
Index

3D printing

copyright law and, 194–200, 206–207
designs law and, 191–194, 206
intellectual property infringement by,
184–226
law enforcement for, 207–208
patent law and, 188–191, 205–206
process of, 186–187
role in additive manufacturing, 185–186
study on, 200–208

Additive manufacturing

3D printing, 185–186

Aereo case

technological neutrality in, 216–217

Agriculture

legal protection for plant varieties, 73–87

AQSIQ *see* General Administration of Quality, Supervision, Inspection and Quarantine

Berne Convention

compulsory licences under, 172–173
statutory “free-use” exceptions in, 165–168

Birss, Justice

Francis Gurry Lecture on Intellectual
Property, 4–15

Botanical data *see* Plant genetic resources

CAD files

copyright law and, 194–200

Cantarella case

implications for trade mark registration,
16–36

Case management

in IP Enterprise Court, 9–12

China

copyright public domain in, 147–180
use of GIs in, 134–140, 146

Civil legal procedure

dispute resolution reforms, 4–15

Clark Equipment case

trade mark registration, 31–34

Copyright infringement

parody and satire exceptions to, 54–72
speculative invoicing of alleged online
infringers, 37–50

Copyright law

3D printing and, 194–200, 206–207
duty of rights holders to act in good faith,
48–49
public domain in China and Australia,
147–180

Costs

capped in IP Enterprise Court, 12–13

Dallas Buyers Club (movie)

speculative invoicing cases, 37–50

Damages

capped in IP Enterprise Court, 13–14
jurisdiction over, 114–120

De Garis case

copyright infringement exceptions, 54–72

Defences

trade mark infringement charges, 100–101

Designs law

3D printing and, 191–194, 206

Discovery *see* Evidence

Dispute resolution

IP Enterprise Court reforms, 4–15

Distinctiveness

of trade marks, 18, 27–30, 101–104

Draft correspondence by rights holders

speculative invoicing cases, 43–49

E-books

lending rights for, 209–226
technological neutrality and, 213–225

Educational Lending Right *see* Lending rights

Enforcement of judgments

in transnational IP cases, 127–130

European Union

sui generis GI system, 143–146

Evidence

Dallas Buyers Club case, 40–43

Fair dealing

parody and satire copyright exceptions,
54–72

Farming *see* **Agriculture**

Finality

of foreign judgments, 127–128

Foreign rights *see* **Transnational intellectual property cases**

Foreign words

use of as trade marks, 16–36

Forum non conveniens rule

in transnational cases, 122–126

Francis Gurry Lecture on Intellectual Property

Justice Birss, 4–15

General Administration of Quality, Supervision, Inspection and Quarantine (AQSIQ)

oversight of GIs, 138–140

Genericism

in trade mark registration, 95–96

Geographical indications (GIs)

AQSIQ and, 138–140
enforcement of, 145–146
in China, 134–140, 146
in Japan, 140–146
in the supranational context, 131–146
protection under the Trademark Law,
135–136
registration of foreign GIs, 136–137,
140–141
sui generis GI system, 138–140, 143–146
TRIPS Agreement, 132–133
use of, 144–145

GIs *see* **Geographical indications**

Good faith

duty of rights holders to act in, 48–49

High Court decisions

Cantarella case, 21–22

India

legal protection for plant varieties, 73–87

Indirect jurisdiction

over foreign judgments, 127–128

Inherent adaptation to distinguish

in trade mark registration, 17–20, 30–31

Injunctions

in transnational cases, 126–127

Intellectual Property Enterprise Court (UK)

active case management, 9–12
costs cap, 12–13
damages cap, 13–14
establishment and operation of, 4–15
Patents County Court compared, 14–15
practitioners in, 12, 14
small claims track, 14
trial length, 11

Intellectual property rights *see also*

Copyright...; Trade mark...

enhanced enforcement of, 114–130
for plant varieties, 73–87
in transnational cases, 114–130
infringed by 3D printing, 184–226

