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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

Vol. 3, No. 6: Jun 3, 2013

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Announcements

Special Issue: Selected Scholarship by Graeme Austin - Intellectual Property and Other Topics, Part Two

Table of Contents

Does the Copyright Clause Mandate Isolationism?

Graeme W. Austin, Victoria University of Wellington

International Copyright Law & Domestic Constitutional Doctrines

Graeme W. Austin, Victoria University of Wellington

Four Questions about the Australian Approach to Fair Dealing Defenses to Copyright Infringement

Graeme W. Austin, Victoria University of Wellington

Social Policy Choices and Choice of Law for Copyright Infringement in Cyberspace

Graeme W. Austin, Victoria University of Wellington

Intellectual Property Politics and the Private International Law of Copyright Ownership

Graeme W. Austin, Victoria University of Wellington

The Territoriality of United States Trademark Law

<u>Graeme W. Austin</u>, Victoria University of Wellington <u>^top</u>

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"Does the Copyright Clause Mandate Isolationism?" Columbia - VLA Journal of Law & the Arts, 2002 Victoria University of Wellington Legal Research Paper No. 23/2013
GRAEME W. AUSTIN, Victoria University of Wellington Email: graeme.austin@vuw.ac.nz
This article concerns the constitutional limits of the power of Congress to enact copyright laws, focusing on a number of arguments that have been raised in the context of the Eldred v. Ashcroft litigation and in recent copyright scholarship. It suggests that these perspectives on U.S. copyright law are difficult to reconcile with the reality of the international context within which U.S. copyright law now operates, and that if their logic is pursued, these perspectives appear to be endorsing and promoting an isolationist approach to the Copyright Clause.
"International Copyright Law & Domestic Constitutional Doctrines" Columbia Journal of Law & the Arts, 2007 Arizona Legal Studies Discussion Paper No. 07-11 Victoria University of Wellington Legal Research Paper No. 24/2013
GRAEME W. AUSTIN, Victoria University of Wellington Email: graeme.austin@vuw.ac.nz
This paper examines emerging constitutional doctrines that emphasize the relevance of international copyright relations to the constitutionality of domestic copyright law. One line of judicial reasoning suggests that legislation that protects the interests of foreign authors is consistent with copyright's quid pro quo bargain. Another suggests that rational basis scrutiny can be satisfied by a sufficient showing that the challenged legislation advances the bargaining position of the United States in negotiations over the content of foreign copyright laws. To put these developments in context, this paper briefly summarizes the doctrine that has been distilled by recent challenges to the constitutionality of various aspects of U.S. copyright law. It then explores the contours of this new "internationalized" approach to constitutional analysis of copyright law in the domestic context.
"Four Questions about the Australian Approach to Fair Dealing Defenses to Copyright Infringement" Victoria University of Wellington Legal Research Paper No. 25/2013
GRAEME W. AUSTIN, Victoria University of Wellington Email: graeme.austin@vuw.ac.nz
Focusing principally on the copyright law of Australia, this article aims to provide some further context for the fair dealing/fair use debate. The article raises four questions about the differences between the Australian and US approaches to permitted uses. These questions concern: implications of the differences in each nation's legislative drafting techniques; the significance of the relative paucity of case law in the Australian context; the relevance of other defenses; and the recent adoption in Australia of a new defense for "fair dealing for the purposes of parody or satire." The article concludes by noting some of the private international law implications of the distinctions between fair dealing and fair use.
"Social Policy Choices and Choice of Law for Copyright Infringement in Cyberspace" Oregon Law Review, Vol. 79, p. 575, 2000 Victoria University of Wellington Legal Research Paper No. 26/2013
GRAEME W. AUSTIN, Victoria University of Wellington Email: graeme.austin@vuw.ac.nz
This article explores the role of the "territoriality thesis" in copyright law from the perspective of copyright's role in the regulatory state, focusing on differences in approaches to copyright issues withing different national legal systems. These differences implicate the role of copyright in shaping domestic information policy, including access to the materials of culture. Suggestions by US scholars to depart from the territoriality of copyright law are scrutinized in the light of these issues.
"Intellectual Property Politics and the Private International Law of Copyright Ownership" Brooklyn Journal of International Law, Vol. 30, No. 3, 2005 Victoria University of Wellington Legal Research Paper No. 27/2013

 $\frac{GRAEME\ W.\ AUSTIN}{Email:\ graeme.austin@vuw.ac.nz}, \ Victoria\ University\ of\ Wellington$

Examining private international law principles relating to copyright ownership, this paper argues that the law of the place of creation should govern ownership questions, an approach that is broadly in line with the decision of the Second Circuit Court of Appeals in Itar-Tass Russian News Agency v Russian Kurier, 153 F 3d 82 (2d Cir. 1998). This approach, which defers to the laws that create the "context" within which creative activity occurs, is preferable to that adopted by the Full Federal Court of Australia in Enzed Holdings Ltd v Wynthea Pty Ltd (1984) FCR 450, which reasoned that ownership issues run with the law of the copyright, and therefore the lex protectionis should govern.

"The Territoriality of United States Trademark Law" INTELLECTUAL PROPERTY AND INFORMATION WEALTH, Peter Yu, ed., Praeger Press, 2007 Arizona Legal Studies Discussion Paper No. 06-20 Victoria University of Wellington Legal Research Paper No. 28/2013

<u>GRAEME W. AUSTIN</u>, Victoria University of Wellington Email: <u>graeme.austin@vuw.ac.nz</u>

As commerce becomes progressively globalized, and communication networks enable firms to disseminate information about their trademarks more cheaply and efficiently, it becomes increasingly important for firms and their advisors to understand the geographical scope and limitations of legal rights attaching to trademarks. Basic to trademark law, the territoriality principle characterizes trademark rights as owning their legal existence to the sovereign powers of individual nations. Today, however, neither the worldview of consumers, nor the sensory information that influences how these worldviews get formed can easily be confined within domestic borders. Focusing primarily on U.S. law, this paper surveys the doctrine on the territoriality of trademarks in both domestic and cross-border contexts, and discusses two principal exceptions to territoriality: enforcement of trademark rights abroad under U.S. trademark law; and enforcement within the United States of trademark rights first established in foreign territories. This paper will be published as a chapter in INTELLECTUAL PROPERTY AND INFORMATION WEALTH, (Peter Yu ed., Praeger Press, forthcoming 2007), which aims to introduce key intellectual property concepts to a general readership.

About this e.Journal

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachussetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Judicial Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the <u>Law School</u> has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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