

# IPRIA Australian Developments in IP

Update February 2007

Welcome to the IPRIA [Australian Developments in IP Bulletin](#) for February 2007. The following items are also available on our website. The page can be viewed in full at [http://www.ipria.org/developments\\_in\\_ip/domestic/index.html](http://www.ipria.org/developments_in_ip/domestic/index.html)

## GENERAL IP

### Developments regarding Free Trade Agreements

On **6 December 2006**, the Minister for Trade, Warren Truss, announced that Australia and Korea have agreed to conduct a joint study on a possible Free Trade Agreement (FTA). The study will be conducted by private research institutions in both countries. Government officials will then review its findings and make recommendations. On **13 December 2006**, Mr Truss announced that the Australian Government would be seeking FTA negotiations with the Gulf Cooperation Council (GCCC) as soon as possible. The GCCC comprises Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. In December 2006, Prime Minister John Howard and the Japanese Prime Minister Shinzo Abe agreed to commence FTA negotiations early in 2007. Submissions on issues relevant to the negotiation of an Australia-Japan FTA were due to the Department of Foreign Affairs and Trade (DFAT) by **15 January 2007**.

Currently, DFAT is seeking public submissions until **23 February 2007** regarding an Australia-Chile FTA. DFAT seeks assistance in identifying particular market access issues and/or any other trade and investment impediments affecting Australia's exports and investments in Chile.

For more information regarding the Australia-Korea FTA, click here  
[http://www.trademinister.gov.au/releases/2006/wtt026\\_06.html](http://www.trademinister.gov.au/releases/2006/wtt026_06.html)

For more information about the Australia-Gulf Cooperation Council FTA, click here  
[http://www.trademinister.gov.au/releases/2006/wtt029\\_06.html](http://www.trademinister.gov.au/releases/2006/wtt029_06.html)

For more information regarding the Australia-Japan FTA, click here  
<http://www.dfat.gov.au/geo/japan/fta/index.html>

For more information regarding the Australia-Chile FTA, click here  
<http://www.fta.gov.au/>

## COPYRIGHT

### Senate passes Copyright Amendment Bill 2006

On **12 December 2006**, the Australian Attorney General, Phillip Ruddock, announced that the Senate had passed the Copyright Amendment Bill 2006. According to Mr Ruddock, Australian consumers will be able to use copyright material in a variety of ways under the new legislation.

For details of the reforms, click here

[http://www.ipria.org/developments\\_in\\_ip/domestic/Legislation%20Monitor.html#CopyrightMonitor](http://www.ipria.org/developments_in_ip/domestic/Legislation%20Monitor.html#CopyrightMonitor)

## **PATENTS**

### **IP Australia Patent Search Strategy Project**

On **15 January 2007**, IP Australia announced that it has initiated a new program that will provide better access to patent data for inventors, researchers and IP professionals in Australia and overseas. Currently, patent data in Australia is held in a variety of different systems. The Patent Search Strategy Project will deliver a new search facility that will ultimately provide electronic access to all Australian patent data. For those interested, IP Australia is establishing a customer reference group that is specifically tasked with guiding development of the new search system.

For more information, click here

[http://www.ipaustralia.gov.au/patents/patsearch\\_project.shtml](http://www.ipaustralia.gov.au/patents/patsearch_project.shtml)

### **Government response on ACIP report ‘Review of Crown Use Provisions for Patents and Designs’**

The report ‘Review of Crown Use Provisions for Patents and Designs’ was released by the Advisory Council on Intellectual Property (ACIP) on 7 December 2005. ACIP recommended that a more transparent and accountable process for utilising the Crown use provisions be introduced including the requirements for the Crown to seek prior consent from the patent or design owner and to seek Ministerial approval before invoking the provisions. ACIP also recommended introducing a remuneration standard and a process to facilitate an agreed remuneration for the patent or design owner. IP Australia is undertaking consultations with relevant Australian Government departments and key non-government stakeholders to assist in informing the Australian Government’s response to the Review’s findings. Other interested parties were asked to make their views known on the Review’s findings by **22 December 2006**.

For more information, click here

[http://www.ipaustralia.gov.au/resources/news\\_new\\_archived\\_2006.shtml#56](http://www.ipaustralia.gov.au/resources/news_new_archived_2006.shtml#56)

### **Overview of responses to the Consultation Paper on ACIP Report ‘Patents and Experimental Use’**

On **8 November 2006**, IP Australia released a paper which provides an overview of the submissions received in response to the questions raised in the Consultation Paper on the Advisory Council of Intellectual Property (ACIP) Report, ‘Patents and Experimental Use’. The Consultation Paper invited interested parties to comment on the different experimental use exemption provisions recommended by ACIP and the Australian Law Reform Commission (ALRC), and whether the interested party’s industry had been impacted by the absence of an exception from infringement for activities undertaken prior to the end of the initial patent term relating to obtaining regulatory approval.

For more information, click here

[http://www.ipaustralia.gov.au/resources/news\\_new\\_archived\\_2006.shtml#55](http://www.ipaustralia.gov.au/resources/news_new_archived_2006.shtml#55)

**ACIP reviews post-grant patent enforcement strategies**

In response to increasing concerns regarding the difficulties involved in enforcing patent rights, particularly by individuals and small to medium enterprises (SMEs), the Australian Government has requested that the Australian Council on Intellectual Property (ACIP) inquire into and report on issues relating to post-grant patent enforcement strategies. The review will focus on strategies that may assist individuals and SMEs enforce their patents in a cost effective way. ACIP has released an issues paper on 'Post-Grant Patent Enforcement Strategies'. Written submissions and expressing interest in taking part in any consultations should be received by **20 February 2007**.

