

Intellectual Property Research  
Institute of Australia

# Annual Report

2016

ipria



Melbourne Law School

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Melbourne Law School

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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 and 2016 IPRIA continued 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.







Photo by Bernard Lyons

## Professor Megan Richardson

### Co-Director

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 also Co-Director of the Law School's Centre for Media and Communications Law (CMCL).



## Associate Professor Kwanghui Lim

### Co-Director

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 Advisory Board**

**In 2016 the Advisory Board comprised**

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

# IPRIA Research Fellows & Associates

**Research Fellows of IPRIA work on IPRIA re-search projects. In 2016 they were:**

- Professor Paul Jensen, Professorial Research Fellow, Melbourne Institute of Applied Economic and Social Research
- Associate Professor Don O'Sullivan (Melbourne Business School)
- Professor Andrew Christie, University iof Melbourse, Melbourne Law School

**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 2016 they were:**

- Professor Graeme Austin, Melbourne Law School
- Jason Bosland, University of Melbourne
- Professor Andrew Christie, Melbourne Law School
- Associate Professor Chris Dent, Murdoch
- Arlen Duke, Senior Lecturer, Melbourne Law School
- Professor Richard Garnett, Melbourne Law School
- Director Jonathan Gill, Carrick Gill Smyth Lawyers
- Professor Andrew Kenyon, Melbourne Law School
- Janice Luck, Melbourne Law School
- Professor Sam Ricketson, Melbourne Law School
- Rhonda Smith, Faculty of Economics
- Associate Professor Kimberlee Weatherall, Sydney Law School, University of Sydney

## IPRIA Staff

IPRIA also includes an Administrator and several casual research assistants.

### Hamish Carr | Administrator

Hamish Carr joined IPRIA and Centre for Media and Communications (CMCL) as an administrator in 2015. Prior to commencing work at the Law School, Hamish was an administrator in the Faculty of Arts, School of Culture and Communication.

# Research

In 2016 IPRIA staff, research fellows and associates were involved in major research projects.

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

- 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.

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

- 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 word 'Oro' when used on coffee packets. Results of the survey are currently being analysed.

# Research

## 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](http://www.dia.org.au/media/SPARK%2034_Winter%202015_web.pdf))

This report was commissioned by IP Australia

# Research

## A Global trade mark database

- 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,
- 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.

## The Relationship Between Corporate Social Responsibility & Trademarking

- Associate Professor Kwanghui Lim, Melbourne Business School, University of Melbourne
- Associate Professor Don O'Sullivan, Melbourne Business School, University of Melbourne
- Michelel Ong, Melbourne Business School, University of Melbourne

Recent years has seen an increase in focus on corporate social responsibility and accountability among firms. Such efforts have been linked to firm rhetoric and various measures have been developed based on expert panel rankings and surveys, there has been little research connecting CSR to a firm's efforts at trademarking and branding. Our study explores this relationship by analysing the trademark data of S&P 500 firms. We examine firms' trademarks for keywords that are associated with CSR behaviour, and we explore the relationship with a well-known measure of CSR known as its KLD Score. Our preliminary findings suggest that firms vary greatly in the degree to which their trademarks exhibit CSR-related keywords, although the average level of KLD-related trademarking is low among firms.

# Research

## 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.

## '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. Jeb Webb, Computing and Information Systems, University of Melbourne is a researcher on this project.

- Rachelle 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

# Research

## 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.

At present it is anticipated that the book will include chapters on

- 1 Intellectual Property in News? Why Not? (Sam Ricketson, MLS, and Jane Ginsburg, Columbia)
- 2 Emerging Rights in Live Spectacles and Other Ephemera (David Caudill, Villanova)
- 3 Fair Dealing After Deckmyn: The United Kingdom's Defence for Caricature, Parody and Pastiche (Jonathan Griffith, QM)
- 4 Fair Use and Transformative Play in the Digital Age (David Tan, NUS)
- 5 'Someone is Angry on the Internet': Copyright, Creativity and Control in the Context of Fan Fiction (Melissa de Zwart, Adelaide)
- 6 The Dancing Baby: Copyright Law, YouTube, and Music Videos (Matthew Rimmer, QUT)
- 7 One Ring to Rule Them All: Rights in Live Performances (Mark Williams, Barrister & Solicitor, Melbourne)
- 8 A Matter of Respect: The Moral Rights of the Entertainer (Elizabeth Adeney, Deakin)
- 9 Entertaining foreign copyrights (Graeme Austin, VUW)
- 10 A Seamless Global Digital Marketplace of Entertainment Content (Peter Yu, Texas A&M)
- 11 Recoding Famous Brands in Advertising and in Entertainment Products: Case Studies on the So-called Harms of Trade Mark Dilution (Michael Handler, UNSW)
- 12 Lego's System of Play Meets Intellectual Property: From the Engineered Object to Digital Media (Dan Hunter, Swinburne, and Julian Thomas, Swinburne)
- 13 The Game's the Thing: Property, Priorities and Perceptions in the Video Games Industries (Daithi Mac Síthigh, Newcastle)
- 14 Opportunity Knocks for Dramatic Copyright in Television Formats (Linden Golding, MLS)
- 15 Filling the IP gap: Privacy and Tabloidism (Tanya Aplin, King's/Dickson Poon)
- 16 Publicity Right, Personality Right or Just Confusion? (Graeme Dinwoodie, Oxford, and Megan Richardson)
- 17 Traditional Knowledge as Entertainment (Susy Frankel, VUW)

