

# Australian Intellectual Property Journal

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EDITORIAL – *General Editor: David Lindsay* ..... 203

## ARTICLES

### **The Future of Intellectual Property and WIPO in a time of Crisis and Opportunity – *Daren Tang***

The COVID-19 pandemic has emerged at a time when multilateralism is under unprecedented stresses and tensions. At the same time, the pandemic has transformed the ways in which we live and work – accelerating pre-existing trends towards digitalisation, and opening up further opportunities for the use of innovation and creativity to drive growth. In this address, the Director General of the World Intellectual Property Organization reflects on the ways in which WIPO and the global intellectual property ecosystem can respond to these developments and the challenges they bring. .... 204

### **Authorship and the Moral Rights of Assistants and Fabricators in Contemporary Art Practice – *Sasha Di Sipio***

It is no secret that many contemporary artists do not physically create their artworks. Instead, the physical act of creating is often delegated to assistants and fabricators who rarely receive any credit or acknowledgment. While the artworld may not perceive assistants and fabricators as making any authorial contribution to artworks, this seems to be largely at odds with conceptions of authorship and joint authorship in Australian copyright law which, as discussed in this article, may encompass the contributions of assistants and fabricators. In circumstances where an assistant or fabricator is an author or joint author for the purposes of Australian copyright law, they are afforded moral rights protections under the *Copyright Act 1968* (Cth), including the right of attribution. Irrespective of the position at law, the practical reality is that assistants and fabricators are unlikely to receive any acknowledgment for their contributions to an artwork. This has negative effects not only on assistants and fabricators, but also on the art-appreciating public. Having considered these negative effects, this article argues that reform is required to strengthen the moral rights protections of assistants and fabricators. .... 213

### **The Sound of Streaming: Third Level Agreements as a Solution to Twitch’s “Music Problem” – *Andrew Geraghty***

Twitch is the leading platform for video game live streaming, a rapidly growing form of contemporary entertainment. While video games are usually the focus of streaming, many gaming influencers also incorporate recorded music into their content to make it more engaging for viewers. Most of this use is unlicensed, largely due to the high transaction costs of music licensing and Twitch’s inaction when it comes to securing music licences for its streamers. In an attempt to force Twitch’s hand, music copyright owners have issued “mass” content removal notices against streamer content containing unlicensed music.

The current state of affairs is problematic as it results in uncertainty for streamers and a lack of compensation for music copyright owners. This article examines Twitch’s “music problem” under Australian copyright law, proposing “Third Level Agreements” – a novel licensing model – as a means to overcome Twitch’s apparent reluctance to license music use on behalf of its streamers. .... 233

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**VOLUME 32 – 2021–2022**

Table of Authors ..... 255  
Index ..... 257