

## **IPRIA Australian Developments in IP**

Update August 2005

Welcome to the IPRIA Australian Developments in IP Bulletin for August 2005. The following is a summary of featured updates on the 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)

### **Review of unauthorised access to and use of subscription broadcasts**

On 27 May 2005 the Department released a discussion paper seeking submissions on whether certain unauthorised activities involving access to and use of subscription broadcasts should be made criminal offences under Commonwealth law. Following the conclusion of the Australia-US Free Trade Agreement late last year, the Government undertook to review its policy on the issue of personal use of a broadcast decoding device. The Government undertook to also consider other unauthorised activities carried out by subscribers to subscription broadcast services that are not currently dealt with under the Copyright Act. The discussion paper sought submissions on whether these activities should be an offence under Commonwealth law.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Body.html#Broadcast](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Body.html#Broadcast)

### **Government examines 'fair use' of copyright material**

The Attorney-General's Department has commenced a review on options for including new exceptions in the Copyright Act. To begin the public consultation process, an issues paper was released on 5 May 2005. The review is examining whether an exception or specific exceptions to copyright based on principles of 'fair use' should be adopted to make copyright law more flexible and relevant in the digital age. While a major focus of the review is the adequacy of exceptions for private or domestic uses of copyright material, it will also consider submissions that address the need for new exceptions in other areas of the Act. Submissions to this review have now closed.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Body.html#Fairuse](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Body.html#Fairuse)

### **Abolition of CLRC**

In May, 2005, the Attorney-General announced that the CLRC would be discontinued, citing budgetary reasons. There has not yet been an announcement as to a proposed replacement for the role played by the CLRC in providing independent expert advice on copyright policy issues being reviewed by the Government.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Body.html#CLRC](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Body.html#CLRC)

### **Australia-ASEAN-New Zealand FTA**

Since completing the AUSFTA, Australia has been taking steps towards other free trade agreements within the region, and negotiations have commenced for an FTA between Australia, the ASEAN and New Zealand. These negotiations will be particularly complex as they involve twelve countries at different stages of development. ASEAN, Australia and New Zealand trade officials met for the third round of FTA negotiations in Auckland from **29 June - 1 July 2005**. At this stage in the negotiations, all sides are focused on gaining a detailed understanding of each others' trade regimes and their respective FTA negotiating experiences. The next round of negotiations was scheduled to be held in Chiang Mai, Thailand from 18-20 August 2005. Negotiators will meet in Expert and Working Group meetings on goods, economic cooperation, rules of origin, services, legal and institutional issues, and intellectual property and will agree on work plans and timeframes to progress the negotiations.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Body.html#Ausnzfta](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Body.html#Ausnzfta)

### **Patenting and commercialisation activities of Australian Universities**

The Department of Industry, Tourism and Resources recently conducted a study of patenting activities by Australian universities from 1995 to 2002 to identify factors that impede commercialisation and to gain a better understanding of the commercialisation processes employed by universities in Australia. The study was based on university surveys and face-to-face interviews with university commercialisation officials. The survey group accounts for 99% of the patents granted to Australian universities. The study found that the Go8 universities accounted for 89% of the total number of patents granted to all Australian universities and 90% of commercialisation activity. The study also found that 70% of patents were commercialised.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Body.html#Unis](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Body.html#Unis)

### **Capital allowance treatment of film copyright to be amended**

The Australian Government has announced that the capital allowance treatment of film copyright, which does not currently qualify for concessional treatment under Divisions 10B and 10BA of the Income Tax Assessment Act 1936, will be amended. A media release from the Treasurer, Peter Costello, notes that the change will see film copyright now included in the effective life depreciation regime.

Under the current law, capital expenditure on qualifying Australian films attracts an immediate tax deduction under Division 10BA, or a two year write-off under Division 10B. Currently film copyright more generally is depreciated either over 25 years or over the remaining life of the copyright, whichever is less. By bringing film copyright under the effective life depreciation regime, the Commissioner of Taxation may make a determination specifying a 'safe harbour' effective life. The Commissioner is expected to make an effective life determination shortly after legislation to implement the measure has been enacted.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Area.html#Allowance](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Area.html#Allowance)

### **Intellectual Property Rights in films to be extended**

The Senate Legal and Constitutional Committee's report on Provisions of the Copyright Amendment (Film Directors' Rights) Bill 2005 has decided in favour of extending copyright ownership rights in films to directors and screenwriters. The Committee came to the conclusion that while there were some concerns raised in respect of the Bill, the rejection of it was not warranted. The Committee made several recommendations, the first being that the Copyright Act 1968 should be amended to provide for screenwriters to be joint copyright owners of films, along with producers and directors.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Area.html#Allowance](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Area.html#Allowance)

### **Release of geographic names in com.au and net.au**

Under current policy there is a restriction on the use of geographic names as domain names in com.au and net.au. Following a public review in 2004, the auDA Board resolved that geographic domain names are useful and desirable for Australian businesses and that the restriction should be lifted. auDA has determined that the fairest and most effective way of releasing the geographic names for use as domain names will be by way of individual ballots. Some geographic names are available as domain names in both com.au and net.au, while some geographic names are only available in either com.au or net.au.

[http://www.ipria.org/developments\\_in\\_ip/domestic/Developments%20by%20Area.html#Geonames](http://www.ipria.org/developments_in_ip/domestic/Developments%20by%20Area.html#Geonames)