This was published in January 2017.

# Research

## An empirical analysis of auDRP decisions

- Professor Andrew Christie, 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.

In the nearly 15 years since commencement of the auDRP, more than 500 complaints have been filed, and approx. 450 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. 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.



Photo by Bernhard Lyons

# Research

## The changing international framework for protection of intellectual property rights

- Professor Sam Ricketson, Melbourne Law School

In recent years, Sam has focused much of his research activities to examining and analysing the international framework for the protection of intellectual property rights, in particular with the publication of the second edition of his 1987 commentary on the Berne Convention for the Protection of Literary and Artistic Works (OUP, 2006, co-authored with Professor Jane Ginsburg of Columbia University) and the publication of a new commentary on the Paris Convention for the Protection of Industrial Property (OUP, 2015).

Among the topics covered by Sam's most recent published research on international IP rights are proposals for a new international treaty on resale royalty rights, analysis of the long-delayed draft broadcasters' treaty, and an historical account of the international origins of neighbouring rights protection. Together with Professor Ginsburg, he is now beginning the preparation of a new edition of their Berne Convention commentary to be published by OUP in late 2018/early 2019. Changes in this area since publication of the second edition in 2006 have been both numerous and far reaching, and include:

The adoption of two new international treaties in relation to exceptions and limitations (the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled 2013) and the protection of audio visual performances (the Beijing Treaty on Audiovisual Performances 2012)

- Continuing work within the WIPO Standing Committee on Copyright and Related Rights on the matter of exceptions and limitations and the development of a new treaty on broadcasters.
- Corresponding discussions at both national and regional levels about the scope of exceptions and limitations generally, in particular the application of the "three step test" and quotation exceptions.
- Significant developments at national and regional levels in relation to the scope of the communication to the public right.
- Emerging discussions at both national and international levels about the matter of formalities.
- The beginnings of a movement in favour of broader protection of resale royalty rights
- Continuing discussion at all levels about the scope of other exclusive rights, licensing, collective administration, intermediate liability, and enforcement.
- Growing interest in private international law issues, particularly on the Internet.
- The relationship between international copyright and neighbouring rights treaties and bilateral, plurilateral and multilateral trade and investment treaties.

It is planned that this work will be ready for submission for publication in mid-2018.



# 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 visitor during 2016:

## IPRIA Visiting scholar

**Dr Kathy Liddell, University of Cambridge**



Dr Kathy Liddell, Herschel Smith, Lecturer of Intellectual Property Law, Founding Director of the Cambridge Centre for Law, Medicine and Life Sciences, and Deputy Director of the Cambridge Centre for IP and Information Law at the University of Cambridge. Dr Liddell's research focuses on health, medicine and society, with the aim of understanding and improving the legal frameworks that govern and support innovation in this field.

# 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 (alphabetical order)

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

Michael R. Falk

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

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

Vicki Huang

Supervisors: Megan Richardson & Chris Dent

**Frontline Knowledge Networks in Open Collaboration Models for Service Innovations (PhD)**

Ozlem Ozkok

Supervisors: Simon Bell, Jagdip Singh, Kwanghui Lim

**Copyright Exceptions and Contract (PhD)**

Adrian Storrier

Supervisors: Sam Ricketson & Megan Richardson

**Generating Content on Social Media: Regulation by Copyright Laws, the Terms of Service and Technological Features (PhD)**

Corinne Tan

Supervisors: Megan Richardson, Graeme Austin, & Sam Ricketson

# Research Supervision

## Michael R. Falk

Michael R. Falk is a PhD candidate at Melbourne Business School, working in the fields of strategy and innovation. A crucial role for intellectual property rights (IPRs) is enabling better coordination between exchange partners. Yet, in many markets, formal IPRs cover only a small part of what is bought and sold. Falk's research focuses on non-regulatory mechanisms of coordination. For example, he explores how power imbalance between firms may help them to coordinate in new markets. A current study looks at the role of partner and peer influences in driving firms to adopt practices that meet regulatory standards established outside the jurisdictions in which they operate.



