**DEAKIN LAW SCHOOL RESEARCH REPORT**

**No 7/19 April 2013**

**RECENT PUBLICATIONS**

Probably due to the Easter break, at this point, no new publications have been uploaded on the DRO

However, as per attachment sent to the Law School colleagues earlier this week, we have led lead the University in 2012 research publications, and are continuing to publish quality research in excellent national and international journals; as well as books and book-chapters.

Please note the new form for reporting research publications:

<http://www.deakin.edu.au/buslaw/research/publications.php>

**RESEARCH IMPACT**

**Dr Sonia Allan** was invited to present a class and on a symposium at Georgetown Law Center, Washington D.C. on 17 April 2013 (see attachment);

**Dr Allan** will appear before the NSW Parliamentary inquiry into donor conception access to records on 6 May 2013.

**LAW SCHOOL RESEARCH SEMINARS SCHEDULE**

**Trimester 1**

**FRIDAY, 19 APRIL**

Joint research seminar of the Law School and the School of Information Systems.

The Panellists, **Dr Darryl Coulthard (**Social Informatics), **Prof Matt Warren** (Business Informatics), and **Associate Prof Damminda Alahakoon** (Text Analytics) will discuss "Social Media, Big Data, New Challenges: Business, Society and the Law".

The rise of social media and the production of 'big data' provides a wide array of social and business challenges and opportunities. Social media and big data are changing the way we interact with and organise ourselves, how we market our products and do business.

They also raise a raft of important ethical and legal issues such as privacy, ‘dataveillance’, the relevance of 'offline' practices to inform online practices as well as new opportunities for civil participation and the mitigation of corruption to name but a few.

The purpose of the seminar is for each panellist, from their respective research domains, to outline emerging trends in social media and its analysis with the view to developing collaborative research between the School of Law and the School of Information Systems.

**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**

**Alison Hadfield**

Director Research and Research Training

Deakin Research, Deakin University

[www.deakin.edu.au/research](http://www.deakin.edu.au/research)

**FRIDAY, 26 JULY**

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

Competition law in the media sector

**FRIDAY, 2 AUGUST**

**Prof Christoph Antons**

**FRIDAY, 30 AUGUST**

**Giuseppe Carabetta**

‘Police and Industrial Relations’

**Trimester 3**

**FRIDAY, 25 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, 8 May at 10am**

**2014 ALFRED DEAKIN POSTDOCTORAL RESEARCH FELLOWSHIP**

The 2014 Alfred Deakin Postdoctoral Research Fellowship guidelines and conditions are available at <http://www.deakin.edu.au/research/grants/opportunities/alfred-deakin-postdoctoral-fellowships.php> .

Closing dates for applicants are as follows:

Expressions of Interest - **31 May 2013**

Full Applications (by invitation only) -**31 July 2013**

Amy Mulholland will coordinate the scheme; email queries should be directed to [research-grants@deakin.edu.au](mailto:research-grants@deakin.edu.au)

**DEAKIN UNIVERSITY THINKERS/INDUSTRY EXPERTS IN RESIDENCE**

**Call for nominations**

Deakin Research has opened the first round of the Thinkers/Industry Experts in Residence Scheme (2014 funding). The aim of the scheme is to bring senior high level, strategic thinkers from academia or industry or technology experts to Deakin University, normally for a 3-6 month period. Thinkers/Industry Experts will be leaders in academia/industry who bring a broad understanding of their field or industry sector in the context of future thinking and are willing to work in collaboration with University staff.

A maximum of $35K is available under the scheme. Applications close on **Friday 31 May 2013**

Applications must be submitted on the correct form which is available at <http://www.deakin.edu.au/research/grants/opportunities/deakin-internal/thinkers-in-residence-program.php>

Please contact **Dr Aysun Alpyurek** [aysun.alpyurek@deakin.edu.au](mailto:aysun.alpyurek@deakin.edu.au) if you would like to discuss the scheme.

If you have specific questions on the scheme, please contact **Wendy Pump** via [wendy.pump@deakin.edu.au](mailto:wendy.pump@deakin.edu.au)

Please, let Sheryl Pascoe and the Law School Management Team know if wish to proceed with nominating/bringing a Thinker/Industry Expert under this scheme.

**GRANT OPPORTUNITIES**

**UNESCO University Twinning and Networking**

<http://www.unesco.org/en/university-twinning-and-networking/university-twinning-and-networking/>

Attached is e-mail message from **Dr Aysun Alpyurek’s** *Funding Opportunities Bulletin 19 April, 2013. Please note the deadlines.*

**WARNING**

Some of us have already encountered the ‘parallel world of pseudo-academia, complete with prestigiously titled conferences and journals that sponsor them. Many of the journals and meetings have names that are nearly identical to those of established, well-known publications and events.’

This is a serious problem and can be expensive, both financially and in terms of professional reputation. See attachment.