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# SNIPER

## BULLETIN

September 2008



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**SNIPER No.:** 2008/01218

**Author:** Nurton, James

**Author:** Davison, Philip

**Author:** Escobar, Elisabeth Roth

**Author:** Heavner, B. Brett

**Author:** Kingsbery, Tom

**Author:** McLeod, Linda K.

**Author:** O'Reilly, Vincent

**Author:** Rogers, Gerard

**Title:** 21st century trade mark strategies

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.45-52

**Abstract:** Roundtable discussion on trade mark issues and changing strategies of clients, including trends, management, litigation, classification and consistency between offices

**Subject:** Intellectual property management--interviews

**Subject:** Trade marks--management

**SNIPER No.:** 2008/01311

**Author:** Jensen, Paul H.

**Author:** Webster, Elizabeth, 1957-

**Title:** Achieving the optimal power of patent rights [Internet article]

**Source:** IPRIA Working Paper, no. 15.04. December 2004.

**Abstract:** Three government policy instruments -- patent rights -- inventive step -- patent granting decision -- patent examination process -- courts -- effects of changing these policy instruments -- socially undesirable patents.

**Subject:** Patent systems

**Subject:** Intellectual property rights

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP15.2004.pdf>

**SNIPER No.:** 2008/01225

**Author:** Garg, Vidisha

**Title:** All eyes on India

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.85-89

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Product patent regime -- India -- Indian Patent Office (IPO) -- third amendment to Indian Patent Act 1970 -- change to policy environment with the membership to World Trade Organisation (WTO) -- Trade Related Aspects of Intellectual Property (TRIPs) -- international obligations met with third amendment to the act - increased awareness if IP laws positive effect on local pharmaceutical firms -- modernisation improving IP office functioning -- integrated IP offices in four major cities -- launch of electronic filing of applications -- WIPO recognition of IPO as an International Searching Authority and an International Preliminary Examining Authority -- contentious issues -- no discrimination between pharmaceutical and non-pharmaceutical products - - no protection for incremental innovation -- evergreening of patents -- pre-grant opposition -- post-grant opposition -- revocation -- national emergencies -- the Natco case -- --Intellectual Property Appellate Board (IPAB) -- recent increase in patent litigation -- several high profile case being adjudicated -- Roche v. Cipla -- risk of TRIPs violation

**Subject:** Patents--law and legislation--India

**Subject:** Patent infringement--case law--India

**Subject:** Pharmaceuticals--India

**Subject:** Patents--reform--India

**SNIPER No.:** 2008/01425

**Author:** Prescott, Peter

**Title:** Analysis: infringement of registered trade marks: always a hypothetical comparison

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 121-127.

**Abstract:** Trade Marks Directive's provisions on likelihood of confusion when considering test under s. 10 for trade mark infringement -- infringement without confusion can be ignored -- trade mark not in use -- goods completely different -- what the Directive requires -- recognition of the trade mark on the market -- similarity of the goods.

**Subject:** United Kingdom. Trade Marks Act (1994)

**Subject:** Passing-off--United Kingdom

**Subject:** Trade mark infringement--United Kingdom

**SNIPER No.:** 2008/01037

**Author:** Curley, Duncan

**Title:** Appeal depresses generic drug firms: enantiomer patent claims sufficiently enabled

**Source:** Patent World. No. 203, June 2008, pp. 11-13.

**Abstract:** Lundbeck's enantiomer patent -- converted an optically active chemical intermediate into citalopram enantiomers -- product of the process was escitalopram -- product claim to escitalopram invalid on grounds of insufficiency -- Biogen insufficiency -- judge's reasoning in Lundbeck case -- Lundbeck appealed in the Court of Appeal -- overturned decision on the issue of insufficiency -- generic companies cross appealed on findings against them on novelty and obviousness -- no generic competition for escitalopram until 2014 -- supplementary protection certificate.

**Subject:** Pharmaceuticals--case law

**Subject:** Patent claims

**SNIPER No.:** 2008/00934

**Author:** Rodriguez, Victor

**Author:** Molet, Jorge

**Title:** Article 49: should Article 49 of the Mexican Industrial Property Law be amended?

**Source:** Copyright World. IP rights in Mexico, April 2008, pp. 8-9.

**Abstract:** Article 49 -- Article 41 -- convert patent application into utility model or industrial design and vice versa -- invasion of patents -- payment of fees -- non-payment.

**Subject:** Patent applications--Mexico

**Subject:** Intellectual property law--reform--Mexico

**SNIPER No.:** 2008/01313

**Author:** Marsland, Vanessa

**Title:** Aspects of EU protection for designs and trade dress

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 74-75.

**Abstract:** Protection available beyond trade mark registration -- Community Trade Mark (CTM) -- Registered Community Design (RCD) -- Examination of applications -- reasons for choosing registration -- limitations of trade mark protection -- effect of the Unfair Commercial Practices Directive (UCPD)

**Subject:** Trade dress--Europe

**Subject:** Industrial designs--Europe

**SNIPER No.:** 2008/01339

**Author:** Ginsburg, Jane C.

**Title:** The author's place in copyright after TRIPs and the WIPO treaties

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 1, 2008, pp. 1-4.

**Abstract:** Copyright vested in authors -- authors neither control nor derive substantial benefits from their work -- treaties strengthened exclusive rights -- not necessarily better for authors -- copyright generally defined by national laws -- alienability -- transferring rights by contract -- new modes of exploitation -- technological protection measures and copyright management systems -- digital rights management (DRM) -- new business models -- variety of access levels.

**Subject:** Copyright ownership

**SNIPER No.:** 2008/01401

**Author:** Dumbill, Paula

**Author:** Dickson, Emma

**Title:** Balancing privacy and IP rights: will copyright enforcement tip the scales over privacy rights?

**Source:** Copyright World. Issue 182, July/August 2008, pp. 21-23.

**Abstract:** Balancing act between right to privacy and enforcement rights of intellectual property (IP) holders -- prevention of illegal downloading -- domain name registration systems -- expectation of privacy enshrined in legislation -- file sharing -- IP rights holders suffering damage -- deprived of revenue -- peer-to-peer networks -- preventing sharing -- digital rights management -- judicial assistance -- privacy services -- WHOIS domain name search facility.

**Subject:** Privacy

**Subject:** Copyright owners' rights

**SNIPER No.:** 2008/01353

**Author:** Lindsay, Charlotte

**Title:** Baroness Morgan, Minister for IP

**Source:** Patent World. No. 204, July/August 2008, pp. 13-14.

**Abstract:** Interview with Baroness Morgan, Parliamentary Under-Secretary of State for Intellectual Property and Quality, United Kingdom.

**Subject:** Delyth Morgan--interviews

**Subject:** Intellectual property--interviews

**SNIPER No.:** 2008/01370

**Author:** Goldstein, Paul

**Title:** Berne in the USA

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 2, 2008, pp. 216-221.

**Abstract:** Dr Arpad Bogsch, WIPO Director General -- witness before Subcommittee on Patents, Copyright and Trademarks of the US Senate Judiciary Committee in 1985 -- US adherence to the Berne Convention -- told legislators that existing copyright protection was already on the level required by the Convention -- architectural works -- moral rights -- misrepresentations of origin -- fair use doctrine -- TRIPs Agreement.

**Subject:** Berne Convention for the Protection of Literary and Artistic Works (1886)

**Subject:** Copyright--law and legislation--United States

**SNIPER No.:** 2008/01362

**Author:** Aerts, Rob J.

**Title:** Biotechnological patents in Europe: functions of recombinant DNA and expressed protein and satisfaction of the industrial applicability requirement

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 3, 2008, pp. 282-306.

**Abstract:** Legal framework for patenting of biotechnological inventions in Europe -- decisions in which industrial applicability was apparent -- Board of Appeal of the European Patent Office -- on Art. 57 Rule 27 (1) (f) -- Rule 23e(3) -- European Patent Convention (EPC) and function -- functions of recombinant DNA and expressed protein and the requirement of industrial applicability.

**Subject:** Biotechnology--Europe

**Subject:** Patents--law and legislation--Europe

**SNIPER No.:** 2008/01219

**Author:** Gupte, Eklavya

**Title:** Biotech's biggest blockbusters

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.53-59

**Abstract:** Biotechnology industry -- Herbert Boyer -- Stanley Cohen -- patents -- intellectual property rights -- scientific, legal and ethical issues -- five patents that have shape their respective sectors -- Recombinant DNA (rDNA) -- polymerase chain reaction (PCR) -- Kary Mullis -- Epogen - - erythropoietin (EPO) -- Amgen -- Microarrays also known as gene chips or DNA chips -- Affymetrix -- the antibody libraries (Winter II) -- phage display (McCafferty) -- Medical Research Council (MRC) -- Cambridge Antibody Technology (CAT)

**Subject:** Biotechnology--patentability

**Subject:** Biotechnology--case law

**Subject:** Innovation (Technological)--health and community services industry

**Subject:** Patent licensing

**SNIPER No.:** 2008/01294

**Author:** Safiyuddin, Mustafa

**Author:** Bhandare, Shailendra

**Title:** Branding in India spiced up by Indian Premier League

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 5-8.

**Abstract:** Franchising, sponsorship, and endorsement -- India -- advertising in the Indian Premier League (IPL) -- ambush marketing -- trade mark infringement -- publicity rights.

**Subject:** Indian Premier League

**Subject:** Branding--India

**SNIPER No.:** 2008/01224

**Author:** Holtz, Béatrice

**Author:** Vial, Lionel

**Title:** A brief history of Swiss-type claims

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.82-84

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Swiss-type claims -- Europe -- pharmaceutical industry -- Enlarged Board of Appeal (EBA) -- European Patents Office (EPO) -- second and subsequent medical indications -- Swiss federal Intellectual Property Office -- revision of European Patent Convention (EPC) 2000 explicitly establishes protection of further medical indications -- formalities --purpose-limited product claim -- decision T1127/05 -- uncertainty of applicability under EPC 2000 of recent EPO case law that broadens scope of allowable second medical indications -- Technical Board of Appeal -- decision T1020/03 -- decision T1001/01 -- EBA awaiting clear answer on the allowability of the broad construction of second medical indications ruled by decision T1020/03

**Subject:** Pharmaceuticals--case law--Europe

**Subject:** Patent systems--Europe

**Subject:** Swiss-type claims

**SNIPER No.:** 2008/01286

**Author:** Wyatt, Anne

**Author:** Matolcsy, Zoltan

**Title:** Capitalised intangibles and financial analysts [Internet article]

**Source:** IPRIA Working Paper, no. 04.05. March 2005.

**Abstract:** Whether firms that capitalise a higher proportion of their firm's underlying intangible assets have higher analyst following -- lower dispersion of analysts' earnings forecasts -- more accurate earnings forecasts relative to firms that capitalise a lower proportion -- evidence from the Australian setting where capitalisation of intangible assets is common -- higher analyst following for firms with higher mostly unrecognized intangible assets -- evidence that suggests managements' accounting choices are instrumental in this relation -- results suggest companies experience relatively higher analyst following -- lower forecast dispersion -- higher forecast accuracy -- when the firms underlying intangible assets are sufficiently certain to permit management to capitalise intangible assets.

**Subject:** Capital

**Subject:** Finance

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP04.2005.pdf>

**SNIPER No.:** 2008/01296

**Author:** Young, Mark

**Title:** The case for the Special 301 reports

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 14-16.

**Abstract:** Office of the United States Trade Representative (USTR) -- Special 301 report identifies countries that pose the greatest challenges to IP rights owners -- trade mark infringement -- intellectual property monitoring -- Agreement on Trade-Related Aspects of Intellectual Property (TRIPS)

**Subject:** Intellectual property enforcement--United States

**SNIPER No.:** 2008/00937**Author:** Barreda, José**Title:** Changes and developments to IP in Peru**Source:** Copyright World. World review: special IP reports, May 2008, pp. 9-10.**Abstract:** Peru and United States -- Free Trade Agreement (FTA) -- Peru working on IP legislation to enable it to abide with treaties administered by World Intellectual Property Organisation (WIPO) -- important proposals for amendment.**Subject:** Intellectual property law--reform--Peru**SNIPER No.:** 2008/01328**Author:** McCann, Heather**Title:** Chapter 15: divisional EP application, requirements for filing**Source:** CIPA Journal. Vol. 37 No. 6, June 2008, p. 332**General Note:** Second article in a series of two. See also: 2008/01323.**Abstract:** United Kingdom -- Revision of CIPA's patent training manual -- Divisional European Patent (EP) application can only be filed at a filing office of European Patent Office (EPO) -- divisional EP application can only be filed in respect of pending EP application -- divisional EP application has to be filed in the language of the parent application -- important that any assignments are recorded at the EPO before divisional is lodged -- filing and search fees -- selection of contracting and extension states -- designation of inventor -- 'back' renewal fees -- priority claims -- failure to meet requirements -- Art.76(1) & R.36(1)&(2) -- Art. 76(1) & R.36(6)&(4), R.70(1). Art76(2) -- R.60(2) -- R.51(3) -- R.53(2)**Subject:** Patent processing--United Kingdom**Subject:** Patent attorneys--United Kingdom**Subject:** Patent filing--United Kingdom**SNIPER No.:** 2008/01209**Author:** Barraclough, Emma**Title:** China unveils free patent translation tool**Source:** Managing Intellectual Property. Iss. 180, June 2008, p.20**Abstract:** New online Chinese-to-English translation service for patent searchers -- China -- developed by State Intellectual Property Office (SIPO) and China Patent Information Center (CPIC) -- speakers of European languages ill-equipped to find prior art in Asian languages -- new ways of collaborating with other offices and users during patent examination process -- machine translation cannot yet provide comprehensive solution -- machine translations provided not high enough quality as to allow substitution of manual translations -- loose grammatical structure of Chinese language a particular problem -- launch of new Chinese language search engine Intelligent Retrieval System of Patent of Design of China -- based on image retrieval -- 4 million images accessible**Subject:** Patent databases--China**Subject:** Patent searching**Subject:** Translations

**SNIPER No.:** 2008/01278

**Author:** Weatherall, Kimberlee

**Title:** A comment on the copyright exceptions review and private copying [Internet article]

**Source:** IPRIA Working Paper, no. 14.05. June 2005.

**Abstract:** Private copying -- how it fits with copyright law -- copying is widespread -- under current Australian copyright law, almost all private copying is an infringement of copyright -- one aim of the current copyright exceptions review is to address this mismatch -- highly complex issue -- particularly in a digital environment -- set of seven premises for assessing any proposed solution -- information about systems in other countries -- major issues in reaching a solution.

**Subject:** Fair use (Copyright)--Australia

**Subject:** Copyright--law and legislation--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP14.2005.pdf>

**SNIPER No.:** 2008/01283

**Author:** Hudson, Emily

**Title:** Communication in the digital environment: an empirical study into copyright law and digitisation practices in public museums, galleries and libraries [Internet article]

**Source:** IPRIA Working Paper, no. 15.05. July 2005.

**Abstract:** Initial results qualitative interview-based research into digitisation practices of leading Australian public museums, galleries, libraries -- considers the ways in which those practices appear to be affected by copyright law -- cultural institutions are an excellent site for examining copyright issues because of the increased use of digitisation -- missions of preservation, access, research and education -- substantial challenges to cultural institutions to manage copyright issues surrounding the acquisition, creation and distribution of digital content -- ways in which digitisation facilitates the missions of cultural institutions -- examines the nature of copyright issues facing institutions -- strategies for dealing with them -- implications for pending questions about reforming Australian copyright law.

**Subject:** Electronic copyright--knowledge industry

**Subject:** Intellectual property law

**Author:** Kenyon, Andrew T.

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP15.2005.pdf>

**SNIPER No.:** 2008/01417

**Author:** Kim, C. Leon

**Title:** A comparative analysis of the Japanese Supreme Court decision on doctrine of equivalents

**Source:** Intellectual Property Quarterly. Issue 1, 2002, pp. 18-49.

**Abstract:** 1998 spline shaft case -- five criteria to be met in order to invoke doctrine of equivalents -- subject patent -- invalidation trial and appeal to the Tokyo High Court -- infringement brought before the Tokyo Civil District Court -- Tokyo High Court's decision -- Supreme Court's decision -- hierarchical approach -- interchangeability as the sole test of determining equivalency -- prior art defence -- expanded doctrine of file wrapper estoppel.

**Subject:** Doctrine of equivalents--Japan

**Subject:** Patents--case law--Japan

**SNIPER No.:** 2008/01424**Author:** Karnell, Gunnar W. G.**Title:** Computation of damages for patent infringement in particular as related to extensions outside the scope of patented matter: a comparative overview**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 92-120.**Abstract:** Limits to compensation for infringement -- defining infringing subject matter -- value of damage suffered as a result of infringement -- different approaches to calculation and modes of compensation -- calculation on basis of infringer's profit -- licence fees -- compensation defined -- internationalisation -- prospects and realities -- national generalities -- France -- Germany -- Sweden -- United Kingdom -- United States -- case law -- factors used to determine damages.**Subject:** Damages**Subject:** Patents--law and legislation**SNIPER No.:** 2008/01355**Author:** Smith, Craig**Title:** Contemplating reflections: Australia questions validity of enantiomers**Source:** Patent World. No. 204, July/August 2008, pp. 18-20.**Abstract:** Enantiomers and racemates -- citalopram and escitalopram -- Alphapharm v Lundbeck - proceedings in the UK and Australia -- validity of the method of manufacture claim -- validity of the products claim -- Justice Kichin's decision (UK) -- Justice Lindgren's decision (Australia) Court of Appeal's decision (UK) -- claiming foreseen products.**Subject:** Patent validity**Subject:** Pharmaceuticals**SNIPER No.:** 2008/01413**Author:** Lindner, Brigitte**Title:** Copyright demolished?: the implementation of the WIPO Treaties in Switzerland**Source:** European Intellectual Property Review. Vol. 30 No. 8, 2008, pp. 328-331.**Abstract:** Implementation of WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) in Switzerland -- overview of Swiss legislation -- introduction of new rights -- copyright exceptions -- new exceptions -- mandatory collective administration -- private use exception -- technological protection measures and rights management information.**Subject:** WIPO Copyright Treaty (1996)--Switzerland**Subject:** WIPO Performances and Phonograms Treaty (1996)--Switzerland**Subject:** Copyright--law and legislation--Switzerland**Subject:** Copyright--treaties--Switzerland

**SNIPER No.:** 2008/01390

**Author:** Kenyon, Andrew T.

**Author:** Hudson, Emily

**Title:** Copyright, digitisation and cultural institutions [Internet article]

**Source:** IPRIA Occasional Paper, no. 03.04. August 2004.

**Abstract:** Digitisation and communications technologies -- new ways for cultural institutions to further their missions -- preservation -- research -- education -- public access -- digitisation also offers substantial challenges -- potential for creation and dissemination of digital works to constitute copyright infringement -- copyright law is undergoing significant period of change -- balance between copyright owners' rights and the public interest in access -- Australian copyright law in relation to digitisation and cultural institutions -- difficulties that cultural institutions are likely to face in understanding and complying with the law -- options in terms of institutional practices and copyright law reform.

**Subject:** Copyright--reform--Australia

**Subject:** Electronic copyright--Australia

**Subject:** Culture and entertainment industry--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20paper%203.04.pdf>

**SNIPER No.:** 2008/01345

**Author:** Paphazy, Michael

**Title:** Copyright in project homes: Metricon Homes Pty Ltd v. Barrett Property Group Pty Ltd

**Source:** Australian Intellectual Property Law Bulletin. Vol. 21 No. 2, July 2008, pp.23-25

**Abstract:** Copyright infringement -- building plans -- original copyright works -- Metricon Homes Pty Ltd v. Barrett Property Group Pty Ltd -- Metricon appeal dismissed -- Barrett's claim copyright in number of designs -- trial judge initially examined whether Prada design infringed on Seattle design -- cost saving roof line -- alfresco quadrant considered distinctive and essential feature of the copyright works -- adverse finding against reliability of Metricon's witnesses -- Ross Palazzesi and Adrian Pople liable for authorising infringement -- on appeal Metricon argued judge incorrectly found design was a substantial part of Prada, Tyrell, Connolly, Coburn and Streeton designs -- Full court rejected argument -- Metricon failed to establish expended labour, skill and judgement in completion of design -- failed to show quadrant was common place -- records of when and how project home designs are developed minimise risk

**Subject:** Copyright infringement--case law--Australia

**Subject:** Copyright infringement--building and construction industry--Australia

**SNIPER No.:** 2008/01216

**Author:** Klett, Alexander

**Title:** Court limits scope of protection of CTMs

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp. 40-41.

**Abstract:** Infringing company names -- trade mark owners rights -- Germany -- European Union -- trade mark infringement -- case C-17/06 Céline SARL/Céline SA -- the Home Depot decision -- German Federal Court of Justice -- scope of protection of Community trade marks (CTM) does not extend to use of the mark as a company name -- additional burden on CTM owners that does not exist for owners of domestic German marks

**Subject:** Trade mark enforcement--Germany

**Subject:** Commercial names--case law--Europe

**Subject:** Intellectual property management--Germany

**SNIPER No.:** 2008/01038**Author:** Jelf, Myles**Title:** Courting controversy: judge's decision upsets UK IPO**Source:** Patent World. No. 203, June 2008, pp. 14-16.**Abstract:** Symbian v Comptroller of Patents -- patent application rejected -- excluded matter -- concerned with the way a computer operating system internally organises and accesses library files -- approaches of the UK and EPO -- Aerotel v Macrossan case -- patentability test -- the decision.**Subject:** Computer-related inventions--patentability--United Kingdom**Subject:** Patent litigation--case law--United Kingdom**SNIPER No.:** 2008/01306**Author:** Bosland, Jason**Title:** The culture of trade marks: an alternative cultural theory perspective [Internet article]**Source:** IPRIA Working Paper, no. 13.05. June 2005.**Abstract:** Trade mark law -- language -- culture -- cultural theory perspective -- rejection that private rights be recognised beyond current state of the law -- existing trade mark protection goes too far -- trade mark rights not harmful to culture and cultural expression -- trade mark dilution -- cultural public interest in facilitating speech -- preventing the dilution of a trade mark's expressive function.**Subject:** Intellectual property law**Subject:** Trade mark dilution**Corporate author:** Intellectual Property Research Institute of Australia**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP13.2005.pdf>**SNIPER No.:** 2008/00957**Author:** Scott, Lance**Author:** Friedgut, Martin**Title:** Current developments: Australia**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 56-66.**Abstract:** Amendment of Australian intellectual property documents -- Patents Regulations -- Trade Marks Manual of Practice and Procedure -- intellectual property case law -- trade marks -- Scotch Whisky Association v. De Witt -- PZ Cussons International Ltd. v. Rosa Dora Imports Pty. Ltd. -- designs -- Review Australia Pty. Ltd. v. Innovative Lifestyle Investments Pty. Ltd. -- Chiropedic Bedding Pty. Ltd. v. Ragburg Pty. Ltd. -- patents -- Smithkline Beecham Biologicals (S.A.) v. Novartis Vaccines and Diagnostics -- Aristocrat Technologies Australia Pty. Ltd. v. IGT (Australia) Pty. Ltd. and another -- copyright -- Barrett Property Group Pty. Ltd. v. Metricon Homes Pty. Ltd. -- Barrett Property Group Pty. Ltd. v. Metricon Homes Pty. Ltd. (No. 2) -- misleading trade practices and passing-off -- Knight v. Beyond Properties Pty. Ltd. and others.**Subject:** Patents--law and legislation--Australia**Subject:** Trade marks--procedure--Australia**Subject:** Intellectual property--case law--Australia**SNIPER No.:** 2008/01314**Author:** Jonas, Kay-Uwe**Author:** Budde, Hanna Karin**Title:** Design and trade dress in Germany**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 76-77.**Abstract:** Unfair competition law -- Germany -- competitive distinctiveness of products -- intellectual property enforcement**Subject:** Trade dress--Germany**Subject:** Intellectual property enforcement--Germany

**SNIPER No.:** 2008/01316

**Author:** Prandin, Donatella

**Author:** Caneva, Daniele

**Title:** Design and trade dress in Italy

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 80-81.

**Abstract:** Features encompassed by trade dress -- Italy -- product shape protection -- industrial design protection -- copyright protection -- general principals of unfair competition

**Subject:** Trade dress--Italy

**Subject:** Intellectual property enforcement--Italy

**SNIPER No.:** 2008/01317

**Author:** Schmidt, Luis C.

**Title:** Design and trade dress protection in Mexico

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 82-83.

**Abstract:** Designs interdisciplinary nature in relation to intellectual property law -- Mexico -- cumulative protection right -- intellectual property enforcement -- inconsistencies within the law on industrial property

**Subject:** Industrial designs--law and legislation--Mexico

**Subject:** Trade dress--law and legislation--Mexico

**SNIPER No.:** 2008/00940

**Author:** Bromberg, Karen H.

**Title:** Designate carefully...: EU applicants for United States trademarks may be forced to testify in United States

**Source:** Copyright World. World review: special IP reports, May 2008, pp. 17-18.

**Abstract:** United States Court of Appeals for the Fourth Circuit -- non-US trade mark applicant maybe compelled to testify in the US about matters related to the mark -- Rosenruist-Gestao E Servicos LDA v Virgin Enterprises Ltd -- Rosenruist filed intent-to-use (ITU) application -- Virgin opposed registration -- notice of deposition served on Rosenruist -- Rosenruist refused to appear for a deposition -- Fourth Circuit -- attendance of representative of Rosenruist.

**Subject:** Trade mark applications--United States

**SNIPER No.:** 2008/01279

**Author:** Palangkaraya, Alfons

**Author:** Jensen, Paul H.

**Author:** Webster, Elizabeth, 1957-

**Title:** Determinants of international patent examination outcomes [Internet article]

**Source:** IPRIA Working Paper, no. 09.05. June 2005.

**Abstract:** Factors that cause differences in patent examination outcomes at the trilateral patent offices -- non-PCT patent applications filed at the European and Japanese Patent Offices conditional upon them being granted by the United States Patent and Trademark Office (USPTO) - - quality of the invention -- the applicant -- whether the inventor was a local resident -- major determinants of patent grants -- some evidence that examination decisions are made in the interests of the region's national trade.

**Subject:** Patent examination

**Subject:** Patent granting

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP09.2005.pdf>

**SNIPER No.:** 2008/01308

**Author:** Griffiths, William E.

**Title:** The determinants of research and development and intellectual property usage among Australian companies, 1989-2002 [Internet article]

**Source:** IPRIA Working Paper, no. 13.04. October 2004.

**Abstract:** Innovation pathways of new creations -- R&D activity -- intellectual property (IP) applications -- R&D activity relies heavily on firm specific effects -- correlated with managerial style -- enterprise debt ratio -- speed of technological change -- knowledge spillovers -- product market is less contestable -- various methods of appropriation.

**Subject:** Industrial research and development--Australia

**Subject:** Intellectual property use--Australia

**Author:** Webster, Elizabeth, 1957-

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP13.2004.pdf>

**SNIPER No.:** 2008/01315

**Author:** Sahiwal, Ishani

**Title:** Development of trade dress law in India

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 78-79.

**Abstract:** Scope of trade dress in India -- important related concept to trade marks -- India -- judiciary approach to passing off actions -- distinctions within the new approach by the courts -- contradictions of precedent

**Subject:** Trade dress--India

**SNIPER No.:** 2008/01343

**Author:** Magnani, Paola

**Author:** Montagnani, Maria Lilla

**Title:** Digital rights management systems and competition: what developments within the much debated interface between intellectual property and competition law?

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 1, 2008, pp. 83-105.

**Abstract:** Adoption of Digital Rights Management (DRM) systems spreading -- affects competition within traditional markets -- creation of new markets -- DRM systems and markets -- from tools defining relevant markets to market products -- DRM systems as exclusion and versioning tools -- DRM systems and technology markets -- role of DRM solutions in defining and constituting relevant markets -- barriers to entry to interoperability bars -- protect hardware and software platforms -- role of DRM in foreclosing markets.

**Subject:** Electronic rights management

**Subject:** Competition (Economics)--case law

**Subject:** Intellectual property rights

**SNIPER No.:** 2008/01350

**Author:** Ino, Sari

**Title:** Discussion of question 193: global situation for divisional, continuation and CIP patent application systems

**Source:** AIPPI: Bimonthly Journal of the International Association for the Protection of Intellectual Property of Japan. Vol. 33 No. 3, May 2008, pp. 135-142.

**Abstract:** Interrelationships between application systems and other related patent systems -- divisional and continuation application systems -- examination procedure -- CIP application system -- publication systems -- grace period for publications -- cascades of applications -- situation of US -- Japan -- EPO.

**Subject:** Patent applications

**SNIPER No.:** 2008/01404

**Author:** Bostyn, Sven J. R.

**Title:** Do you want biological or essentially biological vegetables?

**Source:** Bio-Science Law Review. Vol. 9 Issue 4, 2006/2007, pp. 146-155.

**Abstract:** Patentability of plants -- European Patent Convention -- exclusion for essentially biological processes for plant production -- referral from Technical Board of Appeal (TBA) to Enlarged Board of Appeal (EBA) for clarification of law -- problems with EPC provisions -- legislative history of the Biotechnology Directive -- interpreting Article 53(b) of the European Patent Convention -- TBA case law -- support for the Adopted Standard of Review in case law for other fields of technology -- applying the principles developed in other fields to the present referral.

**Subject:** Patentability--law and legislation--Europe

**Subject:** Patenting of life forms--law and legislation--Europe

**Subject:** Biotechnology--patentability--Europe

**SNIPER No.:** 2008/01213

**Author:** Olive, Gretchen M.

**Title:** A domain name policy in 10 easy steps

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.31-33

**Abstract:** Domain names --branding -- organisational domain name management -- companies need comprehensive policy to protect brands online -- define goals -- assign clear roles and responsibilities to stakeholders -- determine organisations web strategy in relation to its brands -- outline day-to-day implementation of strategy -- monitoring, escalation and enforcement mechanisms -- identify budget -- create standards --DNS controls -- define reporting -- policy and compliance review process

**Subject:** Intellectual property management

**Subject:** Domain names

**Subject:** Brand management

**SNIPER No.:** 2008/01402

**Author:** Smith, Catriona

**Title:** Don't get busted: avoid nine easy ways to lose your claim to copyright

**Source:** Copyright World. Issue 182, July/August 2008, pp. 24-26.

**Abstract:** Late success of a work brings out litigants who previously made no claim to it -- late claim may cause a judge to question why it was not made earlier -- lost and unreliable evidence -- abusing the process of the court -- Bob Marley case, Aston Barrett v Universal Records -- Busted -- claimant's witnesses unreliable -- no agreement -- trying to imply a term not thought of at the time - - arguing an implied term -- copyright transfer.

