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AUSTRALIAN INTELLECTUAL PROPERTY LAW



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Australian Intellectual Property Law

Intellectual property law in Australia has changed dramatically in the last decade and continues to change. Developments in technology, the rise of the internet, the globalisation of trade and the increasing importance of ‘superbrands’ or trade marks with global appeal have all affected the laws surrounding intellectual property. Furthermore, globalisation has resulted in greater pressure to expand the rights of intellectual property owners as they endeavour to capture the potential benefits of ownership in an increasingly affluent and integrated world economy.

This book provides a detailed and scholarly insight into Australian intellectual property law. It aims to offer students and legal professionals a detailed discussion of the black-letter aspects of the law, with the primary emphasis on the legal principles and complexities within.

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For Rachel

For Alan, Louise and Tim

For Brad and Lucy

Australian Intellectual Property Law

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Preface

Intellectual property law in Australia has changed dramatically in the last decade and continues to change. These changes are the product of a number of different influences. One of these has been developments in technology such as the rise in the importance of the internet and the use of computer technology generally, developments in biotechnology and changes in plant breeding. Each of these technological influences has had its effects on almost every facet of intellectual property law.

Other influences have included the globalisation of trade, which has resulted in a push for harmonisation of intellectual property laws, and the increasing importance of superbrands or trade marks with global appeal and selling power. This has led to new international treaties and a return to the use of bilateral trade agreements. Globalisation has also resulted in greater pressure to expand the rights of intellectual property owners as they endeavour to capture the potential benefits of ownership in an increasingly affluent and integrated world economy.

The increasing importance of intellectual property has given rise to an increasing need for an understanding of the technicalities of intellectual property law. Both due to and despite some of the harmonising effects of globalisation, Australian law in this area has continued to develop and expand.

This book attempts to provide a detailed and scholarly insight into Australian intellectual property law. Its primary emphasis is on the legal principles and the complexities in that law. The authors have made a deliberate decision to focus on these issues to the exclusion of the wider policy issues surrounding intellectual property law. They have done so for a number of reasons. The first of these is that space constraints make it impractical to adequately deal with those policy considerations in a meaningful way. Consequently, they are flagged throughout the book and detailed references made to the many excellent works that already discuss those matters. The second and related reason is that an adequate investigation into and examination of the legal principles and complexities of Australian intellectual property law requires the sort of detailed treatment that has been undertaken and, again, space constraints demanded a choice about which issues to focus on. The intention is, therefore, to provide an in-depth and scholarly analysis of intellectual property law. By so doing, we aim to increase the stock of knowledge in this important area of the law.

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- Baygol Pty Ltd v Foamex Polystyrene Pty Ltd* (2005) 66 IPR 1, 515, 517, 518
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- Beecham Group Ltd v Bristol Laboratories Ltd* (1968) 118 CLR 618, 598, 599
- Beecham Group Ltd v Bristol Laboratories Ltd (No 1)* [1978] RPC 153, 521, 526
- Belegging-en-Exploitiatiemaatschapij Lavender BV v Witten Industrial Diamonds Ltd* [1979] FSR 59, 529
- Beloff v Pressdram Ltd* [1973] 1 All ER 241, 278, 282, 293, 369, 370–1
- Bennetts v Board of Fire Commissioners of New South Wales* (1967) 87 WN (Pt 1) (NSW), 347
- Berkeley Hotel Co Ltd v Berkeley International Mayfair Ltd* [1972] RPC 237, 35
- Berlei Hestia Industries v The Bali Co Inc* (1973) 129 CLR 353, 92, 103, 140
- Bernstein v Murray* [1981] RPC 303, 203
- BEST Australia Ltd v Aquagas Marketing Pty Ltd* (1988) 83 ALR 217, 529, 530
- Betts v Neilson* (1868) LR 3 Ch App 429, 439; aff'd (1871) LR 5 HL 1, 524
- Betts v Willmott* (1871) LR 6 Ch App 239, 519, 526, 527
- Billhöfer Maschinenfabrik GmbH v TH Dixon & Co Ltd* [1990] FSR 105, 253
- Biogen Inc v Medeva plc* [1997] RPC 1, 410–11, 475–6
- Bismag v Amblins* [1940] Ch 667, 166
- Blackie & Sons Ltd v Lothian Book Publishing Co Pty Ltd* (1921) 29 CLR 397, 227
- Bloomsbury Publishing Group Ltd v News Group Newspapers Ltd* [2003] FSR 45, 354
- Blount Inc v Registrar of Trade Marks* (1998) 83 FCR 50, 93
- Boehringer Ingelheim International GmbH v Commissioner of Patents* (2001) 112 FCR 595, 392
- Bollinger v Costa Brava Wine Co Ltd* [1960] Ch 262, 15, 21, 27–8, 37, 53
- Booth v Federal Commissioner of Taxation* (1987) 164 CLR 159, 486
- Bosch's Application* (1909) 26 RPC 710, 434
- Bostitch Trade Mark* [1963] RPC 183, 172
- Re Application by Bovingdon* (1946) 64 RPC 20, 407
- Bowden Controls Ltd v Acco Cable Controls Ltd* [1990] RPC 427, 546
- Bowden Wire Ltd v Bowden Brake Co Ltd* (1914) 31 RPC 385, 172
- Boyce v Morris Motors Ltd* (1927) 44 RPC 105, 427
- Brabazon v Western Mail Ltd* (1985) 58 ALR 712, 63
- Breen v Williams* (1996) 186 CLR 71, 1, 343, 360, 361
- Brent v Federal Commissioner of Taxation* (1971) 125 CLR 418, 343
- Bresagen Ltd v Austin Research Institute* (2004) 60 IPR 174, 410–11
- Breville Pty Ltd v Warehouse Group (Australia) Pty Ltd* (2005) 67 IPR 576, 517
- Bridge Stockbrokers Ltd v Bridges* (1984) 4 FCR 460, 51–2, 56
- Bridge v Deacons* [1984] AC 705, 488
- Bristol-Myers Co v Beecham Group Ltd* [1974] AC 646, 427–8, 458, 459, 461

- Bristol-Myers Squibb Co v F H Faulding & Co Ltd* (1998) 41 IPR 467, 412, 416, 418, 527–8, 529
- Bristol-Myers Squibb Co v F H Faulding & Co Ltd* (2000) 97 FCR 524, 410, 411, 412–13, 415–16, 428–9, 446, 452, 453–4, 455, 527–8, 529, 531, 532–4
- British American Tobacco (Investments) Ltd v Philip Morris Ltd* (1999) 47 IPR 351, 427
- British Dynamite Co v Krebs* (1896) 13 RPC 190, 471, 512
- British Franco Electric Pty Ltd v Dowling Plastics Pty Ltd* [1981] 1 NSWLR 448, 372–3
- British Hoist & Crane Co Ltd's Trade Mark* (1955) 72 RPC 66, 121
- British Leyland v Armstrong* [1986] RPC 279, 203
- British Liquid Air Co Ltd v British Oxygen Company Ltd* (1908) 25 RPC 577, 456
- British Motor Syndicate Ltd v Taylor & Son* [1901] 1 Ch 122, 133 (CA), 524
- Ex parte British Nylon Spinners Ltd* (1963) 109 CLR 336, 498
- British Ore Concentration Syndicate Ltd v Minerals Separation Ltd* (1909) 26 RPC 124, 429
- British Reinforced Concrete Engineering Co v Lind* (1917) 34 RPC 101 (ChD), 489
- British Steel Corp v Granada Television Ltd* [1981] AC 1096, 293, 369
- British Syphon Company Ltd v Homewood* [1956] 1 WLR 1190, 488
- British Telecommunications v One-in-a-Million* [1998] NLJR 1179, 43
- British Thomson-Houston Co Ltd v Corona Lamp Works Ltd* (1922) 39 RPC 49, 471–2
- British United Shoe Machinery Co Ltd v A Fussell & Sons Ltd* (1908) 25 RPC 631, 467, 470, 510
- British United Shoe Machinery Co Ltd v Simon Collier Ltd* [1910] RPC 567, 522–3
- Re: Broderbund Software Inc. and Dataflow Computer Services Pty. Limited v Computermate Products (Australia) Pty. Limited; Raymond Firth; Broderbund Software Inc. and Dataflow Computer Services Pty. Limited* No. G492 of 1990 FED No. 711 Trade Practices (1992) 14 ATPR 41–155 (1991) 22 IPR 215, 607
- Brook v Canon Kabushiki Kaisha* (1994) 30 IPR 525, 108
- Brookfield Communications Inc v West Coast Entertainment Corp* 174 F 3d 1036 (9th Cir, 1999), 49
- Buchanan Turf Supplies Pty Ltd v Premier Turf Supplies Pty Ltd* [2003] FCA 230, 586
- Buchanan v Alba Diagnostics Ltd* [2004] RPC 34, 497
- Buffet v Fersing CA Paris 30 May 1962* [1962] D Jur 570, 301
- Bulun Bulun and Milpururru v R & T Textiles* (1998) 41 IPR 513, 182, 217
- Burge v Swarbrick* [2005] FCAFC 257, 204
- Burge v Swarbrick* [2007] HCA 17, 205–6
- Burger King Corporation v Registrar of Trade Marks* (1973) 128 CLR 417, 89, 91
- Burke & Margot Burke Ltd v Spicers Dress Design* [1936] Ch 400, 252
- Butler v Board of Trade* [1971] Ch 680, 351
- C & W's Application* (1914) 31 RPC 235, 411
- C Van der Lely NV v Bamfords Ltd* [1963] RPC 61, 419, 424, 425, 514, 515, 516–17
- C Van der Lely NV v Ruston's Engineering Co Ltd* [1993] RPC 45, 473
- CA Henschke & Co v Rosemount Estates Pty Ltd* (2000) 52 IPR 42, 36, 103–4, 134, 142–3, 174
- Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (No 4)* [2006] FCA 446, 24, 32, 73

- Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd* [2007] FCAFC 70, 610
- Cadbury Schweppes Pty Ltd v Pub Squash Co Pty Ltd* [1980] 2 NSWLR 851, 22, 24, 33, 36
- CAL and Department of Education* [1985] 59 ALR 172, 248
- CAL v Haines* [1982] 1 NSWLR 182, 272
- Calvin Klein Inc v International Apparel Syndicate* [1995] FSR 515, 25
- Camilleri v Steel Foundations Ltd* [2002] QSC 397, 483, 486
- Campbell v MGN Ltd* [2004] 2 AC 457, 354
- Campomar Sociedad Limitada v Nike International Ltd* (2000) 202 CLR 45, 56, 122, 127, 130, 146
- Canada: Patent Protection of Pharmaceutical Products: Complaint by the European Communities and their Member States*, 17 March 2000, WT/DS114/R, 466
- Canadian Shredded Wheat Co Ltd v Kellogg Co of Canada Ltd and Another* [1938] 1 All ER 618, 24
- Canon Kabushiki Kaisha v Brook* (1994) 30 IPR 525, 108
- Cantarella Bros Pty Ltd v Kona Coffee Roastery & Equipment Supplied Pty Ltd* (1993) 28 IPR 176, 118–19
- Cantor Fitzgerald International v Tradition (UK) Ltd* [2000] RPC 95, 255
- Carindale Country Club Estate Pty Ltd v Astill* (1993) 42 FCR 307, 345
- Carlton United Breweries v Royal Crown Co* (2001) 53 IPR 599, 99
- Castrol Australia Pty Ltd v Em Tech Associates Pty Ltd* (1980) 33 ALR 31, 346, 369, 370–1
- Caterpillar Inc v Amco (Vic) Pty Ltd* (2000) 49 IPR 407, 106
- Caterpillar Inc v John Deere Ltd* (1999) 48 IPR 1, 528, 529
- Caterpillar Loader Hire (Holdings) Pty Ltd (t/a Willoughby's Caterpillar Loader Hire Service) v Caterpillar Tractor Co* (1983) 77 FLR 139, 111
- Catnic Components Ltd v Hill & Smith Ltd* [1982] RPC 183, 428, 444, 514, 515–18
- Cave-Brown-Cave's Application for a Patent* [1958] RPC 429, 433
- CBS Records Australia v Telmak Teleproducts (Aust) Pty Ltd* (1987) 9 IPR 440, 206
- CBS Songs Ltd v Amstrad Consumer Electronics plc* (1998) 11 IPR 1, 258, 529
- CCH Canadian Ltd v Law Society of Upper Canada* [2004] 1 SCR 339, 2004 SCC 13, 273, 275
- CCOM Pty Ltd v Jiejing Pty Ltd* (1993) 27 IPR 577, 529, 538
- CCOM Pty Ltd v Jiejing Pty Ltd* (1993) 48 FCR 41, 530
- CCOM Pty Ltd v Jiejing Pty Ltd* (1994) 51 FCR 260, 396, 410, 410–11, 414, 417, 475–6, 477, 550
- Re Application by Cementation Co Ltd* (1945) 62 RPC 151, 407
- Centromics Systems Pty Ltd v Nintendo Co Ltd* (1992) 111 ALR 13, 313
- Challender v Royle* (1887) 36 Ch D 425, 163
- Challenge Engineering Ltd v Fitzroy Milk Tanks Pty Ltd* (1997) 40 IPR 647, 80
- Chan v Zacharia* (1984) 154 CLR 178, 490–1
- In the Matter of Charles Selz Ltd's Application* (1954) 71 RPC 158, 487, 488, 490–1
- Chatterton v Cave* (1878) 3 App Cas 483, 276
- Cheney Bros v Doris Silk Corp* 35 F 2d 279 (2nd Cir, 1929), 280, 60
- Children's Television Workshop Inc v Woolworths Ltd and Another* (1981) 1 NSWLR 273, 34
- Chiron Corporation v Murex Diagnostics Ltd* [1996] RPC 535, 382
- Christopher Simon French v Paul Julian Mason* [1999] FSR 597, 490–1
- Cincinnati Grinders (Inc) v BSA Tools Ltd* (1931) 48 RPC 33, 457

- Clairol, Inc, v Boston Discount Center of Berkley, Inc, et al* 608 F 2d 1114 (6th Cir, 1979), 24
- Clark Equipment Co v Registrar of Trade Marks* (1964) 111 CLR 511, 514, 90
- Clark v Adie* (1875) 10 Ch App 667, 515
- Clark v Associated Newspapers Ltd* (1998) 40 IPR 262, 302
- Clifford Davis Management Ltd v WEA Records Ltd* [1975] 1 All ER 237, 240
- Clissold v Amalgamated Television Services Pty Ltd* (2000) 52 IPR 207, 99
- Clorox Australia Pty Ltd v International Consolidated Business Pty Ltd* (2006) 68 IPR 254, 507, 512, 517, 518
- Clyde Nail Co Ltd v Russell* (1916) 33 RPC 291, 434
- Coca Cola Co v Gemini Rising* 346 F Supp 1183 (ED NY, 1972), 24
- Coca-Cola Co v All-Fect Distributors Ltd (t/a Millers Distributing Co)* (1998) 43 APR 47, 147–51
- Coca-Cola Co v All-Fect Distributors Ltd (t/a Millers Distributing Co)* (1999) 96 FCR 107, 71, 76, 103, 139–41, 142–3, 147, 148–51
- Coca-Cola Trade Marks* [1986] FSR 472, 71
- Coco v A N Clark (Engineers) Ltd* [1969] RPC 41, 342, 344, 346–54, 357, 358, 360, 367, 373, 375
- Colbeam Palmer Ltd v Stock Affiliates Pty Ltd* (1968) 122 CLR 25, 1, 169, 602
- Colgate Palmolive v Markwell Finance Ltd* [1989] RPC 497, 155, 157
- Collier Constructions v Foskett* (1990) 19 IPR 44, 293
- Collins v Northern Territory of Australia* (2006) 70 IPR 614, 530, 531
- Collins v Northern Territory* [2007] FCAFC 152, 611
- Columbia Pictures Industries Inc v Luckins* (1996) 34 IPR 504, 268
- Comite Interprofessionel du Vin de Champagne v NL Burton* (1981) 57 FLR 435, 37
- Comite Interprofessionnel des Vins Cotes de Provence & Anor v Stuart Alexander Bryce & Anor* (1996) 69 FCR 450, 112
- Commercial Plastics Ltd v Vincent* [1964] 3 WLR 820 (CA), 366
- Commissioner of Patents v Emperor Sports Pty Ltd* (2006) 149 FCR 386, 446–8
- Commissioner of Patents v Microcell Ltd* (1959) 102 CLR 232, 408, 451, 455, 466
- Committee of Direction of Fruit Marketing v Australian Postal Commission* (1980) 144 CLR 577, 492
- Commonwealth of Australia v John Fairfax & Sons Ltd* (1980) 147 CLR 39, 278, 293, 294, 343, 344, 346, 350–1, 354, 358
- Commonwealth Industrial Gases Ltd v MWA Holdings Pty Ltd* (1970) 180 CLR 160, 450, 518
- Companhia Souza Cruz Industria e Comercio v Rothmans of Pall Mall (Aust) Ltd* (1998) 41 IPR 497, 91
- Computer Edge v Apple Computer Inc* (1986) 161 CLR 171, 198
- ConAgra Inc v McCain Foods (Australia) Pty Ltd* (1992) 33 FCR 302, 357–8 (Gummow J), 22, 27
- Concrete Constructions (NSW) Pty Ltd v Nelson* (1990) 169 CLR 594, 55, 462–3
- Concrete Pty Ltd v Parramatta Design Developments Pty Ltd* [2004] FCA 1312, 270
- Concut Pty Ltd v Worrell* (2000) 176 ALR 693, 363
- Conor Medsystems Inc v The University of British Columbia* (2005) 223 ALR 74, 449–50
- Conor Medsystems Inc v The University of British Columbia (No 2)* (2006) 68 IPR 217, 481–2, 548, 549
- Conrol Pty Ltd v Meco M Callum Pty Ltd* (1996) 34 IPR 517, 329
- Conveyor Co of Australia Pty Ltd v Cameron Bros Engineering Co Ltd* [1973] 2 NZLR 38, 342, 355, 356

- Coogi Australia Pty Ltd v Hysport International* (1998) 41 IPR 593, 206
- Cooper Engineering Co Pty Ltd v Sigmund Pumps Ltd* (1952) 86 CLR 536, 102
- Cooper v Universal Music Australia Pty Ltd* [2006] FCAFC 187, 250, 261
- Coopers Animal Health Australia Ltd v Western Stock Distributors Pty Ltd* (1986) 6 IPR 545, 457
- Coopers Animal Health Australia Ltd v Western Stock Distributors Pty Ltd* (1987) 15 FCR 382, 470
- Co-ordinated Industries Pty Ltd v Elliott* (1998) 43 NSWLR 282, 344
- Re Application by Copyright Agency Limited; Copyright Agency Ltd v The University of Adelaide & Others* (1997) 38 IPR 633, 245
- Copyright Agency Limited v Queensland Department of Education* [2006] ACopyT 1, 227
- Copyright Agency Limited v Victoria University of Technology* (1994) 29 IPR 263, 288
- Corrs Pavey Whiting & Byrne v Collector of Customs (Vic)* (1987) 14 FCR 434, 341, 344, 345, 346, 350, 354, 358, 368, 369, 370, 371
- Cortis Exhaust Systems Pty Ltd v Kitten Software Pty Ltd* [2001] FCA 1189, 196, 208, 211, 362
- The Cosmetic, Toiletry and Fragrance Association Foundation v Fanni Barns Pty Ltd* (2003) 57 IPR 594, 98
- Costa v GR & IE Daking Pty Ltd* (1994) 29 IPR 241, 426–7, 433
- Coulthard v State of South Australia* (1995) 63 SASR 531, 354, 358
- County Laboratories Ltd v Mindel Ltd* [1957] 1 Ch D 295, 162
- Crane v Price* (1842) 1 WPC 393; 4 M & G 580; 134 ER 239, 406
- Cranleigh Precision Engineering Ltd v Bryant* [1964] 3 All ER 289, 356, 359, 361
- Cray Valley Limited v Deltech Europe Limited* [2003] EWHC 728 (Ch), 356, 368, 373
- Creation Records Ltd v News Group Newspapers Ltd* (1997) 39 IPR 1, 348, 351, 354
- Crowley v Murphy* (1981) 52 FLR 123, 341
- Re Application by CSIRO and Gilbert* (1995) 31 IPR 67, 483, 548
- CSR Ltd v Resource Capital Australia Pty Ltd* (2003) 128 FCR 408, 45, 160
- Cuisenaire v Reed* [1963] VR 719, 204, 251
- Cullen v Welsbach Light Co of Australasia Ltd* (1907) 4 CLR 990, 427
- Cultivaust Pty Ltd v Grain Pool Pty Ltd* (2004) 62 IPR 11, 570, 574, 576, 577, 580, 582, 584, 592
- Cultivaust Pty Ltd v Grain Pool Pty Ltd* (2005) 147 FCR 265, 570, 574, 576, 577, 581, 582
- Cultivaust Pty Ltd v Grain Pool Pty Ltd* (2006) 67 IPR 162, 574
- Cummins v Bond* [1927] 1 Ch 167, 212, 215
- Cummins v Vella* [2002] FCAFC 218, 251
- D Sebel & Co Ltd v National Art Metal Co Pty Ltd* (1965) 10 FLR 224, 326
- Daiquiri Rum Trade Mark* [1969] RPC 600, 104, 143
- Dallas Cowboys Cheerleaders, Inc v Pussycat Cinema, Ltd and Michael Zaffarano* 604 F2d 200 (2nd Cir, 1979), 24
- Darcy v Allin* (1602) 11 Co Rep 84b; 77 ER 1260, 379
- Dart Industries Inc v David Bryar & Associates Pty Ltd* (1997) 38 IPR 389, 355
- Dart Industries Inc v Décor Corp Pty Ltd* (1989) 15 IPR 403, 327, 328, 330
- Dart Industries Inc v Décor Corp Pty Ltd* [1994] FSR 567, 603
- Darvall McCutcheon (a firm) v HK Frost Holdings Pty Ltd (in liq)* (2002) 4 VR 570, 346, 373, 374
- Darwin Fibreglass Pty Ltd v Kruhse Enterprises Pty Ltd* (1988) 41 IPR 649, 204

