Cleaning Contractors v Christmas [1953] AC 180 .....	128–9
General Electric/Disclosure of computer-related apparatus [1992] EPOR 446 .....	158

George Mitchell (Chesterhall) Ltd v Finney Lock Seeds Ltd [1983] 2 AC 803 .....	24
German Case 15 December 1983 BverfG 65; BverfGE 1 (Constitutional Ct) .....	420
Gershwin Publishing Corp v Columbia Artists Management, Inc (1971) 443 F 2d 1159 (2d Cir) .....	371
Godfrey v Demon Internet Ltd, <i>The Times</i> , 20 April 1999 .....	376, 378
Goodman v J Eban Ltd [1954] 1 QB 550 .....	340
Gosney v State of California (1970) 89 Cal Rptr 390 .....	125
Gottschalk v Benson (1972) 409 US 63 .....	155–7, 159, 164
Governor of Pentonville Prison, ex p Osman [1989] 3 All ER 701 .....	319
Grant v Procurator Fiscal [1988] RPC 41 .....	289
Greaves & Co (Contractors) Ltd v Baynham Meikle & Partners [1975] 1 WLR 1095 .....	18
Griffiths v Peter Conway Ltd [1939] 1 All ER 685 .....	16
 H v Commissioners of Inland Revenue [2002] EWHC 2164 (Admin) .....	320
Hadley v Baxendale (1854) 9 Exch 341 .....	40–2, 81, 111–12
Haig v Bamford (1977) 72 DLR (3d) 68 .....	121
Halford v United Kingdom [1997] IRLR 471 .....	324, 407
Hallen Company and Another v Brabantia (UK) Ltd, <i>The Financial Times</i> , 24 October 1990 (CA); approving [1989] RPC 307 .....	172
Harris' Patent [1985] RPC 19 .....	399
Healthcare Affiliated Services Inc v Lippary (1988) 701 F Supp 1142 .....	261
Hedley Byrne v Heller & Partners [1964] AC 465; [1963] 2 All ER 575 .....	120–3, 334
Henderson v Henry E Jenkins [1970] AC 282 .....	126
Henderson v Merrett Syndicates Ltd [1995] 2 AC 145 .....	118
Hewlett Packard Ltd v O'Murphy [2002] IRLR 4 .....	396
Hilti v Commission (Case C-53/92P) [1994] ECR I-667 .....	461, 472
Hilton International Hotels (UK) Ltd v Hotel Services Ltd (2000) BLR 235 .....	111–12
Hivac v Park Royal Scientific Instruments Ltd [1946] Ch 169 .....	274
Hoffman La Roche v Commission (Case 85/76) [1979] ECR 461 .....	463
Hoffman La Roche v Commission (Case 102/77) [1978] ECR 1137 .....	460
Holwell Securities Ltd v Hughes [1974] 1 WLR 155 .....	337
Hong Kong Fir Shipping Co Ltd v Kawasaki Kisen Kaisha Ltd [1962] QB 26 .....	28
Hoover plc v George Hulme Ltd [1982] FSR 565 .....	373–4
Horace Holman Group Ltd v Sherwood International Group (2002) 146 SJLB 35; LTL 27 July 2002 .....	17, 23, 25, 42, 110
House of Spring Gardens v Point Blank Ltd [1985] FSR 327 .....	279
Household Fire Insurance v Grant (1879) 4 Ex D 216 .....	336
Hulton & Co v Jones [1910] AC 20 .....	375
Hutchins' Application [2002] RPC 8 .....	142
Hyde v Wrench (1840) 3 Beav 334 .....	336
 IBA v EMI and BICC (1980) 14 Build LR 1 .....	120
Ibcos Computers v Poole [1994] FSR 275 .....	402
Ibcos Computers Ltd v Barclays Mercantile Highland Finance Ltd [1994] FSR 275 .....	198, 216, 224–6
IBM, 1994 OJ L118/24; [1984] 2 CMLR 342 .....	462, 464, 471–3
IBM's Application [1999] RPC 563 .....	140–1, 143, 148, 152, 167–8, 181