**Subject:** Copyright ownership--case law--United Kingdom

**Subject:** Copyright entitlement--case law--United Kingdom

**SNIPER No.:** 2008/01292

**Author:** Hudson, Emily

**Author:** Waller, Sophie

**Title:** Droit de suite down under: should Australia introduce a resale royalties scheme for visual arts? [Internet article]

**Source:** IPRIA Working Paper, no. 11.04. September 2004.

**Abstract:** A droit de suite entitles visual artists and their heirs to receive a royalty from the resale of certain works of art -- calls for Australia to introduce a resale royalty right into the Copyright Act - - academic commentary and empirical research question whether resale royalties achieve their stated aims -- evidence demonstrates that resale royalties tend to accrue to established artists and their heirs -- providing little or no financial benefit to the vast majority of artists -- whether Australia should introduce a droit de suite -- other alternatives to such a scheme.

**Subject:** Droit de suite--Australia

**Subject:** Copyright--reform--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP11.2004.pdf>

**SNIPER No.:** 2008/00955

**Author:** Littler, Harold

**Title:** Droit de suite: resale royalty right or wrong

**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 32-42.

**Abstract:** Possible introduction in Australia of resale royalty right for visual artists -- definition and history of droit de suite -- international droit de suite regimes -- Europe -- United States -- other non-European jurisdictions -- arguments for and against the introduction of droite de suite.

**Subject:** Droit de suite--Australia

**Subject:** Visual arts and crafts--Australia

**SNIPER No.:** 2008/01299

**Author:** Johnson, Melanye K.

**Title:** DuPont model may offer business solutions

**Source:** World Trademark Review. Iss. 14, July/August 2008, p. 4.

**Abstract:** Branding -- trade mark enforcement -- brand protection strategy -- DuPont IP protection strategies.

**Subject:** Branding

**Subject:** Trade mark enforcement

**SNIPER No.:** 2008/01388

**Author:** Somaya, Deepak

**Author:** Williamson, Ian O.

**Author:** Lorinkova, Natalia

**Title:** The effects of employee mobility between competitors and cooperators on firm performance [Internet article]

**Source:** IPRIA Occasional Paper, no. 01.07. April 2007.

**Abstract:** Impact of mobility on firm performance -- type of organization a focal firm hires external talent from -- loses talent to -- important role in shaping firms' external social capital -- shapes firms' business opportunities -- movement of a highly specialized type of employee -- patent law attorneys -- leading U.S. patent law firms -- which types of employee mobility are valuable to law firms for obtaining more business from specific Fortune500 clients.

**Subject:** Business--economics--United States

**Subject:** Attorneys--United States

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/IPRIA%20OP%2001.07.pdf>

**SNIPER No.:** 2008/01284

**Author:** Griffiths, William E.

**Author:** Jensen, Paul H.

**Author:** Webster, Elizabeth, 1957-

**Title:** The effects on firm profits of the stock of intellectual property rights [Internet article]

**Source:** IPRIA Working Paper, no. 05.05. May 2005.

**Abstract:** Effects of innovation on firm performance conventionally analysed using R&D or patent applications as measures for innovation capital and market value as the measure of firm performance -- studies fall short in three important respects -- proxies used for innovation capital are flows not stocks as the theory suggests -- estimations ignore other important intangible capital such as organisational and marketing capital -- by using market value studies heroically assume that stock markets work efficiently -- model of the effects of intangible capital -- innovation capital -- on firm profits -- using new measures for the former -- profits vary according to -- type of IP rights held by the firm -- age of the firm -- size of the firm -- lifespan of the IP right.

**Subject:** Innovation (Technological)

**Subject:** Intellectual property--economics

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP05.2005.pdf>

**SNIPER No.:** 2008/01280

**Author:** Weatherall, Kimberlee

**Author:** Jensen, Paul H.

**Title:** An empirical investigation into patent enforcement in Australian courts [Internet article]

**Source:** IPRIA Working Paper, no. 07.05. May 2005.

**General Note:** "Forthcoming, Federal law review (2005) Volume 32"

**Abstract:** Concern expressed in Australia that courts are providing inadequate protection for patent owners -- fundamental problems with this argument -- debate largely based on anecdotal evidence -- observed low levels of success in patent litigation disputes -- without properly recognizing that a patent does not provide any guarantee of validity if challenged in a court of law - - only those cases where validity is highly questionable may actually make it to court -- database of all patent enforcement decisions of Australian courts for the period 1997-2003 -- descriptive statistics on patent litigation -- patent owners are more likely to have at least some of their claims upheld in both validity and infringement determinations than they are to lose all of their claims.

**Subject:** Patent rights--Australia

**Subject:** Patent litigation--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP07.2005.pdf>

**SNIPER No.:** 2008/01358

**Author:** Shi, Qin

**Title:** Ensuring the best view: errors and omissions: the world of patent opinions

**Source:** Patent World. No. 204, July/August 2008, pp. 30-33.

**Abstract:** Procuring an opinion -- patentability opinions -- freedom-to-operate opinion -- non-infringement and invalidity opinions -- wilfulness -- what Seagate left out -- opinion post-Seagate -- conflicts.

**Subject:** Risk--management

**Subject:** Patent rights

**SNIPER No.:** 2008/01220

**Author:** Stal-Hilders, Marlous

**Title:** EU tries to stimulate healthy eating

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.70-72

**General Note:** Forms part of: Life Science Focus.

**Abstract:** European regulation 1924/2006/EC on nutrition and health claims on food -- Europe -- functional food -- misleading claims on packaging -- regulation shortfalls -- differences between nutritional and health claims -- nutritional claims list attached to regulation -- excluded claims -- claims allowed subdivided into three categories -- manufacturers required to request permits -- effect on trade marks that support a claim as messages and depictions covered by regulation -- exclusiveness of claims uncertain -- extensive rules -- legal insecurity -- transitional regulations -- regulation deadlines unlikely to be met -- delay to have stagnating effect on innovation of products

**Subject:** Europe. Regulation on Nutrition and Health Claims Made on Food (2006)

**Subject:** Manufacturing and processing industry--law and legislation--Europe

**Subject:** Value of intellectual property

**Subject:** Trade regulation--Europe

**SNIPER No.:** 2008/01326

**Author:** Chartered Institute of Patent Attorneys

**Title:** The European Community Patent: a proposal by CIPA

**Source:** CIPA Journal. Vol. 37 No. 6, June 2008, pp. 317-319.

**Abstract:** Desire of Community patent muted by cost -- lack of need for Community patents as protection in a single country within Europe prevents new product entering market -- political desire for single patent covering whole of European Community -- main difficulty concerns translations of Community patent -- 18 month publication delay of patents limits value of applications for technical awareness -- translation arrangements proposed in March 2003 criticised by patent owners for being high cost -- potential infringer should be able to read claims in a language they can understand -- impasse over costs -- average life of a patent granted by the European Patent Office EPO is only eight years -- "soft IP" approach model suggested carrying only the right to royalties not injunction -- licence of right -- standards setting organisations might register to act as arbiters in negotiations between patent owner and potential licensee -- Community patent must be capable of all the normal enforcement possibilities -- both licence of right and injunction should be available options

**Subject:** Patent licensing--Europe

**Subject:** Patent systems--reform--Europe

**Subject:** Patent litigation--Europe

**SNIPER No.:** 2008/01348

**Author:** Novak, Gregory V.

**Title:** Ex parte re-examination practice: the importance of establishing a substantial new question of patentability

**Source:** Patent World. World review: special IP reports, July/August 2008, pp. 6-7.

**Source:** Copyright World. World review: special IP reports, July/August 2008, pp. 6-7.

**Source:** Trademark World. World review: special IP reports, July/August 2008, pp. 6-7.

**Abstract:** Central re-examination unit (CRU) -- re-examination filing basics -- substantial new question of patentability (SNQ) -- US Patent and Trademark Office (PTO) -- content and style -- prior art -- tailoring how prior art applies.

**Subject:** Patent examination--United States

**Subject:** Legal defences--United States

**SNIPER No.:** 2008/00953

**Author:** Roxborough, Ben

**Title:** Fair basis: Lockwood's implications for patent litigation and drafting

**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 10-19.

**Abstract:** Application of fair basis following decision in Lockwood Security Products Pty Ltd v Doric Products Pty Ltd -- rationale and historical foundations of fair basis as ground to invalidate a patent -- limits of Mond Nickels Rules -- distinction between priority and internal fair basis -- Pfizer Overseas Pharmaceuticals v Eli Lilly Company -- analysis of principles emerging from Lockwood case -- framework for fair basis -- implications for patent drafting and litigation.

**Subject:** Patent claims--Australia

**Subject:** Patent validity--Australia

**SNIPER No.:** 2008/01387

**Author:** Weatherall, Kimberlee

**Title:** Fair use, fair dealing: the copyright exceptions review and the future of copyright exceptions in Australia [Internet article]

**Source:** IPRIA Occasional Paper, no. 03.05. May 2005.

**General Note:** Background paper to oral presentation SNAPSHOT 3, 20 May 2005

**Abstract:** Differences between fair use and fair dealing -- current copyright exceptions law -- areas where Australian law has been criticized -- changes that might be considered -- process of the review -- role that individual artists and arts managers might want to take in that process.

**Subject:** Fair use (Copyright)--Australia

**Subject:** Copyright--reviews--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20Paper%203.05.pdf>

**SNIPER No.:** 2008/01210

**Author:** McDermott, Eileen

**Title:** Federal Circuit seeks new patentability test in Bilski

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.22-23

**Abstract:** Federal Circuit judges -- en banc hearing -- Bernard Bilski -- United States Patent Office (USPTO) -- In re Bilski -- appeal from rejection by USPTO'S board of Patent Appeals and Interferences (BPAI) -- United States -- focus on what proper test should be for section 101 of patent law -- State Street Bank & Trust Co v. Signature Financial Group Inc -- AT&T v. Exel Communications, Inc -- concern with pin-pointing new language to define scope of patentability -- per se rules have been failures in this area -- potential for far-reaching implication for process patents overall -- could take six months for decision

**Subject:** Patentability--United States

**Subject:** Business methods--case law--United States

**SNIPER No.:** 2008/01324

**Author:** Pei, Nancy P.

**Title:** Federal Court of Canada comments on disclosure requirement for sound prediction

**Source:** Pharmaceutical Law Insight. Vol. 4 No. 6, June 2008, pp. 11-12

**Abstract:** Patent owners requirement to fully disclose to retain patent validity -- Canada -- utility requirements of patentability -- components of a sound prediction -- proper disclosure requirements -- Apotex Inc v. Wellcome Foundation -- Eli Lilly Canada Inc v. Apotex Inc -- GlaxoSmithKline v. Pharmascience Inc -- AZT -- Retrovir -- Raloxifene -- Valaciclovir

**Subject:** Pharmaceuticals--case law--Canada

**Subject:** Patent disclosure--case law--Canada

**Subject:** Patent validity--case law--Canada

**SNIPER No.:** 2008/01359

**Author:** Johnson, Alan

**Author:** Blum, Jeremy

**Title:** Final push for a European Patents Court

**Source:** Patent World. No. 204, July/August 2008, pp. 50.

**Abstract:** French push toward an agreement on the European Union Patent Judiciary -- highlights of the agreement -- negotiations.

**Subject:** Legal jurisdiction

**Subject:** Patents

**SNIPER No.:** 2008/01367

**Author:** Geiger, Christophe

**Title:** Flexibilising copyright: remedies to the privatisation of information by copyright law

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 2, 2008, pp. 178-197.

**Abstract:** Copyright on information -- technology -- products -- remedies for the privatisation by copyright law -- neighbouring and sui generis rights -- strength and seriousness of remedies -- overprotection -- three-step test to gain access to copyright protection -- copyright limitations.

**Subject:** Copyright owners' rights

**SNIPER No.:** 2008/01459

**Author:** Pearson, Lisa

**Author:** Miller, Laura

**Author:** Estrin, Lauren T.

**Title:** From fashion catwalks to the courts: copyright protection for fabric designs

**Source:** Copyright World. Issue 179, April 2008, pp. 20-23.

**Abstract:** Fabric designs -- protected by copyright in the United States -- pictorial or graphic work -- clothing designs -- not protected by copyright -- utilitarian function -- prints and designs do not lose copyrightability because they appear on utilitarian article -- copyright protection does not extend to familiar symbols or designs -- little creative input -- "narrow" copyright protection -- inspiration from others in field -- adapting existing works -- public domain -- who owns the copyright? -- substantial similarities -- ordinary observer test -- registering the designs -- trade mark protection -- copyright infringement suits.

**Subject:** Copyright owners' rights

**Subject:** Industrial designs--manufacturing and processing industry--United States

**Subject:** Industrial design infringement--case law--United States

**SNIPER No.:** 2008/01419

**Author:** Moore, Michael

**Title:** A general period of grace in a first to file world: key issues

**Source:** Intellectual Property Quarterly. Issue 1, 2002, pp. 76-96.

**Abstract:** Scope of Article 12 of the Patent Law Treaty 2000 -- duration of grace period -- means of disclosure -- filing date -- inventor -- time limit -- evidence and priority -- comparison of first to file jurisdictions with and without general period of grace.

**Subject:** Patent Law Treaty (2000)

**Subject:** Patent disclosure

**Subject:** Patent granting

**SNIPER No.:** 2008/01354

**Author:** Johnson, Alan

**Author:** Bacon, Greg

**Author:** Blum, Jeremy

**Title:** Generic companies have a bad hair day in the Court of Appeal: UK brought into line with the EPO on second medical use patents

**Source:** Patent World. No. 204, July/August 2008, pp. 15-16.

**Abstract:** English Court of Appeal -- Actavis UK Ltd v Merck & Co Inc -- appeal to revoke Merck's second medical use patent -- finasteride -- European Patent Convention (EPC) 1973 -- post-Eisai - - Bristol-Myers Squibb -- departing from existing Court of Appeal case law.

**Subject:** Swiss-type claims--United Kingdom

**SNIPER No.:** 2008/01415

**Author:** Peberdy, Morag

**Author:** England, Paul

**Title:** Glaxo Group Ltd v Genentech Inc: no presumption in favour of a stay of UK patent revocation proceedings

**Source:** European Intellectual Property Review. Vol. 30 No. 8, 2008, pp. 336-337.

**Abstract:** Stay of UK patent revocation proceedings pending European Patent Office (EPO) proceedings -- Glaxo Group Ltd. v. Genentech Inc. -- legal context -- facts of the case -- analysis of the decision -- practical significance.

