

IPRIA New Zealand Developments in IP Update November 2008

Welcome to the IPRIA New Zealand Developments in IP Bulletin for November 2008. We would like to thank Dr Owen Morgan from the Department of Commercial Law at the University of Auckland Business School.

COPYRIGHT

Public Lending Right for New Zealand Authors Act 2008 receives Royal Assent

The Public Lending Right for New Zealand Authors Act 2008 establishes the Public Lending Right for New Zealand Authors scheme. This scheme provides for authors to receive annual payments in recognition of the fact that their books are available for use in New Zealand libraries. The legislation had a rapid path. The Bill was introduced into Parliament on 26 June 2008. It had its First Reading on the 22 July 2008 and received the Royal Assent on 29 September 2008. The Act comes into force on **1 January 2009**.

For a copy of the Public Lending Right for New Zealand Authors Act 2008, click here <http://www.legislation.govt.nz/act/public/2008/0104/latest/DLM1376041.html>

Copyright (New Technologies) Amendment Act 2008 commencement

The Copyright (New Technologies) Amendment Act 2008 Commencement Order (No 2) 2008 was made on **20 October 2008**. The Commencement Order provided that the following provisions of the Copyright (New Technologies) Amendment Act 2008 were to come into force on **31 October 2008**: sections 1 to 19(1); sections 20 to 47; sections 49 to 84; and sections 86 to 96. A date by which sections 48 and 85 come into force has not yet been notified as the sections require amendment and will be brought into force at a later date once amended. Section 48 of the Amendment Act 2008 repeals section 87 of the Copyright Act and substitutes a number of sections (87 to 87B) relating to the free public playing or showing of communication works.

The Commencement Order further provided that Section 92A of the Copyright Act 1994, as inserted by section 53 of the Amendment Act 2008, comes into force on **28 February 2009**. Section 92A will now require internet service providers to have a policy for terminating the accounts of repeat infringers. The apparent reason for the delay is to allow sufficient time for internet service providers and rights holders to work together to ensure its effective operation.

For a copy of the Copyright (New Technologies) Amendment Act 2008, click here <http://www.legislation.govt.nz/act/public/2008/0027/latest/DLM1122502.html>

Copyright (Commissioning Rule) Amendment Bill 2008 introduced

The Copyright (Commissioning Rule) Amendment Bill 2008 was introduced on **19 September 2008**. The Bill, which had its genesis in discussion papers released in 2006 and 2007, has not yet had its first reading. The purpose of the Bill is to provide consistency in the default rules for copyright ownership of commissioned works. The Bill removes the commissioning rule exception in section 21(3) of the Copyright Act 1994). This means that copyright ownership by default will vest in the creator for all types of commissioned works under section 21(1) of the Copyright Act. However,

Parliament rose for the last time before the General Election to be held in November 2008. It will therefore be for the Leader of the House in the new Parliament to determine the priority of the Bill.

For more information on the Order Paper, click here

<http://www.parliament.nz/en-NZ/ThisWk/OrderPaper/1/4/3/1435b678e95046f39689445f2576e607.htm>

For a copy of the Copyright (Commissioning Rule) Amendment Bill 2008, click here [browse bills beginning with 'C']

<http://www.legislation.govt.nz/bill/browse.aspx>

Copyright (Artists' Resale Right) Amendment Bill 2008 lapsed

The Copyright (Artists' Resale Right) Amendment Bill 2008 was still before the Government Administration Committee when Parliament rose for the last time before the General Election to be held in November 2008. All business before Select Committees lapsed. It will therefore be for the new Parliament to determine whether the Bill will be reinstated.

For a copy of the Bill, click here [browse bills beginning with 'C']

<http://www.legislation.govt.nz/bill/browse.aspx>

Parody Satire Review announced

On **23 September 2008**, the Associate Commerce Minister announced the commencement of a review on whether there should be a copyright exception for the purpose of parody and satire. The Minister stated that the impetus for the review is to ensure the Copyright Act 1994 continues to provide clarity to copyright users, rights-holders and internet service providers as to what constitutes infringing material. Key considerations in the review will be whether a parody and satire exception is necessary in New Zealand, and whether providing such an exception would disrupt the balance between the competing interests of copyright creators, owners and users. A discussion document on the issue of parody and satire is planned for public release in December 2008.

For more information, click here

<http://www.beehive.govt.nz/release/commissioning+rule+be+repealed+and+parody+satire+review+announced>

PATENTS

Patents Bill 2008 introduced

The Patents Bill 2008 was introduced on **9 July 2008**. The Bill has not yet had its first reading. The Bill has been long awaited and it is designed to replace the Patents Act 1953. The Bill is intended to update the New Zealand patent regime to ensure that it continues to provide an appropriate balance between providing adequate incentives for innovation and technology transfer while ensuring that the interests of the public and the interests of Māori in their traditional knowledge are protected. However, Parliament rose for the last time before the General Election in November 2008. It will therefore be for the Leader of the House in the new Parliament to determine the priority of the Bill.

For a copy of the Bill, click here [browse bills beginning with 'P']
<http://www.legislation.govt.nz/bill/browse.aspx>

GENERAL IP

Update regarding Anti-Counterfeiting Trade Agreement (ACTA)

The Ministry of Economic Development has posted the submissions that it received in response to its invitation to the public to identify specific matters that should be the focus of ACTA. Submissions were to be received by **14 July 2008**.

For more information, click here

http://www.med.govt.nz/templates/MultipageDocumentTOC_____38575.aspx

The Ministry has also posted a Report on Round Three of the ACTA negotiations held **8-9 October 2008** in Tokyo, Japan.

For more information, click here

http://www.med.govt.nz/templates/MultipageDocumentTOC_____39293.aspx?epslanguage=EN

Ambush marketing legislation update

Major Events Emblems and Words (Rugby World Cup 2011) Order 2008

On **11 August 2008**, the Administrator of the Government made the Major Events Emblems and Words (Rugby World Cup 2011) Order 2008. The Order declared that the protection period for the Rugby World Cup 2011 would start 11 September 2008 and end 21 November 2011. It also declared emblems and words set out in the schedules to be major event emblems and words for the protection period of the Rugby World Cup 2011.

Major Events Management (FIFA U-17 Women's World Cup 2008) Order 2008, and Major Events Emblems and Words (FIFA U-17 Women's World Cup 2008) Order 2008

On **22 September 2008**, the Governor-General made the Major Events Management (FIFA U-17 Women's World Cup 2008) Order 2008. The Order declared the FIFA U-17 Women's World Cup 2008 to be a major event for the purposes of the Major Events Management Act 2007 and identified FIFA as the major event organiser. Also on **22 September 2008**, the Governor-General made the Major Events Emblems and Words (FIFA U-17 Women's World Cup 2008) Order 2008. The Order declared that the protection period for the FIFA U-17 Women's World Cup 2008 would start 23 October 2008 and end 15 December 2008. Emblems and words set out in the schedules are declared to be major event emblems and words for the protection period of FIFA U-17 Women's World Cup 2008.

For a copy of the relevant Orders, click here [enter 'Major' as your Search Words]

http://www.legislation.govt.nz/regulation/results.aspx?search=ts_regulation_major

Law Commission prepares issues papers for privacy review

The Law Commission is undertaking a review of privacy in four stages. Stage 1 is a study paper 'Privacy: Concepts and Issues' which is available on the Commission

website. The report for Stage 2, which is concerned with privacy and public registers, has also been published on the website. The Commission is currently preparing issues papers for stage 3 and stage 4. Stage 3 is concerned with the adequacy of New Zealand's civil and criminal law to deal with invasions of privacy; and stage 4 is a review of the Privacy Act 1993. Although the Commission has not yet issued a formal request for submissions, it welcomes feedback on these issues.

For more information, click here

<http://www.lawcom.govt.nz/ProjectGeneral.aspx?ProjectID=129>

Free Trade Agreement negotiations

On **22 September 2008**, comprehensive negotiations were launched for the United States of America to join the Trans-Pacific Strategic Economic Partnership Agreement with the P4 group of countries – New Zealand, Singapore, Chile and Brunei. The negotiations are scheduled to begin in early 2009. At this stage, intellectual property rights have not featured prominently in the pre-negotiation discussions. The Trans-Pacific Strategic Economic Partnership Agreement (the Trans-Pacific Agreement, formerly known as P4) was signed by New Zealand, Chile and Singapore on 18 July 2005 and by Brunei on 2 August 2005, following the conclusion of negotiations in June 2005.

For more information, click here

<http://www.mfat.govt.nz/Trade-and-Economic-Relations/Trade-Agreements/Trans-Pacific/index.php>

For an update by the Trade Minister, Hon Phil Goff, on New Zealand's free trade negotiations, click here

<http://www.beehive.govt.nz/speech/free+trade+negotiation+developments>