



THE UNIVERSITY OF
MELBOURNE

Melbourne Law School



Intellectual Property Research Institute of Australia

Annual Report

2014-15

ipria



Front cover:
Melbourne Law School

Published by
Intellectual Property Research Institute of Australia
Melbourne Law School/Melbourne Business School
The University of Melbourne VIC 3010 Australia

Tel: +61 3 8344 9970
Fax: +61 3 9348 2353
Email: ipria-info@unimelb.edu.au
Web: www.law.unimelb.edu.au/cmcl/ipria

Editor
Hamish Carr, Administrator

Authorised by
Professor Megan Richardson and Associate Professor Kwanghui Lim

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Goals of IPRIA

IPRIA is a centre for the research, discussion and teaching of all aspects of intellectual property law and policy.

The Intellectual Property Research Institute of Australia (IPRIA) was established in March 2002 as an initiative of IP Australia. IPRIA was established to increase the understanding, creation, use and exploitation of intellectual property by Australian organisations and individuals. The focus is to move understanding and engagement with intellectual property from a technical to a strategic consideration. Intellectual property in this context is broader than formal intellectual property rights and includes the management of knowledge, personnel and intangible assets.

From 2002 to 2014 the Institute functioned as a collaborative research centre located at the University of Melbourne with significant funding from IP Australia. The core faculties were the Faculty of Business and Economics, the Melbourne Law School and the Melbourne Business School.

In 2015 IPRIA continues to function as a collaborative research centre located at the University of Melbourne but without block funding from IP Australia. It is located at the Melbourne Law School and has a team of Directors from the Melbourne Law School and Melbourne Business School, as well as Associates, primarily drawn from the wider University of Melbourne, and Research Staff.

IPRIA is assisted by an Advisory Board from intellectual property industries, the University and IP Australia, and receives support from the Melbourne Law School and Melbourne Business School as well as external research partners including IP Australia.





Professor Beth Webster

Director 2008- 2014

Professor Beth Webster was IPRIA's Director in 2014. She is currently the Director of the Centre for Transformative Innovation at Swinburne University of Technology. She is also an Honorary Professorial Fellow, Melbourne Institute of Applied Economic and Social Research at the University of Melbourne. She has authored over 100 articles on the economics of innovation and firm performance and has been published in RAND Journal of Economics, Review of Economics and Statistics, Oxford Economic Papers, Journal of Law & Economics and Cambridge Journal of Economics. She has been appointed to a number of committees including the Lomax-Smith Base funding Review; CEDA Advisory Council; the Advisory Council for Intellectual Property; Board Member, European Policy for Intellectual Property Association; and Board Member, Asia Pacific Innovation Network.



Photo by Bernard Lyons

Professor Megan Richardson

Director 2015

Megan Richardson has degrees from Victoria University of Wellington, New Zealand, Yale University, USA, and the Free University of Brussels, Belgium; and she is currently a Professor of Law at the Melbourne Law School. Her fields of research and publication include intellectual property, privacy and personality rights, law reform and legal theory. She has served on consultative panels for New South Wales Law Reform Commission and Australian Law Reform Commission privacy reviews. From 2009-2012 she was the Associate Director Law of the Intellectual Property Research Institute of Australia (IPRIA) and is currently Co-Director of the Law School's Centre for Media and Communications Law (CMCL).



Associate Professor Kwanghui Lim

Director 2015

Kwanghui Lim is an experienced teacher, researcher and consultant in the areas of technology management and the commercialisation of innovation. His research explores the strategies used by firms to manage intellectual property and the commercialisation process.

Prior to joining Melbourne Business School, Kwanghui was an Assistant Professor at the National University of Singapore (NUS). Kwanghui's industry experience includes consulting experience at Booz Allen & Hamilton. During his time there he worked on corporate strategy and information technology projects and developed a computer-based staffing model used at several financial institutions.



IPRIA Staff

IPRIA also includes an Administrator and several casual research assistants.

James Davis | Administrator

James Davis was IPRIA's Administrator at FBE from 2013-2014. At the Melbourne Law School further administrative support was provided by the CMCL administrator Clarissa Terry.

Hamish Carr | Administrator

Hamish Carr joined the Melbourne Law School and became the CMCL and IPRIA Administrator in 2015.

IPRIA Advisory Board

In 2015 the Advisory Board comprises:

- Mr Owen Malone, Director, Intellectual Property, Treasury Wine Estates (Chair)
- Dr Ben Mitra-Kahn, Chief Economist, IP Australia
- Professor Paul Jensen, Faculty of Economics, The University of Melbourne

In 2014 the Advisory Board comprised:

- Dr Robert Chalmers, Chairman, Knowledge Commercialisation Australia (KCA)
- Dr Jason Coonan, UoM Commercial
- Mr Graham Cowin, Immediate-Past President, The Institute of Patent and Trade Mark Attorneys of Australia (IPTA)
- Mr Jefferson Harcourt, Managing Director, Grey Innovation
- Ms Patricia Kelly, Director General, IP Australia
- Ms Anne Makrigiorgos, President, The Institute of Patent and Trade Mark Attorneys of Australia, (IPTA)
- Mr Owen Malone, Director, Intellectual Property, Treasury Wine Estates (Chair)
- Mr Michael Mileo, Director, Quintas Corporate Advisory Pty Ltd
- Dr Ben Mitra-Kahn, Chief Economist, IP Australia
- Professor Sam Ricketson, Melbourne Law School, The University of Melbourne
- Mr Roy Rose, Immediate-Past President, Australian Industry Research Group
- Ms Karen Sinclair, Principal, Watermark and Immediate Past-President, Licensing Executives Society of Australia and New Zealand (LESANZ)
- Dr Rhonda Smith, Senior Lecturer, Faculty of Economics, The University of Melbourne
- Mr John Walker, President, Australian Manufacturers' Patents, Industrial Designs, Copyright and Trade Mark Association (AMPICTA)
- Professor Ian Williamson, Melbourne Business School

IPRIA Research Fellows & Associates

Research Fellows of IPRIA work on IPRIA research projects. In 2014-2015 they were:

- Associate Professor Chris Dent (Melbourne Law School) (2014)
- Professor Paul Jensen, Professorial Research Fellow, Melbourne Institute of Applied Economic and Social Research (2014)
- Dr Gaétan de Rassenfosse BBSc BS(Science in Management) MA (Science in Management) PhD (Bruxelles) (2014)
- Associate Professor Don O'Sullivan (Melbourne Business School) (2014-2015)
- Associate Professor Alfons Palangkaraya, (Swinburne University)
- Associate Professor Russell Thomson, (Swinburne University)

Associates of the IPRIA are academics from the Melbourne Law School and elsewhere who share a research interest in intellectual property law and policy. In 2014-2015 they were:

- Professor Graeme Austin, Melbourne Law School (2014-2015)
- Jason Bosland, University of Melbourne (2014-2015)
- Professor Andrew Christie, Melbourne Law School (2014-2015)
- Associate Professor Chris Dent, Melbourne Law School (2014) and Murdoch (2015)
- Arlen Duke, Senior Lecturer, Melbourne Law School (2014-2015)
- Professor Richard Garnett, Melbourne Law School (2015)
- Director Jonathan Gill, Carrick Gill Smyth Lawyers (2015)
- Professor Andrew Kenyon, Melbourne Law School (2014-2015)
- Janice Luck, Melbourne Law School (2015)
- Professor Megan Richardson, Melbourne Law School (2014-2015)
- Professor Sam Ricketson, Melbourne Law School (2014-2015)
- Dr Gaétan de Rassenfosse, Faculty of Business and Economics, University of Melbourne (2014)
- Rhonda Smith, Faculty of Economics (2015)
- Associate Professor Kimberlee Weatherall, Sydney Law School, University of Sydney (2014-2015)

Research

In 2014 & 2015 IPRIA staff, research fellows and associates were involved in major research projects.

ARC Linkage The Efficiency of the Global Patent System

Investigators:

- Professor Beth Webster, Swinburne University of Technology,
- Professor Paul Jensen, University of Melbourne
- Associate Professor Alfone Palangkaraya, Swinburne University of Technology
- Professor Brian Wright, University of California, Berkeley
- Professor Sadao Nagaoka, Hitotsubashi University
- Professor Bruno van Pottelsberghe, ULB, Sussex University, Université Libre de Bruxelles
- Professor Show-Ling Jang, National Taiwan University

Partners

IP Australia

IPTA Institute of Patent and Trademark Attorneys of Australia

An efficient global patent system is a critical economic policy for small, isolated countries such as Australia. To be efficient, the patent system should be globally consistent; simple and cost effective to use; parsimonious in the grant of monopoly rights; and provide a level playing field for all inventors. Existing empirical evidence indicates that the patent system is currently inefficient and this has negative effects on our R&D sector. This project will be the first study in the world to combine a new international patent database with more in-depth local information from Australia, Japan, US, Europe and Chinese Asia (China, Taiwan). Our analysis will provide robust evidence to underpin international patent negotiations.

