AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL

Volume 19, Number 3

August 2008

Public interest compulsory licensing under the Patents Act 1990 (Cth): Real incentive or a barrier to working? – *Dr Charles Lawson*

Compulsory licensing of patents under the Patents Act 1990 (Cth) is asserted to encourage the licensing and working of inventions sooner, serving as an effective incentive for patent holders to grant a licence voluntarily and on their own terms. However, the meaning of the statutory provision is uncertain. This article presents a textual analysis of the provisions to show that the likely meanings are practically uncertain and probably very limited. The article concludes that to be a real incentive the provisions need to be revisited by Parliament and recast in meaningful and purposeful text. 129

Legislation to control ambush marketing: The New Zealand model – *Dr Owen J Morgan*

Ambush marketing is a marketing strategy that generates intense discussion and debate. This article analyses the key provisions of the Major Events Management Act 2007 (NZ) as they relate to ambush marketing. Although the Act is a statute that has been enacted by a small and relatively insignificant state, it may well have an impact far beyond New Zealand. In particular, it is a template for future legislation in countries such as Australia which regularly and successfully competes to stage major events. The underlying themes are that the legislation is unnecessary given the protection provided by the existing law; it is poorly drafted, particularly in the way it concentrates on minutiae; and it is heavy handed and unbalanced in its approach with the dominant interests being those of the event organiser and its associates as opposed to the interests of the general public. 148

Copyright protection of computer program structure in Australia: Does it exist? – *Samantha Christie*

Since the passage of the Copyright Amendment Act 1984 (Cth), it has been clear that computer programs have been protected by copyright in Australia. While subsequent case law and amendments to the Act have amplified the scope of this protection for program source and object code, the scope of copyright protection for the structure, sequence and organisation of computer programs is less clear. Overseas courts have recognised that the structure, sequence and organisation of computer programs can attract copyright protection, but Australian courts are yet to specifically consider this issue. This article argues that the structure, sequence and organisation of instructions in a computer program can usefully attract copyright protection in Australia in a number of ways, consistent with the rationale of copyright protection, analogous cases and the leading High Court decision on computer software. 163

Application outcomes and pendency times across four patent offices – *Paul H Jensen*, *Alfons Palangkaraya* and *Elizabeth Webster*

This article compares application outcomes and examination durations for a set of 9,618 patent application families concurrently filed at the Australian Patent Office, the Japanese Patent Office, the European Patent Office and the United States Patent and Trademark Office. Our results suggest that there is substantial variation across the offices in terms of

application outcomes and patent pendency periods. This is the first time that such a finding has been documented and it has important implications for policy makers, and patent applicants alike. Although we cannot quantify the effects of this disharmony on firm's investment decisions, it is hoped that this study will stimulate future discussion about the potential merits of patent harmonisation and co operation amongst national patent offices. 178

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

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Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
Tel: (02) 8587 7000 Fax: (02) 8587 7100

THOMSON REUTERS

Lawbook Co. Published in Sydney

ISSN 1038-1635

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW