

FOREWORD

It is only quite recently in New Zealand that our intellectual property laws have been subjected to any academic analysis. For many years the patent, trade mark and copyright laws, substantially as imported from England, operated in their respective fields in the hands of a few specialist practitioners. Analysis was non-existent and litigation was uncommon.

Two factors, probably interdependent, brought change. One was the increasing industrialisation of New Zealand in the context of growing international trade. The other was the introduction of teaching in the field in the law schools. That commenced with David Vaver's classes at Auckland University. Now, as Reuters Professor of Intellectual Property and Information Technology Law at Oxford, he is a recognised academic leader and well qualified to write authoritatively in the field. That this special issue of Victoria University of Wellington Law Review should include his recent thoughtful address is a coup indeed.

Megan Richardson, another distinguished New Zealand lawyer and academic highly regarded across the Tasman has also turned her considerable skills to analysis of aspects of intellectual property laws. Her article, like that of Professor Vaver, draws attention to problems of the lack of coherence in the present legal regimes.

From time to time in the course of law reform processes there have been reports produced in New Zealand which have included assessments of where the balance should lie between legal protection for creators and innovators on the one hand and the public interest on the other. Proposals for reform to take account of local circumstances, however, have frequently foundered on the inertia of the entrenched international conventions and agreements to which New Zealand is a party. Some proposals that were implemented may have turned out to have unexpected consequences, particularly those directed to copyright in designs applied industrially.

But the need for change and development is pressing. Globalisation of trade and communications has meant that national boundaries that contain current intellectual property rights no longer reflect the manner in which they need to operate to effectively perform their purposes. Imaginative new approaches are needed. They must be worked out bearing in mind the sometimes competing demands of local circumstances and international obligations.

A broad consensus must be sought given the diverse economic and social interests to be accommodated that is a huge task. Its importance means that every effort must be made to encourage analysis and innovative thinking in the field.

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It is important to keep in mind that the various fields of law now compendiously referred to under the heading of intellectual property have quite different historical bases and evolved to serve different purposes. They also impact differently on competition and trade. Therefore, while it is tempting to consider the diverse intellectual property rights as a group, they do not, and probably cannot, have an overall coherence and underlying policy.

This special issue of the Law Review directed to intellectual property is welcome. It demonstrates the distance travelled in a short time by publishing a collection of high quality articles. It demonstrates also that our university scholars are being stimulated to examine our intellectual property laws and their proper role in our circumstances.

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The field is broad. There is room for more. I hope this most interesting and useful collection will lead on to much more.

T M Gault