International Convention for the Protection of New Varieties of Plants

obligations under, 76–78

Internet *see* **Online material**

Internet Service Providers

injunctions against in transnational cases,
126–127

Japan

use of GIs in, 140–146

Jurisdiction

in transnational IP cases, 114–130

Legal practitioners

in IP Enterprise Court, 12, 14

Lending rights

for e-books, 209–226
technological neutrality applied to, 221–225

Licensing

in trade mark registration, 95–96

Limited commons

plant genetic information in, 79–84

Mark Foy's case

trade mark registration, 25–31

-
- Ministry of Agriculture (China)**
sui generis GI system, 140
- Monetary sums**
for foreign judgments, 128–129
- Native plants** *see* **Plant genetic resources**
- New Zealand**
trade mark law compared to Australia, 88–109
- Non-use of a trade mark**
Australia and New Zealand compared, 94–95
- Online copyright infringement**
speculative invoicing related to, 37–50
- Online material**
use of trade marks in, 95–96
- Optus TV Now case**
technological neutrality in, 215–216
- Origin marks** *see* **Geographical indications**
- Parody**
copyright exceptions for, 54–72
- Patent law**
3D printing and, 188–191, 205–206
- Patents County Court (UK)**
IP Enterprise Court compared to, 14–15
IP Enterprise Court formed from, 4–15
- Plant genetic resources**
legal protection for, 73–87
- Protection of Plant Varieties and Farmers Rights Act 2001 (India)**
form and scope of variety rights, 73–87
public domain and limited commons, 79–84
- “Public”**
defining for trade mark registration test, 26–27, 32–34
- Public domain**
comparison of China and Australia, 151–180
constitutional and treaty exclusions, 154–155
de facto public domain of benign uses, 175–176
defined, 148–149
folklore and indigenous culture, 178–179
implications for, 180
in Australia and China, 147–180
in Chinese history, 149–151
insubstantial parts, 161–162
mere facts or ideas, 162
neutral compulsory licensing, 168–173
neutral voluntary licensing, 173–175
new categories of, 176–179
opting out from, 176–177
orphan works, 177–178
plant genetic information in, 79–84
public domain dedications (relinquishment), 157–158
public interest defences to copyright enforcement, 159–161
public policy refusals to enforce copyright, 158–159
statutory “free-use” exceptions, 164–168
uses outside exclusive rights, 162–164
where copyright has expired, 155–157
works expressly excluded from copyright, 154
works failing minimum requirements, 151–152
works impliedly excluded from copyright, 152–154
- Public Lending Right** *see* **Lending rights**
- “Purpose”**
of using copyright material in parodies, 63–71
- Recognition of judgments**
in transnational IP cases, 127–130
- Registered trade marks** *see* **Trade mark law; Trade mark registration**
- Satire**
copyright exceptions for, 54–72
- Small and medium-sized enterprises (SMEs)**
IP Enterprise Court and, 4–15
- Small claims track**
IP Enterprise Court, 14
- Speculative invoicing**
of alleged online copyright infringers, 37–50
- Structure in trade mark law**
Australia and New Zealand compared, 96–101
- Subsistence**
of foreign IP rights, 120–122

Sui generis geographical indications model

in the supranational context, 138–140,
143–146

Technological neutrality

applied to lending rights, 221–225
as applied by courts, 215–218
defined, 213–214
for e-books, 213–225
in law-making, 218–220
testing for, 218–225

Terminology in trade mark law

Australia and New Zealand compared, 96–99

Third parties

copyright infringement exceptions for,
56–57, 63–67

Three-dimensional printing *see* 3D printing

Trade agreements *see* TRIPS Agreement

Trade mark agent representatives

IP Enterprise Court, 14

Trade mark law

Australia and New Zealand compared,
88–109
GIs under Chinese Trademark Law, 135–138
supranational use of GIs, 131–146

Trade mark registration

Cantarella case, 16–36
foreign word trade marks, 16–36
grounds for objection, 104–107
inherent adaptation to distinguish, 17–20

Traditional Knowledge (TK)

plant genetic information in, 84–86

Transnational intellectual property cases

damages in, 114–120
forum non conveniens rule, 122–126
injunctions in, 126–127
judgments in, 127–130
jurisdiction over, 114–130
validity and subsistence in, 120–122

TRIPS Agreement

GIs in, 132–133
plant genetic information under, 78–79

United Kingdom

foreign word trade marks in, 22–24
IP Enterprise Court reforms, 4–15

“Use” as a trade mark

Australia and New Zealand compared, 90–94

UsedSoft case

technological neutrality in, 217–218

Validity

of foreign IP rights, 120–122

Well-known marks

trade mark law, 99–101

Words

as trademarks, 34
foreign word trade marks, 16–36