ARC Discovery The relationship between firm innovation and performance and the role of the government

Investigators

- Professor Beth Webster, Swinburne University of Technology,
- Professor Paul Jensen, University of Melbourne
- Associate Professor Alfone Palangkaraya, Swinburne University of Technology
- Professor Jacques Mairesse, Maastricht University, Netherlands, Advanced School for Social Studies

Productivity growth in Australia has plateaued. Although Federal and State Governments employ a range of different innovation policies designed to stimulate productivity growth, little is known about the effects these programs - and of innovation more generally - on firm performance. One reason why this relationship is unknown relates to the availability of firm-level data. In this project, we take advantage of unique access to a dataset provided by the Australian Bureau of Statistics which enables us to observe the activities of every firm in Australia. Using these data and appropriate econometric techniques, we will examine the effect of a range of government policies designed to stimulate innovation and productivity growth.

The market for design: insights from interviews with Australian firms

- Associate Professor Kwanghui Lim, Melbourne Business School, University of Melbourne
- Associate Professor Don O'Sullivan Melbourne Business School, University of Melbourne
- Mr Michael R. Falk Melbourne Business School, University of Melbourne

The goal of this study was to provide insights into how the market for design operates.

We found that the formal protection of intellectual property through design rights plays a minor role in the decision making of firms operating in the market for design. This creates difficulties for buyers and sellers in transacting with each other and capturing value. We found that both buyers and sellers have adapted to imperfections in the market for design by developing reputational signals. Signals of a seller's reputation assume a heightened importance and we see strong evidence that sellers engage in strategies to manage these signals. We refer to these signals as the 5 R's: rigour, rhetoric, roster, rating and referral. Conversely, we find that signals of a buyer's reputation also assume great importance and again we see strong evidence of buyers engaging in strategies to manage these signals. We refer to these signals of buyer reputation as the 4 C's: contests, co-creation, curation and casting. Beyond influencing reputation, signals play a role in enabling buyers and sellers to influence each other's level of investment and effort in the transaction.

Our project is the first stage in mapping the dynamics and mechanisms of how the market for design operates. Our ultimate aim is to generate insights that inform how Australia might encourage the growth of design as a capability within firms.

Although formal intellectual property rights are perceived as having a limited role, our study suggests that there is a need to ensure the optimal functioning of design rights. There are clear policy implications in four other areas—in nurturing design talent, coordinating an Australian design narrative, providing recognition for the quality of Australian design and influencing demand for design within the local market.

These findings were presented at several conferences:

- UNSW Asia-Pacific Strategy, Innovation, & Entrepreneurship (SIE) Symposium. 20 Sep 2015.
- Wharton Technology & Innovation Conference. April 2015
- Design for Business Research Conference. Melbourne, May 2015
- Asia Pacific Innovation Conference, Sydney. November 2014.

The report was cited in the *Productivity Commission Issues Paper on Intellectual Property Arrangements* (Oct 2015). And,

It also received a mention by the President of Design Institute Australia in the DIA Winter 2015 newsletter (http://www.dia.org.au/media/SPARK%2034_Winter%202015_web.pdf)

This report was commissioned by IP Australia

The Careers of Scientists

- Associate Professor Catherine de Fontenay, Melbourne Business School, University of Melbourne
- Associate Professor Kwanghui Lim, Melbourne Business School, University of Melbourne

Kwanghui Lim and Catherine de Fontenay (MBS) are currently working on a project on the careers of scientists. IPRIA funded the initial stages of this project, and it is now an ARC Discovery project. The purpose of this project is to explore how team size and signals of quality affect the promotion prospects (and exit choices) of scientists. At this stage Kwang and Catherine are exploring a model based on economic theory and computer simulation.

A Global trade mark database

Investigators:

- Professor Beth Webster, Swinburne University of Technology,
- Professor Paul Jensen, University of Melbourne
- Professor Alfone Palangkaraya, Swinburne University of Technology
- Assistant Professor Gaétan de Rassenfosse, EPFL, École polytechnique fédérale de Lausanne
- T'Mir D. Julius, Swinburne University of Technology
- Dr Steve Petrie, Swinburne University of Technology
- Associate Professor Kwanghui Lim, Melbourne Business School, University of Melbourne
- Associate Professor Russell Thomson, Swinburne University of Technology
- Dr Ben Mitra-Kahn, IP Australia

The aim of this project is to create an international linked trade mark database. Currently, trade mark databases are country specific which makes it expensive, if not unviable, to analyse global aspects of branding and trade mark policy issues. With a team of researchers from computer science, physics and economics we aim to link national trade mark data registers on the basis of company names, text and images to form a comprehensive global database.

ARC Linkage Project: Testing Trade Mark Law's Image of the Consumer

Investigators:

- Associate Professor Kimberlee Weatherall, University of Sydney
- Professor Michael Humphreys, University of Queensland
- Dr Sarah Kelly, University of Queensland
- Associate Professor Jennifer Burt, University of Queensland
- Professor Megan Richardson, Melbourne Law School, University of Melbourne

As part of this project Megan Richardson and Jill Klein from Melbourne Business School carried out a study to test the assumption made in the recent High Court decision in *Cantarella Bros Pty Ltd v Modena Trading Pty Ltd* [2014] HCA 48 that (in the absence of compelling evidence to the contrary) 'Oro' when used in relation to coffee does 'not ... convey a meaning or idea sufficiently tangible to anyone in Australia concerned with coffee goods as to be a word having direct reference to the character or quality of the goods', with the result that the word could function as a registrable trade mark. The project includes an online consumer survey designed in conjunction with the survey firm Pureprofile and conducted across Australia in September 2015, designed to elicit consumer understanding of and attitudes to the work 'Oro' when used on coffee packets. Results of the survey are currently being analysed.

'The Internet of Things'

The Internet of Things (IoT) impacts human lives in many positive ways as a result of data collected through wearables and sensors associated with health, homes, environments, activity and cars (to name a few). The availability of individuals' personal information to anybody from anywhere, and integration of this data with other online and offline data, increases the risk that newly created data sources have the potential to generate alarmingly personal user/customer profiles. Subject to further processing and inference, these profiles may disclose highly sensitive aspects of individuals, which may significantly impact on individual privacy. This project sponsored by MNSI investigates consumer and business attitudes to the privacy challenges associated with the internet of things and also considers techniques to improve privacy without undermining product innovation.

- Rachele Bosua, Sean Maynard, Atif Ahmad, and Philip Dart, Computing and Information Systems, University of Melbourne
- Professor Megan Richardson and Karin Clark, Melbourne Law School, University of Melbourne
- Associate Professor Kwanghui Lim, Melbourne Business School, University of Melbourne

Free Speech, Confusion and the Marketplace of Ideas

Investigators:

- Professor Andrew Kenyon, Melbourne Law School, University of Melbourne
- Professor Megan Richardson, Melbourne Law School, University of Melbourne
- Professor Graeme Dinwoodie, University of Oxford, Faculty of Law
- Professor Jacob Rowbottom, University of Oxford, Faculty of Law

This is a project run under the Oxford Law Faculty - Melbourne Law School Research Partnerships scheme, funded by Allan Myers QC, from January 2014 to December 2015

A standard rationale for free speech is that truth will emerge through the 'marketplace of ideas', a rationale that some have associated with the 19th century liberal-utilitarian philosopher JS Mill but is also explicitly stated by Holmes J in *Abrams v US* (1919). Given this rationale, it is puzzling to observe how much truth-endangering confusion is tolerated in areas of media and communications law.

Consider, for instance, defamation law, trade mark law and the law of passing off. These areas of law are supposedly concerned with confusion (at least as indicators of legally cognizable harms). But in fact they delineate their scope for controlling confusion far from comprehensively, using tests such as the 'ordinary reasonable' person or average consumer to determine just whose confusion the law should seek to address (so persons whose conclusions are deemed 'farfetched and fanciful' appear to be left out of account under these standard tests). Further they erect a range of thresholds and defences that apply notwithstanding the likelihood that the communication will lead to confusion and even in the face of evidence of actual confusion (for instance the 'actual malice' standard for public figures in US defamation law and the 'public interest' defence under the 2013 UK defamation statute; the 'use as a trade mark' threshold in Australian trade mark law and the 'fair use' defence to trade mark infringement in the US and the UK).

This project funding, enables us to interrogate closely the multiple ways in which Anglo-Australian as well as American media and communications law allows for confusion, the marketplace of ideas rationale notwithstanding – and also to consider the possible reasons for this divergence as well as some possible reforms.

An empirical analysis of auDRP decisions

Researchers:

- Professor Andrew Christie, Melbourne Law School, University of Melbourne
- Alyssa Dixon, University of Melbourne
- James Gloster, University of Melbourne

The most common way in which a trade mark owner's rights are transgressed in the digital environment is when the trade mark is incorporated into a domain name registered by a person other than the trade mark owner – a practice commonly referred to as “cybersquatting”. Since 1 August 2002, trade mark owners have been able to seek relief against cybersquatting in the .au domain name space under the .au Dispute Resolution Policy (“auDRP”). The auDRP provides a much cheaper and speedier alternative to litigation. Instead of filing a court action, the trade mark owner files a complaint with a private dispute resolution body, which appoints a panelist to decide the matter on written evidence. The trade mark owner will be entitled to the remedy of transfer or cancellation of the domain name where: (i) the domain name is identical or confusingly similar to the trade mark; (ii) the domain name registrant has no rights or legitimate interests in the domain name; and (iii) the domain name was registered or used in bad faith. Typically, an action under the .auDRP takes two months and costs between \$1,500-\$6,000. This compares very favourably to litigation, which typically takes some years and costs some hundreds of thousands of dollars.



Photo by Bernhard Lyons

In the nearly 13 years since commencement of the auDRP, approx. 450 complaints have been filed, and approx. 380 cases have proceeded to determination. While there has been a substantive qualitative analysis of these cases,* there has been no substantive** quantitative analysis of the cases.

Thus, we do not know the answers to important questions such whether complaints based on registered trade marks are more successful than those based on unregistered trade marks, whether complaints fail on some grounds more often than on others, and whether there are repeat players (as trade mark owners or as cyberquatters).

This project will provide answers to these, and many other, important questions. It will do so by building a database of every auDRP decision, coded across approx. 50 fields (see attached draft field listing). Each auDRP decision will be read by a legally-trained RA, the response for each field will be entered into a database, the database will be interrogated to produce descriptive statistics and to identify associations, the results of the interrogation will be analysed, and the analysis will be reported in an article suitable for publication in a refereed journal.

*See Christie, ‘auDA Overview of Panel Views on Selected auDRP Questions First Edition’ (July 2014), at <http://www.auda.org.au/policies/audrp/audrp-overview/>.

**The only quantitative analysis to date consists of a simple counting of the number of cases filed, and the number of the different outcomes achieved: Roy, ‘Interne Domain Name Dispute resolution in Australia’, (2014) 36(8) *European Intellectual Property Review* 492-498.

Research Supervision

IPRIA is committed to providing outstanding research training for our PhD and MPhil students. IPRIA staff supervise doctoral candidates who also complete a three year Research Support Program, which assists students to develop the high level skills needed to complete an outstanding thesis.

Current Candidates

Monitoring Laws: The Role of Privacy Law in Managing Public Surveillance by the State (PhD)

Jake Goldenfein

Supervisors: Andrew Kenyon & Megan Richardson

Empirical assessment of the theoretical justifications for intellectual property and information protection (PhD)

Vicki Huang

Supervisors: Megan Richardson & Chris Dent

Copyright Exceptions and Contract (PhD)

Adrian Storrier

Supervisors: Sam Ricketson & Megan Richardson

The Regulation of Generative Activities on Social Media (PhD)

Corinne Tan

Supervisors: Megan Richardson, Graeme Austin, & Sam Ricketson

Michael's doctoral work examines the strategies firms use to transact organisational routines and manage uncertainty in highly imperfect markets.

Michael R. Falk

Supervisors: Kwanghui Lim, Don O'Sullivan, Pat Auger & Gavan McCarthy

Vicki Huang

Vicki Huang began her PhD in 2011 under the supervision of Professor Megan Richardson and Associate Professor Chris Dent (now at Murdoch University). She is expecting to submit towards the end of 2016.



Ms Huang's research is titled "An empirical investigation of the factors used by judges to assess infringement under s120 of the Trade Marks Act 1995 (Cth)." The aim of this thesis is to empirically investigate the factors used by judges when assessing infringement under s120 of the Trade Marks Act 1995 (Cth). Past research indicates that objective similarity of marks is influential. However, there has been no empirical research in Australia to determine whether and how legal factors such as the plaintiff's "reputation" or the consumer's "confusion" impact the outcome of the case. Nor is it clear what heuristics judges use to evaluate such critical concepts. This project will shed new light on the application of s120 through its analysis of the way judges actually decide trade mark infringement cases.

Michael R. Falk

Michael R. Falk is a doctoral student based at Melbourne Business School. Michael's doctoral work examines the strategies firms use to transact organisational routines and manage uncertainty in highly imperfect markets. He has an M.A. in Publishing and Communications and a B.A. (Honours) in Historical and Philosophical Studies from the University of Melbourne. Michael previously worked as an independent research analyst for design and technology companies including The Conversation Media Group, Inframe Media, Telsoft Pty Ltd, Workshop 3000, and Enhanced Editions in the UK. Michael has been commissioned to undertake studies on research impact and partnerships by Monash University and by the Enterprise Connect Creative Industries Innovation Centre, based at the University of Technology Sydney. He is an affiliate of the eScholarship Research Centre, Melbourne School of Government and the Victorian Eco-Innovation Lab at the University of Melbourne.



