



Inventorship and Patent Entitlement

8.00am to 1.00pm (Registration from 7.40am)

Thursday 11 October 2007

Leo Cussen Institute
Level 1
360 Little Bourke St
Melbourne

Wednesday 17 October 2007

Macquarie Graduate School
of Management
Level 6, 51-57 Pitt St
Sydney

Tuesday 30 October 2007

Customs House
The University of Queensland
399 Queen St
Brisbane

Speakers:

Katrina Howard SC
Mark Roberts, Partner, Davies Collison Cave

Chair (Melbourne):

Bruce Caine SC

Chair (Sydney):

Anthony Franklin SC

Chair (Brisbane):

Andrew Crowe SC

The Melbourne seminar will also include a presentation by
Professor Steven Praver, School of Physics, University of Melbourne

Endorsed by



The Institute of Patent and
Trade Mark Attorneys of Australia

Endorsed by



Licensing Executives Society ANZ



CPDP0750

Speakers & Chairs

Katrina Howard SC

Katrina Howard SC specialises in the field of intellectual property, especially patents. Most of Katrina's patent related work has been in the biological sciences including pharmaceuticals and biotechnology.



After graduating with honours in science and in law, Katrina worked with Davies Collison Cave before becoming an independent barrister. After practising in Melbourne for a few years, she moved to Sydney, although she continues to practise in both states. Katrina was appointed as Senior Counsel for the State of New South Wales in 2006.

Major patent cases in the Federal Court in which Katrina has appeared include *Asahi v Grace* (plastics), *Murex v Chiron* (the hepatitis C patent), *Tidy Tea v Unilever* (dripless tea bags), *Biochem v Emory* (re 3TC – Aids treatment), *Genetics Institute v Amgen* (erythropoietin), *New England Biolabs v Hoffman La-Roche* (taq polymerase), *Atlantis v Schindler* (drainage cells), *3M v Tyco* (electrical connectors), *Gambro v Fresenius* (dialysis machines), *Eli Lilly v Pfizer* (Viagra), *Arrow v Merck* (treatment for osteoporosis), *Mycogen v Monsanto* (genetically engineered plants), *Conor v Angiotech* (coronary stents), *Merck v Genrx* (treatment for osteoporosis), *Pfizer v Commissioner of Patents* (extension of term), *Emperor Sports v Commissioner of Patents* (re-examination), *IGT v Aristocrat* (games for poker machines), *Alphapharm v Lundbeck* (anti-depressants) and *Du Pont v ICI and the Commissioner of Patents* (chemicals).

Katrina has appeared in the High Court in *Kimberley-Clark v Arico* (nappies), *Grain Pool of WA v The Commonwealth* (constitutional validity of Plant Varieties Act) and *Astra v Alphapharm* (omeprazole). Katrina has also appeared in many patent cases in the Australian Patent Office in areas of science ranging from chemical engineering to genetics.

Mark Roberts

Mark Roberts is a patent attorney and Partner of Davies Collison Cave.



Mark specialises in the preparation and prosecution of patent applications in the areas of general, organic and pharmaceutical chemistry, pharmacology, food technology, nanotechnology and molecular biology. Mark is experienced in conducting patent oppositions and patent searches and provides advice on the patentability of inventions, patent infringement and validity as well as conducting intellectual property audits and providing patent litigation support.

Mark joined Davies Collison Cave in 1994 and became a Partner in 2002. In 1998 Mark spent 12 months in London working in the corporate patent department of a multinational pharmaceutical company.

Mark has a BSc (Pharmacology and Organic Chemistry) (Hons). His Honours year was conducted at the Peter MacCallum Cancer Institute where he investigated the mechanisms and extent of DNA strand breakage induced by radiation sensitising agents.

Mark's current appointments include:

- Councillor: Fédération Internationale des Conseils en Propriété Industrielle (FICPI) Australian Group
- Councillor: Asian Patent Attorneys Association Australian Group
- Fellow: Institute of Patent and Trade Mark Attorneys of Australia

Professor Steven Prawer (Melbourne)

Steven Prawer is Professor in the School of Physics at the University of Melbourne. He is Program Manager in the Centre of Excellence in Quantum Computer Technology and is a member of its Intellectual Property Committee and Advisory Board. He also serves as Director of experimental research programs for Quantum Communications Victoria. Steven has published over 200 papers and is a co-inventor on 5 patents. Part of Steven's responsibility is the early identification of intellectual property in need of patent protection.



Steven is Australia's foremost authority on the physics of diamond and related materials. He has been pivotal in elucidating the fundamental nature of the interaction of energetic ion beams with these materials and has pioneered the production of a new generation of nano-scale quantum devices based on diamond. Steven's dynamic group is one of the largest and best equipped in the world devoted to quantum diamond research. His recent results are finding application in single photon sources for quantum cryptography for secure communications and in diamond-based devices for quantum computers.

Bruce Caine SC (Chair, Melbourne)

Bruce Caine SC practises in the field of intellectual property.