IBM/Card reader [1994] EPOR 89 .....	151
IBM/Computer-related invention [1990] EPOR 107 .....	144, 150
IBM Corporation's Application [1980] FSR 564 .....	154
IBM/Data processor network [1990] EPOR 91 .....	143

IBM/Document abstracting and retrieving [1990] EPOR 99 .....	138, 146, 150, 152
IBM/Editable document form [1995] EPOR 185 .....	147, 150
IBM/Semantically-related expressions [1989] 8 EPOR 454 .....	147
IBM/Text clarity processing [1990] EPOR 607 .....	146–7, 149
IBM Undertaking [1984] 3 CMLR 147 .....	461
ICI and Commercial Solvents v Commission (Cases 6 and 7/73) [1974] ECR 223 .....	463–4, 467, 469
Identrus (Case COMP/37.462) 2001 OJ L249, 19 September 2001 .....	482
IGR Stereo Television, XIth Report on Competition Policy (1984), para 94 .....	486
IMS Health Inc v Commission (Case T-184/01) 10 August 2001 .....	468
Independent School District No 454, Fairmont, Minnesota v Statistical Tabulating Corporation (1973) 359 F Supp 1095 .....	124–5
Independent Television Publications Ltd v Commission (Case T-76/89) [1991] ECR II-575 .....	201
Information Commissioner v Islington London Borough Council [2002] EWHC 1036 (Admin) .....	448
Initial Services v Putterill [1968] 1 QB 396 .....	268
Innovation (Mail Order) Limited v Data Protection Registrar (Case DA/92 31/49/1) 29 September 1993 .....	433
Italian Cass 16 November 1991 (Supreme Ct) .....	343
Italy v Saachi (Case 155/73) [1974] ECR 409 .....	114
ITC Film Distributors v Video Exchange Ltd [1982] Ch 431 .....	284
Iwahashi, <i>In Re</i> (1989) 888 F 2d 1370 .....	156, 158–9, 162
JEB Fasteners v Marks, Bloom & Co [1983] 1 All ER 583 .....	121–2
John Calder (Publications) Ltd v Powell [1965] 1 All ER 159 .....	381
John Richardson Computers Ltd v Flanders [1993] FSR 497 .....	193, 198, 224, 226, 396
Junior Books Ltd v Veitchi Co Ltd [1983] 1 AC 520 .....	116–17, 122–4
Kastner v Rizla [1995] RPC 585 (CA) .....	152, 174
Kaye v Robertson [1991] FSR 62 .....	262, 420
KaZaA.com (KG 01/2264 OdC.) .....	211
KECA Music, Inc v Dingus McGee's Co (1977) 432 F Supp 72 (WD Mo) .....	370
Kepner-Tregoe v Leadership Software Inc (1994) 4 Computer Cases 47,019 .....	221
Koch and Sterzel/X-ray apparatus [1988] 2 EPOR 72 .....	139–40, 143, 147, 150
Ladbroke (Football) Ltd v William Hill (Football) Ltd [1964] 1 WLR 273 .....	193, 237
Lady Gwendolen ( <i>The</i> ) [1965] P 294 .....	127
Lansing Linde Ltd v Kerr [1991] 1 All ER 418; [1991] IRLR 80 .....	277, 402
LB (Plastics) Ltd v Swish Products Ltd [1979] FSR 145 .....	215, 223
Leisure Data v Bell [1988] FSR 367 .....	223, 232
Leslie v Young and Sons [1917] 2 KB 469 .....	237
LICRA v Yahoo, 22 May 2000 (Tribunal de Grande Instance de Paris) .....	390
Lion Laboratories v Evans [1985] QB 526 .....	268–9
Lister v Forth Dry Dock & Engineering Co [1989] IRLR 161 .....	93
Littlewoods Organisation v Harris [1977] 1 WLR 1472 .....	277
London and Globe Finance Corp Ltd, <i>Re</i> [1903] 1 Ch 728 .....	297
