

Legal Newsbytes

Issue 3/2001

EDITED BY ANTHONY QUAHE

JULY 2001

Introduction

Welcome to this issue of Legal Newsbytes. This is the month in which the Madrid Protocol takes effect in Australia and businesses with overseas markets should consider taking advantage of the opportunity to register their trade marks internationally under this new cost effective scheme.

Princess Diana's legacy makes news

The Registrar of Trade Marks rejected opposition by the executors of the Estate of Diana, Princess of Wales, (deceased) to an applicant seeking to register the trade mark application number 804192 "Diana's Legacy in Roses" together with a representation of a bouquet of roses surrounding those words flanked by two small birds.

No deception or confusion was found likely to arise from either a connotation inherent in the mark or any reputation existing in the trade marks owned by the Estate.

Source: Australian Official Journal of Trademarks 14 June 2001.

Copyright in the Yellow Pages

The Federal Court of Australia has found that the White Pages and Yellow Pages directories published by Telstra are protected by copyright which was infringed by a company which reproduced a substantial part of those directories in a CD Rom format: *Telstra Corporation Limited v Desktop Marketing Systems Pty Ltd* [2001] FCA 612.

The case is available on <http://scaleplus.law.gulfgov.au/html/feddec/0/20012/0/FD002520.htm>

ACCC calls for cybersquatter action

The Australian Competition and Consumer Commission made a submission to the World Intellectual Property Organisation on 18 June 2001 calling for a concerted global effort to

ban the bad faith registration and use of domain names, a practice popularly known as "cybersquatting".

The ACCC claimed that WIPO efforts to date have focused on dispute resolution. The ACCC focus is on registration requirements and systemic changes.

The ACCC submission is available on <http://WIPO.int/process2/rfc3/index.html>

Court victory for Microsoft

The US Court of Appeal unanimously reversed the penalty imposed on software giant Microsoft on 28 June 2001.

The Court did not overturn the decision that Microsoft had violated anti-trust laws but held that the original judge had engaged in "serious judicial misconduct" which demonstrated an appearance of partiality and ordered that the case be brought before a new judge to decide the appropriate penalty.

Source:
<http://news.scmp.com/ZZZKWMR7EOC.html>

Freelance journalists' e-rights

The US Supreme Court has decided that newspaper publishers are not entitled to license works for inclusion in electronic databases works that are commissioned from freelance journalists for publication in print media.

New York Times Co Inc v. Tasini
<http://laws.findlaw.com/us/000/00-201.html>

Motorola sues spammer

Digital Wireless Technologies has been sued by Motorola for e-mail spams which were misleading and infringed trade marks. The claim is for US \$1M plus US \$25000 per day or US \$10 per e-mail.

Source : http://www.senseient.com