

# **IPRIA Australian Developments in IP**

Update August 2006

Welcome to the IPRIA **Australian Developments in IP Bulletin** for August 2006.

The following is a summary of some of the 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)

## **GENERAL IP**

### **Australia-Japan Free Trade Agreement feasibility study group**

The fourth meeting of the Australia-Japan Free Trade Agreement (FTA) feasibility study group was held in Canberra on **18–21 July 2006**. The study group continued its discussion on the feasibility of a bilateral FTA that not only covers specific sectors such as goods, services, energy and minerals but also IP and competition policy issues. With the study group having agreed to begin work on its final report, it is entering the final stages of its work. The next study group will take place in Tokyo on 20-22 September 2006.

For more information, click here

[http://www.dfat.gov.au/geo/japan/fta/update\\_3.html](http://www.dfat.gov.au/geo/japan/fta/update_3.html)

### **Malaysia-Australia Free Trade Agreement negotiations**

The fourth round of the Malaysia-Australia Free Trade Agreement negotiations were held in Kuala Lumpur on **3-7 July 2006**. There was 'pleasing progress' on IP and e-commerce issues where discussion focused on draft text. Australia and Malaysia tabled text covering most areas of the negotiations. This follows advances made at inter-sessional meetings on investment, telecommunications, e-commerce, financial services and dispute settlement since the last negotiating session held in Canberra in March 2006. Both parties will advance text in the lead up to the next negotiating session scheduled to be held in Canberra on 11-15 September 2006.

For more information, click here

[http://www.dfat.gov.au/geo/malaysia/fta/updates/060718\\_update.html](http://www.dfat.gov.au/geo/malaysia/fta/updates/060718_update.html)

### **Australia-China Free Trade Agreement negotiations**

The fifth round of the Australia-China Free Trade Agreement (FTA) negotiations took place in Beijing on **22-24 May 2006**. At the meeting, Australia tabled texts for an initial 15 proposed chapters of a FTA which were considered closely. Australia also put forward a draft text for a chapter on IP which reflected industry concerns identified in submissions and consultations. Though negotiations regarding IP can be expected to be 'long, complex and challenging', the Chinese side was 'engaged well' in the discussions. Preliminary but useful discussions were also held on Australia's draft texts on competition policy, dispute settlement and some of the key institutional and framework provisions for the agreement. Both parties agreed to exchange market access offers on goods, including agriculture, at the next round tentatively scheduled

to be held in Beijing the week starting 4 September 2006. Services and investment market access negotiations should follow before the end of 2006.

For more information, click here

[http://www.dfat.gov.au/geo/china/fta/060620\\_subscriber\\_update.html](http://www.dfat.gov.au/geo/china/fta/060620_subscriber_update.html)

## **IP CRIME AND ENFORCEMENT**

### **AIC intellectual property crime and enforcement research**

The Australian Institute of Criminology (AIC) is currently conducting a study in relation to IP crime and enforcement in Australia. As part of this research, the AIC is collecting data on the extent to which IP crime exists and its impact. The research will identify options for the Federal Government's response to piracy and counterfeiting in the future. If you wish to assist in this research by providing information on the type, amount and impact of IP crime in Australia, email [alex.malik@aic.gov.au](mailto:alex.malik@aic.gov.au) by **Friday 4 August 2006**. In your email, tell the AIC about yourself and your organisation, and explain why you believe you may be able to contribute to their research.

For more information, click here

[http://www.aic.gov.au/temp\\_malik\\_invite.html](http://www.aic.gov.au/temp_malik_invite.html)

## **PATENTS**

### **ACIP to review post-grant patent enforcement strategies**

The Advisory Council on Intellectual Property (ACIP) has been asked by the Federal Industry Parliamentary Secretary to 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 expects to circulate an Issues Paper in late September 2006 with a request for written submissions in early December 2006. ACIP also expects to hold consultations in early 2007. If you wish to be involved in some, or all, of these activities, register your interest by emailing [kostas.arvanitis@ipaaustralia.gov.au](mailto:kostas.arvanitis@ipaaustralia.gov.au).

For more information, click here

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

## **COPYRIGHT**

### **Attorney-General announces major copyright reforms**

On **14 May 2006**, the Attorney-General Phillip Ruddock announced major copyright reforms. The reforms will:

- legalise 'time shifting' to allow the recording of most TV and radio programs to be viewed or listened to at a later time, however the recording must be deleted after one use;
- create new offences for pay TV piracy;

- repeal the one per cent cap on copyright licence fees paid by radio broadcasters for playing sound recordings on the radio;
- legalise 'format shifting' of material such as music, newspaper, books – allowing people to put their CD collection onto iPods or MP3 players and dub VHS cassettes onto DVDs;
- allow non-commercial uses of copyright material by libraries, museums and archives, by educational institutions for the purposes of teaching, and by people with disabilities;
- allow the use of copyright material for parody or satire; and
- provide new enforcement measures to combat copyright piracy, enabling police to issue on the spot fines and access and recover profits made by copyright pirates.