London & Northern Bank, <i>Re</i> [1900] 1 Ch 200 .....	337
London County Council v Vitamins; London County Council v Agricultural Food Products Ltd [1955] 2 QB 218 .....	340

Lord Ashcroft v Attorney-General and Department for International Development [2002] EWHC 1122 .....	442
Lotus Development Corporation v Paperback Software International (1990) 2 CCH Computer Cases 46,310 .....	219, 221
Lowry, <i>In Re</i> (1994) 32 F 3d 1579 .....	160, 163–4
Lux Traffic Controls Ltd v Pike Signals Ltd [1993] RPC 107 .....	151, 169
Mackay v McCankie (1883) 10 R 537 .....	375
Mackenzie Patten v British Olivetti (1984) 1 CL&P 92 .....	10
Magill TV Guide/ITP, 1989 OJ L78/43 .....	201
MAI Systems Corp v Peak Computer Inc (1993) 991 F 2d 511 (9th Cir), cert dismissed (1994) 114 S Ct 671 .....	368
Malone v Commissioner of Police of the Metropolis (No 2) [1979] Ch 344 .....	284
Malone v United Kingdom [1984] 7 EHRR 14 .....	324
Marc Rich & Co AG v Bishops Rock Marine Co Ltd [1996] AC 211 .....	117–18
Marcel (Furriers) Ltd v Tapper [1953] 1 WLR 49 .....	105–6
Mardorf Peach & Co Ltd v Attica Sea Carriers Corporation of Liberia [1976] 2 All ER 249 .....	356
Marobie-FL Inc d/b/a Galactic Software v National Association of Fire Equipment Distributors and Northwest Nexus Inc (1997) 983 F Supp 1167 (ND III) .....	368, 370
Market Investigations Ltd v Minister of Social Security [1968] 3 All ER 732 .....	395
Market Wizard Systems (UK) Ltd, <i>Re, The Times</i> , 31 July 1998 .....	119–20
Mars UK Ltd v Teknowledge Ltd (No 2), <i>The Times</i> , 23 June 1999 .....	226
Mason v Provident Clothing & Supply Co Ltd [1913] AC 724 .....	276
MCI WorldCom/Sprint IP/00/668, 28 June 2000 .....	477
Memco-Med Ltd's Patent [1992] RPC 403 .....	400
Merchant Adventurers Ltd v M Grew & Co Ltd [1973] RPC 1 .....	198
Merrill Lynch's Application [1989] RPC 561 .....	152
Michelin v Commission (Case 322/81) [1983] ECR 3461 .....	460, 463
Microbeads AG v Vinhurst Road Markings Ltd [1975] 1 WLR 218 .....	13
Micron Computer Systems Ltd v Wang (UK) Ltd, 9 May 1990 (QBD) (unreported) .....	32, 38–9
Microsoft IP(94)643; [1994] 5 CMLR 143 .....	462, 464, 472
Microsoft IP/01/1232 .....	472
Microsoft Corp v Electro-Wide Ltd [1997] FSR 580 .....	223
Midgen v Chase Manhattan Bank (1981) 32 UCC Rep 937 .....	129
Midlands Electricity plc v The Data Protection Registrar, 7 May 1999 .....	450
Millar v Taylor (1769) 4 Burr 2303 .....	283–4
Millar's Machinery v David Way (1935) 40 Com Cas 204 .....	42
Miller v California (1973) 413 US 15 .....	380
Ministry of Housing v Sharp [1970] 2 QB 223 .....	130
Mitek Holdings Inc v ARCE Engineering Co Inc, 864 F Supp 1568 (SD Fla 1994); 5 CCH Computer Cases 47,203 .....	222
Mobil Oil/Friction reducing additive [1990] EPOR 514 .....	170
Momm v Barclays Bank International Ltd [1976] 3 All ER 588 .....	355
Monsanto Co v Stauffer Chemical Co [1985] RPC 515 .....	173
