

**IPRIA - The Vision Is To Be A Research Institute
Of World Repute**

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BACKGROUND

The Intellectual Property Research Institute of Australia (IPRIA) was set up in 2002 as a national centre for interdisciplinary research on the law, economics and management of intellectual property. Its research focuses on ways to optimise the protection, management and exploitation of intellectual property by business, research institutions and other users of the intellectual property system and on supporting high quality policy initiatives by government in areas relating to intellectual property.

Based at the University of Melbourne, IPRIA is managed jointly by the Faculty of Law, the Faculty of Economics and Commerce and the Melbourne Business School. The three faculties have committed significant intellectual and physical resources to create an interdisciplinary research institute capable of becoming a research centre of international repute. Each of the participating faculties already has an international reputation for research excellence in intellectual property. By combining and focussing the expertise and experience of these faculties, IPRIA has acquired a capacity for scholarship in intellectual property that is unparalleled in Australia. The critical mass of scholars present in Melbourne enabled IPRIA to be productive from its inception; and, in the short time that it has been in existence, IPRIA has already developed into a research centre of growing stature and influence in Australia.

IPRIA was established with generous seed-funding from IP Australia, the Commonwealth Government agency responsible for the granting of rights in patents, trade marks and designs. That funding is part of the five year A\$3 billion Innovation Statement, *Backing Australia's Ability*, that underscores the Government's commitment to improving Australian business innovation. Additional funding has also been provided by the Victorian State Government, under its Science, Technology

and Innovation initiatives, and by the University of Melbourne. Intellectual property is a vital asset to any country's economic and social well-being. The future prosperity of countries such as Australia and New Zealand depends on exploiting the benefits of increased innovation and creativity. IPRIA is tangible evidence that both the Commonwealth and the Victorian State Governments recognise that a strong intellectual property regime promotes research and development by assisting in the commercialisation of Australian ideas.

Recognising the need for an Institute with an interdisciplinary perspective on intellectual property issues, and filling that need, was an important step for Australia. But it was also important for New Zealand, the other nations of the Pacific Rim and the wider international intellectual property community. A key aspect of IPRIA's mandate is to forge both national and international links with the legal profession, industry, government bodies and academics. There is therefore an opportunity for groups in New Zealand and the wider region to take advantage of the interdisciplinary expertise concentrated in IPRIA. This expertise could be utilised, for example, in collaborative research projects - IPRIA has already established ties with research institutes in several countries and its researchers are engaged in a number of international projects. IPRIA is also a model that could be adopted in other countries, such as New Zealand, which have recognised the need for a knowledge economy and the protection of intellectual capital.

OBJECTIVES AND STRUCTURE

IPRIA was established under a contract between the University of Melbourne and the Commonwealth of Australia acting through IP Australia. The contract requires the University to establish an interdisciplinary research institute that forms part of the University and is located at the University. The contract sets out the underlying objectives of IPRIA. These are quite specific in nature. IPRIA has been established to

undertake high-quality inter-disciplinary research and analysis and it has been required to meet the following performance objectives:

- To support and generate development of high-level public policy in relation to intellectual property issues;
- To improve the protection, management and exploitation of intellectual property by all Australian stakeholders, including research institutions, public and private sector interests; and,
- To help create an informed environment for, and contribute to, on-going public debate in Australia about intellectual property issues and related matters, including innovation policy and economic growth.

The successful achievement of those objectives will ensure that IPRIA is recognised nationally and internationally as the pre-eminent Australian centre of research on intellectual property issues, and as Australia's pre-eminent source for interdisciplinary advice on intellectual property policy for regional, national and international deliberations.

The Advisory Board, which is required under the contract, forms an important feature of IPRIA's structure. Its role is to monitor and review the progress and work of the Institute and to provide advice on a number of matters including the strategic direction and policy framework of the Institute; the research programs and their dissemination; and the promotion of the Institute. The Advisory Board reflects the interests of key stake holders and includes representatives from IP Australia; the Victorian State Government; the University of Melbourne; private sector representatives; and an intellectual property professional representative. In recognition of IPRIA's position as a national research centre, the Advisory Board is required to have representatives from outside of the State of Victoria.