Visiting Scholars

Under IPRIA's Research Visitors Program short-term fellowships are awarded to academics, practising lawyers and media industry professionals. Fellowships enable visitors to spend time, usually between two and four weeks, in Melbourne devoted to research.

IPRIA hosted the following visitors during 2014-2015:

IPRIA Visiting scholars



David Caudill, Professor of Law and the first Arthur M. Goldberg Family Chair, Villanova University (July 2014)



Jacques Mairesse, Professor of Applied Econometrics of Research, Innovation and Productivity, Maastricht University (December 2014)



Graeme Dinwoodie, Professor of Intellectual Property and Information Technology Law and Director of the Oxford Intellectual Property Research Centre, University of Oxford (December 2014), Photo: Phil Sayer



Wendy Gordon, William Fairfield Warren Distinguished Professor of Law, Boston University (January 2015)

Seminars

The Use of Survey Evidence in US Trademark Litigation

Chair: Professor Megan Richardson, Melbourne Law School

Date: 23 July 2014

Venue: Melbourne Law School

David Caudill briefly surveyed the use of survey evidence in US trademark litigation, including (i) conventional (social science) methodologies and the legal standards for admissible surveys, as well as (ii) recent cases using survey evidence to determine trademark infringement and offensive trademarks.

Followed by comments from Vicki Huang.

Dr. David Caudill is professor and the Goldberg Family Chair in Law at Villanova University, where he teaches property law, expert evidence, and sports law. He is the author of numerous books and journal articles in the fields of scientific evidence, legal ethics, and law-and-literature. He is currently teaching Expert Evidence (with Dr. Gans) in the Melbourne Law Masters program, and is scheduled to teach Entertainment Law (with Professor Richardson) in Melbourne in 2015.

Vicki Huang is a law lecturer at Deakin University. Ms Huang graduated from the Melbourne Law School with first class honours. She also attended Columbia University Law School on a Burton Memorial Fellowship and graduated with an L.L.M. with honours as a Harlan Fiske Stone Scholar. Prior to her appointment at Deakin, Ms Huang was a sessional lecturer at the Melbourne Law School. Ms Huang previously worked for the Federal Court of Australia as a Research Associate to the Hon. Justice Finkelstein. She also worked for a number of years at law firms in Melbourne (Ashursts) and California (Morrison Foerster) with a focus on litigation and intellectual property law. She was admitted to practice in Victoria and is admitted to the State Bar of California. Ms Huang is currently a PhD candidate at the University of Melbourne. Her research focusses on all aspects of intellectual property law and empirical research methods into law. She currently teaches property law, corporations law and marketing law.

The Great Trade Mark Debate

Date: 10 December 2014

Venue: Melbourne Law School

Motion: Trade Marks Should be Kept in their Place

The debate between four leading academic experts canvassed issues including territoriality, functionality, and the proper legal protection of trade marks

Affirmative:

Beth Webster (Melbourne Institute of Applied Economics and Director, IPRIA)

Christine Greenhalgh (Economics Research Director, Oxford Intellectual Property Research Centre)

Negative:

Graeme Dinwoodie (Director, Oxford Intellectual Property Research Centre)

Graeme Austin (Melbourne Law School and Victoria University of Wellington Law Faculty)

Judging panel

The Honourable Julie Dodds-Streeton Q.C (former Federal Court judge)