Montgomery v Johnson Underwood Ltd [2001] IRLR 269 .....	396
Moorhouse v University of NSW [1976] RPC 157 .....	370
Morgans v DPP [1999] 1 WLR 968 (DC) .....	304, 323–4
MPEG-2, 1998 OJ C229/6 .....	486
MS Associates Ltd v Power [1988] FSR 242 .....	223

Muirhead v Industrial Tank Specialties Ltd [1986] QB 507	117
Murphy v Brentwood District Council [1990] 2 All ER 908	117
Musgrave, <i>Re</i> (1970) 431 F 2d 882	154
NEC Corporation v Intel Corporation (1989) 1 CCH Computer Cases 46,020	218
Nethermere (St Neots) Ltd v Taverna and Gardiner [1984] IRLR 240 (CA)	395
New York Times Co v Sullivan (1964) 376 US 254	375
Niemitz v Germany, 23 November 1992, Series A No 251/B (EctHR)	407
Nordenfeldt v Maxim Nordenfeldt Gun Co [1894] AC 535	276
Norman Baker MP v Secretary of State for the Home Department (2001) UKHRR 1275	437
Northern Office Microcomputers v Rosenstein [1982] FSR 129	402
Nottinghamshire County Council v Gwatkin, 3 June 1997 (Ch D) (unreported)	388
Nottinghamshire Healthcare National Health Service Trust v News Group Newspapers Limited, 14 March 2002 (unreported)	232
NTL Group Ltd v Ipswich Crown Court [2002] EWHC 1585 (Admin)	323
Office Angels Ltd v Rainer-Thomas [1991] IRLR 214	277
O'Kelly v Trusthouse Forte plc [1983] IRLR 369 (CA)	395
Opinion 8/2001 on the processing of personal data in the employed context, 13 September 2001	406, 409
Oscar Bronner GmbH & Co KG v Mediaprint (Case C-7/97) [1998] ECR I-7791	467
Otter Tail Power Co v United States, 410 F 2d 1081 (7th Cir 1983)	469
Overseas Tankship (UK) v Morts Dock and Engineering Co ('The Wagon Mound') [1961] AC 388	42, 123
Overseas Tankship (UK) v Miller Steamship Co Pty ('The Wagon Mound' (No 2)) [1967] 1 AC 617	42
Oxford v Moss (1978) 68 Cr App Rep 183	106, 288, 290, 298
Oy Liikene AB [2001] IRLR 17	94
P & M Kaye v Hosier [1972] 1 All ER 121	42
Paris v Stepney Borough Council [1951] AC 367	129
Parker v Flook (1978) 437 US 584	139, 156–9, 164
Paul (Printing Machinery) Ltd v Southern Instruments (Communications) Ltd [1964] RPC 118	271
PBS Partnership/Controlling pension benefits system (Case T 931/95)	140, 142, 146, 149, 166, 181
Pegler Limited v Wang [2002] BLR 218	19, 23, 112
Perkins/Piston [1996] EPOR 449	171
Pettersson/Queuing system [1996] EPOR 3	151
Phillips Products Ltd v Hyland [1987] 1 WLR 659	43
Pierce v Promco SA and Others [1998] All ER (D) 780	199
Plains Cotton Cooperative Association of Lubbock Texas v Goodpasture Computer Services Inc (1987) 807 F 2d 1256	220
Playboy Enterprises Inc v Frena (1993) 839 F Supp 1552 (MD Fla); (1993) 4 CCH Computer Cases 47,020	210–1, 368–9
Playboy Enterprises Inc v Russ Hardenburgh, et al (1997) 982 F Supp 503 (ND Ohio)	369
Playboy Enterprises Inc v Webbworld (1997) 968 F Supp 1171 (ND Tex)	369
Plix Products Ltd v Frank M Winstone (Merchants) [1986] FSR 63	223
PMS International plc & McKenhenie plc v Whitehouse & Willenhall Automation Ltd [1992] FSR 489	403