IPRIA also benefits from a panel of recognised international leaders in intellectual property research and policy development. These experts, who comprise the

International Board of Assessors, assist IPRIA in developing links with overseas researchers and in assessing the quality of IPRIA's research output. They are a key element in IPRIA's drive to achieve a reputation for the excellence of its research.

PEOPLE

It is a truism to say that an organisation is only as good as the people who work within it. However, this comment is especially apt for a research institute such as IPRIA which relies entirely upon the intellectual capacity of its researchers and Research Associates. The core staff of IPRIA is made up of the Directors, Research Fellows, Researchers, PhD Students and Research Associates located within the University of Melbourne, in other Australian universities and in associated research institutions overseas. The total personnel of IPRIA, including active Research Associates, currently numbers more than forty.

It was always envisaged that IPRIA's research activities, and the dissemination of that research, would not be confined to Melbourne. As a national centre, it was anticipated that IPRIA would collaborate with other researchers and research groups or centres, both nationally and internationally. This is a "hub and spokes" model; the University of Melbourne is the hub, and it has spokes to a range of affiliated researchers and research groups both in Australia and overseas and it will continue to actively seek the involvement of other intellectual property researchers in Australia and overseas.

A crucial feature of the hub and spokes model is the involvement of a range of researchers from within and outside the University as Research Associates. They are leaders in their respective fields and have brought considerable depth to the academic resources at IPRIA's disposal. The Institute has also established strong links with a number of international research centres and they make up another part of the model. Within Australia, the personal contacts of staff and Advisory Board members with the key institutions in the practice of intellectual property law in

Australia have been developed and IPRIA has also capitalised on the linkages with business and industry already established by its constituent bodies