**Subject:** Legal procedure--case law--United Kingdom

**Subject:** Patent revocation--case law--United Kingdom

**SNIPER No.:** 2008/01207

**Author:** Gupte, Eklavya

**Title:** Gurry narrowly wins WIPO vote

**Source:** Managing Intellectual Property. Iss. 180, June 2008, p. 12

**Abstract:** Vote for next WIPO director-general -- Francis Gurry -- Australia -- defeated José Graça Aranha in two-way vote -- other candidates eliminated or withdrew -- will be fourth director-general of WIPO

**Subject:** World Intellectual Property Organisation--management

**SNIPER No.:** 2008/01369

**Author:** Heath, Christopher

**Title:** Harmonisation of international patent law?: a reply to Straus and Klunker

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 2, 2008, pp. 210-216.

**General Note:** See also related article: 2008/00428

**Abstract:** Harmonisation as desirable -- differences in granting practice of patents despite harmonised criteria of patentability -- understanding that harmonisation means broader protection - - extension of patentable subject matter -- harmonisation for developing countries -- harmonisation results in increased knowledge transfer -- discriminatory treatment of intangible property -- number of developing countries do not respect patent protection for certain categories of inventions -- little evidence to conclude uniform patent system would benefit developing or developed countries.

**Subject:** Patents--harmonisation

**SNIPER No.:** 2008/01346

**Author:** Rimmer, Matthew

**Title:** Harry Potter and the lexicon of doom

**Source:** Australian Intellectual Property Law Bulletin. Vol. 21 No. 2, July 2008, pp.26-29

**Abstract:** JK Rowling -- Harry Potter books -- Harry Potter lexicon -- Steven Vander Ark -- RDR books -- intellectual property infringement -- United States -- Netherlands -- United Kingdom -- Canada -- impact on publication of reference books and literary supplements -- doctrine of fair use -- Time Warner Entertainment Co v. Stepsam Investments Pty Ltd -- case would have stronger position in Australia -- passing off -- deceptive conduct -- Warner Bros Entertainment Inc v. RDR books

**Subject:** Copyright infringement--United States

**Subject:** Fair use (copyright)--United States

**SNIPER No.:** 2008/01281

**Author:** Dewo, Setio Anggoro

**Author:** Gans, Joshua, 1968-

**Author:** Hirschberg, Joseph

**Title:** Has investment in start-up firms driven incumbent innovation strategy?: evidence from semiconductor and biotechnology venture capital funded firms [Internet article]

**Source:** IPRIA Working Paper, no. 16.05. August 2005.

**Abstract:** Empirical examination of venture capital funding to start-up firms in semiconductors and biotechnology to examine the impact of this on incumbent R&D strategy -- contrary to claims and theoretical predictions that the rise in start-up R&D activity would drive incumbents to become more innovative data does not find any significant relationship between the two -- question whether expectations of a large strategic effect from start-up activity are warranted.

**Subject:** Industrial research and development

**Subject:** Venture capital

**Subject:** Biotechnology

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP16.2005.pdf>

**SNIPER No.:** 2003/00305

**Author:** Miller, Ben

**Title:** High Court rules on obviousness

**Source:** Australian Intellectual Property Law Bulletin. Vol. 15 No. 8, January 2003, pp. 121-123.

**Abstract:** Obviousness as a ground for patent revocation -- Aktiebolaget Hassle v. Alphapharm Pty. Ltd. -- Australian omprazole case -- Federal Court case -- relevant Patent Act provisions -- reasoning of High Court majority -- minority decision.

**Subject:** Inventive step--case law--Australia

**SNIPER No.:** 2008/00932

**Author:** Molet, Jorge

**Title:** How to know if a mark is descriptive: understanding the criteria

**Source:** Copyright World. IP rights in Mexico, April 2008, pp. 5.

**Abstract:** Definition of a mark according to Mexican legislation -- distinctive character -- descriptive words -- formed by signs or indications -- must serve to distinguish a product from its competitors -- define aspects of products or services -- use of adjectives -- benefit of including previous applications.

**Subject:** Trade mark registrability--Mexico

**SNIPER No.:** 2008/01217**Author:** Groom, Suzy**Title:** How to reward inventive employees**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.42-44**Abstract:** Ownership of Intellectual property generated by employees -- rewarding creativity -- different systems operate in main jurisdictions -- European position --no legislative regime implemented in Australia -- Japanese regime -- Olympus Optical v. Tanaka -- reasonable compensation -- no legislative regime implemented in America -- common law of the state in which the employee works will apply if no contract -- shop rights -- distinction between employment in invention and research -- University of Western Australia v. Gray**Subject:** Intellectual property management**Subject:** Inventors' rights**Subject:** Patent entitlement**Subject:** Patent litigation**SNIPER No.:** 2008/01215**Author:** Kakish, Hazem Farah**Author:** Rease, Simmy Flame**Title:** How to tackle fakes in the UAE**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.37-39**Abstract:** Counterfeiting -- United Arab Emirates (UAE) -- Brand Owners Protection Group (BPG) -- counterfeiters sourcing goods from low-cost manufacturing countries -- legal options for intellectual property owners in UAE -- federal and local courts -- most emirates now have incorporated judicial systems into UAE Federal Judicial Authority -- UAE member of WIPO and a contracting party to a number of IP treaties -- administrative actions cost effective compared to alternatives -- criminal complaint -- criminal action usually based on article 37 & 38 of UAE Federal Trademarks law -- punishment for IP theft in UAE has increased -- civil action -- counterfeiters targeting UAE ports as transshipment points -- specialised IP customs units established -- brand owners cautious in taking action against infringers during initial stages**Subject:** Counterfeiting--United Arab Emirates**Subject:** Brand management--United Arab Emirates**Subject:** Intellectual property enforcement--United Arab Emirates**SNIPER No.:** 2008/01302**Author:** Morris, William J.**Title:** How UDRP panels address the use of privacy services**Source:** World Trademark Review. Iss. 14, July/August 2008, p. 70.**Abstract:** Domain registrations -- Uniform Domain Dispute Resolution Policy (UDRP) -- privacy services affecting domain name dispute decisions -- UDRP complaint approaches -- trade mark infringement**Subject:** Domain name dispute resolution

**SNIPER No.:** 2008/01228

**Author:** Farrington, Edward

**Author:** Dahlin, Katrin Lindberg

**Author:** Inger, Ulf

**Title:** If in doubt, deposit

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.95-97

**General Note:** Forms part of: Life Science Focus.

**Abstract:** The Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purpose of Patent Procedures -- biotechnology -- micro-organisms deposited in multiple collection to meet adequate disclosure for patent application -- expensive -- concern of availability of micro-organisms deposited -- deposition made at International Depositary Authority (IDA) -- deposit must be viable -- disclosure -- IDA only needs to furnish a sample of a particular micro-organism if request is accompanied with authorisation of the depositor or certificate from a competent industrial property office indicating legitimacy of request -- particular IDA may not accept all micro-organisms -- no unified position by EU countries on deposition requirements

**Subject:** Biotechnology

**Subject:** Intellectual property--treaties

**Subject:** Micro-organisms--patentability

**SNIPER No.:** 2008/00952

**Author:** Sexton, Christopher

**Title:** In conversation with the Honourable Justice Emmett

**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 6-9.

**Abstract:** Judge at the Federal Court of Australia -- knowledge and experience in commercial law -- intellectual property -- corporations -- admiralty -- taxation -- trusts and competition law -- interest in Roman Law.

**Subject:** Arthur Emmett--interviews

**SNIPER No.:** 2008/01301

**Author:** Jurdi, Fadi

**Title:** Infrastructure - and budget - are the keys to combating counterfeiting

**Source:** World Trademark Review. Iss. 14, July/August 2008, p. 60.

**Abstract:** Branding -- building brand equity -- trade mark management -- trade mark enforcement -- reluctance of rights owners to take action against counterfeiters.

**Subject:** Brand management

**Subject:** Counterfeiting

**SNIPER No.:** 2008/01319

**Author:** Greenhalgh, Christine

**Author:** Rogers, Mark

**Title:** Intellectual property activity by service sector and manufacturing firms in the UK, 1996-2000 [Internet article]

**Source:** IPRIA Working Paper, no. 03.06. February 2006.

**Abstract:** UK firms -- intellectual property acquisition activities -- service sector firms -- comparisons for firms in manufacturing -- other sectors -- agriculture -- measures of IP -- trade marks -- patents -- applied for via both the UK and European routes -- firm characteristics positively correlated with IP activity include larger firm size -- stock market listed status -- high product market diversification.

**Subject:** Intellectual property--United Kingdom

**Subject:** Trade marks--economics--United Kingdom

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2006/IPRIAWP03.2006.pdf>

**SNIPER No.:** 2008/01391

**Author:** Christie, Andrew, LL. M., Ph. D.

**Author:** Pryor, Sally

**Title:** Intellectual property and intangible assets: a legal perspective [Internet article]

**Source:** IPRIA Occasional Paper, no. 01.05. April 2005.

**Abstract:** Different meanings of intellectual property -- intellectual property rights (IPRs) -- right of exclusivity -- common characteristics of IPRs -- intellectual property laws -- copyright -- patents -- trade marks -- other statutory regimes -- non-statutory regimes.

**Subject:** Intellectual property

**Subject:** Intellectual property rights

**Subject:** Intellectual property law

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20Paper%201.05.pdf>

**SNIPER No.:** 2008/01386

**Author:** Christie, Andrew, LL. M., Ph. D.

**Author:** Caine, Emma

**Title:** Intellectual property law and policy-making in Australia: a review and a proposal for action [Internet article]

**Source:** IPRIA Occasional Paper, no. 02.05. April 2005.

**Abstract:** History of intellectual property law and policy-making in Australia from federation until the present -- dramatic increase in the volume of IP legislation -- future trend of exponential growth -- growth is neither desirable nor inevitable -- simplification of IP legislation -- unification of IP administration.

**Subject:** Intellectual property law--history--Australia

**Subject:** Intellectual property--policy--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20Paper%202.05.pdf>

**SNIPER No.:** 2008/01351

**Author:** Takabe, Makiko

**Title:** Intellectual property litigation: future issues (Part 3)

**Source:** AIPPI: Bimonthly Journal of the International Association for the Protection of Intellectual Property of Japan. Vol. 33 No. 3, May 2008, pp. 143-153.

**General Note:** Third article in a series of three. See also: 2008/00706; 2008/00758

**Abstract:** Evidence relating to trade secrets and Civil Procedure Law -- protective order and closed trial for examination under the Patent Act -- document production order under the Patent Act -- in-camera procedure -- future issues.

**Subject:** Patent litigation--Japan

**Subject:** Evidence--Japan

**Subject:** Trade secrets--Japan

**SNIPER No.:** 2008/01409

**Author:** Hargreaves, Mark

**Author:** Holland, Jonas

**Title:** Intellectual property: ownership of research-based inventions

**Source:** Bio-Science Law Review. Vol. 9 Issue 4, 2006/2007, pp. 169-170.

**Abstract:** Ownership of intellectual property produced by university researchers -- University of Western Australia v. Gray -- liver cancer treatment invented by Dr Gray and commercialised by Sirtex -- facts of the case -- analysis of the decision -- implications for universities and businesses relying on university-produced inventions.

**Subject:** Patent entitlement--case law--Australia

**Subject:** Patent ownership--case law--Australia

**Subject:** Patent entitlement--education and training industry--Australia

**Subject:** Patent ownership--education and training industry--Australia

**SNIPER No.:** 2008/01340

**Author:** Abovyan, Arpi

**Title:** Intellectual property rights: legislation and enforcement in the Republic of Armenia

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 1, 2008, pp. 4-34.

**Abstract:** Background on Armenia -- IP legislation -- participation in IP agreements -- legislative acts governing industrial property -- legislative acts governing the regulation of copyright and related rights -- legislative acts governing enforcement -- institutional and administrative structure for the enforcement of legislation regulating intellectual property law -- strategy of state regulation in the sphere of IP of the IPR agency -- statistical data of the IPR agency.

**Subject:** Intellectual property rights--law and legislation--Armenia

**Subject:** Intellectual property enforcement--Armenia

**SNIPER No.:** 2008/01277

**Author:** Samson, Danny

**Author:** Terziovski, Mile

**Author:** Lai, Amy

**Title:** Intellectual property strategy and business strategy: connections through innovation strategy [Internet article]

**Source:** IPRIA Working Paper, no. 08.05. June 2005.

**Abstract:** Increasing attention given to the active management of intellectual property -- growth in emphasis has occurred as organisations increasingly move towards being bundles of knowledge -- intangible assets significantly more valuable than tangible assets -- organisations that innovate will be superior in their profit and growth performance -- innovation processes -- process -- products -- competitive position -- business model.

**Subject:** Intellectual property

**Subject:** Business

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP08.2005.pdf>

**SNIPER No.:** 2008/01400

**Author:** Wilkie, Ed

**Author:** Porter, Hamish

**Title:** International music industry tackles Baidu: the rise of illegal music downloads

**Source:** Copyright World. Issue 182, July/August 2008, pp. 18-20.

**Abstract:** Increase in the availability of music on the internet -- illegal downloads a massive problem -- difficult to combat -- peer-to-peer sites -- ISPs have power to monitor users and suspend internet use -- reluctant to take responsibility for subscribers actions -- invasion of privacy issues -- the Chinese problem -- Baidu -- market leader in terms of advertising revenue -- index of multimedia files -- high proportion pirated -- coalition of music labels sued Baidu for copyright infringement -- Beijing First Intermediate Court disagreed -- appeal court upheld decision -- contrast with the Yahoo! China case -- industry looking for new ways to address the problem -- cut off Baidu's advertising revenue.

**Subject:** Piracy--case law--China

**Subject:** Copyright infringement--case law--China

**Subject:** Culture and entertainment industry--China

**SNIPER No.:** 2008/01352

**Author:** Iwase, Yoshikazu

**Title:** IP High Court's criticizing decisions regarding the JPO practice

**Source:** AIPPI: Bimonthly Journal of the International Association for the Protection of Intellectual Property of Japan. Vol. 33 No. 3, May 2008, pp. 154-156.

**Abstract:** Intellectual Property High Court (IPHC) -- criticized the practices of the Japanese Patent Office -- patent related practice -- validity of claims -- trade mark practice -- registrability of a design application -- trade mark cancellation and invalidation actions.

**Subject:** Intellectual property litigation--Japan

**SNIPER No.:** 2008/01394

**Author:** Morgan, Owen, Dr

**Author:** Caine, Emma

**Title:** IPRIA: the vision is to be a research institute of world repute [Internet article]

**Source:** IPRIA Occasional Paper, no. 01.04. March 2004.

**Abstract:** Background on the establishment of the Intellectual Property Research Institute of Australia (IPRIA) -- objectives and structure -- staff of IPRIA -- research associates -- international bodies -- international research associates -- Australian government departments and other organisations -- Australian professional associations -- international research associations -- the challenge -- funding -- uniqueness -- research programs.