Polkey v AE Dayton Services Ltd [1987] IRLR 503 (HL) . . . . .	394
Preddy [1996] 3 All ER 481 . . . . .	298
Prendergast v Sam & Dee Ltd, <i>The Times</i> , 24 March 1988 . . . . .	126
Printers and Finishers v Holloway [1964] 1 WLR 1 . . . . .	275–6
Prout v British Gas plc [1992] FSR 478 . . . . .	405
Provident Financial Group plc v Hayward [1989] 3 All ER 298 . . . . .	278
PRS v Bradford Corporation [1917–1923] Mac CC 309 . . . . .	370
Public Systems Inc v Towlry and Adams (1991) WL 184452 . . . . .	261
R v Absolom, <i>The Times</i> , 14 September 1983 . . . . .	288
R v Bernado (Action No 125/93) 1993 OJ No 2047 . . . . .	388
R v Borg, March 1993 . . . . .	304
R v Bow Street Magistrates and Allison (AP), ex p US Government [1999] QB 847; confirmed [1999] 3 WLR 620 (HL) . . . . .	307, 319
R v Bowden [2000] 1 Cr App R 438 . . . . .	301
R v Brown [1996] 1 All ER 545 . . . . .	448
R v Calder & Boyars Ltd [1969] 1 QB 151 . . . . .	381
R v Chesterfield Justices and Others, ex p Bramley [2000] 2 WLR 409 (DC) . . . . .	320
R v Churchill (No 2) [1967] 1 QB 190 . . . . .	233
R v Clayman, <i>Times Law Reports</i> , 1 July 1972 . . . . .	297
R v Cochrane [1993] Crim LR 48 . . . . .	327
R v Farquharson, 9 December 1993 (Croydon Magistrates' Court) . . . . .	304
R v Fellows and Arnold [1997] 2 All ER 548 . . . . .	300
R v Gold, Schifreen [1988] 2 All ER 186; [1997] 3 WLR 803 . . . . .	299
R v Goulden, <i>The Times</i> , 10 June 1992 . . . . .	312
R v Governor of Brixton Prison and Another, ex p Levin [1996] 4 All ER 350 . . . . .	318–9, 325, 327
R v Manley (1844) 1 Cox 104 . . . . .	308
R v Maxwell-King, <i>Times Law Reports</i> , 12 January 2001 . . . . .	306
R v Moritz, 17–19 June 1981 (Acton Crown Court) (unreported) . . . . .	297
R v Offley (1986) 28 CCC (3d) 1 . . . . .	290–1
R v P and Others [2001] 2 All ER 58 . . . . .	324
R v Pearlstone, April 1991 (Bow Street Magistrates' Court) . . . . .	304
R v Penguin Books [1961] Crim LR 176 . . . . .	381
R v Rymer (1993) . . . . .	308
R v Sean Cropp, 4 July 1991 (Snaresbrook Crown Court) . . . . .	303, 307, 311
R v Sharpe (BCCA 1999 416), 30 June 1999 . . . . .	382
R v Shephard [1993] 1 All ER 225 . . . . .	326
R v Skirving and Another [1985] 2 All ER 705 . . . . .	381
R v Stewart (1983) 43 OR (2d) 225; (1988) 50 DLR (4th) 1 . . . . .	291–2
R v Strickland; R v Woods, March 1993 (Southwark Crown Court) . . . . .	305
R v Thompson [1984] 3 All ER 565 . . . . .	297
R v Waddon [2000] All ER (D) 502 . . . . .	327
R v Westgarth Smith and Jayson [2002] EWCA Crim 683 . . . . .	301
R v Whitaker, 1993 (Scunthorpe Magistrates' Court) . . . . .	312
R v Whiteley (1991) 93 Cr App R 25 . . . . .	107, 308–9
R v Wood (1983) 76 Cr App R 23 . . . . .	326
R v Woollhead, <i>The Herald</i> , 9 March 1995 . . . . .	326
R (Roberston) v Wakefield Metropolitan District Council [2002] 2 WLR 889 . . . . .	443
Raindrop Data Systems Ltd v Systematics Ltd [1988] FSR 354 . . . . .	232