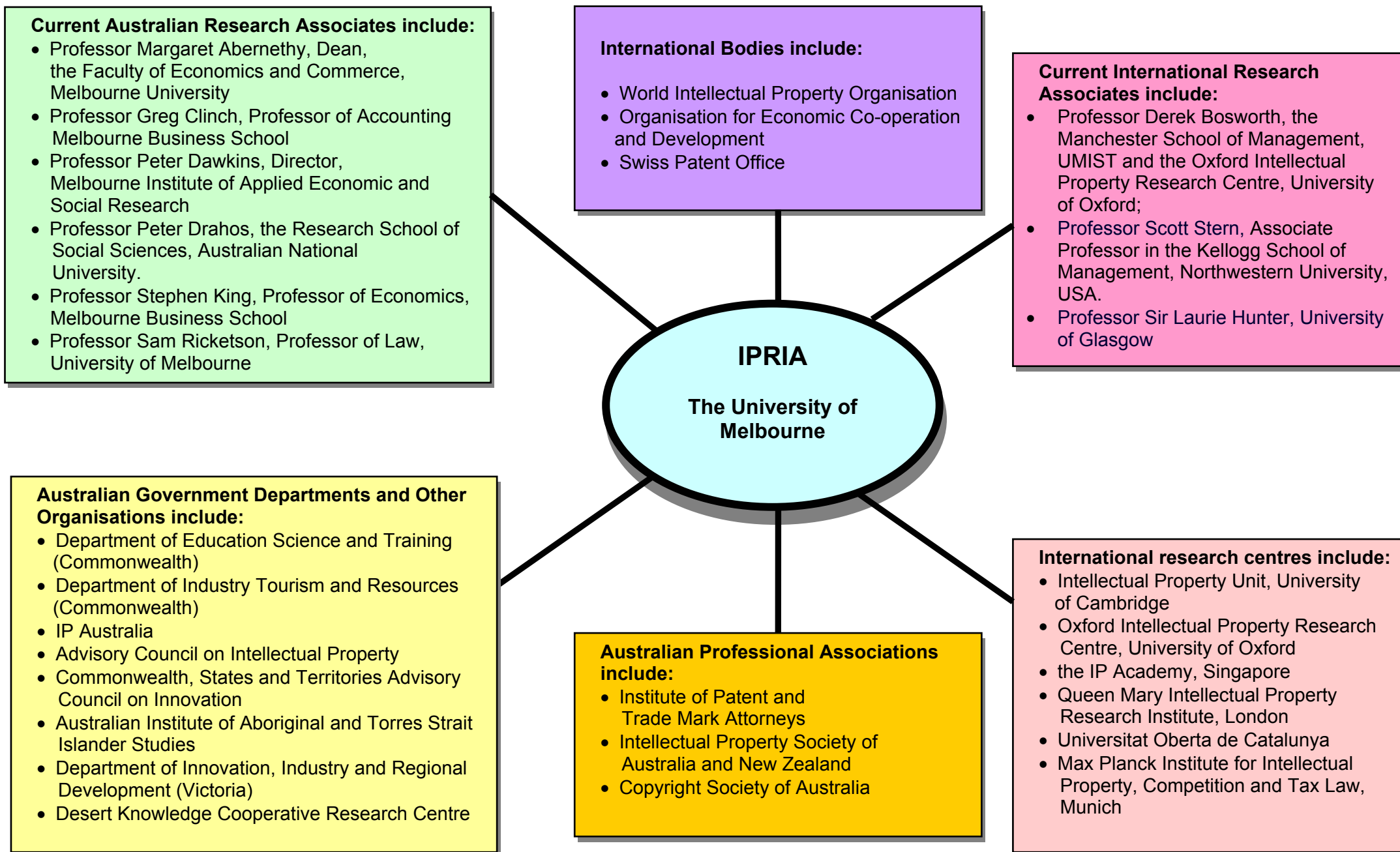


Figure 1: The "Hub and Spokes" Model

THE CHALLENGE

Every new organisation has to overcome a number of hurdles in its early years. The problem of funding is one that most organisations, whether they are commercial or non-commercial enterprises, must face as part of their initial phase. Fortunately, IPRIA has not yet had to confront that problem. It has been provided with generous seed funding so that financial security has not been an immediate issue. However, in common with other research institutes, financial viability will become an increasingly important issue as the period of guaranteed funding draws to a close.

Not surprisingly, the level of funding was accompanied by high expectations that IPRIA would swiftly establish itself and meet its performance objectives, and the expectation that its work would produce results in the short term. Those objectives, which are set out above, present a real challenge for they are not ones that academics would customarily set for themselves. Academics traditionally see changes in behaviour as a long-term goal. The challenge for IPRIA, therefore, is two-fold: to embrace the concept that its work is expected to achieve change in the short-term and to produce work that will meet that objective and the others that have been set for it.

In striving to achieve those objectives, IPRIA must be wary of “falling between two stools”. There is a danger that its research outputs may be seen by some academics as transient, insubstantial and not meaningful for being current and seeking to change current behaviour. But to critics outside the academy, its work may be criticised as too academic, theoretical, abstract and therefore ineffectual. On the one hand it is important for critics to realise that IPRIA does not function like a law firm – its job is not to provide advice on current problems, but rather to “create knowledge”, to add to the existing knowledge stock and to provide further insights, to provide new tools so that law-makers and policy-makers will change and develop the law. However, other critics must realise that IPRIA must be more than academic – its advice must effect change in the short-term. Success will be measured by a number of factors,

including the effectiveness of its research, and the way it is disseminated, in changing the way the intellectual property system is viewed and used and the way that system operates; and, subsequently, the impact of its research on successful innovation in Australia.

The very nature of IPRIA as an interdisciplinary institution presents it with another enormous challenge. Within the research community, IPRIA is unique. There are no models that it can look to and replicate, either within Australia or in other countries. It is true that there are a number of intellectual property research institutes throughout the world and there are “umbrella” organisations with multiple disciplines, but IPRIA stands out as having overtly and substantially combined a number of disciplines in its core practice. Different disciplines have divergent approaches including very basic research differences as to methodology, time-lines and expectations as to the publication and further dissemination of their research. Another measure of the future success of IPRIA will therefore be its ability to establish a unified way of operating in a interdisciplinary context. Intellectual property is not recognised as a sub-discipline in fields other than law; and academics from one field or discipline sometimes find it difficult to understand the perspective or assumptions of academics from other fields or disciplines. As well, in any large organisation such as a university, there will always be administrative difficulties (including different operating procedures) involved in getting different divisions or faculties to work together.