**Subject:** Intellectual property--research--Australia

**Subject:** Intellectual property industry--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20paper%201.04.pdf>

**SNIPER No.:** 2008/01396

**Author:** Clark, Simon

**Author:** Llewellyn, Gavin

**Title:** It all came out in the wash: massage balls can also be laundry aids

**Source:** Copyright World. Issue 182, July/August 2008, pp. 10-11.

**Abstract:** Green Lane Products Limited v PMS International Group Limited & others -- Green Lane registered a spiky ball design for use in tumble dryers -- sued PMS for infringement as a result of its manufacture and sale of similar balls as laundry aids -- PMS challenged validity of Green Lane's registered design -- interpreting the sector concerned -- scope of prior art -- challenging novelty and individual character.

**Subject:** Industrial design registration--case law--United Kingdom

**Subject:** Industrial design novelty--case law--United Kingdom

**SNIPER No.:** 2008/01349

**Author:** Mielke, Tomasz

**Title:** It's all in the name: MILKA v MIKLA

**Source:** Patent World. World review: special IP reports, July/August 2008, pp. 9-10.

**Source:** Copyright World. World review: special IP reports, July/August 2008, pp. 9-10.

**Source:** Trademark World. World review: special IP reports, July/August 2008, pp. 9-10.

**Abstract:** District Administrative Court in Warsaw (DAC-W) -- Polish law -- DAC-W decision -- MILKA v MIKLA -- argument against MIKLA -- importance of being well known.

**Subject:** Trade mark opposition--Poland

**Subject:** Trade mark litigation--Poland

**SNIPER No.:** 2008/01039

**Author:** Tessensohn, John A.

**Author:** Yamamoto, Shūsaku, 1949-

**Title:** It's not easy being green: recycling leaves a Japanese patent infringement footprint

**Source:** Patent World. No. 203, June 2008, pp. 17-18.

**Abstract:** Recycle Assist Co Ltd v Canon Co Ltd -- refurbishment -- importation -- sale of recycled ink cartridges -- infringes a patented product claim covering the ink cartridge -- District Court and Intellectual Property High Court of Japan (IPHCJ) decisions -- Supreme Court decision -- impact on the recycling industry.

**Subject:** Patent infringement--case law--Japan

**Subject:** Environmental issues in intellectual property--manufacturing and processing industry--Japan

**SNIPER No.:** 2008/01329

**Author:** Jauss, Sean

**Title:** Know-how as confidential information

**Source:** CIPA Journal. Vol. 37 No. 6, June 2008, pp 333-335

**Abstract:** Trade secrets -- confidential information often treated as a form of intellectual property but has no statutory basis and relies on common law and contract obligation -- intellectual property rights -- The nature of information -- information access -- information entropy -- leakage of confidential information -- limbs to be demonstrated for an actionable breach -- confidentiality agreements -- breach actionable under contract law and permits three remedies: damages, specific relief, termination -- provision of know-how a valuable subset of technically-orientated confidential information -- often treated incorrectly in contracts -- conflicts of interest management - - most common in contracts between business and universities -- creation of time limited confidentiality provisions linked to filing of patent applications

**Subject:** Trade secrets

**Subject:** Confidentiality agreements

**Subject:** Intellectual property management

**SNIPER No.:** 2008/01360

**Author:** Lao, Marina

**Title:** Leegin and resale price maintenance: a model for emulation or for caution for the world?

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 3, 2008, pp. 253-258.

**Abstract:** Leegin Creative Leather Products Inc v PSKS Inc decision -- per se condemnation of minimum resale price maintenance (RPM) -- rule of reason analysis -- anticompetitive aspects of RPM -- pro-competitive claims -- policy implications of rule of reason analysis -- vertical price restraint.

**Subject:** Competition (Economics)--case law--United States

**SNIPER No.:** 2008/01368

**Author:** Pflüger, Almut, 1955-

**Title:** Legal research in practice: empirical legal research and research into legal facts

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 2, 2008, pp. 198-210.

**Abstract:** Areas of use of legal research -- empirical research in trade mark law -- relevance of expert opinion -- measurement of trade mark acceptance/secondary meaning in Germany -- empirical legal research in connection with proceedings due to infringements -- trade mark law and competition law -- empirical research at the international level.

**Subject:** Intellectual property law--research--Germany

**Subject:** Trade marks--law and legislation--Germany

**SNIPER No.:** 2008/01389

**Author:** Weatherall, Kimberlee

**Title:** Locked in: Australia gets a bad intellectual property deal [Internet article]

**Source:** IPRIA Occasional Paper, no. 04.04. December 2004.

**Abstract:** Chapter 17 -- IP Chapter of the Australia-US Free Trade Agreement (AUSFTA) -- What does Chapter 17 really mean for innovation policy in Australia? -- policymakers face significant challenges in implementing the treaty in ways that minimize burdens on the Australian economy -- US wants to raise IP standards worldwide -- moved to impose its preferred standards using a template approach -- regardless of whether they address some 'problem' in the negotiating partner country -- locks Australia in to one particular model of IP law -- IP law needs to be flexible -- to accommodate new technologies -- needs to be reviewed frequently to make sure it is achieving its basic goals -- Is US law a good model for Australia? -- spur to further Australian creativity? -- US law does not represent an optimal balance -- longer copyright term -- anti-competitive effects of broader copyright -- concerns for the future.

**Subject:** Intellectual property--policy--Australia

**Subject:** Intellectual property law--reform--Australia

**Subject:** Free trade--Australia

**Subject:** Free trade--United States

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/occasional%20papers/Occasional%20paper%204.04.pdf>

**SNIPER No.:** 2008/01307

**Author:** Jensen, Paul H.

**Author:** Webster, Elizabeth, 1957-

**Title:** Managing knowledge flows through appropriation and learning strategies [Internet article]

**Source:** IPRIA Working Paper, no. 06.06. March 2006.

**Abstract:** Management of outgoing and incoming knowledge -- firms stem their outflow of commercially-sensitive knowledge -- patents -- secrecy -- stimulate inflows of commercially-valuable knowledge -- networking -- external interaction -- learning styles undermine some appropriation mechanisms -- paradox of openness -- conflict between firms' openness -- ability to appropriate innovation profits.

**Subject:** Information management--Australia

**Subject:** Patents--Australia

**Subject:** Trade secrets--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2006/IPRIAWP06.2006.pdf>

**SNIPER No.:** 2008/01322

**Author:** Jensen, Paul H.

**Author:** Webster, Elizabeth, 1957-

**Title:** Market power, brand characteristics and demand for retail grocery products [Internet article]

**Source:** IPRIA Working Paper, no. 05.06. February 2006.

**Abstract:** Effects of market power -- product differentiation -- demand for grocery products in Australia 2002 to 2005 -- relationship between -- demand -- market power -- brand characteristics - characteristics of each brand -- environment-friendly -- private label -- recyclable materials.

**Subject:** Retail industry--Australia

**Subject:** Brand management--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2006/IPRIAWP05.2006.pdf>

**SNIPER No.:** 2008/01356

**Author:** Dowling, Michael

**Title:** A matter of privilege: the need for major changes is established!

**Source:** Patent World. No. 204, July/August 2008, pp. 21-23.

**Abstract:** WIPO / AIPPI conference on IP privilege -- key points established -- overview on prospects for harmonisation -- rationale for harmonisation -- loss of confidentiality and privilege -- improvement in national laws -- minimum standards -- future plans.

**Subject:** Legal privilege

**Subject:** Harmonisation of laws

**SNIPER No.:** 2008/01304

**Author:** Hunter, L. C. (Laurence Colvin), 1934-

**Title:** Measuring intangible capital: a review of current practice [Internet article]

**Source:** IPRIA Working Paper, no. 16.04. March 2005.

**Abstract:** Firm-level investments into intangible capital -- developing metrics to measure intellectual capital -- perceived gap in financial reporting on intangible investments -- back to basics "costs" approach -- intangible capital as assets -- based on management intent when investments are made.

**Subject:** Intellectual capital

**Subject:** Investment

**Author:** Webster, Elizabeth, 1957-

**Author:** Wyatt, Anne

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP16.2004.pdf>

**SNIPER No.:** 2008/01303

**Author:** Hunter, L. C. (Laurence Colvin), 1934-

**Author:** Webster, Elizabeth, 1957-

**Author:** Wyatt, Anne

**Title:** Measuring intangible investment [Internet article]

**Source:** IPRIA Working Paper, no. 18.05. October 2005.

**Abstract:** Investment process leading to the creation of intangible assets -- selecting a suitable metric -- obtaining the information to construct a metric -- deficiency of information -- shareholders and external stakeholders -- internal management -- level of returns to past investments -- form expectations about future investments -- implications of the information deficiency -- develop an intangible metric.

**Subject:** Accounting

**Subject:** Investment

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP18.2005.pdf>

**SNIPER No.:** 2008/01397

**Author:** Thornton, Penelope

**Title:** Media copycat caught in the spotlight: Dr Raj Persaud accused of plagiarism

**Source:** Copyright World. Issue 182, July/August 2008, pp. 12-13.

**Abstract:** General Medical Council (GMC) -- suspended Dr Raj Persaud for plagiarism -- increase in instances of plagiarism -- proliferation of material online -- plagiarism and sanctions -- copyright infringement -- passing off -- acknowledgements -- copying a substantial part -- qualitative rather than quantitative -- copyright infringement defences -- fair dealing -- right to be identified as the author when work is published commercially -- case highlights the ease with which material can be found, copied and reproduced without fear of consequence -- software developed to tackle the problem.

**Subject:** Copyright infringement

**Subject:** Fair use (Copyright)

**SNIPER No.:** 2008/00935

**Author:** Santoyo, Saul

**Author:** Yoshiki, Satoshi

**Title:** Mexican border control

**Source:** Copyright World. World review: special IP reports, April 2008, pp. 3-6.

**Abstract:** Counterfeiting and piracy -- Mexican law -- several legal procedures for enforcement of industrial property rights against counterfeiters -- Mexican Institute of Industrial Property (IMPI) -- General Prosecutor's Office (PGR) -- Mexican General Customs Administration (AGA) -- sources for counterfeiting products -- AGA has no legal obligation to enforce intellectual or industrial property rights -- trade mark enforcement -- criminal actions -- random inspection.

**Subject:** Counterfeiting--Mexico

**Subject:** Intellectual property enforcement--Mexico

**SNIPER No.:** 2008/01406

**Author:** Baldock, Claire

**Title:** Monsanto puts Biotech Directive under the spotlight

**Source:** Bio-Science Law Review. Vol. 9 Issue 4, 2006/2007, pp. 160-163.

**Abstract:** Interpretation of European Biotechnology Directive -- Monsanto Technology LLC v. Cefetra BV and the State of Argentina -- background to the case -- claim of infringement of DNA and method claims of Monsanto 'Roundup Ready' patent -- Cefetra defence -- Monsanto arguments -- Argentine position -- referral to European Court of Justice from the Netherlands -- implications of the ECJ decision.

**Subject:** Europe. Directive on the Legal Protection of Biotechnological Inventions (1998)--case law

**Subject:** Biotechnology--case law--Europe

**Subject:** Patent infringement--case law--Europe

**Subject:** Genetic modification--case law--Europe

**SNIPER No.:** 2008/01295

**Author:** Dickerson, Jeremy

**Title:** Moving on from passing off

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 9-12.

**Abstract:** United Kingdom law for passing off -- misappropriation of brand goodwill -- unfair commercial practices directive -- protection of brand owners under international obligations -- brand infringement -- L'Oreal v. Bellure

**Subject:** Passing-off--case law--United Kingdom

**Subject:** Competition (Economics)--case law--United Kingdom

**SNIPER No.:** 2008/01323

**Author:** Roberts, Gwilym

**Title:** Much awaited new edition of CIPA's patents training manual: chapter 13, practical issues

**Source:** CIPA journal. Vol. 37 No. 6, June 2008, pp. 330-331

**General Note:** First article in a series of two. See also: 2008/01328.

**Abstract:** Manual addresses legal, commercial and practical issues likely to face a trainee -- United Kingdom --urgent filings -- end of priority year -- national regional phase -- time limits for each country -- translations -- European regional phase -- interaction with your foreign attorneys important -- easier to be found negligent as a result of omission than result of error -- augmenting the application -- first period is priority year -- effectively adding information during priority year -- prior art problems -- second period runs to publication of application -- third period after publication of original patent application -- novelty step -- inventive step --issue to consider the totality of the disclosure -- possible to obtain patent for incremental improvements on a core concept

**Subject:** Patent processing--United Kingdom

**Subject:** Patent attorneys--United Kingdom

**SNIPER No.:** 2008/01330

**Author:** Mark, Ben

**Author:** O'Sullivan, Nina

**Title:** New consumer and business protection regime

**Source:** CIPA Journal. Vol. 37 No. 6, June 2008, pp. 336-338

**Abstract:** Consumer protection from Unfair Trading Regulation 2008 (CPRs) -- Business Protection from Misleading Marketing Regulations 2008 (BRPRs) -- change in consumer protection regime -- United Kingdom --intellectual property owners rights -- Unfair Commercial Practices Directive -- Europe -- framework -- general prohibitions -- misleading or aggressive commercial practices -- practices prohibited in all circumstances -- Enforcement of the CPRs -- Office of Fair Trading (OFT) -- Trading Standard Services (TSS) -- no private civil action under the CPRs -- copycat packaging provisions -- Misleading Advertisements Regulations 1988 revoked by the CPRs and replaced by the BPRS -- misleading advertising -- factors in determining misleading advertising -- comparative advertising -- enforcement of the BPRS -- O2 Holdings v. Hutchison 3G

**Subject:** Competition law--United Kingdom

**Subject:** Intellectual property rights--United Kingdom

**Subject:** Harmonisation of laws

**SNIPER No.:** 2008/01347

**Author:** Turbayne, Jane

**Title:** New regime for registered trade mark and patent attorneys

**Source:** Australian Intellectual Property Law Bulletin. Vol. 21 No. 2, July 2008, pp.30-31

**Abstract:** Significant regulatory and disciplinary regime changes -- Australia -- result of review by the Professional Standards Board for Patent and Trade Marks Attorneys -- required to complete appropriate continuing professional education (CPE) to renew registration -- guidelines available on PSB website -- must maintain record of CPE -- records subject to random audits -- change to pre-registration employment requirements for patent attorneys -- must obtain statement of skill -- extensive guidelines available on PSB website -- disciplinary regime completely overhauled -- more flexible -- no formal complaint to PSB needed -- patterns of conduct taken into account -- code of conduct -- key definitions of misconduct amended

**Subject:** Patent attorneys--Australia

**Subject:** Trade mark attorneys--Australia

**SNIPER No.:** 2008/01290

**Author:** Christie, Andrew, LL. M., Ph. D.

**Author:** Dias, Eloise

**Title:** The new right of communication in Australia [Internet article]

**Source:** IPRIA Working Paper, no. 01.05. February 2005.

**Abstract:** New right of communication to the public was introduced into Australian copyright law in 2000 -- conceptualisation of this new right and the WIPO Copyright Treaty article on which it is based -- when, where and by whom a communication to the public occurs in the context of transmission of a copyright work over the internet -- Australian communication right has an extraterritorial effect that is outward and inward -- most uploading and downloading of a copyright work anywhere in the world will constitute an exercise of that right.

