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DR PATRICIA COVARRUBIA

Protection of Non-Agricultural GIs: A Window on What is Happening in Latin America 129

The TRIPS Agreement and the Lisbon Agreement invite Member States to protect GIs. These agreements do not differentiate among GIs for agricultural and non-agricultural goods. Why then has the EU not yet provided GI protection for non-agricultural products? A number of Latin American countries have seen the importance of recognising GIs for non-agricultural products as having economic value—a trade tool. However, importance is also given to their cultural significance.

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Research Authorship in Higher Education in Australia: A Confusing Mix of Ethics Codes, Developed Practices and Intellectual Property Law 140

The meaning of the term "authorship" depends on the context in which it is used, and this is true for the Australian higher education sector. The authorship provisions of the National Health and Medical Research Council and Australian Research Council, *the Australian Code for the Responsible Conduct of Research*, are an influential guide to the meaning of research authorship, but journals, scholarly associations and research funding bodies other than the NHMRC and ARC may have their own rules about the attribution of authorship. There is also the wider area of authorship ethics in higher education to consider, encompassing matters such as rules about plagiarism and long-developed practices about crediting the authorship of academic writing. Yet another important layer of meaning of authorship appears in the legal rules that determine authorship and inventorship in respect of the various types of intellectual property created as part of higher education sector research. The article explores these different definitions of authorship and the difficulties researchers face in determining what authorship rules to apply in particular circumstances.

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Trade Secrets under Review: A Comparative Analysis of the Protection of Trade Secrets in the EU and in the US 154

Whereas in the US, rather uniform statutory protection on trade secrets was issued some 30 years ago, in the EU the rules on this issue have lacked common legal ground. This is likely to change soon, with a proposal for an EU directive on the protection of trade secrets. This article will examine this proposal, above all by comparing it to the current US regime on the matter. As the article will demonstrate, no statute is perfect, and neither is the EU's proposal.

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Advertisements may have different motives in their creation process but it is impossible to deny that they are important outcomes of intellectual creations. Advertising slogans are an important component of advertising activities, and while some of these can be protected by trade mark law, this article focuses on the potential copyright aspect of advertising slogans. On the one hand, these are different from other types of copyright works as they are significantly shorter; on the other hand, some of them are capable of conveying ideas and emotions. In this article, arguments for and against providing copyright protection to advertising slogans are discussed.

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Patent Owners Beware: Delay in Bringing Suit May be a Defence! 178

What are the risks of delaying the filing of a patent infringement lawsuit? In common law jurisdictions, delay may provide a basis for a defence, and in the US, in particular, the consequences may be dire. In *SCA Hygiene Prods v First Quality Baby Prods*, the Federal Circuit confirmed that an owner of a US patent who unduly delays bringing a lawsuit will be barred from recovering damages for past infringement, even where the suit was brought within the six-year limitation period.

RICHARD H. STERN

Kimble: Patent Misuse through the Lens of Patent Policy, not Antitrust Policy 182

In its first important patent misuse decision in three decades, the *Kimble* case, the US Supreme Court rejected several decades of efforts in the Federal Circuit and other lower courts to limit the scope of the patent misuse doctrine. That doctrinal counter-movement had sought to confine assertion of a misuse defence to cases where the practice challenged as misuse had severe anti-competitive effects in a relevant market that were comparable to those required to support a conclusion of antitrust violation. In addition, the Federal Circuit had carved out of the misuse and exhaustion doctrines all "conditional" sales by patentees (sales that the patentee had made subject to conditions such as limitations on use), drastically curtailing the application of those doctrines. Yet the Supreme Court had, early in the 20th century, held that patentees could not lawfully impose conditions on products they sold, expressly overruling cases upholding that practice. In its *Kimble* decision, the Supreme Court rejected the application of antitrust policies to the analysis of patent misuse. Misuse is based on patent policy, the *Kimble* court held, not antitrust policy, and it seeks to further the accomplishment of goals of the patent system, not those of the antitrust laws. *Kimble* thus calls for a return to the patent misuse doctrines that the Supreme Court declared during the first half of the 20th century and a rejection of the later contrary movement in the last part of the 20th century. The reasoning of the court not only rejects any requirement of anti-competitive market effects for making a misuse holding, but it undercuts any use of "conditional" sales for imposing restrictions.