RESEARCH

IPRIA’s research agenda encompasses the traditional intellectual property regimes of copyright, patent, trade marks and designs as well as emerging areas of intellectual property protection such as domain names, genetic resources, digital technology and rights related to copyright. The interdisciplinary focus of the Institute is reflected in its research which centres around three main themes: the economics, management and law of intellectual property.

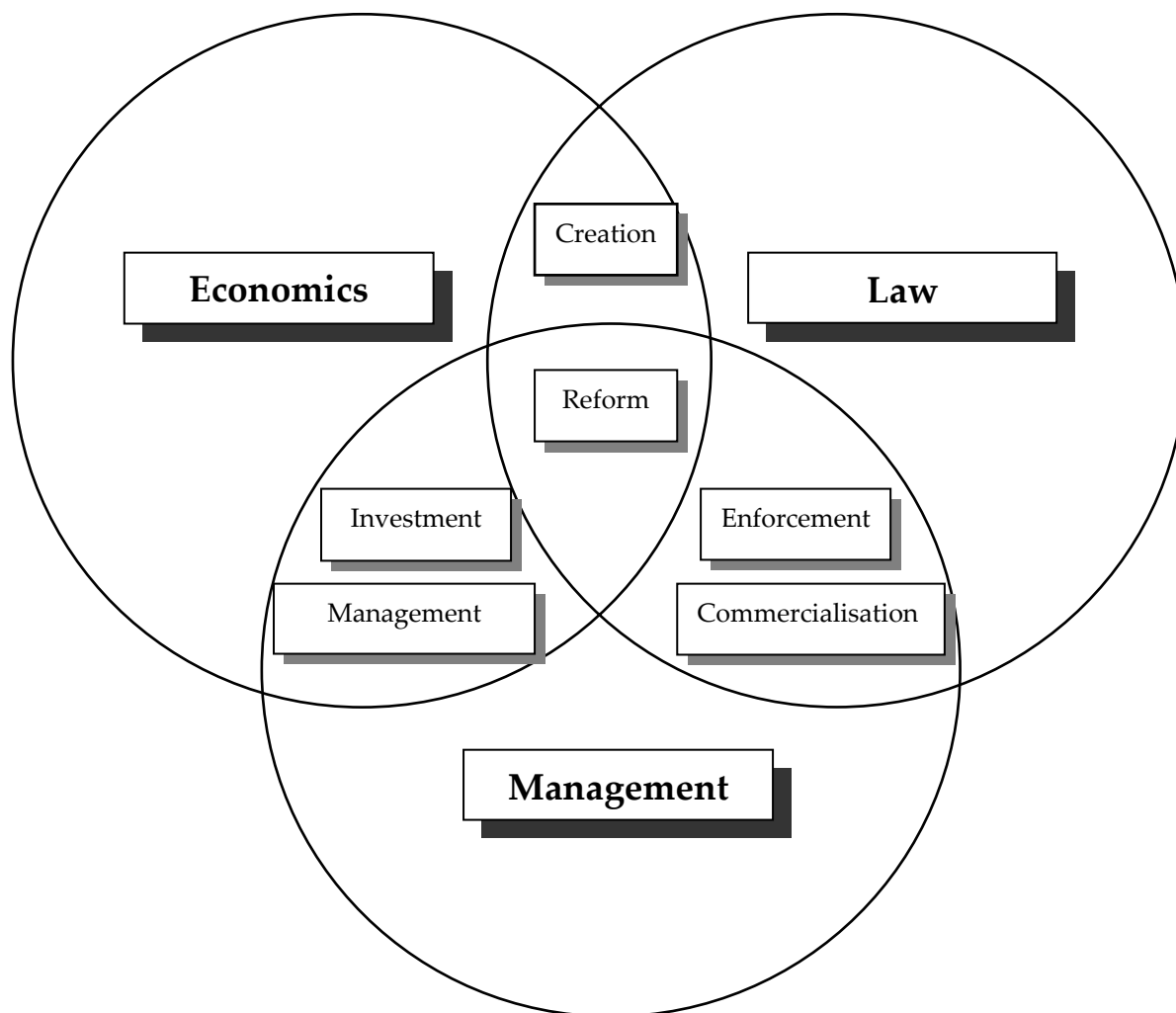


Figure 2: IPRIA's Research Programs

Figure 2 illustrates the interaction between the three themes of law, economics and management.