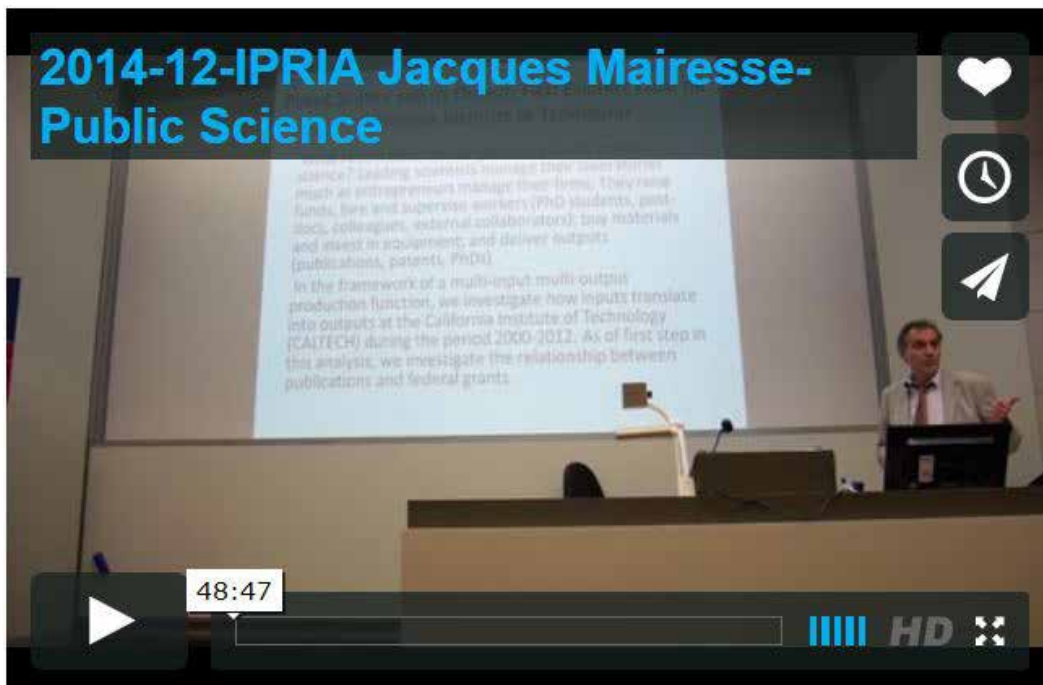
Janice Luck (Melbourne Law School)

Kwanghui Lim (Melbourne Business School)

Thanks to the Oxford MLS Research Partnership and IPRIA (Intellectual Property Research Centre) for sponsoring the Oxford academic visits.

Seminars

Public Science and its Output: First Evidence from the California Institute of Technology



What return does society get from publicly funded science? Leading scientists manage their laboratories much as entrepreneurs manage their firms. They raise funds; hire and supervise workers (PhD students, post-docs, colleagues, external collaborators); buy materials and invest in equipment; and deliver outputs (publications, patents, PhDs). This seminar with Jacques Mairesse Professor of Applied Econometrics of Research, Innovation and Productivity Maastricht University addressed these challenges.

A podcast of the seminar can be found - <https://vimeo.com/113987463>

Round table seminar with Professor Wendy Gordon

Tuesday 20 January 2015

Wendy discussed two topics: the US Supreme Court's approach to justifying copyright provisions that are challenged on Constitutional grounds, and US trends in protecting creative, attractive or distinctive products that are also functional. The presentation was followed by a lively discussion.



Selected Publications

Research Book Chapters

S Frankel and M Richardson (2015). Limits of Free Trade Agreements: The New Zealand/Australia Experience. In Unknown Book (1 ed., pp. 315-333). Germany: Spr.

A. Subramaniam, K. Lim and P. Soh (2015), 'Bridging Scientists and Informal R&D Collaborations: Implications for Firm-Level Knowledge Integration and Patent Performance', in Tell, Berggren, Brusoni and Van de Ven (Eds.), *Managing knowledge integration across boundaries*, United Kingdom: Oxford University Press. -forthcoming.

Journal Articles Refereed

C. Dent, *Nordenfelt v Maxim-Nordenfelt*: An Expanded Reading. *36 Adelaide Law Review* (2015) –forthcoming.

C. Dent, Confusion in a Legal Regime Built on Deception: The Case of Trade Marks, *Queen Mary Journal of Intellectual Property* 5(1) (2015) 2-27.

C. Dent, Unpacking Post-Employment Restraint of Trade Decisions: The Motivators of Key Players'. *Bond Law Review* 26(1) (2014) 1-26.

C. Dent, 'Legal Academics, Our Creativity and Why We do it: Insights from Foucault'. *Law Teacher* 48(3) (2014) 1-19.

M. Falk, K. Lim and D. O'Sullivan (2014), The Market for Design: Insights from Interviews with Australian Firms, *IP Australia Economic Research Paper 03*, <http://www.ipaustralia.gov.au/uploaded-files/reports/IP-Australia-Economic-Research-Paper-03.pdf>

D. Hsu and K. Lim (2014), 'Knowledge Brokering and Organizational Innovation: Founder Imprinting Effects' *Organization Science*, Vol 25, No. 4, pp. 1134-1153.

P. Jensen, A. Palangkaraya, and E. Webster, (2015) 'Trust and the Market for Technology', *Research Policy*, 44, 340-356.

P. Jensen and E. Webster (2014) 'Patents, Transaction Costs and Academic Research Project Choice', *Economic Record*, 90, 179–196.

M Richardson, M. (2015). 'Authors and Their 'Mischievous' Books: The Salutary Experience of *Southey v Sherwood*' *Authorship*, 4(1), 1-13.

