NOTES AND COMMENT

Sunlec International v Electropar – Copyright in a Slogan: Literature for Marketers? —
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Consent to Online Privacy Policies
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Surfing the internet often results in the transfer of personal information between users of websites and the operators of those websites. This can be automatic such as the creation of logs regarding the user’s web browsing habits, or dependent on conscious acts of the user, such as posting personal photographs on an online social network. Frequently a website operator will promulgate a privacy policy regarding personal information divulged in the course of online transactions. This article will focus on one aspect of the enforceability of online privacy policies, namely the matter of consent. It will be demonstrated that contract principles are incapable of addressing this issue in this context with a sufficient degree of certainty. The concept of authorisation under data protection legislation such as the Privacy Act 1993 is a more appropriate mechanism for regulation of this issue.

Reflections and Perspectives on the South African Close Corporation as Business Vehicle for SMEs
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In this article the focus is on some of the unique and innovative features of the South African Close Corporations Act 69 of 1984. It is argued that, based on the positive experience with the close corporation in South Africa over almost 25 years, it is worth considering some of the fundamental features of the South African close corporation when new legislation for SMEs is contemplated by other countries. It is argued that there is not a
single principle-based objection that could be raised against the introduction of a close
corporation as business vehicle for small businesses, similar to the South African close
corporation, in Australia, New Zealand or the United Kingdom.

When is Licensing a Trade Mark Deceptive?
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Orthodoxy suggests that the primary raison d’etre of a trade mark is to guarantee origin
and, more subtly, quality. Economic reasons to do with the interests of consumers justify
this function. Because licensing means the person who produces trade marked goods is not
the registered owner, the law has for long been disinclined to allow the practice for fear the
public would be deceived. But trade marks have always involved more than the public
interest. A strong argument — based upon the reap/sow theory — favours the economic
rights of trade mark owners. Recognition of licensing and transferring marks under the
trade marks legislation, therefore, has over the years been gradually extended. The New
Zealand Trade Marks Act 2002 made radical changes. In the new regime restrictions on
dealing in trade marks have now given way to laissez-faire. But to what extent? In
particular, when will a registered trade mark be rendered invalid when used by someone
else with the owner’s consent? The answer will impact upon a wider issue of the possible
erosion of public confidence in the registration system.

Governance Issues for Co-operative Companies under the Co-operative Companies Act
1996
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Co-operative companies registered under the Co-operative Companies Act 1996 play a
significant role in the New Zealand economy. This article focuses on one governance issue
unique to boards of co-operative companies, the annual assessment as to whether the
company meets the criteria for continued registration as a co-operative company. The
definition of co-operative company is in two parts. First, the company’s principal activity
must be the co-operative activity that is specified in its constitution. Second, 60 per cent of
the voting rights in the company must be held by transacting shareholders. The article
concludes that co-operative companies have considerable flexibility in determining whether
or not these requirements are met.