**DEAKIN LAW SCHOOL RESEARCH REPORT**

**No 8/3 May 2013**

**RECENT PUBLICATIONS**

**Congratulations to the author of the following recent publication:**

**Dr Joanne Bagust**, The Legal Profession and the Business of Law’ (March 2013) 35(1) *Sydney Law Review* 27 (attached).

I am aware that several authors have articles and books ‘in press’ – we are on track to achieve a target of very high quality publications.

**CHANGES TO PUBLICATION NOTIFICATIONS**

The Faculty of Business and Law has made the following change to the process of publication notifications:

Authors are required to send the pro-forma <http://www.deakin.edu.au/buslaw/research/publications.php> (and any associated documentation) to **Sheryl Pascoe** ([sheryl.pascoe@deakin.edu.au](mailto:sheryl.pascoe@deakin.edu.au)), who will then forward them to Aysun Alpyurek ([aysun.alpyurek@deakin.edu.au](mailto:aysun.alpyurek@deakin.edu.au))

**RESEARCH IMPACT**

**Professor Christoph Antons**:

(1) presented paper on intellectual property in Myanmar at the Australia Myanmar Institute Inaugural Conference 'Progress, Opportunities and Concerns in Myanmar's Transition' at Melbourne Town Hall (March 2013)

(ii) presented a guest lecture via video link at Jindal Global Law School, Sonipat, Haryana, India, on WIPO and UNESCO approaches to heritage and traditional knowledge (April 2013)

**Lydia Xynas**’ work has been extensively quoted (see attached) by the Victorian Law Commission in its *Succession Laws*: Consultation Paper – Intestacy <http://www.lawreform.vic.gov.au/projects/succession-law/succession-laws-consultation-paper-intestacy>

**LAW SCHOOL RESEARCH SEMINARS SCHEDULE**

**Trimester 1**

**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**

**GRANT OPPORTUNITIES**

**Visiting Fellowship – The Institute of European Global Studies at the University of Basel**

**Closing Date:**  
20 May 2013

The Center for Advanced European-Global Studies at the University of Basel invites applications from qualified scholars to join the center for a fixed-term Visiting Fellowship during the academic year 2013-14. The Center for Advanced European-Global Studies builds on the rich tradition of research on Europe at the University of Basel and complements it with a global perspective on Europe. In three interconnected research areas, located in the fields of law, economics and society, the center conducts globally-oriented research on Europe and its transcultural entanglements. The institute's research approach is multidisciplinary and methodologically diverse in order to cross the borders of established disciplines and to initiate and support fundamental research. Special attention is paid to the processes of Europe's transcultural interconnections with Africa and Asia.

Further information can be found at - <http://europa.unibas.ch/en/news-events/nachrichtendetails/article/cfa-visiting-fellowships-1/>

**2014 Endeavour Awards**

Applications are now open for the 2014 Endeavour Awards. The Endeavour Awards is the Australian Government’s internationally competitive, merit-based scholarship program providing opportunities for citizens of the Asia Pacific, the Middle East, Europe and the Americas to undertake study, research and professional development in Australia. Awards are also available for Australians to undertake study, research and professional development abroad.

International applicants must apply for and be offered candidature at Deakin before they can apply for an Endeavour Award. **Applications must be submitted internally by 31 May 2013** to ensure your application is processed prior to the external closing date.

 Further information can be found at  <http://www.deakin.edu.au/future-students/research/scholarships/endeavour-awards.php>.

**2014 Fulbright Scholarships**

The Fulbright Program is the largest and one of the most prestigious educational scholarship programs in the world. It operates between the United States and over 155 countries worldwide. Available to International and Australian citizens. These scholarships are aimed at current PhD students, honours students, or honours graduates who are considering postgraduate study in the U.S.

**Applications for the 2014 Fulbright Australian Scholarships will open 20 May 2013.**

 Further information can be found at <http://www.fulbright.com.au/index.php>.

**Australia Awards Fellowships**

<http://www.ausaid.gov.au/australia-awards/pages/fellowships.aspx>

Australia Awards Fellowships aim to develop leadership, address priority regional development issues, and build partnerships and links between Australian organisations and their partner organisations in developing countries in the Asia-Pacific region, Latin America, the Caribbean, Africa and the Middle East.

The goal of Australia Awards Fellowships is to develop appropriately trained current and aspiring leaders in priority areas, who, in the short to medium term, will be in a position to advance key regional policy objectives and increase institutional capacity of partner countries. Australia Awards Fellowships are designed to complement individual bilateral country programs by offering flexible learning opportunities that address current and emerging needs at the country, sub-regional and regional levels.

Australia Awards Fellowships do not lead to academic qualifications. Instead, they are designed to provide short term opportunities for study, research and professional attachment programs in Australia, delivered by Australian organisations, to nominated fellows from [eligible countries](http://www.ausaid.gov.au/australia-awards/Pages/alafellow-eligible-countries.aspx).

Through Australia Awards Fellowships, Australian organisations can apply for funding to support a range of professional development activities that will build expertise and leadership capacity in [eligible countries](http://www.ausaid.gov.au/australia-awards/Pages/alafellow-eligible-countries.aspx).

**Applications are accepted from Australian organisations only; individuals are not eligible to apply.**

**Round 14 will open on 13 May 2013 and close on 19 June 2013.**

**HDR CANDIDATES & SUPERVISORS**

The article, ‘***How not to write a PhD thesis***’ was sent to me by Rachel Carter, an HDR candidate (make sure to read the Comment):

<http://www.timeshighereducation.co.uk/news/how-not-to-write-a-phd-thesis/410208.article>

With kind regards,

*Danuta*