S. Frankel, C. Nixon, M Richardson, and J Yeabsley (2015). Parallel importing - The New Zealand experience with book publishing, *Competition and Consumer Law Journal*, 22(3), 240-253.

M. Richardson (2015). 'The Battle for Rights - Getting Data Protection Cases to Court'. *Oslo Law Review*, 2(1), 23-35.

E. Webster, A. Palangkaraya and P. Jensen, (2014) Patent Examination Outcomes and the National Treatment Principle, *RAND Journal of Economics*, 45, 449–469.

K. Weatherall and E. Webster, (2014) 'Patent enforcement: A review of the literature', *Journal of Economic Surveys*. 28, 312–343.

Publication Spotlight

Research Handbook on Intellectual Property in Media and Entertainment,

This book is currently being co-edited by Professor Megan Richardson and Professor Sam Ricketson, Melbourne Law School for the Research Handbooks in Intellectual Property series, general editor Jeremy Phillips, Edward Elgar, UK. Chapters have been commissioned and are currently in the process of being received and edited with the aim of sending the full manuscript to Edward Elgar in April 2016. The anticipated publication date is 2017.

The book will include chapters on

- 1 Copyright (and other IP) in news? (Sam Ricketson, MLS, and Jane Ginsburg, Columbia)
- 2 Emerging rights in live spectacles and other ephemera (David Caudill, Villanova)
- 3 Parody, caricature and satire defences to copyright infringement (Jonathan Griffith, QM)
- 4 Copyright, creativity and control in the context of fan fiction (Melissa de Zwart, Adelaide)
- 5 Music and copyright (Matthew Rimmer, QUT)
- 6 Transformative Play in the Digital Age (David Tan, NUS)
- 7 Rights in live performances (Mark Williams, Barrister & Solicitor, Melbourne)
- 8 The Moral Rights of the Entertainer (Elizabeth Adeney, Deakin)
- 9 Entertaining foreign copyrights (Graeme Austin, VUW)
- 10 Protecting functional aspects of the technologies of media and entertainment (Wendy Gordon, Boston University)
- 11 Cosmopolitan trade marks (Sonia Katyal, Berkeley)
- 12 Overlapping rights: when works become brands (Irene Calboli, SMU)
- 13 Trade mark dilution (Michael Handler, UNSW)
- 14 Lego as an IP case study (Dan Hunter, QUT, and Julian Thomas, Swinburne)
- 15 Rights in videogames (Daithi Mac Sithigh, Newcastle)
- 16 Television formats (Linden Golding, MLS, and Greg Sitch, Macleay William, Melbourne)
- 17 Filling the IP gap: privacy and tabloidism (Tanya Aplin, King's/Dickson Poon))
- 18 Publicity rights, personality rights or just confusion? (Graeme Dinwoodie, Oxford, and Megan Richardson)
- 19 Traditional knowledge and the future of entertainment (Susy Frankel, VUW)
- 20 Global digital distribution of media content (Peter Yu, Texas A&M)

IPRIA Finances

IPRIA was established in 2002 with foundation funding from the Commonwealth of Australia through IP Australia, the University of Melbourne and the State of Victoria. Following the successful 2009 Review the University of Melbourne and IP Australia agreed to provide core funding for another four years. In addition to its core funding, IPRIA obtains financial resources from research funding bodies and various stakeholders. Those financial resources support specific research projects.

Financial Position (2003-2014)

Income	2003	2004	2005	2006	July 2007 - June 2008	July 2008 - June 2009
Core funding	1,200,000	1,135,000	1,706,000	870,000	870,000	1,003,000
Commiss- ioned work	71,880	38,015	43,147	154,636	178,100	107,682
Other Income	35,525	74,879	68,413	9,246	62,057	62,127
Total	1,307,405	1,247,984	1,817,560	1,033,882	1,110,157	1,172,809

Income (..cont)	July 2009 - June 2010	July 2010 - June 2011	July 2011 - June 2012	July 2012 - June 2013	July 2013 - June 2014	July 2014 - June 2015
Core funding	716,100	675,000	885,000	685,000	685,000	0
Commisioned work	125,356	24,000	N/A	N/A	N/A	0
Other Income	35,082	20,420	19,695	35,777	N/A	0
Total	876,538	719,420	904,695	720,777	685,000	106,193

Please note the \$106,193 is a carry-forward from last year's balance.

Intellectual Property Research Institute of Australia
Melbourne Law School
The University of Melbourne
Victoria 3010 Australia
T: +61 3 8344 9970
Email: ipria-info@unimelb.edu.au
Web: www.law.unimelb.edu.au/cmcl/ipria



Melbourne Law School

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