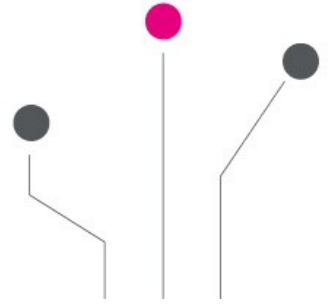


to the point technology & digitalisation



November 2019

Preface

• Hello World!

Technology is indisputably the future. But despite being the gold of our generation, technology is also changing businesses faster than they can keep up. To serve our clients better in this ever-changing environment, Schönherr has established a "technology & digitalisation" group (tech.schoenherr.eu).

The group is made up of focused, specialised lawyers from all over CEE, striving to improve the way technology-related challenges can be tackled. We will regularly be informing you of important legal developments in this area. And so, I present the first edition of our "to the point"-newsletter. Enjoy reading it and follow us on [LinkedIn](#)



Thomas Kulnigg
Partner, Vienna
t.kulnigg@schoenherr.eu
T: +43 1 53437 50757

Blockchain Newscorner

- BTC/EUR: €8,696.14*
- ETH/EUR: €166.78*
- The Bitcoin Blockchain reached block #600,000 (18/19 October 2019) – congrats!
- Liechtenstein passes Blockchain law (3 October 2019)
- Bitcoin network uses around 79.79 terawatt hours of power per year (which is close to the energy consumption of Belgium of Finland)**
- Total Ether supply: 108,343,814, market capitalization: €18,136,051,975***
- Total Bitcoins mined: 18,019,200, market capitalization: €151,655,252,886 ****

* Coinbase.com; 28 October 2019, 06:30.

** <https://bitcoinist.com/bitcoins-energy-consumption-nears-belgium-finland-figures/>

*** <https://coinmarketcap.com/de/currencies/ethereum/>, 29 October, 18:40

**** <https://coinmarketcap.com/de/currencies/bitcoin/>, 29 October, 18:40

To the Point:

• Digital foundation of an Austrian limited liability company

On 08 October 2019, Schönherr Attorneys at Law became the first person in Austria to establish an Austrian limited liability company online – by way of a video conference and electronic signatures. It is no longer required to sign the notarial deed personally in front of the notary in Austria - the electronic notarial deed and the possibility of electronic signatures make it possible. Check out our new blog post if you are interested how the digital foundation of limited liability companies in Austria works.

[Visit our blog to learn more!](#)

[Thomas Kulnigg & Maximilian Nutz](#)

• Recent change of Czech law on public access to information

The Czech public authorities manage many public registers containing information which may be used even for private (commercial) purposes, as required under the Open Data Directive (EU) 2019/1024. This open data includes the Commercial Register and the Register of Contracts. But until recently, it was not clear whether the GDPR and other rules protecting privacy could limit this right and thereby effectively "close" the open data. That is why the existing Czech law on free access to public information was amended on 24 April 2019 to clarify that the privacy concerns of affected individuals do not take priority over the right to access and use the open data. However, it remains to be seen how this exception will work in practice, particularly if individuals whose personal data were published in the registers do not challenge their disclosure.

[Bednář Stanislav](#)

• Virtual currencies and AML

Austrian AML laws will soon provide a definition of virtual currencies and already regulate certain services in that respect. This will increase compliance needs for service providers dealing with virtual currencies, like start-ups in this sector, but also raise subsequent questions relating to the legal nature and risks of virtual currencies. For further information check out [our latest Legal Insight](#) on this topic.

[Michael Lindtner](#)

- **Liability of platform operators in focus – and the Austrian courts are driving the European debate**

The liability of intermediaries, especially platform operators, for user violations of IP and personality rights is being hotly debated throughout Europe. The Austrian Supreme Court is spearheading the discussion with several referrals to the CJEU. While we already know from the Glawischnig decision (C-18/18) that in the case of hate speech platform operators can be obliged, subject to certain preconditions, to also block content similar to the illegal content and that EU law would not stand in the way of a worldwide obligation to block/delete, various questions on the applicability of the host provider liability privilege (in particular concerning the neutral or active role of such providers) and enforcement of IP rights via platform operators are still pending (see C-500/19, C-682/18 and C-683/18, C-442/19, C-264/19). Although in the area of copyright law the DMS Directive provides a new framework for "online content sharing service providers", the outcome of the pending cases will still have a huge impact on the business of platform providers in relation to other IP and personality right infringements.

[Dominik Hofmarcher](#)

- **Facebook's Libra: The new generation of cryptocurrencies?**

Facebook's contemplated cryptocurrency "Libra" is currently on everyone's lips. Some see it as a revolution in the global financial world, others as a cryptocurrency like any other. Mark Zuckerberg says that "sending money should be as easy as sending a photo", but what is behind Libra? This blog attempts to answer some frequently asked questions.

[Visit our blog to learn more!](#)

[Thomas Kulnigg & Maximilian Nutz](#)

- **Increased activity of the Polish Data Protection Authority**

In September 2019, the Polish Data Protection Authority punished Morele.net Group - a popular Polish e-commerce player owning numerous on-line shops offering wide range of various products – with the biggest fine to date amounting to PLN 2,830,410 (approx. EUR 660,000). Due to lack of sufficient safeguards, Morele.net fell prey to a hackers' attack resulting in personal data of as many as 2.2 million of their clients being published online. The case was taken very seriously because the data contained not only names or surnames of Morele.net's clients but also their ID numbers and specific financial information (e.g. monthly income, costs of living etc.). In this case, attention has been drawn to the level and quality of data protection. In two previous cases where fines were imposed, the Polish authority took into consideration the broad scope of disclosed

data (fine imposed amounted to PLN 55,750.50 (approx. EUR 12,872), and failure to comply

with the information obligation resulting from Art. 14 of the GDPR (fine imposed: PLN 943,470 (approx. EUR 217,850). In October 2019, the Polish authority found multiple irregularities and infringements not in a private but in a public entity, and imposed a fine of PLN 40,000 (approx. EUR 9,400) on the mayor of a Polish town.

[Visit our blog to learn more!](#)

[Daria Rutecka](#)

- **Payment Services Directive (PSD2) – Strong Customer Authentication and additional migration period for e-commerce businesses**

The revised Payment Services Directive (PSD2) brought significant changes to the payment markets in the EU, requiring certain payment services providers (PSPs) to apply strong customer authentication (SCA; also known as two-factor authentication) in remote electronic transactions. SCA is based on the use of at least two factors of the categories knowledge, possession and inherence. Due to concerns about market unpreparedness, the European Banking Authority (EBA) has allowed national competent authorities to extend the original deadline of 14 September 2019 for the application of SCA for online card-based payments in e-commerce. The Austrian Financial Market Authority (FMA) has announced that it will exercise this regulatory flexibility and has extended the deadline for SCA application in e-commerce until 31 December 2020, on condition that PSPs will provide migrations plans and updates on the implementation process.

[Visit our blog to learn more!](#)

[Matthias Pressler](#)

For further information, please contact any of the individuals named above, your usual contacts at Schoenherr or any member of our [technology & digitalisation practice group](#).