**Subject:** Electronic copyright--Australia

**Subject:** Intellectual property law--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP01.2005.pdf>

**SNIPER No.:** 2008/01221

**Author:** Mitelman, Carlos O.

**Author:** Zuccherino, Daniel R.

**Title:** New uses for old medicines

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.73-75

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Patents -- Argentina -- chemical-pharmaceutical industry -- development of innovative medication -- pharmaceutical research -- products easily imitated once marketed -- rebranding of products for different medical uses -- Sildenafil -- Viagra -- novelty of the cause-effect relationship considered -- first, second, and subsequent therapeutic or pharmaceutical indications patentability -- European patent convention -- patentability prohibitions of medical methods -- Argentina's position -- Argentine Institute of Industrial Property (AIIP) excludes patentability of second medical uses -- difficulty in patenting new therapeutic indications -- Obligado & Cia disagree with the interpretation of AIIP in Circular Letter 008/2002 and Resolution 243/2003 regarding the scope of prohibition in Section 6e of Act 24.481

**Subject:** Patent systems--law and legislation--Argentina

**Subject:** Pharmaceuticals--patentability

**Subject:** Intellectual property rights--health and community services industry--Argentina

**SNIPER No.:** 2008/01393

**Author:** Morgan, Owen, Dr

**Title:** The New Zealand Trade Marks Act: no place for offence [Internet article]

**Source:** IPRIA Occasional Paper, no. 02.03. November 2003.

**Abstract:** Absence of overarching protection for cultural heritage -- indigenous people have turned to the intellectual property regime -- misuse of Māori words, symbols and imagery has caused offence -- concerns of Māori with the trade marks system have now been given statutory expression -- Trade Marks Act 2002 -- prohibition on the registration of marks which would be likely to give offence to a significant section of the community -- meaning of "offend" is not defined in the new Act -- has introduced uncertainty -- clear distinction between the use of a word, symbol or image and its registration as a trade mark -- no obligation to register a word or symbol as a trade mark -- Trade Marks Act has no role in policing the use of unregistered marks.

**Subject:** Indigenous issues in trade marks--New Zealand

**Subject:** Trade mark systems--reform--New Zealand

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20Paper%202.03.pdf>

**SNIPER No.:** 2008/01305

**Author:** Weatherall, Kimberlee

**Title:** On technology locks and the proper scope of digital copyright laws: SONY in the High Court [Internet article]

**Source:** IPRIA Working Paper, no. 17.04. December 2004.

**Abstract:** SONY case -- facts -- issues and arguments -- interpreting 'technological protection measure' -- available alternatives -- which alternative is consistent with legal and historical context -- proper approach to statutory interpretation in SONY -- principle -- legal and historical context.

**Subject:** Electronic copyright

**Subject:** Intellectual property law--interpretation

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP17.2004.pdf>

**SNIPER No.:** 2008/01309

**Author:** Erkal, Nisvan

**Title:** On the interaction between patent policy and trade secret policy [Internet article]

**Source:** IPRIA Working Paper, no. 14.04. November 2004.

**Abstract:** Intellectual property protection -- patent protection -- trade secret protection -- complementary and substitute roles -- use of patent protection -- use of trade secret protection -- determining optimal patent length and scope -- optimal trade secret policy.

**Subject:** Trade secrets

**Subject:** Patent rights

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP14.2004.pdf>

**SNIPER No.:** 2008/01405

**Author:** Jackson, Stuart

**Author:** Whitehead, Brian

**Author:** Kempner, Richard

**Title:** On the other hand: is this the last word on patenting enantiomers?

**Source:** Bio-Science Law Review. Vol. 9 Issue 4, 2006/2007, pp. 156-159.

**Abstract:** Patentability of individual enantiomers -- H Lundbeck a/s v. Generics UK Ltd. -- background chemistry -- patent novelty -- claimed lack of inventive step -- sufficiency of disclosure -- analysis of the decision.

**Subject:** Pharmaceuticals--patentability--United Kingdom

**Subject:** Pharmaceuticals--case law--United Kingdom

**SNIPER No.:** 2008/01427

**Author:** Phillips, Jeremy

**Title:** Opportunity Knox

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 134-136.

**Abstract:** Commercially valuable information -- disclosure policy -- breach of confidence -- De Maudsley v Palumbo -- ideas too vague to constitute legally protectable confidential information -- approaches to determining whether a disclosure is made in confidence -- subjective or objective.

**Subject:** Trade secrets--business and professional services industry

**Subject:** Competition (Economics)

**SNIPER No.:** 2008/01361

**Author:** Haq, Hayyan ul

**Title:** Optimising the utilisation of information and technology under intellectual property regimes: an Indonesian perspective

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 3, 2008, pp. 259-282.

**Abstract:** Mapping the problems in optimising information and technology -- implication of the inventor and creator doctrine -- exclusive rights re-examined -- ideal optimisation of information and technology -- in search of a legal framework -- Pancasila -- exclusive rights -- the social function and public interest for the greatest benefit -- towards optimisation.

**Subject:** Intellectual property systems--Indonesia

**Subject:** Intellectual property rights--Indonesia

**SNIPER No.:** 2008/01364

**Author:** Sehirali, Feyzan Hayal

**Title:** An overview of Turkish case-law on trademark disputes with special consideration regarding the rules of the European Court of Justice

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 3, 2008, pp. 323-350.

**Abstract:** Case law of the Turkish Supreme Court of Appeals (SCA) on trade mark issues -- case law of the European Court of Justice -- signs of which a trade mark may consist -- absolute and relative grounds of refusal of a trade mark.

**Subject:** Trade marks--case law--Turkey

**Subject:** Intellectual property litigation--Turkey

**SNIPER No.:** 2008/01276

**Author:** Jensen, Paul H.

**Author:** Palangkaraya, Alfons

**Author:** Webster, Elizabeth, 1957-

**Title:** Patent application outcomes across the Trilateral Patent Offices [Internet article]

**Source:** IPRIA Working Paper, no. 05.05. April 2005.

**Abstract:** Procedural differences in the way in which different patent offices examine a patent application -- application may be granted in one jurisdiction but rejected in others -- raises welfare concerns about the ability of patents to provide an ex ante incentive for investment -- whether there are systematic differences in patent application outcomes across the trilateral patent offices -- Europe -- Japan -- United States -- whether the patent offices make consistent decisions -- how the decisions made by the patent offices vary across different patent characteristics such as -- technology area -- non-obviousness of the invention -- priority country.

**Subject:** Patent applications

**Subject:** Patents--law and legislation

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.melbourneinstitute.com/wp/wp2005n05.pdf>

**SNIPER No.:** 2008/01342

**Author:** Ventose, Eddy D. (Eddy David), 1976-

**Title:** Patent protection for surgical methods under the European Patent Convention

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 1, 2008, pp. 51-82

**Abstract:** Article 52 (4) of the European Patent Convention (EPC) excludes methods of surgery from patent protection -- Technical Boards of Appeal (TBA) of the European Patent Office (EPO) -- exclusion exists to free from restraint activities of physicians and veterinarians by patent monopolies when they treat patients -- inventors still seek to patent surgical methods -- MEDICAL PHYSICS/ Treatment by surgery -- referral to the Enlarged Board of Appeal (EBA) of the EPO -- GEORGETOWN UNIVERSITY/Pericardial access -- defining surgical methods -- cosmetic methods -- other considerations -- an excluded surgical step.

**Subject:** European Patent Convention (2005)

**Subject:** Medical procedures--patentability

**SNIPER No.:** 2008/01366

**Author:** Sommer, Tine

**Title:** Patenting the animal kingdom?: from cross-breeding to genetic make-up and biomedical research

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 2, 2008, pp. 139-177.

**Abstract:** United States Patent and Trademark Office (USPTO) -- European Patent Office (EPO) -  
- current challenges to animal patenting -- Oncomouse -- cloning -- patentability of traditional  
breeding -- inserting exogenous genes (DNA breeding) -- international and European statutes --  
legal foundations for limiting animal patents in Europe -- issues of morality in respect of animal  
suffering -- scope of protection -- US patent law vis-à-vis animals -- case studies -- animal variety  
and essential biological processes for the production of animals -- genetic-marker-assisted  
selection and breeding strategies -- genetically modified animals and breeding -- biomedical  
research.

**Subject:** Patenting of life forms

**Subject:** Genetic modification

**SNIPER No.:** 2008/01407

**Author:** Morgan, Gareth

**Title:** Patents: infringement action: Monsanto Technology LLC v. Cargill

**Source:** Bio-Science Law Review. Vol. 9 Issue 4, 2006/2007, pp. 164-166.

**Abstract:** Alleged patent infringement by European importers of soya meal -- Monsanto  
Technology LLC v. Cargill -- United Kingdom -- facts of the case -- interpretation of patent claims --  
patent claims construed narrowly by court -- production of materials from genetically modified  
crops.

**Subject:** Patent infringement--case law--United Kingdom

**Subject:** Biotechnology--case law--United Kingdom

**Subject:** Genetic modification--case law--United Kingdom

**SNIPER No.:** 2008/01408

**Author:** Drew, Catherine

**Title:** Patents: SPC Regulations: Merck and Co. Inc., BL O/108/08

**Source:** Bio-Science Law Review. Vol. 9 Issue 4, 2006/2007, pp. 167-168.

**Abstract:** Application of Supplementary Protection Certificate to a wider range of products --  
European SPC Regulations -- Merck and Co.'s SPC application -- background to the case --  
decision of the UK Intellectual Property Office -- SPCs able to be granted for both zero term and  
negative term of three months and fourteen days.

**Subject:** Europe. Regulation Concerning the Creation of a Supplementary Protection Certificate  
for Medicinal Products (1992)

**Subject:** Patent extension--United Kingdom

**Subject:** Patent terms--United Kingdom

**SNIPER No.:** 2008/01312

**Author:** Gans, Joshua, 1968-

**Author:** King, Stephen P.

**Title:** Perfect price discrimination with costless arbitrage [Internet article]

**Source:** IPRIA Working Paper, no. 17.05. August 2005.

**Abstract:** Price discrimination -- costless arbitrage markets -- personalised pricing -- group pricing  
-- intellectual property.

**Subject:** Competition (Economics)

**Subject:** Prices

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP17.2005.pdf>

**SNIPER No.:** 2008/01208

**Author:** McDermott, Eileen

**Title:** Peterlin urges IP counsel to file better patents

**Source:** Managing Intellectual Property. Iss. 180, June 2008, p.16

**Abstract:** Margaret Peterlin -- Deputy Director USPTO -- 1,200 new examiners hired -- 90% of patent application at USPTO rejected at first review -- accelerated examination process -- deferred examination process -- applicant quality submission (AQS) -- high attrition rate of patent examiners -- white paper on best IP practices -- company value of number of patent held changing to quality of patents held -- USPTO reviewing all rule packages-- United States -- work sharing among the five major IP offices world-wide

**Subject:** United States Patent and Trademark Office--procedure

**Subject:** Patent examination--United States

**Subject:** Patent applications--United States

**SNIPER No.:** 2008/01395

**Author:** Christie, Andrew, LL. M., Ph. D.

**Title:** Private copying licence and levy schemes: resolving the paradox of civilian and common law approaches [Internet article]

**Source:** IPRIA Occasional Paper, no. 02.04. July 2004.

**Abstract:** Private copying and implications for copyright owners -- statutory licence and levy schemes -- statutory licence and levy scheme is common in jurisdictions which place emphasis on authors' moral rights -- rare in countries that give primacy to the utilitarian rationale for copyright -- dealing with private copying in civilian and common law systems -- Germany -- United Kingdom -- Australia -- way in which the nature of the problem of private copying is perceived in those two systems -- legislative responses to this problem that have occurred in the two systems -- Germany -- Canada -- United States -- future resolution of the problem of private copying.

**Subject:** Copyright licensing

**Subject:** Copyright levies

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20paper%202.04.pdf>

**SNIPER No.:** 2008/00933

**Author:** Rodriguez, Victor

**Author:** Molet, Jorge

**Title:** The process: important points to remember when obtaining a patent in Mexico

**Source:** Copyright World. IP rights in Mexico, April 2008, pp. 6-7.

**Abstract:** Mexican Industrial Property Law (LPI1) -- Patent Cooperation Treaty (PCT) -- Mexican Institute of Industrial Property (IMPI2) -- International Search Authority (ISA) -- unity of invention and legends of the figures -- formal examination -- articles of the Industrial Property Law and regulations.

**Subject:** Patent examination--Mexico

**Subject:** Patent systems--Mexico

**SNIPER No.:** 2008/01410

**Author:** Davies, Isabel M.

**Author:** Helmer, Stuart

**Title:** Productores de Música de España ("Promusicae") v Telefónica de España SAU ("Telefónica") (C-275/06)

**Source:** European Intellectual Property Review. Vol. 30 No. 8, 2008, pp. 307-308.

**Abstract:** Internet service providers not required to disclose names of alleged copyright infringers -- Promusicae v. Telefónica -- European Court of Justice (ECJ) consideration of Privacy and Electronic Communications Directive -- conflict between copyright owners rights and users rights to 'private life'.

**Subject:** Copyright infringement--case law--Europe

**Subject:** Carriage service providers--case law--Europe

**Subject:** Privacy--case law--Europe

**SNIPER No.:** 2008/01325

**Author:** VanderElst, Ingrid

**Author:** McCourt, Conor

**Author:** McMahon, Eileen

**Title:** Proposed amendments to the Patented Medicines (Notice of Compliance) Regulations

**Source:** Pharmaceutical Law Insight. Vol. 4 No. 6, June 2008, p. 13.

**Abstract:** Proposed amendments to section 6(5) and 6(5)(a) of the Patented Medicines (notice of compliance) Regulations "PM(NOC) Regulations" -- Canada -- amendments to the Minister of Health power to delete or refuse patents to patent lists -- reinterpretation by the courts of Canadian government's intent in regards to grandfathered patents -- transitional provision will make it possible to undo actions taken by the Minister of Health in relation to grandfathered patents -- patent relevance to the Supplement to a New Drug Submission (SNDS) in relation to which it was submitted for listing -- stakeholder invited to submit comments before 11 May 2008

**Subject:** Pharmaceuticals--law and legislation--Canada

**Subject:** Intellectual property law--reform--Canada

**SNIPER No.:** 2008/01421

**Author:** Merryman, John Henry

**Title:** The proposed generalisation of the droit de suite in the European Communities

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 16-36.

**Abstract:** European Union Commission -- droit de suite throughout European Communities -- laws not uniform among member states -- legal geography of the right -- social and economic logic of the right -- art world -- Robert Rauschenberg -- appreciation of value -- royalty analogy -- arguments against the right -- policy assessment of the droit de suite -- harmonisation -- components of the right contained in the proposal -- taxable resales -- taxable transactions -- taxable base -- who gets the money -- waiver -- cost-benefit.

**Subject:** Droit de suite

**Subject:** Culture and entertainment industry

**SNIPER No.:** 2008/01298

**Author:** Yang, Yexuan

**Title:** Protecting trade dress through unfair competition law

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 72-73.

