

COMMERCIAL DISPUTES WEEKLY – ISSUE 95

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BITE SIZE KNOW HOW FROM THE ENGLISH COURTS

"As the present case illustrates, the development of digital technologies has added to the potential for mass harm for which legal redress may be sought."

Lloyd v Google LLC

Representative Actions – Data Protection Act 1998 ("DPA")

The Supreme Court ruled that a claimant seeking damages under section 13 of the DPA as a representative claimant under CPR 19.6(2) was bound to fail because the (est. 4million) represented claimants had to have damages individually assessed and therefore did not satisfy the "same interest" requirement under the CPR. This was a claim against Google by a claimant representing residents who owned Apple iPhones at the relevant time and whose data was obtained without consent. In addition to analysing the DPA, the Court surveys the scope for collective redress in English law. Lloyd v Google LLC

Seaworthiness

The Supreme Court has confirmed that the courts below were correct to conclude that a defective passage plan can render a vessel unseaworthy. The Court

determined that the exceptions at article IV Rule 2 of the Hague Rules (act, neglect or default in navigation) did not excuse an owner for a causative breach of the carrier's obligation to exercise due diligence to make the vessel seaworthy. Another interesting feature of this case is providing 'systems' for passage planning is not sufficient, the plan itself must be satisfactory if the vessel is to be seaworthy. This case has consequences for seaworthiness obligations beyond passage planning.

CMA CGM Libra

Statutory interpretation

The Court of Appeal ruled in the context of a statutory right-to-manage (RTM) a block of apartments under the Commonhold and Leasehold Reform Act 2002 ("the Act"). The Court held that a requirement in the Act that a prior existing notice "must" be withdrawn by service on the landlord and the qualifying tenants is to be interpreted firstly, by considering the importance of the relevant step in the context of the procedure. If the requirement is for information, distinctions should be made between what is important/critical or just ancillary.

Eastern Pyramid Group Corp SA v Spire House Company Ltd

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Jurisdiction

The Commercial Court rules on a claim by Brazilian orange farmers against an orange juice company and certain of its family board members in respect of alleged antitrust infringements committed in Brazil but said to be causing harm to the claimants in England. The court considers whether it has jurisdiction and service of a foreign company at “a place of business” in England. It also considers if it has jurisdiction over family board members said to be domiciled in England and Switzerland. It further considers forum non conveniens and whether stays should be ordered in view of the risk of irreconcilable judgments from Brazil. *Viegas & Ors v Cutrale & Ors*

Should you wish to discuss any of these cases in further detail, please speak with a member of our London dispute resolution team below, or your regular contact at Watson Farley & Williams:

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