Bruce came to the Bar after serving two years as Associate to the Honourable Justice King who was the Judge in charge of the Industrial Property List in the Supreme Court of Victoria. Bruce practises in the Federal and Supreme Courts in all States of Australia in intellectual property matters.

His particular areas of specialty include patents, designs, trade marks, copyright, confidential information, information technology, licensing, trade practices and sports law.

Bruce's practice involves appearing in and advising upon matters which concern complex technology including pharmaceuticals, biotechnology, electronic circuit layouts, computer technology and other diverse chemical and engineering (mechanical, mining and chemical) applications.

Anthony Franklin SC (Chair, Sydney)

Anthony Franklin SC specialises in all aspects of intellectual property.

Until 1998 Anthony practised in South Africa, where he was appointed Senior Counsel in 1996. Since 1998 he has been a member of the New South Wales bar, and was appointed Senior Counsel in 2003.

Anthony is also a member of the London bar. In 2004 to 2005 he practised full-time in London as a member of Hogarth Chambers in Lincoln's Inn, one of the UK's leading sets of intellectual property chambers. He returned to Sydney at the end of 2005, although he continues to work in South Africa and the UK.

Throughout Anthony's practice in South Africa, Australia and the United Kingdom his main specialism has been patent litigation. He has appeared in more than 70 reported patent cases in diverse fields, including pharmaceutical (biotechnology and organic chemistry), engineering (mechanical, mining, electrical and chemical), gaming technology and consumer goods.

Andrew Crowe SC (Chair, Brisbane)

Andrew Crowe SC specialises in intellectual property litigation.

Andrew was admitted as a solicitor in 1980 and worked in the intellectual property division of Minter Ellison (then Morris Fletcher & Cross) for two years before being admitted to the Bar in 1985.

Andrew was appointed as Senior Counsel in 2000.

Andrew has lectured in intellectual property litigation at postgraduate level. Until recently, he was the Queensland correspondent for the IPSANZ (Intellectual Property Society of Australia and New Zealand) Forum magazine. Andrew is a member of the Law Council Intellectual Property Committee (Brisbane).



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Program

7.40am – 7.55am
Registration

8.00am – 8.10am

Chair (Melbourne), Bruce Caine SC
Chair (Sydney), Anthony Franklin SC
Chair (Brisbane), Andrew Crowe SC

Introductory Comments

8.15am – 8.45am

Mark Roberts

Introduction to Inventorship and Entitlement

- Inventorship and entitlement 101
- Connection between inventorship and entitlement
- Review of requirements for inventorship in Australia and USA
- Situations where inventorship disputes can arise
- Questions and discussion

8.50am – 10.15am

Katrina Howard SC

Analysis of:

- Relevant Sections of *Patents Act 1990*
- Scope of the Ground of Lack of Entitlement
- Decisions in *Conor Medsystems v UBC and Angiotech*

10.20am – 10.45am

Questions and Discussion

10.50am – 11.15am
Morning Tea

11.20am - 11.40am (Melbourne)

Professor Steven Praver

Dilemmas in Identifying Inventors in a University Environment

11.20am - 11.40am (Sydney and Brisbane)

Questions and Discussion

11.40am – 12.25pm

Mark Roberts

Practical Implications of *Conor Medsystems v UBC and Angiotech* on Inventorship and Entitlement

- problems of joint applicants / patentees
- role of assignments
- correction of inventorship / entitlement defects

12.30pm – 12.45pm

Questions and Discussion

12.50pm – 1.00pm

Chair (Melbourne), Bruce Caine SC
Chair (Sydney), Anthony Franklin SC
Chair (Brisbane), Andrew Crowe SC

Concluding Comments

Seminar Context

Patents have always been able to be challenged by a third party who has a superior title to the invention. However, recent cases demonstrate that patents are vulnerable to challenge on the ground of lack entitlement even where no third party has a superior title.

This seminar will consider the background to these decisions (in particular, the decisions in *Conor Medsystems v Angiotech and UBC*) and the implications for patent owners, those who commercialise patent rights, patent attorneys, practising intellectual property lawyers, academics and policy-makers.

About Tech IP Professional Development

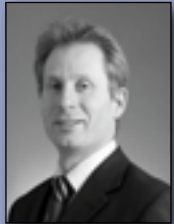
Tech IP Professional Development provides high quality professional development programs relating to the protection and commercialisation of technology and intellectual property.

Dean Ellinson is CEO of Tech IP Professional Development.

Dean's previous positions over a 20 year period have included, most recently, General Counsel, Monash Commercial, and prior to that role: Special Counsel, Blake Dawson Waldron; Consultant, Clayton Utz; General Counsel, GE Capital IT Solutions (Australia); and Partner, Dunhill Madden Butler (now known as Deacons).



Dean's past appointments have included: Chair, Law Institute of Victoria's Intellectual Property and Information Technology Committee; and Australian Corporate Lawyers Association's representative on the Council of the Law Institute of Victoria



Dean has had several published articles on intellectual property and information technology law including in the Australian Business Law Review, University of New South Wales Law Journal and Melbourne University Law Review. He was a contributing author to some of the Copyright chapters in *CCH Australian Industrial & Intellectual Property (1991)*.

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Registration

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