On the basis of the interaction illustrated in Figure 2, IPRIA divides its research into three areas:

- (i) Investment and Creation;

- (ii) Management and Commercialisation;
- (iii) Law and Reform

This division is designed to maximise the level of interdisciplinary input into the Institute's research projects.

IPRIA's research program encompasses projects which fall into three categories: (i) research program projects, which use program funding from IP Australia, the University of Melbourne and the Victorian State Government; (ii) individual researcher projects funded externally; and, (iii) commissioned research projects. The research program is designed to implement IPRIA's research agenda (explained above). It includes a wide range of projects from all three disciplines (law, economics and management). For instance, IPRIA is currently undertaking a project, 'Outcomes of IP Enforcement Actions in Australia', surveying all reported final determinations of civil enforcement actions in respect of copyright, registered patent, trade mark, design, circuit layout and plant breeders rights in Australian courts of superior jurisdiction. This project is led by researchers based in the Law School. Other projects include a study of the factors associated with the creation and commercialisation of intellectual property by collaborating partners. It is guided by questions that include, "Is there evidence that the strength of the partnership is positively related to the quantity and significance of the IP?" This project, which is entitled, 'Factors in Successful Collaboration for the Creation and Commercialisation of IP' is led by researchers based in the Melbourne Business School.

Researchers based in IPRIA obtain research grants from competitive external research funding schemes (such as the Australian Research Council) for individual projects. They have successfully obtained grants across a number of projects, including a project considering the drivers of pre-patent licensing and the effects of uncertain property rights on the efficient operation of markets for ideas ('Uncertain Intellectual Property Rights and Start-Up Commercialisation Strategy'). Another project investigates how museums, galleries and libraries are digitising material under Australian copyright law. This project, 'Copyright and Cultural Institutions:

Digitising Collections in Public Museums, Galleries and Libraries', is being conducted jointly with the Centre for Media and Communications Law (based at The University of Melbourne Law School) and will involve collaboration with six leading cultural institutions, namely, the Art Gallery of New South Wales, Australian Centre for the Moving Image, Australian War Memorial, National Museum of Australia, Museum Victoria and State Library of Victoria.

IPRIA undertakes some research commissioned by third parties, usually government bodies. Most recently, IPRIA has completed a study for the Commonwealth Department of Industry, Tourism and Resources (DITR) on Small and Medium Enterprises' use of IP ('Factors Affecting the Use of Intellectual Property Protection by Small and Medium Enterprises (SMEs) in Australia'). This study was undertaken jointly by researchers from the disciplines of law, economics and business. It demonstrates the synergies available from successful collaboration between the three disciplines. In another successful collaboration, IPRIA researchers from the law and economics provided an extensive report to the Commonwealth Department of Education, Science and Training (DEST) on the legal framework for patent ownership in publicly funded research institutions. The report examined the position in the United States, Canada, the United Kingdom and Australia.

CONCLUSION

Although the challenges are great and the difficulties cannot be underestimated or understated, it can confidently be stated that, as the second year of IPRIA's operation draws to a close, the Institute has made significant progress towards meeting its objectives. IPRIA was established within a very short time with a core research team soon in place. Its research team quickly expanded to its current levels; and IPRIA has successfully identified ways of working collaboratively between three disciplines and exploiting the synergies between the disciplines.

Research outputs were quickly produced. IPRIA has contributed to the production and dissemination of new knowledge through numerous articles; over twenty working papers and occasional papers (available on its website); presentations at national and international conferences; the staging of more than twenty public seminars and workshops; and, the first of an annual series of intellectual property conferences which attracted over 140 attendees to an interdisciplinary conference on trade marks. It has also participated in policy and reform debates with regular submissions on important issues and the production of reports to the Commonwealth government.

Most importantly, it can safely be said, nearly two years on, that the vision of IP Australia for IPRIA is workable and is worth pursuing.

