

AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL

Volume 15, Number 4

November 2004

ARTICLES

The United States–Australia Free Trade Agreement – the intellectual property chapter – *Christopher Arup*

This article gives an introduction to the intellectual property provisions of the United States-Australia Free Trade Agreement. The implications for the content of domestic Australian law are considered. In the intellectual property chapter of the Free Trade Agreement, all the major categories of protection are engaged. The article also assesses the effects of the Free Trade Agreement's bilateral style of law making. It compares the Free Trade Agreement demands with Australia's obligations under the multilateral intellectual property agreements. 205

A doctrine under pressure: The need for rationalisation of the doctrine of authorisation of infringement of copyright in Australia – *Sydney Birchall*

The doctrine of authorisation of infringement of copyright will shortly be celebrating 100 years in Australian copyright law. This article explores the historical treatment and theoretical bases of the doctrine. It is argued that the doctrine has been distorted over the years as lawmakers have failed to coherently adapt the principles underlying the doctrine to the challenges presented by emerging technologies. Now, a new and daunting challenge to the doctrine has appeared. Under the Australia-United States Free Trade Agreement, Australia is set to harmonise its legal regime with that of the United States in relation to the liability of internet service providers for authorisation of infringement of copyright. In all the circumstances, it is submitted that now is the time for a comprehensive rationalisation of the doctrine to be undertaken in order to preserve its foundations while simultaneously confronting online copyright infringement with coherent legal weaponry. 227

VOLUME 15

Table of authors	249
Index	251

Guidelines for Contributors

Submission and licence agreement instructions

All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, *Australian Intellectual Property Journal*, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to aipj@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.lawbookco.com.au/authorsupport/d_authorJournals.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor

By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript

Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.

Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.

Manuscript must be submitted electronically via email or on disk in Microsoft Word format.

Manuscript should not exceed 10,000 words for articles or 1,500-2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.

Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references.

Excessive changes to the text cannot be accommodated.

Contributors of articles receive 25 free offprints of their article and a copy of the part in which the article is published. Other contributors receive a copy of the part to which they have contributed.

Articles published are critically appraised or reviewed by an academic or professional peer of the author for the purpose of maintaining the standards of the journal.

Style

1. **Levels of headings should be clearly indicated (no more than four levels).**

2. **Cases:**

Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.

Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.

“At” references should only refer to the best available citation, eg: *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.

Where only a media neutral citation is available, “at” references should be to paragraph, eg: *YG v Minister for Community Services* [2002] NSWCA 247 at [19].

For international cases best references only should be included.

3. **Legislation should be cited as follows:**

Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.

4. **Books should be cited as follows:**

Macken JJ, O’Grady P, Sappideen C and Warburton G, *The Law of Employment* (5th ed, Lawbook Co., 2002) p 55.

In footnotes do not use *ibid* or *op cit*. The following style is preferred:

4. Austin RP, “Constructive Trusts” in Finn PD (ed), *Essays in Equity* (Law Book Co, 1985).

5. Austin, n 4, p 56.

5. **Journals should be cited as follows:**

Ogders S, “Police Interrogation: A Decade of Legal Development” (1990) 14 Crim LJ 220.

Wherever possible use official abbreviations not the full name for journal titles.

In footnotes do not use *ibid* or *op cit*. The following style is preferred:

6. Sheehy EA, Stubbs J and Tolmie J, “Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations” (1992) 16 Crim LJ 220.

7. Sheehy et al, n 6 at 221.

6. **Internet references should be cited as follows:**

Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co., subscription service) at [16.340], <http://subscriber.lawbookco.com.au> viewed 25 June 2002. Underline the URL and include the date the document was viewed.

For further information visit the Lawbook Co. website at <http://www.lawbookco.com.au> or contact the Production Editor.

SUBSCRIPTION INFORMATION

The *Australian Intellectual Property Journal* comprises four parts a year.

Customer Service and sales inquiries:

Tel: 1800 650 522

Fax: 61 2 8587 7200

Web: www.lawbookco.com.au

Email: service@thomson.com.au

Editorial inquiries:

Tel: (02) 8587 7000

HEAD OFFICE

100 Harris Street PYRMONT NSW 2009

Tel: (02) 8587 7000 Fax: (02) 8587 7100

THOMSON



LAWBOOK CO.

© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 1038-1635

Typeset by Lawbook Co., Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW