

# The GATHERER

June 2016

**Productivity  
Commission's Draft  
Report on IP:** Big  
changes proposed

**Unfair contract  
protections  
extended to small  
business**

**A Guide to blockchain:  
And its potential role  
in the future of IP**

*The bar has  
been raised:  
are you  
jumping high  
enough?*



**PRIVACY**  
Serious data breach  
notification laws on  
their way



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Leveraging Innovation



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## CEO MESSAGE

I'm delighted to share with you the first edition of The Gatherer – our regular flagship publication developed by our thought leaders especially for our clients. Through The Gatherer we aim to provide you with the most relevant insights and news into the ever changing intellectual property landscape, here in Australia and overseas.

In our first edition, we have a vast selection of topical articles written by our technical experts, covering both legislative updates, industry developments and looking to the future of new technologies.

There's no doubt that it's these new technologies that will continue to shape the culture of our society, not only through new innovation but also the way we do business. Blockchain is the word on everyone's lips – still a great unknown, with great predictions around the role it will play within intellectual property and the ownership of ideas.

For those engaging with small business, we see new legislation coming into force later in the year which will mean greater compliance when it comes to standard form contracts.

The recent release of the Productivity Commission's draft report on IP has caused quite a stir. We take a birds-eye view of the draft report and then delve deeper into what the proposed changes will mean for the pharmaceutical industry.



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Lately we've seen innovation hooking into the government's agenda and with an election fast approaching we'll be keeping a close eye on the Government's (old or new) commitment to futureproofing Australia through innovation and what this really means for our industry.

With so much happening in the IP landscape – both legislative and trend related – I hope that this magazine brings to light some of the issues facing industry or that you've discovered something new – I know I have.

There are lots of exciting innovations in the works at Wrays. Not least, the recent launch of our podcast series – Pioneer. Audio interviews with CEOs from industry, sharing their stories of innovation and success. We invite you to be part of our collaborative forum, either through Pioneer or this publication – please contact our editorial team if you're interested.

## Pioneer | The podcast series for serious innovators

We're excited to launch our new industry learning tool, PIONEER | THE PODCAST SERIES FOR SERIOUS INNOVATORS.

In our regular podcast interviews you will hear from innovative entrepreneurs, CEOs, scientists and policy makers about innovation. They'll share their challenges, the overall journey of the innovation (from idea to reality), and advice for like-minded pioneers.



# A GUIDE TO BLOCKCHAIN

## AND ITS POTENTIAL ROLE IN THE FUTURE OF IP

There is a significant buzz in the financial world, and increasingly in other industry domains, around the potential impact of blockchain-like technology to greatly simplify business processes and remove the role of intermediaries. An obvious example is the growing potential in the legal world to invoke smart contracts and disrupt the traditional centralised registries such as land title and patent registration.

In this article, we take a closer look at this latest technology sensation and why everyone's talking about it.

### What is Blockchain?

Blockchain is a secure transaction record that cannot be deleted or attacked through a central registry.

### THE TECHNICAL DEFINITION

A blockchain is a public ledger of all transactions that have ever been executed. It is constantly growing as 'completed' blocks are added to it with a new set of recordings. The blocks are added to the blockchain in a linear, chronological order. Each node (computer connected to the network using a client that performs the task of validating and relaying transactions) gets a copy of the blockchain, which gets downloaded automatically upon joining the network. The blockchain has complete information about the dataset right from the genesis block to the most recently completed block.

Historically connected to the use of the virtual currency phenomenon, Bitcoin, the many applications of blockchain technology are only beginning to be explored, - and it potentially includes validating the creation of IP and authenticating its digital form.

The blockchain is the complete ledger of every transaction ever made, and it is this public and transparent ledger that gives a chain of transactions its security and reliability. It is secure in the sense that it cannot be hacked. The trade-off however is that the information is public and therefore not confidential. While most of the hype and discussion for the application of this technology continues to be focussed on financial transactions, there is the emerging recognition that the blockchain approach can be applied to many other areas of activity.

### Live examples

In a digital economy the blockchain algorithm is already being used to verify the contents on any document or the digital IP at any certain point in time, all without knowing what is in the document itself. Services such as proofofexistence.com are making it easy for the upload and storage of documents to enable easy certification of existence at a later time. In the real world, as an example medals issued by the International Olympic Committee have special qualities and markers befitting the awards they represent. So being able to verify where something comes from, who passed it on, and who received it is one of the ways we can trace the value of things that matter most in our world. Being able to unequivocally ensure the providence of a piece of intellectual property will ensure its value is maintained.

Instead of centralising the verification power in one entity, the blockchain distributes the ledger across separate nodes with agreed rules that make transactions valid and the system work. It's this removal of the need for a third party arbiter that makes the blockchain settlement mechanism so innovative.

### Application to the IP world - what blockchain could mean for your business

Blockchain has been used already in other areas outside the financial world. For example, you can use the blockchain technique to establish ownership of a piece of art or you could timestamp a document. This is an approach that means the evidence and chain of activity cannot be circumvented, the record exists essentially for ever and cannot be deleted which makes it ideal to store, track and ensure the integrity of documents.

And there are many more new art focused blockchain ventures emerging.

The blockchain approach is being enhanced by many organisations across the globe as the potential to support innovation becomes more apparent.

“10% of global GDP would be stored on blockchain by 2025”  
*Klaus Schwab's The Fourth Industrial Revolution.*

Without a centralised mechanism for registration, the role of the owner of IP interest moves from one navigating the mechanics of the process to strategically managing the scope and positioning of their innovation.

The IP owner like everyone else has a keen interest in removing roadblocks to innovation and supporting a thriving ecosystem. A single source of truth and a trusted register for authenticating the creation of ideas would have significant impact on IP registration. It would change the role of the IP professionals and bring to the fore their deep industry and domain expertise to better support and manage the clients innovations. Smart Contracts are also emerging as a result of the infiltration of blockchain potential into new domains. The smart contracts are applications that run exactly as programmed without any possibility of downtime, censorship, fraud or third party interference. As an example, Ethereum [www.ethereum.org](http://www.ethereum.org) is a decentralized platform that runs smart contracts.

Smart Contracts enable developers to create markets, store registries of debts or promises, move funds in accordance with instructions given long in the past (like a will or a futures contract) and many other things that

have not been invented yet, all without a middle man or counterparty risk. While it's still in the works Blockchain can be used as the official registry of intellectual property owned by its citizens, or ownership of land title - for example, Honduras has already announced it will move to a blockchain lands title system. This enables the joining up of many different processes efficiently and effectively without the need to build a centralised control mechanism.

We predict blockchain to be an important emerging underlying technology that has the potential to disrupt many existing business models and provide the opportunity for significant improvements in many businesses and supply chains.



**JONATHON WOLFE**  
Director  
Wrays Solutions

# THE BAR HAS BEEN RAISED: ARE YOU JUMPING HIGH ENOUGH?



**T**he introduction of the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* sought to overhaul of the Australian IP system. The majority of these changes affected the patent system. The changes sought to increase the robustness of Australia's patent laws, bringing them more into line with major trading partners such as the US and Europe. Some of the most significant changes are intended to set higher thresholds for the level of disclosure and support required in a patent specification. This article focuses on the level of information a patentee must provide in the specification to make it 'over the bar'.

Under previous provisions, Australian patent law required that a patent specification describe the invention fully and that the claims be fairly based on the matter described in the specification. The test required that there be enough information in the specification for a person skilled in the art to perform the invention within the scope of the claims. The fair basis requirement was considered satisfied if the specification contained a 'real and reasonably clear disclosure' of what was claimed.

Under the new provisions, the Act now requires that:

- 'A complete specification must disclose the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the relevant art' (s 40(2)(a)); and
- The claim(s) must be 'supported by the matter disclosed' in the specification (s 40(3)).

## Sufficiency

The new 'clear enough and complete' language is intended to require that sufficient information must be provided across the whole width of the invention, as stated in each claim. There must be enough information for the skilled person to perform the invention across this width without undue burden or the need for further invention.

This is a much stricter requirement.

The disclosure requirement has been amended to conform substantially to the corresponding United Kingdom provision, and the explanatory memorandum makes it clear the new provision is intended to be interpreted in a similar manner to the corresponding United Kingdom provision.

This applies to both provisional and standard applications. The only difference is that a provisional application need not disclose the best method of performance of the invention.

## Fair basis

The new support requirement is intended to encompass two aspects, one being that there must be basis in the description for each claim and that the scope of the claims must not be broader than is justified by the extent of the description, drawings and contribution to the art.

The new support requirement will also apply in relation to the assessment of priority entitlement, substantially raising the level of disclosure required to support a priority claim in Australia.

## How to interpret the changes

Until recently there has not been any further guidance on how these new provisions are to be interpreted. However, the Australian Patent Office (APO) has now issued its first opposition decision on a patent application under these new provisions in *CSR Building Products Limited v United States Gypsum Company* [2015] APO 72 (CSR).

CSR filed a patent application for fire resistant building panels made from a gypsum core that includes high expansion particles (such as high expansion vermiculite) sandwiched between two cover sheets. The advantage of this structure is said to be that the panel is both fire resistant and light-weight. Importantly these properties are required as part of the claim.

The specification provided example compositions of 20 different sample panels and tested them. Whilst some of the sample products did exhibit the required properties, a number of these examples did not.

When assessing the question of sufficiency, the hearing officer referred to UK case law (as allowed under the provisions) which asks "Can the skilled person readily perform the invention over the whole area claimed without undue burden and without needing inventive skill?" To answer this question, the hearing officer adopted a three-step approach, namely:

- Construe the claims to determine the scope of invention as claimed.
- Construe the description to determine what it discloses to the skilled person.

- Decide whether the specification provides an enabling disclosure of all the things that fall within the scope of the claims.

In answering these questions, the hearing office found that the specification failed to provide an enabling disclosure for panels with the required fire resistance properties. Whilst there were detailed disclosure of different types of starting materials and process variables, the specification did not disclose how to adjust the process and materials so as to achieve with certainty a fire resistant panel. The work involved in selecting the right combination of starting materials and then testing the fire resistance therefore did not amount to 'reasonable trial and error'.

In assessing support requirements, the hearing officer again followed a three-step approach:

- Construe the claims to determine the scope of invention as claimed.
- Construe the description to determine the technical

contribution to the art.

- Decide whether the claims are supported by the technical contribution to the art.

The hearing officer concluded that only some of the sample preparations produced panels with the required physical properties. As a result, the technical contribution to the art as required by step was limited to the particular examples which had the correct properties. It followed that the only contribution to the art that the specification was able to provide was that high expansion particulates could be used to make fire panels with the desired properties. The specification therefore did not disclose any general principle that could be applied which always produced panels with the required properties. Accordingly the

**“There must be enough information for the skilled person to perform the invention across this width without undue burden or the need for further invention. This is a much stricter requirement.”**

claims were found to have travelled beyond the matter disclosed in the specification and therefore failed to comply with s 40(3).

### How high has the bar been raised?

As the CSR specification did provide the skilled person with a method to produce a panel that did pass the mentioned fire resistance testing, it is probable that the sufficiency requirement under the old Act would have been met. Likewise, the claims also could have satisfied the fair basis requirement, since there was a 'real and reasonably clear disclosure' of the claimed invention. The fact that these criteria were no longer met highlights the differences the Raising the Bar Act has of the internal disclosure and support requirements of patent applications.

Applicants now need to ensure that the description provides sufficient detail to enable a skilled worker to arrive at the invention without the need for excessive or unreasonable trial and error. This may require the specification to provide details of

multiple options and alternatives for putting the invention into effect. Care needs to be put into consideration of providing disclosures across the whole claim, rather than just within the scope of the claim. There does still remain some room for the skilled addressee to carry out a reasonable amount of trial and error. However the detail in the specification must be sufficient to lead that person, with an assumed amount of common general knowledge, towards a working form of the invention. The broader the claim is, the more comprehensive the disclosure of how to work the invention in a wide range of embodiments is needed.

Support and disclosure are now more distinctive from one another and have separate requirements. If the inventor has merely developed one new and improved way to do something, then that may be as much as they are entitled to claim. For claims to be supported, they must not be broader than justified by an invention's technical contribution to the art. Examples in a specification may help to inform the extent of the technical contribution. If an invention is based upon the discovery of a new and previously unknown general principle that can be applied, without further invention, to produce a range of improved results, then this may provide support for a correspondingly broad claim.



The level of disclosure required for a provisional application is to be increased to the extent that it almost requires the same level of disclosure required for a complete specification. Considerations of disclosure and support should likewise be made at the provisional stage. This will likely see a move towards more comprehensive drafting of provisional applications. Failure to do so may result in invalid priority claims when filing complete applications.



**TYSON KEED**  
Patent & Trade Marks Attorney



# PATENT RENEWALS IN INDONESIA: A CAUSE FOR CONCERN?

In most countries, patents are required to be maintained in force through payment of renewals fees, typically on an annual basis. Additionally, in most countries, patents can be abandoned intentionally, simply by not paying renewal fees when renewal falls due. However, it seems that this is not the case in Indonesia.

For the reasons set out below, we recommend to clients with patent cases in Indonesia that they formally request abandonment of pending patent applications and granted patents, in circumstances where they no longer intend to maintain the applications and patents in force.

This recommendation follows recent developments, where the Indonesian Patent Office is now enforcing a rather unusual provision in Indonesia Patent Law. The provision states that if a patent owner does not pay renewal fees over a period of three years, the patent will then be deemed void from the end of the third year. There is also a provision that a written request is required from a patent owner if a patent is to be abandoned.

These provisions were little-known and not previously strictly enforced by the Indonesian authorities. Indeed, the Indonesian Patent Office appeared to previously allow patent owners to abandon their patents merely by not renewing the patents at the appropriate time, as is the case in most other countries.

However, Indonesian authorities are now enforcing the provisions and have commenced issuing letters to patent owners who have sought to abandon their patents by not paying renewal fees when renewals fall due. The letter seeks payment for accumulated renewals fees over a three year period following initial non-payment of the renewal intended to initiate abandonment of the patent.

Patent owners who have previously received these letters have in some cases chosen to not respond to the requests, on the basis that there seemed to be no sanction involved through non-payment of accumulated renewal fees. However, it seems that the matter has now escalated, and the Indonesian Ministry of Finance may be taking steps to actively recover the amounts involved. In particular, it seems that the Ministry may be targeting companies having assets in Indonesia.

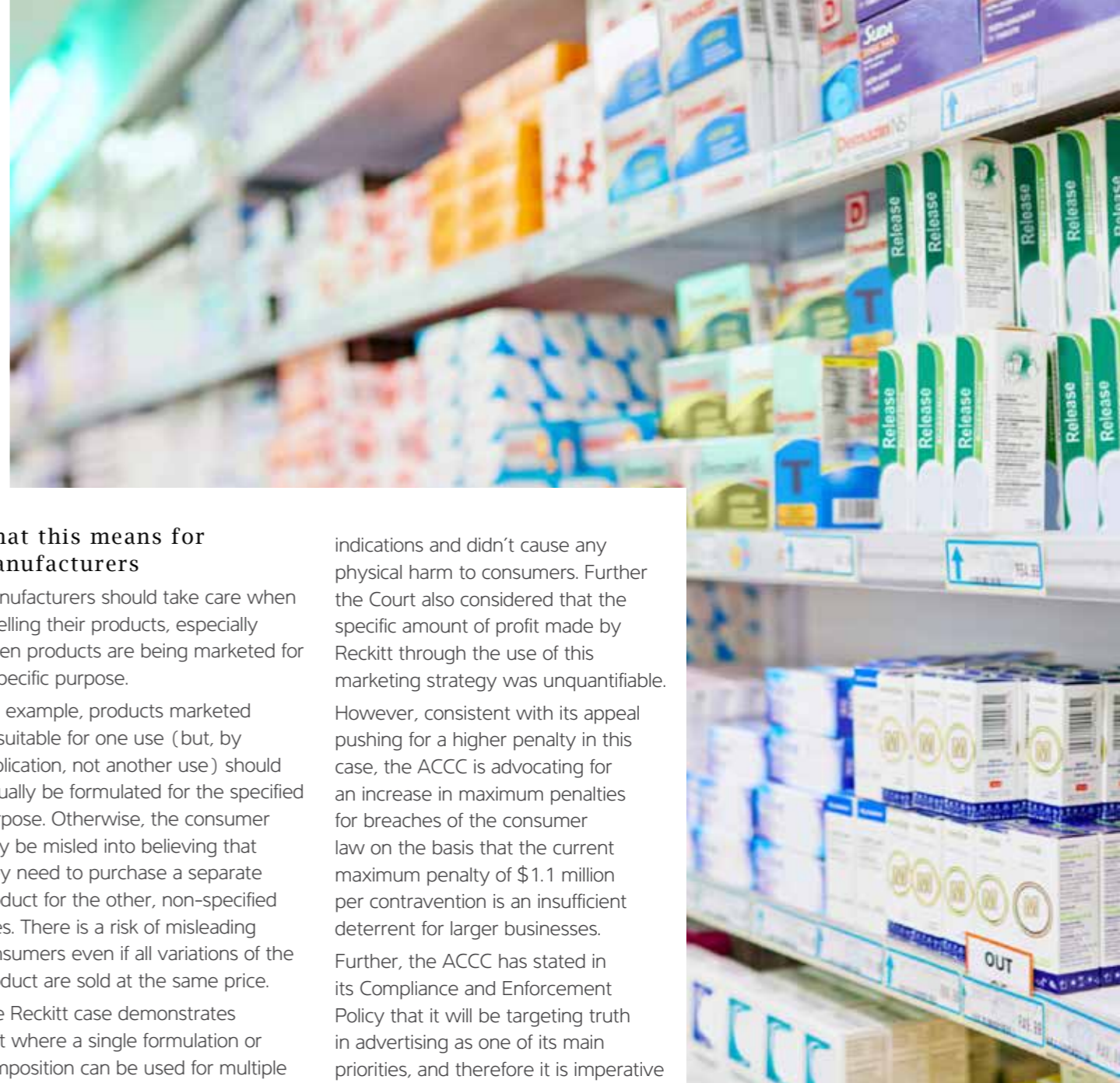
Additionally, patent owners who wish to abandon currently pending patent applications and granted patents in Indonesia should take steps to explicitly abandon the cases at the same time as ceasing payment of renewal fees. We will be alerting clients to these issues each time renewal of a granted patent in Indonesia falls due.



**JOHN KING**  
Principal

**In view of this development, patent owners who have received these requests may wish to consider their exposure to this activity and assess what steps might be taken to mitigate the exposure.**

# ACCC APPEALS FINE OF \$1.7 MILLION AWARDED FOR MISLEADING AND DECEPTIVE CONDUCT OF NUROFEN PRODUCTS



The ACCC has appealed the recent Federal Court decision to order that the manufacturer of Nurofen ibuprofen products, Reckitt Benckiser, pay a penalty of \$1.7 million in respect of misleading representations made on the packaging of its Nurofen specific pain products.

According to ACCC Chair Rod Sims: *The ACCC will submit to the Full Court of the Federal Court that \$1.7 million in penalties imposed on a company the size of Reckitt Benckiser does not act as an adequate deterrent and might be viewed as simply a cost of doing business.*

This follows a ruling in December that Reckitt breached the Australian Consumer Law (ACL) because it advertised its pain relief products as specifically treating or targeting particular types of pain (such as one product for back aches, and another for migraines), where in fact:

- The active ingredient in each product was identical; and
- The products did not specifically target any particular form of pain, but were equally effective for all types.

**The ruling has significant consequences for manufacturers and suppliers of all types of goods which are marketed as being for a specific purpose.**

Most importantly, the symptom specific pain relief products were sold at almost double the price of other similar products with the same active ingredient.

The ruling has significant consequences for manufacturers and suppliers of all types of goods which are marketed as being for a specific purpose.

## The Misleading Representations

The Reckitt decision is not surprising as it applies the law of misleading and deceptive conduct in a straightforward manner. Nevertheless it is a good example of how advertising of products can contravene the ACL even if the relevant claims are “technically true”.

The wording on the packaging was not technically incorrect. For example, the migraine specific pain product did treat migraines and the back ache specific pain product did treat back aches. The misleading representation was instead based on the implication the consumer would draw from the way these goods were marketed as a whole.

The court considered that the consumer was likely to make two erroneous assumptions:

- That each product would solely treat the type of pain specified on the packaging and not other types of pain (and therefore that it would be necessary to purchase more than one product to treat the different types of pain); and
- That each product was specifically designed to treat the specified indications (and was therefore more effective than ordinary (less expensive) ibuprofen).

## What this means for manufacturers

Manufacturers should take care when labelling their products, especially when products are being marketed for a specific purpose.

For example, products marketed as suitable for one use (but, by implication, not another use) should actually be formulated for the specified purpose. Otherwise, the consumer may be misled into believing that they need to purchase a separate product for the other, non-specified uses. There is a risk of misleading consumers even if all variations of the product are sold at the same price.

The Reckitt case demonstrates that where a single formulation or composition can be used for multiple purposes, care should be taken to at most, provide examples of how the product can be used, rather than representing that the product is specifically formulated for one rather than another particular use.

## Penalties and Enforcement

The \$1.7 million penalty ordered by the Federal Court was based on the finding that although consumers would have suffered some financial loss due to the premium price paid for the products, the products were still effective in treating the specified

indications and didn't cause any physical harm to consumers. Further the Court also considered that the specific amount of profit made by Reckitt through the use of this marketing strategy was unquantifiable.

However, consistent with its appeal pushing for a higher penalty in this case, the ACCC is advocating for an increase in maximum penalties for breaches of the consumer law on the basis that the current maximum penalty of \$1.1 million per contravention is an insufficient deterrent for larger businesses.

Further, the ACCC has stated in its Compliance and Enforcement Policy that it will be targeting truth in advertising as one of its main priorities, and therefore it is imperative that manufacturers obtain proper advice before engaging in marketing activities, and finalising product labels.



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**BINDU HOLAVANAHALLI**  
Lawyer



Business should ensure that they have conducted a detailed review of their standard form contracts prior to the commencement of the new legislation to ensure that they comply with the requirements.

# UNFAIR CONTRACT PROTECTIONS EXTENDED TO SMALL BUSINESS: LEGISLATION COMMENCES ON 12 NOVEMBER 2016

**A** Bill to extend the unfair contract protections of the Australian Consumer Law (ACL) for consumer contracts to standard form small business contracts will commence on 12 November 2016.<sup>1</sup>

All small business contracts entered into or renewed on or after 12 November 2016 will be governed by the new legislation, as will terms of pre-existing contracts that are varied after this date.

Businesses should ensure that they have conducted a detailed review of their standard form contracts prior to the commencement of the new legislation to ensure that they comply with the requirements.

## The protections

A term of a standard form contract will be void if it is unfair. The provisions apply only to contracts for the supply of goods or services, or a sale or grant of an interest in land.

## What is a standard form contract?

The unfair contract terms provisions only apply to standard form contracts. A contract is presumed to be standard form unless otherwise proven.

In determining whether a particular contract is a standard form contract, a Court must consider:

- Whether one of the parties has all or most of the bargaining power relating to the transaction.

The Bill also amends the ASIC Act to extend the regime to contracts in respect of financial services and products.

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The Bill also amends the ASIC Act to extend the regime to contracts in respect of financial services and products.

- Whether the contract was prepared by one party before any discussion relating to the transaction occurred between the parties.
- Whether another party was, in effect, required either to accept or reject the terms of the contract in the form in which they were presented:
- Whether another party was given an effective opportunity to negotiate the terms of the contract:
- Whether the terms of the contract take into account the specific characteristics of another party or the particular transaction.

## What is an unfair contract term?

A term will only be unfair if it:

- Would cause a significant imbalance in the parties' rights and obligations under the contract;
- Is not reasonably necessary to protect the legitimate interests of the party advantaged by the term; and
- Would cause financial or other detriment if it was relied on.

When determining whether a contract term is unfair, the court must consider the contract as a whole, and the extent to which the relevant term

is transparent (that is, expressed in reasonably plain language, legible, presented clearly and readily available to any party affected by the term).

The ACL provides the following examples of unfair terms:

- one party is permitted to avoid or limit performance of the contract.
- one party is permitted to terminate the contract.
- one party is penalised for a breach or termination of the contract.
- one party may vary the terms of the contract.
- one party may renew or not renew the contract.
- one party may unilaterally vary the characteristics of the goods or services to be supplied, or the interest in land to be sold or granted, under the contract.
- one party may unilaterally determine whether the contract has been breached or to interpret its meaning.
- one party's right to sue another party is limited.

## What is a small business contract?

The legislation will extend the unfair contract term provisions to small business contracts. A contract will be a small business contract if:

- At the time the contract is entered into, at least one party to the contract is a small business being a business that employs fewer than 20 persons. Casual employees





are not to be counted for this purpose unless they are employed by the business on a regular and systematic basis; and either:

- The upfront price payable under the contract is less than \$300,000; or
- If the contract has a term of more than 12 months, the upfront price payable is less than \$1,000,000.

### Small business

In determining whether a business employs less than 20 people, casual employees are counted if employed on a regular and systematic basis.

### Upfront price

Upfront price is the consideration that is provided for the supply, sale or grant under the contract, and which is disclosed at or before the contract is entered into. The upfront price does not include any amounts that are contingent on the occurrence or non-occurrence of particular events (such as royalties).

In determining the upfront price payable where credit is provided, any interest payable is to be disregarded.

### Exempt contracts

A small business contract will not be covered by the new provisions where the contract is subject to a prescribed industry-specific law that have been deemed enforceable and equivalent.

No existing industry-specific laws yet been deemed to have sufficient protections in order to be exempt under the new legislation. Current measures in certain industry-specific

mechanisms, such as the Franchising Code of Conduct, go some way to addressing the concerns of small businesses by providing for disclosure mechanisms and good faith conduct. However, the current mechanisms are not as broad as the general prohibition on unfair contract terms and are thus not likely to be "equivalent". Therefore, the new legislation applies to franchising agreements.

Small business contracts that are the constitution of a company, management investment scheme or other kind of body will also be exempt from the new provisions.

### When will the legislation commence?

The legislation will come into effect on 12 November 2016.

The unfair contract terms will apply to small business standard contracts entered into after that date. However, the provisions will also apply:

- (a) if the contract is renewed after that date; or
- (b) if a term of a contract is varied after that date, to the varied term.

### The impact

There is quite some uncertainty as to when the legislation will apply in any given circumstance.

The drafting of the legislation means that businesses may not know whether the regime applies without enquiring into the head count of their potential small business counter-party. The definition of "upfront price" may also cause uncertainty where the structure of the payments make it difficult to determine the exact amount.

These uncertainties may dissuade businesses from reviewing and revising their standard form contracts. However, there is one very good reason for businesses to do so. In its media release announcing the extension, the Government stated that it has provided \$1.4 million to the Australian Competition and Consumer Commission to ensure business compliance. Further, the ACCC has indicated in its Compliance and Enforcement Policy that the unfair contract terms regime under the ACL will be a specific area of focus in the coming year.

Businesses should review their standard form contracts to, at the least, temper the most egregious provisions particularly in circumstances where they are rarely, if ever, relied on. Alternatively for some agreements, businesses may look to start negotiating their terms to avoid the application of the regime (though proper records of such negotiations should be maintained).

Either way, the Government may well achieve its stated goal of addressing the imbalance of risk allocation in these type of agreements.



**JUDITH MILLER**  
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**BINDU HOLAVANAHALLI**  
Lawyer

# SUPPORTING INDUSTRY GROWTH THROUGH CURTIN IGNITION

**Curtin Ignition is an intensive 5½-day education program for aspiring entrepreneurs, academics and corporate innovators to trial and prepare their business ideas for the commercial environment.**

**Applications open on June 1st and scholarships are available.**

**Sponsored by Wrays, the Program is run by the Curtin Centre for Entrepreneurship and is based on the successful Ignite Program managed and delivered by the University of Cambridge Judge Business School's Centre for Entrepreneurial Learning (CfEL).**

**Curtin Ignition is suited to founders of early stage, high-growth business ventures, and people with new ideas that have potential to become high-growth, worldwide businesses.**

**The Program comprises of a blend of keynote and workshop teaching sessions, small group mentoring, panel, clinic and networking sessions. Delegates prepare a 10-minute business plan pitch over the course of the program, which they deliver to an expert panel and receive feedback on the last day of the program. All delegates must have a viable concept for a new business or an established early stage venture.**

**The Program runs from Sunday September 4 through to Friday September 9 at Technology Park Function Centre in Bentley, Perth.**



**Would you like to receive a scholarship to the Curtin Ignition Program? Wrays is supporting two potential participants through the Wrays Scholarship. To find out more, contact [marketing@wrays.com.au](mailto:marketing@wrays.com.au)**

# INDUSTRYINSIDER

## IT'S A WRAP!

### LESANZ Annual Conference, 4-6 May 2016, Sydney

Wrays were pleased to sponsor and be actively involved in the planning of this year's LESANZ conference that delivered a robust agenda and explored the theme 'Creative to Commercial – Disruption & Opportunities'.

The speakers covered an array of topics, insights, emerging trends and practises and highlight of these was former Chief Scientist for Australia, Prof Ian Chubb, who delivered an informative and forward thinking keynote address. Professor Chubb shared his vision into innovation in Australia – and how innovation can be more effective in the future.

Key highlights of his address include:

- Australia would benefit from more cohesive and effective arrangements for innovation policies and programs, based on a long term strategic framework.
- Government engagement and that long term coherent, comprehensive and strategic approach to science and innovation is needed as a driver to see results.

- Business, universities and public research agencies collectively spend upwards of \$29 billion per year but need to work collectively and more effectively to achieve our aspiration.
- Education is key – participation in advanced mathematics and science in year 12 is at its lowest level in two decades, in particular in girls studying maths and science.
- As a nation, we have a lot to learn from what countries are doing overseas, drawing on examples from the US and Luxembourg and where Australia sits in global rankings.

Professor Chubb concluded with a powerful statement which aligns to our own thinking for the future of Innovation in Australia:

"Lawyers, politicians, innovators and entrepreneurs can be very useful to science – just as science will open opportunities for all of them. But to do it well, we all need to understand our history, and we need to be capable of imagining a future – and getting all the

means in place to deliver the end. And the Courage to do it. I'd say we do it best when we are all together and respecting the important and different contributions we can make."

As a business that has built its foundation on innovation, we're excited that these important issues are finally coming to the forefront of industry.

### INTA Annual Conference 22-23 May 2016, Orlando, USA

We're excited to have attended the International Trademark Association's (INTA) Annual Meeting in Orlando, Florida 21 – 25 May. Members from the Wrays team joined 10,000 other delegates to hear and share latest insights from across the global intellectual property landscape.

This year's keynote address was delivered by Diane Nelson who is President of DC Entertainment (DCE). She set the scene of this year's event by sharing insights into her role as head of the Harry Potter franchise.

"You can't be in a company like Warner Brothers and not understand the importance of IP," said Nelson, who is also President of Warner Bros Consumer Products and President & Chief Content Officer of Warner Bros Interactive Entertainment.

One of the key challenges for the INTA community going forward noted by INTA's CEO Etienne Sanz de Acedo was the need for harmonisation of registration procedures – having a consistent, reliable registration experience, no matter where you are. Other highlights from the meeting have been:

- Digital trends and the potential trademark issues they can create.
- The new European Unitary Patent System which is expected to go into effect in 2017 has roused a lot of interest with the current momentum looking to lead to better enforcement and more innovation across the continent.
- The Brexit vote in the UK has caused a stir with a referendum being held on June 23 to decide if Britain will stay in or leave the European Union.
- The future of plain packaging – Australia's experience with plain packaging legislation i.e., tobacco and interest from countries that are facing similar provisions.
- Discussion around South Africa's impending move to introduce substantive patent examination, with an initial team of examiners already being trained. It's looking like the pharmaceutical industry will be the initial target with a view to examine all technologies.
- The recent changes to patent and trade mark legislation and practice

in India and Korea – revising several aspects to improve the convenience for the applicant.

- Given the number of global companies that rely on a manufacturing base in China, the intricacies of Chinese trade mark protection for overseas corporates has also been a popular topic.

We're interested to see how these international trends across IP will unfold as they hit Australian shores and local brands. We look forward to next year's conference being held in Barcelona May 2017.

## WATCH THIS SPACE

### Australian Consumer Law under review

For the first time since it commenced on 1 January 2011, the Australian Consumer Law (ACL) is to be reviewed by the Consumer Affairs Australia and New Zealand (CAANZ). The review commenced on 31 March with release of an Issues Paper and has just completed its 8 week public consultation phase with final submissions due last week, Friday 27 May 2016. The overall goal of the review is to assess whether the ACL is working effectively. In particular, the review will look at whether the law is

operating as intended and addresses the risk of consumer detriment without imposing unnecessary red tape.

It will also consider the 'single law multiple regulator' model (the joint enforcement arrangements between the Commonwealth, state and territory consumer protection agencies) and examine whether the national consumer policy framework is sufficiently flexible to address new and emerging issues.

Feedback on the Issues Paper will inform the development of an interim report that is due to be released for consultation in the second half of 2016.

### Productivity Commission's draft report on IP – where to from here?

Industry has been keeping a watchful eye on the Productivity Commission's Draft report on IP which was released in April 2016 and no doubt caused a flurry of submissions in response to the report. With these submissions from interested parties well underway, we look forward to seeing what the With review of submissions from interested parties now underway, the final report is expected to be handed to the Australian Government in August 2016 and published by the Commission a short time later. Watch this space!



# PRODUCTIVITY COMMISSION'S DRAFT REPORT ON IP: BIG CHANGES PROPOSED

SOMETHING OLD, SOMETHING NEW AMONGST THE  
COMMISSION'S MANY DRAFT RECOMMENDATIONS

The Australian Government's Productivity Commission released its draft report on 'Intellectual Property Arrangements' on 29 April 2016 and the draft recommendations are likely to cause a stir. The draft report can be accessed in full here.

Most will be aware that we have had many IP related reports recently in Australia. However, as this draft report points out, most of these have been directed at only one or two components of the whole IP landscape. This draft report seeks to provide a more all-encompassing approach, and one with a social conscience.

## Quality of patents needs to be improved

A specific issue that will no doubt again attract attention is the now familiar conclusion of such reviews, that the quality of Australian patents needs to be improved. This is proposed by the following means:

"Increase the degree of invention required to receive a patent, abolish the innovation patent, redesign extensions of term for pharmaceutical patents, limit business method and software patents, and use patent fees more effectively."

Australia's patent system is said to "grant protection too easily", resulting in a "proliferation of low-quality patents" that in turn frustrates both the efforts of follow on innovators and competition, and ultimately results in increased cost to the community.

A key part of what is proposed is a further "raising of the bar" in terms of inventive step, beyond those changes introduced with the still recent amendments to the patents act that largely took effect in 2013. Exactly how this will be achieved is not detailed.

## Innovation patents

As noted above, one of the commission's draft recommendations is that the innovation patent system be abolished. This was widely expected. The commission suggests that innovation patents are awarded for 'obvious inventions' thereby undermining confidence in the patent system and discouraging investment. A better outcome may be a modification of the existing innovation patent system and many options to do so were outlined during the recent review of the innovation patent system.

## Business methods and software (BM&S)

The Commission suggests that their newly characterised technology subset 'BM&S' should be specifically excluded from patent protection. Patents on this technology is said to be 'unnecessary', a conclusion bound to inspire a robust response. The Commission has adopted a narrow view of how IP relating to business methods and software is used and the impact it has. It will be particularly interesting to see if the reasoning set out as support for this draft recommendation survives

the submissions that it will no doubt attract in response.

## Australia paying the cost for overseas IP owners

One useful observation in my view is the fact that as a net importer of IP, Australia is bearing the burden of the allegedly 'excessive IP rights', with the profits flowing off-shore and the costs impacting Australian consumers and taxpayers. However, the very difficult question that results is exactly where to draw the line? Taken to an extreme, one response is to simply withdraw from participation in the global economy – a clearly impractical solution.

## Copyright duration

The duration of copyright protection in Australia is also singled out as particularly problematic, with the Commission observing that most works are protected for 'decades longer' than necessary and that costs for the community subsequently are far greater than they need be.

## Improving the trade mark system

A return to the practice of employing disclaimers is proposed amongst a range of recommendations, also including greater fees for multiple class applications and those that claim entire classes of goods or services. Also, it is recommended that the online search services of the Trade Marks Office and the Australian Securities and Investments Commission (ASIC) be linked so as to provide a warning of potential trade mark infringement to those seeking to register business and company names.

## IP right enforcement

Australia's enforcement mechanisms are noted to work well for 'large rights holders', reforms are necessary to improve the lot of 'small and medium-sized enterprises'. Some of the changes have already commenced, including Federal Court reforms focusing on lower costs and more informal alternatives. The Federal Circuit Court is identified as one option for improvement.

## IP policy development and implementation

Australia lacks a 'coherent and integrated approach' to IP policy. Increased stakeholder consultation is identified as necessary.

## Speak now or forever hold your peace

Whether the socially responsible IP regime that the Report proposes is achievable in the context of Australia's international obligations under various treaties and agreements, whether they be specific IP treaties or any of the many general bi-lateral or regional trade agreements, will be a key question. The Commission has also set out a series of 'Information Requests' seeking responses on a broad range of issues, from patent claim construction to the possible separation of IP policy and administration. For the moment it is contingent on all users of IP to take an interest in the Report and respond accordingly.



**PETER CAPORN**  
Principal

## POSSIBLE IMPACT ON THE PHARMACEUTICAL INDUSTRY

The Productivity Commission has released its draft report into Intellectual Property Arrangements. Several recommendations in the report could, if accepted and implemented, have a profound impact on the pharmaceutical industry.

The recommendations could cause:

- The inventive step bar to the grant of patents to be raised further.
- Uncertainty as to the patentability of certain inventions.
- Reductions in the ability to gain patent term extensions and, potentially, in the length of the data exclusivity periods.
- Increased costs associated with maintaining patent portfolios.
- The establishment of a transparent reporting and monitoring system to detect 'pay-for-delay' settlements", similar to those operating in the US and EU.

The Commission has made it clear in the draft report that it considers the patent system to be more advantageous to the rights of the patent holder and to have too low a threshold for inventiveness. To address this, the draft report provides a number of recommendations.

## Inventive step

The Commission has recommended that the Patents Act be amended so that an intention is taken to involve an inventive step if, having regard to the prior art base, it is not obvious to a person skilled in the relevant art. Currently the test is whether an invention would have been obvious to a person skilled in the relevant art in the light of the common general knowledge (CGK) as it existed before the priority date of the relevant claim, either alone or combined with prior art documents.

There are apparently three aims to this recommendation: (i) to raise the level of inventiveness required to obtain a patent; (ii) to shift of the onus of proof onto applicants; and (iii) to simplify the test for inventiveness by removing the distinction between prior art and common general knowledge.

The Commission's recommendations are driven by their desire to ensure that patents are only granted to products with a genuine therapeutic advantage. Although the draft report discusses that there currently need only be a "scintilla of invention" for there to be an inventive step and seeks to increase the degree of inventiveness required, this test is derived from the courts, not the language of the Act. Furthermore, given that the Patent Act was only amended in 2013, this recommendation may be premature until the effect of previous reforms has been fully realised.

## Objects clause

One of the recommendations of the draft report provides for the introduction of a broad objects clause into the Patents Act. The clause would establish the purpose of the Act as being to "enhance the wellbeing of Australians by providing patent protection to socially valuable innovations that would not have otherwise occurred" and "should balance the interests of patent applicants and patent owners, the users of technology... and Australian society as a whole".

It is unclear what this objects clause would add to the existing patentability. It may introduce a subjective assessment of "social value" into the examination of patents requirements. Furthermore, it may exclude certain inventions from patentability if they were subjectively deemed to not be "socially valuable" or against the interests of society.

## Extension of term (EOT)

The Commission was highly critical of the EOT regime. To reform the EOT system, the draft report recommended that the EOT period be calculated solely on time taken for regulatory approval by the Therapeutic Goods Administration in excess of one year. This recommendation was provided in order to ensure that EOTs were not granted in relation to a sponsor's own delay. The Commission also recommended that, regardless of how EOTs are calculated, manufacturing of product for export should be permitted during the EOT period.

The Commission considered that any benefit Australia received from EOTs was vastly outweighed by the cost of EOTs to the Australian Government. The Commission further noted that EOT policies appear to have been inadequate in attracting R&D to Australia. However, the Commission conceded that Australia's international legal obligations dictated policy flexibility in relation to EOTs.

The Commission also conceded that allowing manufacture for export could conflict with Australia's international legal obligations, such as the TRIPS requirements. However, the draft report included remarks indicating that granting EOTs to pharmaceutical patents only may already breach the technological neutrality requirements of TRIPS. The Commission proposes that, given the potential conflict between the requirements in TRIPS and the positive requirements to grant EOTs in other international agreements such as the TPP and AUSFTA, Australia should settle any uncertainty by allowing manufacture for export during the term of any EOT.

## Data exclusivity

Concerns were raised in the draft report regarding the strategic use of data protection to artificially extend patent protection. The Commission recommended at minimum keeping the current five years (including for biologics), and preferably exploring ways to reduce the exclusivity period.

They suggested pursuing the earliest possible publication of data, particularly for biologics.

The implications of this recommendation may be serious. The Australian Government has recently stated that Australia will not be extending the data exclusivity for biologics from five years to eight years (although it is expected that the US will keenly push for increased protection). Furthermore, where the draft report recommends that Australia should reduce the exclusivity period, this would be inconsistent with Australia's obligations under the TPP and AUSFTA.

## Costs

The Commission has recommended restructuring patent fees by steeply escalating fees towards the end of a patent term and imposing higher filing fees to discourage holders from maintaining patents for their full term and to reduce speculative or strategic claims. This has the potential to disproportionately affect smaller businesses, as administrative fees are less likely to deter larger corporates from establishing and maintaining their IP rights.