A draft exposure Bill containing these and other reforms will be released in the near future.

For more information, click here

[http://www.ag.gov.au/agd/WWW/MinisterRuddockHome.nsf/Page/Media\\_Releases\\_2006\\_Second\\_Quarter\\_14\\_May\\_2006\\_-\\_Major\\_Copyright\\_Reforms\\_Strike\\_Balance\\_-\\_0882006](http://www.ag.gov.au/agd/WWW/MinisterRuddockHome.nsf/Page/Media_Releases_2006_Second_Quarter_14_May_2006_-_Major_Copyright_Reforms_Strike_Balance_-_0882006)

## **TRADE MARKS**

### **Trade Marks Amendment Bill 2006 introduced into the Senate**

On **21 June 2006**, the Trade Marks Amendment Bill 2006 was introduced into the Senate, making a number of incremental improvements to the Trade Marks Act 1995. The Act has been in force for 10 years and has recently been subject to review. The main substantive changes in the Bill include:

- only persons having legal personality may file a trade mark application (i.e. applications may not be made in the name of trusts or business names);
- the owner of a trade mark may oppose, on the basis of absolute first use, the registration of a deceptively similar trade mark;
- registration of a trademark may be opposed on the ground that it has been applied for in bad faith;
- the requirements for opposition based upon a trade mark with a reputation in Australia will be less restrictive;
- any person may make an application for a trade mark to be removed from the Register due to non-use, not just a person aggrieved; and
- the Registrar of Trade Marks will be able to initiate court action to amend or remove a trade mark from the Register where it is clearly in the public interest.

There are also a number of changes in the Bill intended to reduce the administrative burden on trade mark applicants, such as requests for minor amendments to trade mark applications may be made over the phone, series applications may be multi class, and collective trade marks may now be owned by incorporated associations.

For more information, click here

<http://www.ipaustralia.gov.au/pdfs/news/Trade%20Marks%20Amendment%20Bill%202006%20-%20AOJTM%206%20July%2006.pdf>

### **Further addition of terms to trade mark e-form filing systems**

IP Australia announced that as of **7 June 2006**, over 6000 new terms for goods (classes 2, 4, 13, 15, 18, 22-24, 26, 27 and 31-34) have been added to the pick-list for trade mark e-form filing systems and the goods and services help with the trade mark database, ATMOSS. This follows the 5000 extra terms that were added to services (classes 35 to 45) in April 2006. The trade mark e-form filing systems, both for standard Trade Mark Applications and the Assisted Filing Service, allow the user to select from a pick-list of goods and/or services corresponding to their trade mark. Previously, the list of terms available to select from was limited to Nice classification terms plus a number of official Office Determinations. Further work to provide additional terms in the pick-list for the remaining goods classes will be undertaken in the near future.

For more information, click here

[http://www.ipaustralia.gov.au/resources/news\\_new.shtml#22](http://www.ipaustralia.gov.au/resources/news_new.shtml#22)

### **COAG agrees on reform for registration of business names and ABNs**

At the **July 2006** meeting of the Council of Australian Governments (COAG), it was announced that action will be taken to overcome a number of regulatory regimes that are hampering economic activity. In the area of business registration, COAG agreed that the Small Business Ministerial Council is to develop a single, on-line registration system for both ABNs and business names, including trademark searching. Currently, the registration of ABNs and business names are separate processes. The Council must report back to COAG with its recommendations, cost implications and a proposed timeline for implementation by the end of this year.

To view the COAG Statement, click here

[http://www.coag.gov.au/meetings/140706/docs/attachment\\_e\\_reform\\_regulatory\\_burden.pdf](http://www.coag.gov.au/meetings/140706/docs/attachment_e_reform_regulatory_burden.pdf)

## **DESIGNS**

### **Review of the ‘spare parts’ provision in the Designs Act 2003**

On **23 June 2006** the federal government released a report, Review of the “Spare Parts” Provision in the Designs Act 2003. The spare parts provision in section 72 of the Act was introduced to provide a complete defence against infringement where spare parts are used for the purpose of repair of a complex product, so as to restore its overall appearance in whole or part. The report, completed by IP Australia in December 2005 in consultation with industry and other government agencies, considers the impact of the spare parts provision since the Act came into effect on 17 June 2004. The report recommends that no changes be made at this time to the provision as it has yet to have a significant effect on industry and consumers and is yet to be tested before the courts in Australia. The report also recommends that IP

Australia continue to monitor Australian and overseas developments regarding the issue and, in consultation with industry and stakeholders, advise appropriate action at a time when there is more information on the operation and impact of the spare parts provision.

