**DEAKIN LAW SCHOOL RESEARCH REPORT**

**No 6/29 March 2013**

**RECENT PUBLICATIONS**

**Congratulations to the authors of the following recent publications:**

**Allan, Sonia**, ‘Access to information about donors by donor-conceieved individuals: a human rights analysis’, (2013) 20 *Journal of Law and Medicine*, 655-670 [http://dro.deakin.edu.au/view/DU:30051505](https://services.exchange.deakin.edu.au/owa/redir.aspx?C=ns6Lx_wg90--hqKkQBMS5xNsVHKJ-c8Ii5LH06jeMVnA0EBuHewqXtgdykO-noNxRHexYXxaPyo.&URL=http%3a%2f%2fdro.deakin.edu.au%2fview%2fDU%3a30051505). C1

**Allan, Sonia,** ‘Screening applicants for assisted reproduction: complexities and issues’, *Ethics, Law and Society*, (2013) Ashgate, UK/USA, 257-276 [http://dro.deakin.edu.au/view/DU:30051509](https://services.exchange.deakin.edu.au/owa/redir.aspx?C=ns6Lx_wg90--hqKkQBMS5xNsVHKJ-c8Ii5LH06jeMVnA0EBuHewqXtgdykO-noNxRHexYXxaPyo.&URL=http%3a%2f%2fdro.deakin.edu.au%2fview%2fDU%3a30051509). B1

Wai Shun Chow & **Firew Kebede Tiba**, ‘Professional Legal Education Reviews: Too Many “What”s and too few “How”s’, (2013) 4 *European Journal of Law and Technology*, C1

**Mirko Bagaric**, ‘Australia’ in A Reed, M Bohlander, *Participation in Crime: Domestic and Comparative Perspectives*, (2013) Ashgate, UK/USA, 293-307 B1

**Louis De Koker**, Nicola Jentzsch ‘Financial Inclusion and Financial Integrity: Aligned Incentives? (2013) 44 *World Development* 267-280 C1 (attached)

Notably, Elsevier's *World Development* is listed no 2 on the Google Scholar list for Development Economics journals internationally and with an h5 citation index of 56 (higher than *Harvard Law Journal* and 8 times higher than *MULR* score).

**RESEARCH IMPACT**

**Martin Hardy** cited by the Parliamentary Committee (attached):

“In light of the proposal to increase ASADA’s powers, academics Benjamin Koh and Martin Hardie have called for the establishment of an independent athlete advocacy organisation to help athletes navigate the minefield of banned and permitted substances in sport.85 According to Koh and Hardie:

As the lead national authority on what is legal or illegal in sport, ASADA is the ultimate source in Australia to confirm whether a substance is banned. But if ASADA is also the prosecutor of athletes for anti-doping violations–as per the proposals in the new bill–that will make it difficult (and even *less* [emphasis in original] appealing) for athletes to approach the organisation to clarify the status of supplements. An analogy would be a person asking the police how much cannabis he or she is allowed to legally grow/possess. 86”

**LAW SCHOOL RESEARCH SEMINARS SCHEDULE**

**Trimester 1**

**FRIDAY, 19 APRIL**

**Joint research seminar with the Information Systems colleagues on collaborative projects**

The seminar will be held probably in the Richard Searby Room to enable participants from both Schools to attend (there will be a video-link to the Waterfront)

**FRIDAY, 26 APRIL**

**Benjamin Hayward**

**FRIDAY, 3 MAY**

**Samantha Hepburn**

The Property Implications of Geosequestration in Australia

**FRIDAY, 17 MAY**

**David H B Bednall**

‘In a Word: Applying Cognitive Interviewing Methods in Legal Market Research’