We will keep you informed of developments in regard to the Productivity Commission's Draft Report on Intellectual Property, which is expected to be finalised in August 2016 after a review of submissions from interested parties.



**PENNY FARBEY**  
Associate

# PRIVACY: SERIOUS BREACH NOTIFICATION LAWS ON THEIR WAY

After years of lobbying, law reform recommendations and government promises the Australian government has released a draft bill entitled Privacy Amendment (Notification of Serious Data Breaches) Bill 2015. The controversial bill imposes mandatory serious data breach notification obligations on entities governed by the Privacy Act includes businesses with a turnover of more than \$3 million, government agencies and private health service providers. The risk of data breaches and the vulnerabilities of businesses have skyrocketed as a result of the explosion of globalised, online business, vast data storage and increased social interactions and transactions in the online realm. The new laws aim to grant individuals greater awareness and power in circumstances where their personal information has been leaked. These individuals can then take appropriate steps to mitigate the risks and negative effects of the data breach. In addition to this, the laws aim to force transparency in how businesses identify and deal with serious data breaches. Although the proposed new laws will only apply to entities with larger revenue, the public expects that all businesses will handle personal

information properly. In cases where a small business is transacting or partnering with an organisation governed by the Privacy Act that organisation will expect the smaller business to match those standards. Accordingly, the relevance and impact of the proposed new laws is far-reaching.

## When does a data breach occur?

The Office of the Australian Information Commissioner (OAIC) states that a data breach occurs when “personal information held by an agency or organisation is lost or subjected to unauthorised access, modification, disclosure, or other misuse or interference”. The major and most damaging data breaches we often hear about are those caused by cyber-attacks from hackers. However, data breaches can also occur when data storage devices like laptops or thumb drives are lost, stolen or returned to rental companies without being erased, when employees get unauthorised access to databases, when paper from recycling or garbage bins is stolen and the more mundane situation of correspondence being posted to the wrong address.

## The current position

Under the current Privacy laws, notification of data breaches to affected individuals and the OAIC is voluntary. However, it is probable that

most data breaches occur without appropriate notification to individuals and the OAIC. Only 110 notifications occurred in 2014/15. By way of example:

- Adobe reported a cyberattack breaching the security of more than 38 million customers globally, including over 1.7 million Australians.
- Optus reported 3 separate data breaches compromising over 300,000 of its customers’ personal information.
- Kmart reported breaches of personal information via its’ online store.

## Requirements under the new scheme

Under the new scheme, relevant entities will be obligated to report serious data breaches to the OAIC and affected individuals as soon as is practicable, but no later than 30 days from when the entity became aware of the breach, or when it ought reasonably to have become aware of the breach. If it is not practicable to notify each individual involved, the entity must publish a statement on their website and take reasonable steps to publicise the statement. The statement must provide the entity’s contact details, describe the breach, the type of personal information

disclosed, the steps that the entity has taken or intends to take to mitigate harm and the steps the individual should take.

Serious data breaches which trigger the notification obligation will be those breaches that are deemed by the entity to create a real risk of serious harm to the individual involved. For example: identity theft or fraud occasioning financial loss. This is an important threshold because if notification for all data breaches, no matter how minimal, was required it may lead to “notification fatigue”. Notification fatigue results when individuals receive too many notifications about unimportant matters. When those individuals finally receive a serious notification, they may simply disregard it and fail to act quickly and effectively to remedy the issue.

In assessing whether the data breach has caused a real risk of serious harm to an individual an entity must consider factors including:

- The type and relative sensitivity of the information disclosed.
- How easily it can be linked to an individual.
- Whether it is protected by some form of security/encryption.
- Who is likely to find the information.



officer” to be in charge of educating and training staff and implementing effective measures to deal with all privacy matters including data breaches.

## Public consultation

The government invited the public to submit comments on the draft bill by 4 March 2016. There were submitted statements received from organisations and individuals including PayPal, the ABC, Telstra and Microsoft.

Issues raised by third parties include the broad and uncertain nature of the obligation to notify when an organisation ‘ought to be aware’ of a data breach. Others highlighted the problem of businesses being independently responsible for assessing the risk of the overly broad definition of ‘serious harm’ to an individual which may result from the data breach. This may often become a purely subjective assessment, particularly when assessing the potential ‘psychological, emotional or reputational harm’ of a breach.

## Next steps

The government will review the commentary and amend the Bill accordingly before introducing it into Parliament later in 2016.



**LAURA TACHELL**  
Associate

Further practical guidance will be provided by the OAIC if and when these reforms are implemented.

## Likely penalties

The consequences for businesses governed by the Privacy Act which fail to comply with these new notification obligations can be as severe as a \$1.7 million penalty for companies and \$340,000 for sole traders and non-companies for serious or repeated non-compliance, but are more likely to be a direction from the Commission to make a notification to the individuals affected by the serious data breach. Other directions from the Commissioner may include an order for a public apology or an enforceable undertaking from the business at fault.

Businesses concerned about the proposed new notification laws should consider their own governance and compliance measures and ensure that they have effective measures in place to promptly identify and react to a data breach within the time allowed. Businesses should appoint somebody within their organisation as a “privacy

# THE IMPACT OF VEDA ON DIGITAL MARKETING AND BRAND PROTECTION

With the Interactive Advertising Bureau and PwC reporting a 25% growth in Australian online advertising expenditure to \$6 billion throughout 2015, digital marketing is an increasingly important tool for businesses wanting to engage with customers. As marketing trends and practices evolve quickly, trade mark and consumer protection laws continue to seek a fine balance; encourage fair competition while protecting trade mark owners and consumers from misleading and deceptive conduct.

A major marketing tool is the Google Adwords pay-per-click platform, which accounts for a significant portion of Google's US\$67 billion in advertising revenue for 2015. A common practice for advertisers is to bid on a competitor's trade mark as a search keyword so that search results display the advertiser's sponsored advertisements. Until the recent decision of *Veda Advantage Limited v*

*Malouf Group Enterprises Pty Limited* [2016] FCA 255, only overseas court decisions had determined whether use of a third party trade mark as a search keyword could infringe trade mark rights.

In *Veda Advantage*, Veda Advantage Limited (Veda) operated a major credit reporting business in Australia, and one of its core services was to provide credit reports to credit providers and individual consumers. These credit reports were commonly known as "Veda files" or "Veda reports", and Veda owned an Australian trade mark registration for "Veda".

Malouf Group Enterprises Pty Ltd (**Malouf**) ran a credit repair business, particularly for customers with poor credit ratings from credit reporting business such as Veda. Malouf used the Google Adwords platform to advertise, promote and direct consumers to Malouf's website. In particular, Malouf bid on and used 86 search keywords that contained the word "Veda".

Use of third party trade marks as search keywords did not infringe

trade mark rights or breach Australian Consumer Law

Even though the Court noted that Malouf was assiduous in identifying keywords that would target individuals with Veda credit reports, the Court did not regard Malouf as infringing Veda's trade mark registration since Malouf's use of the word "Veda" was not use as a trade mark.