To view the report, click here

<http://www.ipaustralia.gov.au/media/resources/Report%20-%20Review%20of%20Designs%20Spare%20Parts%20Provision.pdf>

## **PLANT BREEDER'S RIGHTS**

### **ACIP to report on the enforcement of plant breeder's rights**

The Advisory Council on Intellectual Property (ACIP) has been asked by the Federal Industry Parliamentary Secretary to inquire into and report on issues relating to the enforcement of plant breeder's rights (PBRs) in Australia. The report will consider possible strategies to assist Australian PBR holders effectively enforce valid rights and 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 early October 2006 with a request for written submissions in early December 2006. ACIP also expects to hold consultations in early 2007. If you wish to be involved in some, or all, of these activities, register your interest by emailing [kay.collins@ipaustalia.gov.au](mailto:kay.collins@ipaustalia.gov.au).

For more information, click here

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

## **FILM FUNDING**

### **Review of Australian Government Film Funding Support**

The Minister for the Arts and Sport, Senator Rod Kemp, has called for submissions to the July 2006 Issues Paper for the Review of Australian Government Film Funding Support. The review, which was announced in the 2006-07 Federal Budget, will outline the government's policy objectives for the Australian film industry, analyse the state of the industry and examine the support measures for film funding in Australia. A major focus of the review will be very low and declining level of private sector investment in the film industry and the development of possible solutions for improving the effectiveness of government direct and indirect support, including tax incentives. The closing date for submissions to the Review of Australian Government Film Funding Support is **Friday 11 August 2006**.

To view the Issues Paper for the Review of the Australian Government Film Funding Support, click here

[http://www.dcita.gov.au/\\_data/assets/pdf\\_file/40781/Australian\\_Film\\_Review.pdf](http://www.dcita.gov.au/_data/assets/pdf_file/40781/Australian_Film_Review.pdf)

## **DOMAIN NAMES**

### **auDA reviews its domain expiry, renewal and deletion policy**

The Australian Domain Name Administrator (auDA) is currently reviewing its domain expiry, renewal and deletion policy. auDA invites comment and feedback on all aspects of the policy, including:

- whether the length of the expired period (currently 14 days) is adequate;
- whether the 7 day random drop process is effective;
- whether there should be a domain redemption period (as for generic top-level domains); and
- whether the grace period (currently 3 days) is necessary.

The deadline for submissions is **Friday 11 August 2006**.

For more information, click here

<http://www.ada.org.au/news-archive/ada-24072006/>

## **HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON SCIENCE AND INNOVATION**

### **Pathways to Technological Innovation report tabled in Parliament**

On **19 June 2006**, the Standing Committee on Science and Innovation tabled its report on 'Pathways to Technological Innovation'. Australia performs relatively well internationally across a number of key innovation indicators, with a highly skilled workforce and a large number of foreign affiliates in manufacturing R&D. However, Australia falls below the OECD average in its business expenditure on R&D and levels of patenting in the United States. According to the Committee Chair, Petro Georgiou MP, "This report tackles impediments and gaps about which concerns were raised in evidence to the Inquiry, and considers how we can enhance the current system and deliver better outcomes for Australia." The inquiry into Pathways to Technological Innovation received more than 100 submissions and public hearings were held around Australia, in addition to a number of site visits to businesses and research institutes.

For more information, click here

<http://www.aph.gov.au/house/committee/scin/pathways/media/media11.pdf>

To view the Pathways to Technological Innovation report, click here

<http://www.aph.gov.au/house/committee/scin/pathways/report.htm>

## **DEPARTMENT OF EDUCATION, SCIENCE AND TRAINING**

### **Federal government funding for six new e-research projects**

On **31 July 2006**, the Minister for Education, Science and Training, the Hon Julie Bishop MP, announced that the federal government will allocate \$15 million under the Systematic Infrastructure Initiative for six new e-research projects. The projects

will 'support greater collaboration between researchers, both domestically and internationally'.

The six new initiatives are:

1. Australian Research Enabling Environment (ARCHER) led by Monash University;
2. Research Activityflow and Middleware Priorities (RAMP) led by Macquarie University;
3. Australian Research Repositories Online to the World (ARROW) – Stage 2 led by Monash University;
4. Legal Frameworks for e-Research lead by the Queensland University of Technology;
5. Australian Partnership for Sustainable Repositories (APSR) - Stage 2 led by the Australian National University; and
6. Integrated Content Environment for Research and Scholarship (ICE-RS) led by the University of Southern Queensland.

For more information, click here

<http://www.dest.gov.au/Ministers/Media/Bishop/2006/07/B001310706.asp>