## Abstract

Registered trademarks can be worth hundreds of millions to their owners. Many elements of a brand can be trademarked including words such as Microsoft, symbols such as the Cadbury glass and a half mark and colours, such as a particular orange for Veuve Clicquot. The registration of a mark (word, symbol or colour) prevents competitors in that category of goods from using it – a considerable commercial advantage to the owner. Applications to register trademarks are therefore often fiercely contested in the courts. To support registration companies will typically adduce survey research. A key component of this research is to test whether the mark has acquired secondary meaning, that is, whether consumers or buyers of the product have learned that the mark stands for a single brand. In the US, where many of these surveys have taken place, legal precedent has been based on whether the mark is strongly associated with a specific company, product or brand and not strongly associated with any rival. As Bednall et al. (2012) have argued, the test of association can be misleading. First the word “association” is symmetric – Cadbury is associated with purple and purple with Cadbury. Yet the appropriate legal test is whether the mark (colour in this case) takes the person to the brand, a non-symmetric relationship. Second although one mark may be more strongly associated with a brand than others, this may simply be because the consumer cannot recall the other brands. A more appropriate word is "identification", a non-symmetric relationship that takes the consumer from the mark to the brand exclusively. Thus purple identifies Cadbury, but Cadbury does not identify purple. But this raises the research question, “Do consumers understand the word identification in the way intended and does this word have a different meaning to association?” Although the meaning of a single word is often not critical in most survey designs, in this case it is. In order to test the meanings of the two words, cognitive interviewing techniques Willis (2005) were employed. This involved administering a survey in the usual manner, then conducting an in-depth interview with the respondent immediately afterwards. In this interviewing, the meaning of words can be explored and the conscious thinking processes in arriving at the answer can be revealed. A study was made of fifteen males and females using a questionnaire that tested whether the colour purple (as opposed to a control colour lime) identified any particular “brands, products or companies.” It was found that the word identify mostly worked in the way intended, that it took the consumer to the source (Cadbury in the case of purple, no particular source in the case of lime) and that it was interpreted correctly. People could distinguish "identify" from "associate" though in a survey not all might do so. In a legal survey context, where the meaning of particular words is crucial, the cognitive interviewing method can help establish the validity of the particular words in a survey.

Associate Professor David Bendall has appeared as an expert witness, in several high-profile cases involving the use of market research.

**FRIDAY, 24 MAY**

**Professor Joe Graffam,** Pro Vice-Chancellor (Research Development and Traini8ng):

‘Academic Scholarship in the New Word(ly) Order’

**Trimester 2**

**FRIDAY, 12 JULY**

**Prof Peter Hodgson**, Director of the Institute for Frontier Materials http://www.deakin.edu.au/research/ifm/staff.php?contact\_id=107&style=2

Lifting research standards to ERA Level 4 (or its equivalent)

**FRIDAY, 19 JULY**

**Prof Christoph Antons**

**FRIDAY, 26 JULY**

**Dr Angela Daly,** Research Fellow, Swinburne University

Competition law in the media sector

**FRIDAY, 4 OCTOBER**

**Professor Christoph Ann**, University of Technology, Munich, Germany

Patent law

**RESEARCH HUBS**

**TORTS, JURISPRUDENCE, ECONOMICS AND PERSONAL INJURY HUB**

Next meeting will be on **Wednesday, 10 April at 10am**

**Dr Andrew Torre will present on**

**Economics & Nuisance**

**GRANT OPPORTUNITIES**

**Growth Research Programme**

The Department For International Development and the Economic and Social Research Council have made a second call for grants under the Growth Research Programme - [http://www.esrc.ac.uk/funding-and-guidance/funding-opportunities/25156/dfid-esrc-growth-research-programmecall-2.aspx](https://services.exchange.deakin.edu.au/owa/redir.aspx?C=cXrEfky3AEWJ0KGZZAzpkC4RtWd3-s8Ilur-aqotJQJjKUUhQMyWjjbBUmfNsBnHXW67PcgSvqo.&URL=http%3a%2f%2fwww.esrc.ac.uk%2ffunding-and-guidance%2ffunding-opportunities%2f25156%2fdfid-esrc-growth-research-programmecall-2.aspx).

Research under the call should address one or more of three main themes:

* Theme 1: Agriculture and growth
* Theme 2: Financial sector development and growth
* Theme 3: Innovation and productivity growth in low-income countries

Funding is available for 1-3yrs and for projects with a Full Economic Cost (fEC) value of a minimum £100,000 and above.

 Outline proposals (expressions of interest) are made via the online application system [Joint Electronic Submission System (Je-S)](https://services.exchange.deakin.edu.au/owa/redir.aspx?C=cXrEfky3AEWJ0KGZZAzpkC4RtWd3-s8Ilur-aqotJQJjKUUhQMyWjjbBUmfNsBnHXW67PcgSvqo.&URL=https%3a%2f%2fje-s.rcuk.ac.uk%2f).

Applications close 16:00 UK time on 25 April 2013.

Please let **Dr Aysun Alpyurek** know if you are interested in applying.

**Commonwealth Scholarship and Fellowship Plan (CSFP)**

<http://www.csfp-online.org/index.html>

Australia (for awards to Australian citizens)

Department of Industry, Innovation, Science, Research and Tertiary Education

International Scholarships Section  
GPO Box 9839  
Canberra  
ACT 2601  
Australia  
Email: [cscuk@innovation.gov.au](mailto:cscuk@innovation.gov.au)