Australian trade marks law generally makes a distinction between use "as" a trade mark, that is, use so as to indicate trade origin, and use "of" a trade mark, that is, use for a purpose not intended to indicate trade origin, such as descriptive use.

A crucial factor in the Court's decision was that the keywords were invisible to consumers and could not then be used to distinguish Malouf's services and the services provided by another trader. In addition, the Court noted that Malouf merely selected and provided the keywords to Google as a way to identify internet users who may have an interest in using Malouf's services. The Court also noted that other advertisers under the Google's Adwords platform could bid

on the word "Veda" as a keyword to display the advertiser's sponsored advertisements.

The Court rejected Veda's claims that use of the word "Veda" as a search keyword breached the Australian Consumer Law for misleading and deceptive conduct. As the keywords were not visible to the consumer, the Court considered it highly unlikely that an ordinary or reasonable consumer would know what a keyword was, let alone how it interacted with the search process. The Court also regarded that use of the word "Veda" as a keyword on its own or in combination with any other word was not a representation to a consumer but merely a representation to Google.

Certain use of third party trade marks in sponsored advertisements infringed trade mark rights and breached Australian Consumer Law

The Court took a different view on certain use of the word "Veda" in the text of Google Adwords sponsored links. Examples of Malouf's use of the word "Veda" in sponsored links included:

- "Clean your Veda file"
- "Fix your Veda report"
- "Get your Veda credit file"
- "Repair your Veda score"

- "Veda Credit File Repairs"
- "The Veda Report Centre"

The Court only regarded Malouf's advertisement featuring "The Veda Report Centre" as infringing Veda's trade mark registration for the word "Veda". According to the Court, Malouf used "The Veda Report Centre" to indicate a connection between Malouf business and Veda's business under the Veda name. With the other examples of use, the Court found that Malouf only used the word "Veda" to describe Malouf's services, such as fixing, cleaning or repairing Veda credit files or reports. This use was not use as a trade mark.

Similarly, only Malouf's use of "The Veda Report Centre" was seen as misleading and deceptive in breach of the Australian Consumer Law. According to the Court, "The Veda Report Centre" conveyed the impression that Malouf was the source of the report and that an ordinary or reasonable consumer would likely think that the Veda Report Centre was a place or business operated by Veda or an authorised company. It made no difference to the Court that any mistaken impression would be dispelled once the consumer was taken to Malouf's website. By clicking on the advertisement, the Court considered that the consumer was already enticed into Malouf's 'marketing web'.

## Impact of decision on trade mark owners

Monitoring use of trade marks as search keywords on Google Adwords was always difficult and may be a futile exercise now that the Court has expressly allowed this practice. However, it remains important for trade mark owners to monitor how their competitors advertise online across Google Adwords, Facebook, LinkedIn and other pay-per-click advertising platforms. Although these major platforms will investigate use of third party trade marks, enforcing rights against a competitor is likely to be the best approach to restrain illegal conduct.



**DAVID CHIN**  
Principal



**ANDREW BUTLER**  
Principal

# KEEPING THE UGG TRADE WARM



**U**S-based footwear and clothing giant, Deckers Outdoor Corporation, has launched legal proceedings in a US court against Sydney-based company, Australian Leather Pty Ltd, for using the word “ugg” to describe its sheepskin boots being sold in overseas markets. This is the latest in a series of disputes relating to use of the word “ugg” by Australian manufacturers of sheepskin boots.

Locally, “ugg” is a generic term to describe a flat-soled, sheepskin boot with fleece on the inside. While there are dozens of trade marks registered in Australia which contain the word “ugg” as part of a phrase or logo, the term “ugg” itself is non-distinctive

and not able to be registered here. As a result, it is used by multiple manufacturers in the local market without issue. Overseas, where “ugg” has not entered the local vernacular, it’s a different story. Deckers Outdoor Corporation has successfully registered “UGG” as a trade mark in the US and over 130 other countries, including China and members of the EU. This means that manufacturers like Australian Leather who describe their boots as “ugg boots” in these countries run the risk of being sued for trade mark infringement by Deckers, who is well-known for being litigious in this area.

It is early days in the lawsuit against Australian Leather, but reports suggest that Deckers is seeking sweeping orders against the Australian company, including delivery of all its stock to Deckers in the US for destruction, transfer of all funds in Australia Leather’s bank accounts to Deckers, and millions of dollars in punitive damages. The first hearing is scheduled to occur in late July.

Closer to home, Senator Nick Xenophon has started a petition calling on Prime Minister Malcolm Turnbull to protect the Australian ugg

boot industry, and to seek immediate support for Australian Leather in its dispute with Deckers. He has also foreshadowed introducing legislation into the Senate, if he is re-elected, to protect Australian companies who use the word “ugg” to describe their products, stating that “If the French can protect ‘Champagne’, the Portuguese ‘Port’, the Spanish ‘Sherry’ and the Greeks ‘Feta’, then surely Australia can protect the word ‘Ugg’”.



**ALEXANDRA CHUBB**  
Senior Associate

# WHAT'S ON 2016

## CALENDAR OF EVENTS

### MAY

**2nd – 6th**

*LESANZ Conference*  
SYDNEY, AUS

**16th – 18th**

*FCA Innovator of the Year Program*  
ADELAIDE, AUS

**18th**

*Innovation Bay Angel Dinner*  
PERTH, AUS

**21st – 23rd**

*INTA Annual Meeting*  
ORLANDO, USA

**24th**

*CEDA Women and Leadership Speaker Series*  
ADELAIDE, AUS

**26th**

*LESANZ Seminar: “Show Me the Money”*  
PERTH, AUS

**18th**

*AusBiotech BioBeers and Bubbles*  
WEST PERTH, AUS

### JUNE

**1st – 27th**

*Curtin Ignition Program Information Sessions*  
CURTIN UNIVERSITY

**1st**

*CEDA Commercializing Innovation with Dr Dave Williams*  
BRISBANE, AUS

**3rd**

*CEDA Industry Opportunities with Andrew Harding*  
PERTH, AUS

**6th – 9th**

*BIO International Convention*  
SAN FRANCISCO, USA

**14th**

*CEDA Trustee Boardroom Briefing on Innovation*  
PERTH, AUS

**15th**

*CEDA Innovation Speaker Series with Brodie McCulloch and Mark Shelton*  
PERTH, AUS

### JULY

**14th**

*AICC Cisco Technology Series with Dr Alan Finkel*  
PERTH, AUS

**26th**

*Leveraging the Innovation Journey with Wrays, RSM & Private Equity Gateway*  
SYDNEY, AUS

### AUGUST

**10th – 11th**

*WA Innovator of the Year - Pitch Presentations*  
PERTH, AUS

**17th – 18th**

*AFR National Innovation Summit*  
SYDNEY, AUS

**18th**

*Innovation Bay Angel Dinner*  
PERTH, AUS

### SEPTEMBER

**4th – 9th**

*Curtin Ignition Program*  
PERTH, AUS

**13th**

*WA Innovator of the Year - Finalist Presentations*  
PERTH, AUS

**16th – 20th**

*AIPPI World Congress*  
MILAN, ITA



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