**Abstract:** Decision issued by the Chinese Supreme Court -- dispute between Ferrero and Montresor -- how to evaluate whether a commodity is famous -- trade mark litigation -- relationship between three-dimensional marks, design patents and trade dress

**Subject:** Trade dress--case law--China

**Subject:** Competition (Economics)--case law--China

**Subject:** Competition law

**SNIPER No.:** 2008/01418

**Author:** Evans, Mark D.

**Title:** Protection of data on the Internet

**Source:** Intellectual Property Quarterly. Issue 1, 2002, pp. 50-74.

**Abstract:** Challenge of protecting content on the internet -- development of the internet -- historical -- technological -- commercial -- technology of the internet -- academic background -- spirit of free sharing between users -- reasons for the importance companies attach to being able to protect their information -- scope of copyright -- application in the digital age -- limitations of copyright -- approaches to dealing with shortcomings -- effectiveness of limiting licenses to access data -- current application to the internet of the European Database Right -- expansion of the doctrine of trespass to chattels in the United States.

**Subject:** Internet--history

**Subject:** Electronic copyright

**Subject:** Database rights

**SNIPER No.:** 2008/01426

**Author:** Lahore, James

**Title:** The protection of functional designs: the amended proposal for a European Designs Directive

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 128-133.

**Abstract:** Report on Designs Law -- Australian Law Reform Commission -- Advisory Council on Intellectual Property (ACIP) -- need to assess visual and functional innovation in the overall context of the design -- patent and petty patent systems -- anti-copying laws -- confusion about scope of design protection -- functional design.

**Subject:** Industrial designs

**Subject:** Minor patents

**SNIPER No.:** 2008/01297

**Author:** Fowler, Imogen

**Author:** Winckworth, Charlie

**Title:** Public interest versus trademark protection

**Source:** World Trademark Review. Iss. 14, July/August 2008, pp. 56-59.

**Abstract:** The role of public interest in European Union (EU) trade mark law -- grounds for refusal of registration set out in the First Trade marks Directive (89/104/EEC) -- assessing the registrability of both word and non-traditional trade marks -- scope of protection -- trade mark litigation -- acquired distinctiveness -- adidas v. Marca II.

**Subject:** Trade mark validity--case law--Europe

**SNIPER No.:** 2008/01327

**Author:** Dagg, Nicola

**Author:** Moore, George

**Author:** O'Lunaigh, Catherine

**Title:** The quagmire of European patent litigation: is mediation the solution?

**Source:** CIPA Journal. Vol. 37 No. 6, June 2008, pp. 327-329.

**Abstract:** European Patent Office (EPO) -- European patent litigation expensive with conflicting decisions from national courts -- Research in Motion UK Ltd v. Visto Corporation -- current situation in Europe for litigating patents unsatisfactory -- European Litigation Agreement (ELPA) -- Mediation in patent disputes -- Key benefits of mediation -- mediation not always appropriate -- mediator cannot order what a judge can -- mediation not entirely divorced from the courts -- allows parties to resolve patent infringement and validity matters on a multi-jurisdictional basis without country-by-country litigation -- European Parliament and Council agreed the text of a proposed Mediation Directive to be implemented within three years in member states -- no obligation on parties to consider mediation -- may be variations in the implementation of the directive

**Subject:** Dispute resolution--Europe

**Subject:** Patent litigation--Europe

**SNIPER No.:** 2008/01320

**Author:** Caine, Emma

**Author:** Christie, Andrew, LL. M., Ph. D.

**Title:** A quantitative analysis of Australian intellectual property law and policy-making since Federation [Internet article]

**Source:** IPRIA Working Paper, no. 20.05. November 2005.

**Abstract:** Quantitative growth of IP legislation and policy in Australia since Federation analysed in context of economic growth -- corporations law as legislative comparator -- calls for reform -- IP regimes analysed comparatively and individually -- in context of economic growth exponential increase in IP law is conservative -- no quantitative basis for reform of IP law and policy making -- appendices: data tables.

**Subject:** Intellectual property law--Australia

**Subject:** Commercial law--Australia

**Subject:** Economic conditions--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP20.2005.pdf>

**SNIPER No.:** 2008/01285

**Author:** Lim, Amanda S. Y.

**Author:** Christie, Andrew, LL. M., Ph. D.

**Title:** Reach-through patent claims in biotechnology: an analysis of the examination practices of the United States, European and Japanese Patent Offices [Internet article]

**Source:** IPRIA Working Paper, no. 03.05. March 2005.

**Abstract:** Boundaries of patent monopoly -- current invention -- product claims -- process claims - - quasi reach-through claims -- Trilateral Offices -- underlying concept -- Synaptic Pharmaceutical Corp v Astra Aktiebolag decision -- Australian Patent Office -- research objectives -- research analyses -- utility requirement -- written description -- enablement -- receptor proteins -- screening method -- medical application -- monoclonal antibody -- reach-through issue and claim validity.

**Subject:** Patent examination

**Subject:** Patent claims

**Subject:** Biotechnology

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP03.2005.pdf>

**SNIPER No.:** 2008/01227

**Author:** Mannaerts, Jaap

**Author:** Meekel, Arthur A. P.

**Author:** Pallard, Caroline

**Title:** Recent developments in SPC practice in the Netherlands

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.92-94

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Medical products -- pharmaceuticals -- Supplementary Protection Certificate (SPC) -- Netherlands -- restrictions -- change of interpretation of Article 3a Regulation (EEC) 1768/92 -- SPC refused if product does not belong to the subject matter of basic patent -- United Kingdom precedent -- Takeda Chemical Industries v. Comptroller General of the Patents Office -- exclusive competence -- Dutch Court of Appeal -- Ranbaxy/Warner-Lambert, February 21 2008 -- generic Atorvastatine -- doctrine of equivalence -- inconclusive decision

**Subject:** Patent infringement--case law--Netherlands

**Subject:** Intellectual property law--Netherlands

**Subject:** Pharmaceuticals--Netherlands

**SNIPER No.:** 2008/00956

**Author:** Melhem, Basem M.

**Author:** Al-Abweh, Marah Majdi

**Author:** Haloush, Haitham A.

**Title:** Re-conceptualising moral rights in the digital era

**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 44-54.

**Abstract:** Research into the application of moral rights in the digital environment -- little research in this field -- objectives of the research -- literature review -- moral rights law and legislation -- digital challenges to moral rights -- implications for government policy -- implications for organisations.

**Subject:** Moral rights

**Subject:** Electronic copyright

**SNIPER No.:** 2008/01206

**Author:** Ollier, Peter

**Author:** Nurton, James

**Title:** Record Customs seizures at EU borders

**Source:** Managing Intellectual Property. Iss. 180, June 2008, p.10

**Abstract:** Counterfeiting -- Europe -- increased custom seizures -- input from industry vital in detecting counterfeits -- piracy -- anti-counterfeiting trade agreement -- international treaty negotiations beginning in June -- Canadian legal framework criticised.

**Subject:** Counterfeiting--Europe

**Subject:** Customs--Europe

**Subject:** Intellectual property enforcement--Europe

**SNIPER No.:** 2008/01300

**Author:** Segall, Karin

**Title:** Re-filing to cure invalidity essential to trademark audits

**Source:** World Trademark Review. Iss. 14, July/August 2008, p.13.

**Abstract:** Trade mark audits by rights owners -- vulnerabilities of trade mark registrations -- fraud -- non-use cancellation of trade marks

**Subject:** Trade mark validity

**Subject:** Intellectual property management

**SNIPER No.:** 2008/00954

**Author:** Cropley, Anne-Marie

**Title:** The registration of scandalous trade marks

**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 20-31.

**Abstract:** Need for clarity and consistency in the test of what is a scandalous and offensive trade mark in Australia -- no statutory definition for "scandalous" -- survey of decisions made under s.42 of Trade Marks Act 1995 -- three categories of bases for scandalous marks -- bad taste -- human horror and suffering -- religion, ethnicity, race and gender -- inconsistency in decisions based on bad taste -- FUCT, FCUK, PHUKN SIK and FUCKERWARE -- BULLSHIT and DICKHEADS -- alternative meanings for a mark -- who must be offended by a mark not defined -- usage contrary to law.

**Subject:** Trade mark registrability--Australia

**SNIPER No.:** 2008/01310

**Author:** Elkman, Saba

**Author:** Christie, Andrew, LL. M., Ph. D.

**Title:** Regulating private copying of musical works: lessons from the U.S. Audio Home Recording Act of 1992 [Internet article]

**Source:** IPRIA Working Paper, no. 12.04. September 2004.

**Abstract:** Conflict between copyright owners -- private use of copyrighted works -- US Congress - Audio Home Recording Act (AHRA) -- no equivalent in Australian law -- Audio-Visual Copyright Society (Screenrights) -- Australasian Performing Right Association (APRA) -- private copying remuneration scheme.

**Subject:** Fair use (Copyright)--Australia

**Subject:** Musical works--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP12.2004.pdf>

**SNIPER No.:** 2008/01412

**Author:** Bonadio, Enrico

**Title:** Remedies and sanctions for the infringement of intellectual property rights under EC law

**Source:** European Intellectual Property Review. Vol. 30 No. 8, 2008, pp. 320-327.

**Abstract:** Intellectual property infringement remedies -- Europe -- entitlement to ask for remedy -- evidence of infringement -- right to obtain information -- provisional and precautionary measures to halt infringement -- remedies that can be adopted by courts -- damages -- publication of judicial decisions -- protection of IP through border measures -- European Customs Regulation -- Directive Proposal for criminal sanctions for IPR infringement.

**Subject:** Europe. Regulation concerning Customs Action against Goods Suspected of Infringing Certain Intellectual Property Rights and the Measures to be Taken against Goods found to have Infringed such Rights (2003)

**Subject:** Infringement remedies--Europe

**SNIPER No.:** 2008/00939

**Author:** Wilamowska-Maracewicz, Elżbieta

**Title:** The Repairs Clause in force in Poland

**Source:** Copyright World. World review: special IP reports, May 2008, pp. 14-15.

**Abstract:** Repairs Clause -- liberalises aftermarket in spare parts -- Industrial Property Law (IPL) Article 106 -- aroused controversy among producers of automotive spare parts -- the debate -- possible impact of the Repairs Clause.

**Subject:** Intellectual property law--reform--Poland

**Subject:** Spare parts--Poland

**SNIPER No.:** 2008/01422

**Author:** Goodenough, Oliver R.

**Title:** Rethorising privacy and publicity

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 37-70.

**Abstract:** Historical development of rights of privacy and publicity in the United States -- value of human identity -- legal treatment of identity -- categorising and uses of persona -- how law is made -- natural law -- positivism -- discovery of privacy -- Roberson case -- Pavesich case -- publicity -- free speech versus privacy and publicity -- First Amendment standard -- attempts at a definition of law of identity -- tort restatement -- policy arguments around privacy and publicity -- restatement of the right of identity -- personality rights in Britain.

**Subject:** Privacy--United States

**Subject:** Personality rights--United Kingdom

**SNIPER No.:** 2008/01398

**Author:** Phillips, Jeremy

**Title:** Rhyme and reason: Europe's beleaguered database right may be getting a belated boost

**Source:** Copyright World. Issue 182, July/August 2008, pp. 14-15.

**Abstract:** Directmedia Publishing GmbH v Albert-Ludwigs-Universitat Freiburg -- sui generis database rights -- German university professor produced a list of German poetry -- Directmedia consulted the professor's list of titles -- produced and sold a CD-ROM of German poetry -- Directmedia infringed copyright of the professor -- infringed the sui generis right of the university -- sought an order to stop producing and distributing the CD-ROM -- damages and delivery up of the CD-ROMs for destruction -- court proceedings -- extraction of data from a database.

**Subject:** Database rights--case law--Germany

**Subject:** Copyright infringement--Germany

**SNIPER No.:** 2008/00951

**Author:** Sexton, Christopher

**Title:** The "shifting" of copyright infringement in the digital era

**Source:** Intellectual Property Forum. Issue 72, March 2008, pp. 2-5.

**Abstract:** Australia -- review of format shifting exceptions introduced by Copyright Amendment Act 2006 -- issues paper released by Attorney-General's Department -- whether sections 47J and 110AA operating satisfactorily -- reproducing photographs in a different format -- copying a film in a different format -- key policy considerations - -areas for possible reform.

**Subject:** Australia. Copyright Amendment Act (2006)

**Subject:** Copyright--law and legislation--Australia

**Subject:** Electronic copyright--Australia

**SNIPER No.:** 2008/01414

**Author:** Vousden, Stephen

**Title:** Società Esplosivi Industriali SpA: on confidences, copying designs, and company directors

**Source:** European Intellectual Property Review. Vol. 30 No. 8, 2008, pp. 332-336.

**Abstract:** Industrial design infringement -- breach of confidence and directors' liability -- Società Esplosivi Industriali SpA v. Ordnance Technologies (UK) (formerly SEI (UK) Ltd.) -- facts of the case -- judgements -- analysis of the decision -- confidences and trade secrets -- copying of unregistered designs -- liability of company directors.

**Subject:** Unregistered industrial designs--case law--United Kingdom

**Subject:** Industrial design infringement--case law--United Kingdom

**Subject:** Trade secrets--case law--United Kingdom

**SNIPER No.:** 2008/00936

**Author:** Towns, William R.

**Title:** Speculation in domain names: the new cybersquatters

**Source:** Copyright World. World review: special IP reports, May 2008, pp. 6-7.

**Abstract:** Uniform Domain Name Disputed Resolution Policy (UDRP) -- cybersquatting -- domain name registration system (DNS) -- overview of the UDRP -- evolving nature of DNS -- proliferation of registrars -- automated bulk registration of domain names -- domain name parking -- domain name tasting.

**Subject:** Cybersquatting

**Subject:** Domain name dispute resolution

**SNIPER No.:** 2008/01318

**Author:** Gans, Joshua, 1968-

**Title:** Start-up commercialisation strategy and innovative dynamics [Internet article]

**Source:** IPRIA Working Paper, no. 02.06. January 2006.

**Abstract:** Choice between competitive and cooperative commercialisation in a dynamic environment -- start-ups may not be adequately compensated for losses in future innovative potential -- no clear relationship between observed inter-industry innovation and commercialisation choice -- insights into the relationship between dynamic capabilities and rates of innovation.

**Subject:** Innovation (Technological)

**Subject:** Venture capital

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2006/IPRIAWP02.2006.pdf>

**SNIPER No.:** 2008/01420

**Author:** Jacob, Robin

**Title:** The Stephen Stewart Memorial Lecture: industrial property: industry's enemy

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 3-15.

**Abstract:** Second Stephen Stewart Memorial Lecture -- whether scope of IP rights is being stretched too far -- need for full economic analysis of enforcing alleged rights.

**Subject:** Intellectual property enforcement

**Subject:** Intellectual property rights

**SNIPER No.:** 2008/01223

**Author:** Feng, Amy

**Title:** Take local practice into account

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.79-81

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Patents -- pharmaceuticals -- China -- second medical indication invention -- stricter guidelines for examination and criteria for novelty and new matter -- Swiss-type claims -- novelty criteria -- new matter issue -- draft specifications in accordance to the practice in China -- don't generalise -- changing to Swiss-type use of language for claim does not always overcome problems raised

**Subject:** Pharmaceuticals--patentability--China

**Subject:** Patent systems--China

**Subject:** Swiss-type claims--China

**SNIPER No.:** 2008/01399

**Author:** Boiron, Patrick

**Author:** Tulquois, Gregory

**Title:** Three strikes and out: French copyright reform: towards a reconciliation of creation and the internet?

**Source:** Copyright World. Issue 182, July/August 2008, pp. 16-17.

**Abstract:** Creation and Internet Bill -- aims at slowing down illegal downloading of works protected by French copyright -- Agreement between government and ISPs, publishers and distributors of contents protected by copyright -- richer content -- suppression of all digital rights management systems (DRM) -- ISPs send warning emails to subscribers who violate copyright -- filtering content -- obligation of information -- obligation of verification -- obligation to implement sanctions -- obligation to store technical data -- future of the Bill.