## Vicki Huang

Huang's thesis is an empirical exploration of infringement decisions under the Australian Trade Marks Act 1995 (Cth) between 1 January 1996 and 1 January 2016. The analysis of judicial reasoning reveals that, similar to US studies, a small number of factors (relating to 'use' and 'deceptive similarity') determine the outcome of a case. Also considered are the relevance of collateral claims and reliance on subsidiary infringement provisions. Implications for Australian and some aspects of US law and scholarship are explored.



# Research Supervision

## Corinne Tan

Corinne began her doctoral research under the supervision of Professors Megan Richardson, Sam Ricketson and Graeme Austin at the end of 2012. She submitted her thesis at the end of 2016 and will graduate in May 2017.

Corinne's thesis is titled 'Generating Content on Social Media: Regulation by Copyright Laws, the Terms of Service and Technological Features'. In her thesis, she analyses how the content generative behaviours of social media users are regulated from a copyright perspective, through comparing copyright laws with other regulatory factors on social media.

These factors, being the terms of service and the technological features on social media platforms, can alter the effectiveness of the regulation of content generative behaviours by copyright laws. The aim of her research is to shed light on how specific social media platforms (for example, Facebook, YouTube, etc) affect the role laws, including copyright laws, play in securing compliance from their users. Further, Corinne hopes to stimulate more critical reflections on how laws should develop to take into account this influence of social media platforms on user behaviours.



Corinne is currently a visiting scholar at the Centre for Media and Communications Law (CMCL) and the Intellectual Property Research Institute of Australia (IPRIA) and is working on converting her thesis to a book to be published by the University of College London Press.

## Ozlem Ozkok

Ozlem "Ozzie" Ozkok has a background in supply chain operations and technology. She has worked several years in diverse roles such as inventory planning, logistics software development, and supply chain information technology management. Ozzie studied in the US and obtained a dual Master's Degree in Computer Science and Information Technology Management along with an MBA. In February 2017, she progressed into the third year in her PhD in Marketing at the University of Melbourne.



Ozzie works on open collaborative frontline employee knowledge networks and their impact on innovation. She believes that frontline employee networks are key to developing new service ideas and organisations can benefit from network analysis approach to service innovation. Her research proposal is recognized with an award by the Academy of Marketing Review/Sheth Foundation Doctoral competition. Ozzie also has some teaching experience and will be part of the tutoring team for Principles of Marketing in the following semesters at the University of Melbourne.

# Events

## Apple: Privacy, Security and Surveillance

**Professor David Partlett**

*Date: Wednesday 11 May 2016*

*Venue: Melbourne Law School*

This seminar was jointly hosted by Centre for Media and Communications Law, Intellectual Property Research Institute of Australia and the Obligations Group

**David F. Partlett** is Asa Griggs Candler Professor of Law, having served as dean of Emory Law from 2006 to 2011. Before that he served as vice president, dean, and professor of law at Washington and Lee University School of Law for six years. He joined the faculty of the Vanderbilt University Law School in 1987. He was a fellow in the Institute for Public Policy Studies and was acting dean from 1996 to 1997. Partlett held positions in the Australian government as a senior legal officer for the Commonwealth Attorney-General's Department in Canberra, where he was responsible for policy advice on the Racial Discrimination Act and other related human rights and racial discrimination legislation. He later was appointed to the Australian Law Reform Commission.

From 1978 to 1987, Partlett was a member of the faculty of the Australian National University, and he served as associate dean from 1982 to 1985. He is a member of the American Law Institute, the American Society of Law and Medicine, and the Selden Society. He currently teaches torts and has taught courses on torts, judicial remedies, and professional liability. He has written books on torts, defamation and free speech, child mental health and medical malpractice.

A native of Australia, Partlett is an active scholar, with recent work focused on tort law, as well as defamation and free speech, child mental health, and tort theory. Education: SJD, University of Virginia School of Law, 1982; LLM, University of Sydney School of Law, 1970; LLM University of Michigan Law School, 1974



Professor David Partlett

# Events

## Roundtable Debate: Security Matters More Than Silicon Valley?

### **Speakers:**

**Dr Alana Maurushat** University of New South Wales

**Dr Jeb Webb** University of Melbourne

**Professor Julian Thomas** Swinburne Institute for Social Research

**Associate Professor Sven Feldman** University of Melbourne, Melbourne Business School

### **Moderators:**

**Professor Megan Richardson** University of Melbourne, Melbourne Law School

**Associate Professor Kwanghui Lim** University of Melbourne, Melbourne Business School

*Date: Thursday 18 August 2016*

*Venue: Melbourne Law School*

This roundtable debate between four academic experts canvased issues including innovation, privacy, economics, business ethics, security and defence.