APPENDIX I: WEBSITE

www.ipria.org

APPENDIX II: KEY PERSONNEL

- Professor Andrew Christie, Director of IPRIA, is an acknowledged leader in intellectual property research, with an international reputation for his research in the field. He holds the Davies Collison Cave Chair of Intellectual Property at The University of Melbourne Law School and has particular expertise in the areas of copyright law, patent law and trade mark law as they apply in the digital environment, and patent law as it applies to biotechnological inventions. Professor Christie is a member of the Advisory Council on Intellectual Property advising the Federal Minister for Industry, Tourism and Resources and is a member of the Australian Law Reform Commission's Advisory Committee on Genetics, Intellectual Property and Human Health. He is a past member of the Copyright Law Review Committee.

- Dr Owen Morgan, Deputy Director of IPRIA, has a background that encompasses positions in both industry and academia, particularly in New Zealand. His current research interests include trade marks law and rights related to copyright, particularly as they apply in the entertainment and marketing industries. He also has an interest in intellectual property as it applies to traditional knowledge.
- Professor Joshua Gans, Associate Director of IPRIA, is one of Australia's leading industrial economists and a world leader in research on innovation, licensing and the organisation of innovative activity. He is a Professor of Management (Information Economics) at the Melbourne Business School. He has worked extensively on intellectual property issues in both Australia and the United States, including the role of technology and intellectual property protection in economic growth, issues associated with academic publishing and choices associated with the commercialisation of ideas.
- Dr Elizabeth Webster, Associate Director of IPRIA, is a manager of the Enterprise Performance section at the Melbourne Institute of Applied Economic and Social Research which has conducted a number of research projects on the economics of innovation and intellectual property. Her current interests include the reasons for the growth of intangible capital among firms and the effects that this has for the ownership structure of the firm and issues from labour economics and industrial economics.
- Ms Kimberlee Weatherall, Associate Director of IPRIA, is a Lecturer in the Law School at the University of Melbourne and divides 50% of her time to the Law School and 50% as Associate Director of Law at IPRIA. Her research interests include copyright, trade marks and patent law, and she has a particular interest in intellectual property theory and in the intersection between law and technology.

APPENDIX II: MEMBERSHIP OF THE ADVISORY BOARD (CURRENT TO JULY 2004)

Mr Hugh Morgan AC (Chair)

Mr Owen Malone (Vice-President Intellectual Property, Foster's Group Ltd) (Deputy Chair)

Dr Michael Hirshorn OAM (Chief Executive, St George Innovation Fund, Nanyang Ventures Pty Ltd)

Dr Deborah Kuchler (Managing Director, MiND2 MARKET Pty Ltd)

Mr Desmond Ryan AM (Consultant, Davies Collison Cave Patent and Trade Mark Attorneys and Davies Collison Cave Solicitors)

Ms Faye Burton (Acting Executive Director, Department of Innovation, Industry and Regional Development, State Government of Victoria)

Dr Ian Heath (Director General, IP Australia)

Professor Michael Crommelin (Dean, Faculty of Law)

Professor Margaret Abernethy (Dean, Faculty of Economics and Commerce)

Professor Stephen King (nominee of the Director of the Melbourne Business School)

Professor Andrew Christie (Director, IPRIA)

APPENDIX III: MEMBERSHIP OF THE INTERNATIONAL BOARD OF ASSESSORS

Professor Derek Bosworth (UMIST and University of Oxford)

Professor John Braithwaite (Australian National University)

Professor William R Cornish (University of Cambridge)

Professor Adolph Dietz (Max Planck Institute)

Professor Gerald Dworkin (IP Academy, Singapore)

Professor Jane Ginsburg (Columbia University)

Professor Paul Goldstein (Stanford University)

Dr Francis Gurry (World Intellectual Property Organisation)

Professor Rebecca Henderson (Massachusetts Institute of Technology)

Professor Thomas McCarthy (University of San Francisco)

Associate Professor Scott Stern (Northwestern University)

Professor Joseph Strauss (Max Planck Institute)

Professor David Vaver (University of Oxford)

IPRIA Occasional Papers

No.	Title	Author(s)
1/04	IPRIA - The Vision Is To Be A Research Institute Of World Repute	O Morgan E Caine
2/03	The New Zealand Trade Marks Act – No Place for Offence	O Morgan
1/03	The Value of IP Protection in Markets for Ideas	J Gans

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