**Subject:** Copyright--reform--France

**Subject:** Electronic copyright--France

**SNIPER No.:** 2008/01403

**Author:** Pigeon, Sébastien

**Author:** Brunet, Claude

**Title:** Time for a new act

**Source:** Copyright World. Issue 182, July/August 2008, pp. 34.

**Abstract:** Proposed amendments to the Canadian Copyright Act -- circumvention of technological measures (TMs) -- distribution and moral rights -- photographic rights -- network services -- time and format shifting exception -- publicly accessible material -- future of the Bill.

**Subject:** Copyright--reform--Canada

**SNIPER No.:** 2008/01460

**Author:** Porter, Hamish

**Title:** Timed out: have ISPs delayed too long in reaching a voluntary agreement with the film and music industries?

**Source:** Copyright World. Issue 179, April 2008, pp. 9-10.

**Abstract:** ISPs acting as intermediaries in a communications network -- transient copies made of all communications passing through servers -- not copyright infringement -- increase in the rate of illegal downloading of copyright works -- government pressuring ISPs to take action against illegal downloaders -- possible legislation introducing sanctions against ISPs -- sharing personal data of illegal downloaders by ISPs.

**Subject:** Carriage service providers--liability

**Subject:** Piracy

**SNIPER No.:** 2008/01321

**Author:** Greenhalgh, Christine

**Author:** Rogers, Mark

**Title:** Trade marks and market value in UK firms [Internet article]

**Source:** IPRIA Working Paper, no. 04.06. February 2006.

**Abstract:** Trade mark activity of UK manufacturing -- service sector -- market value of trade marks -- UK Patent Office (UKTM) -- European Community Office for Harmonisation of the Internal Market (CTM) -- trade marks to signal -- origin -- consistent quality -- reducing consumer search costs -- increasing customer loyalty -- value of trade marks may vary -- costs of trade marks vary between UKTM and CTM -- ratio of stock market value to the book value of tangible assets -- impact of undertaking trade mark activity -- effects of increasing trade mark intensity -- stock market values positively associated with R&D and trade mark activity.

**Subject:** Trade marks--United Kingdom

**Subject:** Trade marks--economics--United Kingdom

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2006/IPRIAWP04.2006.pdf>

**SNIPER No.:** 2008/01411

**Author:** Wadlow, Christopher

**Title:** Trade secrets and the Rome II Regulation on the law applicable to non-contractual obligations (part 2)

**Source:** European Intellectual Property Review. Vol. 30 No. 8, 2008, pp. 309-319.

**General Note:** Second article in a series of two. See also: 2008/01199

**Abstract:** Trade secret protection in international law -- Regulation on the Law Applicable to Non-Contractual Obligations (Rome II) -- subject matter that can be determined by applicable law -- Rome II and unfair competition -- travaux préparatoires (explanatory memoranda) -- earlier and later travaux -- intellectual property under Rome II -- derogation, contract and free choice of law -- how Rome II will work in practice -- questions relating to damages -- proper law of tort -- preferred solutions for trade secret disclosure -- other issues.

**Subject:** Europe. Regulation on the Law Applicable to Non-Contractual Obligations (2007)

**Subject:** Trade secrets--law and legislation--Europe

**Subject:** Conflict of laws--Europe

**Subject:** Legal jurisdiction--law and legislation--Europe

**SNIPER No.:** 2008/01293

**Author:** Griffiths, William E.

**Author:** Webster, Elizabeth, 1957-

**Title:** Trends in the value of intellectual property in Australia [Internet article]

**Source:** IPRIA Working Paper, no. 18.04. December 2004.

**Abstract:** Firm level 'market value' studies seek to estimate the returns to investment using stock market -- book value -- intellectual property (IP) data -- establish whether intangible assets -- contribute to (expected) firm profits -- applied economists using this model to test whether the value of innovative activities varies with characteristics -- firm size -- industry -- competition -- relationship between investment activity and expected profits -- identify whether the value of Australian IP to companies has been rising or falling over time -- market value studies -- what they can tell -- trends in the value of different forms of company IP over time.

**Subject:** Value of intellectual property--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2004/IPRIAWP18.2004.pdf>

**SNIPER No.:** 2008/01416

**Author:** Adams, John, 1939-

**Title:** Trespass in a digital environment

**Source:** Intellectual Property Quarterly. Issue 1, 2002, pp. 1-17.

**Abstract:** Scope of objectionable activities on the internet -- spamming -- unauthorised access -- making unauthorised hypertext links -- posting material without authorisation -- Shetland Times Ltd v Wills -- United States decisions applying trespass to chattels to such activities -- Thrifty-Tel v Bezenek -- the rule in Wilkinson v Downton -- intentional torts -- action on the case for patent and copyright infringement.

**Subject:** Internet

**Subject:** Intellectual property databases

**SNIPER No.:** 2003/00304

**Author:** Whybrow, Stephen

**Title:** UK anti-counterfeiting law strengthened

**Source:** Australian Intellectual Property Law Bulletin. Vol. 15 No. 8, January 2003, p. 121.

**Abstract:** Changed penalties for copyright and trade mark theft -- United Kingdom -- police search warrant powers strengthened -- forfeiture of pirated goods -- cost of counterfeiting to UK economy.

**Subject:** Counterfeiting--law and legislation--United Kingdom

**SNIPER No.:** 2008/01222

**Author:** Tansey, Charles W.

**Title:** Unjustified threats

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.76-78

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Patent infringement -- Australia -- prohibition on unjustified threats of legal proceedings -- Section 128 of the Patents Act 1990 -- action for unjustified threats covers wide range of circumstances -- threat need not necessarily be made to potential infringer but to general audience -- any person can bring action -- defence requires a person to satisfy a court that the infringement complained of fell within the scope of a valid claim -- objective tests of infringement and validity apply -- Occupational & Medical Innovations (OMI) and Retractable Technologies Inc -- onus on the patent holder to establish threat was justified -- designs and innovation patents -- World of Technologies (Aust) Pty v. Temp (Aust) -- seek legal advice before contacting any alleged infringer

**Subject:** Intellectual property rights--Australia

**Subject:** Patent infringement--case law--Australia

**Subject:** Intellectual property abuse--Australia

**SNIPER No.:** 2008/00938

**Author:** Ulviczki, Éva

**Title:** Use it or lose it: the evidence of trademark use

**Source:** Copyright World. World review: special IP reports, May 2008, pp. 12-13.

**Abstract:** Trade mark use requirement -- Hungarian related law enforcement and practice -- Hungarian trade mark system -- Hungarian Patent Office -- Hungarian Metropolitan Court.

**Subject:** Trade mark use--Hungary

**Subject:** Trade mark systems--Hungary

**SNIPER No.:** 2008/01423

**Author:** Tang, Puay

**Title:** The use of copyright as a measure of innovation: software applications in the digital age

**Source:** Intellectual Property Quarterly. Issue 1, 1997, pp. 71-91.

**Abstract:** Innovation -- definition -- digital age provides opportune occasion to revisit the software industry -- history of copyright -- debates over justification for copyright overlaps those of patenting -- innovative activity underlying this right -- impact of digital technology on copyright -- legislative attempts to strengthen copyright protection of software -- legal and technological means -- patents not capturing range of innovative activity because most will be copyrighted -- steps in tracing software innovations through use of copyright.

**Subject:** Computer-related inventions--United States

**Subject:** Copyright owners' rights--United States

**SNIPER No.:** 2008/01365

**Author:** Gómez Segade, José Antonio

**Title:** Utility models: lost in translation?

**Source:** IIC: International Review of Intellectual Property and Competition Law. Vol. 39 No. 2, 2008, pp. 135-139.

**Abstract:** History of utility model -- inventions protected -- Community utility model -- harmonisation -- withdrawal of the Draft Directive on utility models.

**Subject:** Minor patents--history

**Subject:** Harmonisation of laws

**SNIPER No.:** 2008/01392

**Author:** Gans, Joshua, 1968-

**Title:** The value of IP protection in markets for ideas [Internet article]

**Source:** IPRIA Occasional Paper, no. 01.03. September 2003.

**Abstract:** Role of patent protection -- power to exclude others from commercialising an invention -  
- inventor can earn monopoly profits -- smaller firms license or sell their intellectual property rather  
than take it directly to market -- bargain with licensees -- with a product that would allow them to  
continue to be protected from competition -- strong intellectual property protection facilitates trade  
in markets for ideas.

**Subject:** Value of intellectual property

**Subject:** Patent rights--economics

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:**

<http://www.ipria.org/publications/Occasional%20Papers/Occasional%20Paper%201.03.pdf>

**SNIPER No.:** 2008/01226

**Author:** Díaz, Abraham

**Title:** Vegetal variety rights enforced

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.90-91

**General Note:** Forms part of: Life Science Focus.

**Abstract:** Plant breeders rights -- plant rights enforcement -- Mexico -- protection for vegetal  
varieties -- intellectual property enforcement -- unauthorised exploitation -- authority in charge  
administrative -- no civil or criminal actions can be taken to enforce right -- National Service of  
Certification and Identification of Seeds (SNICS) -- Federal Law of Vegetal Varieties (FLVV) --  
necessary to wait for plant breeders certificate granted by SNICS to take infringement action --  
infringements only punished with fines -- preliminary injunctions

**Subject:** Plant breeder's rights--law and legislation--Mexico

**Subject:** Plant rights enforcement--Mexico

**Subject:** Plant rights litigation--Mexico

**SNIPER No.:** 2008/01291

**Author:** Stewart, Miranda

**Title:** Venture capital taxation in Australia and New Zealand [Internet article]

**Source:** IPRIA Working Paper, no. 02.05. March 2005.

**Abstract:** Australia and New Zealand implemented tax and entity reforms intended to attract  
"venture capital" investment -- to promote "innovation-led growth" through commercialisation of  
new intellectual property (IP) -- publicly funded research and development -- supporting  
capitalisation of innovative small and medium enterprises -- provide tax concessions aimed at  
attracting foreign and domestic venture capital investors to projects -- Australian Venture Capital  
Limited Partnership (VCLP) regime -- New Zealand venture capital tax concessions -- importance  
of venture capital investment -- why government intervention may be appropriate -- stages of  
venture capital investment -- US model of venture capital -- compares the Australian and New  
Zealand reforms -- how they have effectively imported the peculiar features of the US model --  
reforms in light of policy considerations and the US experience and makes some recommendations  
for further reform.

**Subject:** Venture capital--Australia

**Subject:** Business taxation--Australia

**Corporate author:** Intellectual Property Research Institute of Australia

**Internet access:** <http://www.ipria.org/publications/wp/2005/IPRIAWP02.2005.pdf>

**SNIPER No.:** 2008/01344

**Author:** McBratney, Amanda

**Author:** Finney, Michael

**Title:** What's mine is my own: employed academics' patent ownership

**Source:** Australian Intellectual Property Law Bulletin. Vol. 21 No. 2, July 2008, pp.18-22

**Abstract:** University intellectual property -- University of Western Australia v. Gray (No 20) -- Dr Bruce Gray -- employment at time of invention -- microsphere technologies -- Cancer Research Institute (CRI) -- Sirtex -- breach of employment contract by failing to comply with Patents and IP regulations -- UWA's claims in contract -- express terms of agreement -- implied term -- a duty to research does not carry a duty to invent -- critical differences between universities and other organisations -- alleged breaches -- failure to notify of inventions -- UWA had abandoned regulations mechanisms resulting in no breach -- breach of fiduciary obligations -- UWA had no relevant interest -- fallout -- necessary to include express term under which researcher agrees to assign rights of inventions -- standard employment contracts -- regulations and associated policies -- due diligence -- appropriate warranties and indemnities -- case being appealed

**Subject:** Intellectual property management--Australia

**Subject:** Patent entitlement--case law--Australia

**Subject:** Patent validity--case law--Australia

**SNIPER No.:** 2008/01212

**Author:** McDermott, Eileen

**Title:** Whealan weighs in on patent debate

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.28-30

**Abstract:** Interview with John Whealan, former USPTO solicitor and counsel to the Senate Judiciary Committee on the Patent Reform Act -- United States

**Subject:** John Whealan--interviews

**Subject:** Patents--law and legislation--United States

**SNIPER No.:** 2008/01357

**Author:** Montañá, Miquel

**Author:** Carulla, Isabel

**Title:** When similar might be the same: landmark decision sheds light on equivalents and prosecution history estoppel

**Source:** Patent World. No. 204, July/August 2008, pp. 24-28.

**Abstract:** Doctrine of equivalents -- patent circumvention -- fair protection v legal certainty -- judgments from administrative courts -- judgments from criminal courts -- judgments from civil courts -- January 17 2008 judgment -- patent prosecution estoppel.

**Subject:** Doctrine of equivalents--history--Spain

**Subject:** Intellectual property--case law--Spain

**SNIPER No.:** 2008/01211

**Author:** Barraclough, Emma

**Title:** Why it pays to spread the litigation risk

**Source:** Managing Intellectual Property. Iss. 180, June 2008, pp.24-26

**Abstract:** United Kingdom -- high cost of intellectual property litigation -- range of litigation funding options emerging for intellectual property owners -- line of credit -- insurance -- after-the-event insurance (ATE) -- third party funding -- shift in judicial thinking on champerty doctrine -- common law rule to prevent parties with no interest funding litigation -- Stone & Rolls Limited (In Liquidation) v. Moore Stephens and Another -- before financing funder want figure on potential risks and gains - - large range of damages outcome in IP disputes -- judges suspicion of third party funders -- settlement at a price depending on funding agreement -- lawyers reluctant to cap fees -- conditional fee agreements -- Gloucestershire County Council v. Evans & Others -- return on investment for funders -- availability of funders will probably lead to a rise in IP litigation

**Subject:** Intellectual property management--United Kingdom

**Subject:** Intellectual property litigation

**Subject:** Financial services industry

**Subject:** Intellectual property litigation--United Kingdom

**SNIPER No.:** 2008/01363

**Author:** Heath, Christopher

**Title:** Wrongful patent enforcement: threats and post-infringement invalidity in comparative perspective.

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**Abstract:** Wrongful patent enforcement -- infringement and the patent is valid -- enforcement is disproportionate -- measures taken -- remedies sought -- no infringement -- infringing act falls outside the claim -- patent is invalid -- infringement action was vexatious or abusive -- allegation of infringement has done harm to reputation of alleged infringer -- had to comply with a court order that turns out to be wrong -- unjustified threats -- post-infringement invalidity.

**Subject:** Intellectual property abuse

**Subject:** Patent enforcement

**Subject:** Patent infringement