For more information, click here

<http://www.acip.gov.au/reviews.htm>

**TRADE MARKS AND OTHER INDICATIONS****Australia signs World Wine Trade Group Agreement on Requirements for Wine Labelling**

On **23 January 2007**, the World Wine Trading Group (WWTG) Agreement on Requirements for Wine Labelling was signed by the Australian Government Minister for Trade, Warren Truss, and by representatives from 'new world' wine producing countries including the USA, Chile, Argentina, New Zealand and Canada. These countries, whose common goal is to boost international trade in wine, make up the WWTG which recently met in Canberra. The WWTG Agreement standardises the presentation of certain information on wine labels such as product designation, content volume, percentage of alcohol and country of origin. In future, when a product is to be sold in several markets, winemakers and exporters will no longer have to attach a different front label for each destination.

For more information, click here

<http://www.maff.gov.au/releases/07/07011pmj.html>

**Changes to trade mark classification for retailing or wholesaling of utilities**

On **21 November 2006**, IP Australia announced that advice received from the World Intellectual Property Organisation (WIPO) has stated that the retailing and/or wholesaling of utilities includes the retailing and/or wholesaling of electricity, energy, gas supply, water supply, telecommunications network access and the like do not fall under the definition of retailing and wholesaling services in class 35. Class 39 (provision of electricity, energy, gas supply, water supply etc) and class 38 (provision of telecommunications network access etc) were deemed to be more appropriate for these services. In light of this advice, applications containing these claims will not be accepted in class 35 and owners will need to agree to transfer to class 38 or 39 as appropriate. Retrospective changes will not be made to existing trade mark registrations in class 35.

For more information, click here

[http://www.ipaustralia.gov.au/resources/news\\_new\\_archived\\_2006.shtml#58](http://www.ipaustralia.gov.au/resources/news_new_archived_2006.shtml#58)

### **Request for comment on the operation of the Madrid Protocol**

The Trade Marks Office announced that it is seeking comment from trade mark owners and their representatives on the operation of the Madrid Protocol in the context of international consideration by the World Intellectual Property Organisation (WIPO) of the future development of the Madrid system. Comments were due before **25 December 2006**, however, as it is envisaged that the international discussions will be ongoing, input at a later time would also be very useful. There will also be opportunities for further comment as the WIPO process continues.

For more information, click here

[http://www.ipaustralia.gov.au/resources/news\\_new\\_archived\\_2006.shtml#59](http://www.ipaustralia.gov.au/resources/news_new_archived_2006.shtml#59)

### **PLANT BREEDER'S RIGHTS**

#### **ACIP to review enforcement of plant breeder's rights**

In response to concerns raised about the enforcement of plant breeder's rights (PBRs), the Australian Government has asked the Australian Council on Intellectual Property (ACIP) to inquire into and report on issues relating to the enforcement of PBRs in Australia and to consider possible strategies to assist Australian PBRs holders effectively enforce valid rights. The review includes a consideration of whether there may be benefits from extending the jurisdiction of the Federal Magistrates Court to include PBR matters. ACIP expects to circulate an Issues Paper in February 2007 with a request for written submissions in early April 2007. ACIP also expects to hold consultations in 2007. ACIP is looking for interested parties who may wish to be involved in some, or all, of these activities.

For more information, click here

<http://www.acip.gov.au/reviews.htm>

### **DOMAIN NAMES**

#### **auDA extends domain name expiry period and calls for nominations for its Names Policy Panel**

On 16 November 2006, the Australian Domain Name Administrator (auDA) announced an extension of the domain name expiry period from 14 to 30 days. According to auDA, the extension is 'designed to give Australian domain name registrants greater protection'. In related news, auDA is inviting people with an interest in Australian (.au) domain name policy to nominate for the 2007 Names Policy Panel. The purpose of the Panel is to:

- review the policy framework underlying the allocation and use of domain names in the .au domain space; and
- provide recommendations to the auDA Board about what changes (if any) should be made to the policy framework.

The Panel is expected to commence work in March 2007. The closing date for nominations is **26 January 2007**.

For more information on both of these items, click here

<http://www.auda.org.au/>

## **PRIVACY**

### **ALRC privacy inquiry**

In January 2006, the Australian Law Reform Commission (ALRC) was asked by the Australian Attorney-General to inquire into the extent to which the Privacy Act 1998 (Cth) and related laws continue to provide an effective framework for the protection of privacy in Australia. Submissions regarding the Issues Paper 'Review of Piracy' (IP 31) were due by 15 January 2007. Submissions regarding the Issues Paper 'Review of Privacy – Credit Reporting Provisions' (IP 32) close **9 March 2007**. The ALRC produced an overview of both Issues Papers, 'Reviewing Australia's Privacy Laws: Is Privacy Passé?' in December 2006. A more detailed Discussion Paper – which will contain preliminary proposals for reform for community discussion – is planned for release in May 2007. In the mean time, a series of public meetings regarding the inquiry have been scheduled for Melbourne, Sydney and Coffs Harbour in February, March and April 2007.

For more information, click here

<http://www.alrc.gov.au/inquiries/current/privacy/index.htm>