This debate was a joint CMCL and IPRIA initiative



Dr Alana Maurushat and Associate Professor Feldman

# Events

## Public Lecture: The Phenomenon of Patent Thickets

Date: Tuesday 25 October

Venue: Melbourne Business School |

Associate Professor Stefan Wagner

This seminar was jointly hosted by the Centre for Transformative Innovation, the Intellectual Property Research Institute of Australia, the EU Centre for Shared Complex Challenges and the Melbourne Business School

Google acquired Motorola Mobility in a headline making deal for \$12.5 billion in May 2012. Less than two years later, Google has sold Motorola Mobility to Lenovo for \$2.9 billion but decided to hold on to up to 20,000 of Motorola's mobile patents. The logic of this deal can be explained best by the existence of patent thickets - situations in which any patent holder can try to prevent competitors from manufacturing a product (in Google's case, a smartphone or the operating system) as a whole by not granting a license on a component or by demanding unreasonably high licensing fees. Only the acquisition of a big patent portfolio allowed Google to become a credible player in the IP landscape of mobile telephony and to obtain relevant cross-licenses.



Associate Professor Stephen Wagner

This talk focused on the broader phenomenon of patent thickets – which are prevalent not only in mobile telephony but in many other industries as well - and discusses implications for managers and policy makers alike: In particular, the tendency of patent thickets to self-perpetuate and to grow is a worrying trend for all stakeholders. Additionally, patent thickets lead to an increase in firms' efforts to patent, while at the same time reducing the incentive to engage in litigation.

**Stefan Wagner** joined ESMT Berlin in February 2011 as an Assistant Professor and received tenure as of 2016 as an associate professor. Previously, he received his Habilitation in 2010 and his Doctorate in Management (summa cum laude) in 2005 from Ludwig-Maximilians-University Munich. During the course of his education Stefan was supported by the Studienstiftung des Deutschen Volkes (German National Academic Foundation). He was Fulbright Scholar at the University of California Los Angeles UCLA and Visiting Scholar at the National Bureau of Economic Research NBER, Cambridge MA, as well as at the Intellectual Property Institute of Australia IPRIA, Melbourne. Since 2016, Stefan has been a Senior Fellow at the Berlin Centre for Consumer Policies (BCCP). Stefan's research interests cover the intersection of firm strategy, technological innovation, industrial organization and law. Currently, he is primarily interested in the interaction of the changing landscape of intellectual property rights (in particular patent systems) and firms' long term strategy regarding their innovative activities. The results of his research have been published in general management journals such as Management Science and the Strategic Management Journal, and also in top field journals – in innovation, for example in Research Policy; and in economics, for example in the Journal of Industrial Economics and Economics Letters.

# Events

## Precision Medicine: IP, Regulatory and Ethical Challenges - Roundtable Seminar

Date: Monday 19 December 2016

Venue: Melbourne Law School

### First Session: Changing Landscapes in IP and Precision Medicine

Presenter: Dr Kathy Liddell

Chair: Andrew Christie

Discussant: Di Nicol

### Second Session: Precision Medicine: Legal and Ethical challenges

Presenter: Dr Kathy Liddell

Chair: Megan Richardson

Discussant: Karin Clark

**Dr Kathy Liddell**, Herschel Smith Lecturer of Intellectual Property Law, Founding Director of the Cambridge Centre for Law, Medicine and Life

Sciences, and Deputy Director of the Cambridge Centre for IP and Information Law at the University of Cambridge. Dr Liddell's research focuses on health, medicine and society, with the aim of understanding and improving the legal frameworks that govern and support innovation in this field.



Professor Andrew Christie, Luke Meehan, Professor Megan Richardson and Dr Kathy Liddell

# Publications

## Selected Publications

### Research Book Chapters

Kenyon, A and Richardson, M. (2016) Reverberations of Sullivan? Considering defamation and privacy law reform. *Comparative Defamation and Privacy Law*. Cambridge University Press

Richardson, M. and Thomas, J. (2016) Pictorial Publics, the Visual Internet and Image Rights. In Frankel, S & Gervais, D (Eds.) *The Internet and the Emerging Importance of New Forms of Intellectual Property*. pp. 103-116 United Kingdom: Kluwer Law International

Tidmarsh, M. and Jensen, P.H. (2016). 'Nudges in Education: What Works?', Melbourne Institute Policy Brief 2/16, March.

### Journal Articles Refereed

Webster, E. and Jensen, P.H. (2016). "Research funding mechanisms and biomedical research outputs", *Economic Papers* 35(2), 142-54

Palangkaraya, A., Webster, E. and Jensen, P.H. (2016). "The effect of patents on trade", *Journal of International Economics* (forthcoming).

Richardson, M. "Display of Questionable Taste: False Labelling of a Prize Medal for Pickles at the International Exhibition 1862". *Legal History* 16 (2)

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The institute's main areas of expenditure in 2016 were related to its public seminars, hosting a research visitor, and casual administrative and research assistance.

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## Melbourne Law School

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