- Data Access Corp v Powerflex Pty Ltd* (1996) 33 IPR 194, 199
- Data Access Corp v Powerflex Pty Ltd* (1997) 37 IPR 436, 199
- Data Access Corp v Powerflex Pty Ltd* (1999) 166 ALR 228, 196, 198–9, 254, 255, 410, 414
- Datadot Technology Ltd v Alpha Microtech Pty Ltd* (2003) 59 IPR 402, 531, 533
- David Syme & Co Ltd v General Motors-Holden's Ltd* [1984] 2 NSWLR 294, 370
- Davis v Commonwealth* (1988) 166 CLR 79, 17
- DB Breweries v Domain Name Co Ltd* (2001) 52 IPR 280, 161
- De Garis v Neville Jeffress Pidler Pty Ltd* (1990) 37 FCR 99, 274–5, 276, 278, 282
- De Maudsley v Palumbo* [1996] FSR 447, 346, 347
- Decor Corporation Pty Ltd v Dart Industries Inc* (1988) 13 IPR 385, 456, 510, 511–13, 516
- Delphic Wholesalers v Elco Food Co* (1987) 8 IPR 545, 157
- Dennison Manufacturing Co v Monarch Marking Systems Inc* (1983) 1 IPR 431, 426
- Dent v Turpin* (1861) 2J & H 139; 70 ER 1003, 28
- Desktop Marketing Systems Pty Ltd v Telstra Corporation Ltd* [2002] FCA 112, 1, 16, 197, 212
- Detla Nominees Pty Ltd v Viscount Plastic Products Pty Ltd* [1979] VR 167, 341, 355
- Diamond, Commissioner of Patents and Trade Marks v Diehr and Lutton* (1981) 450 US 175, 414
- Diamond v Chakrabarty* (1980) 447 US 303, 410
- Dias Aluminium Products Pty Ltd v Ullrich Aluminium Pty Ltd* (No V123 of 2002) (2006) 66 IPR 561, 326, 330
- Digital Equipment Corp v Altavista Technology Inc* 960 F Supp 456 (D Mass, 1997), 48–9
- Docker v Somes* (1834) 39 ER 1095, 604
- Dominion Rent A Car Ltd v Budget Rent a Car System (1970) Ltd and Another* [1987] 2 NZLR 395, 29
- Donaldson v Beckett* (1774) 1 ER 837, 181, 182
- Donoghue v Allied Newspapers Ltd* [1938] Ch 106, 216, 217
- Dormeuil v Feraglow* [1990] RPC 449, 169
- Douglas v Hello! Ltd (No 3)* [2006] QB 125, 346, 347, 351, 354
- Dow Chemical AG v Spence Bryson & Co Ltd* [1982] FSR 397, 529
- Dow Pharmaceuticals Inc v HN Norton & Co Ltd* (1995) 33 IPR 1, 427
- Dowson & Mason Ltd v Potter* [1986] 1 WLR 1419, 374
- Ducker's Trade Mark* (1928) 45 RPC 397, 402, 74
- Dunford & Elliott v Johnson & Firth Brown* [1978] FSR 143, 344, 359
- Re Dunlop Holdings Ltd's Application* [1979] RPC 523, 425
- Dunlop Pneumatic Tyre Co Ltd v British & Colonial Motor Car Co* (1901) 18 RPC 313, 521, 524
- Dunlop Pneumatic Tyre Co Ltd v David Moseley & Sons Ltd* [1904] 1 Ch 612, 530
- Durban Roodepoort Deep Ltd v Reilly & Featherby* [2003] WASC 232, 345
- Durkan v Twentieth Century Fox Film Corporation (Braveheart)* (2000) 47 IPR 651, 99–100
- Dyno Nobel Asia Pacific Ltd v Orica Australia Pty Ltd* (1999) 99 FCR 151, 426, 439, 453, 539–40
- E I Du Pont de Nemours (Witsiepe's) Application* [1982] FSR 303, 435
- E I Dupont de Nemours & Co v Imperial Chemical Industries plc* (2002) 54 IPR 304, 470–1, 444, 471
- E I Dupont de Nemours & Co v Imperial Chemical Industries plc* (2005) 66 IPR 462, 423, 448
- E Worsley & Co Ltd v Cooper* [1939] 1 All ER 290, 367, 368

- Eagle Rock Entertainment Ltd v Caisley* [2005] FCA 1238, 268
- Eastland Technology Australia Pty Ltd v Whisson* (2005) 223 ALR 123, 490–1
- eBay v MercExchange* 126 S Ct 1837 (2006), 600
- EC v US WT DS160*, 287
- Edgeberry v Stephens* (1691) 1 WPC 35, 481
- Edisonia v Forse* (1908) 25 RPC 546 (ChD), 490
- Edwards Hot Water Systems v SW Hart Pty Ltd* (1985) 5 IPR 1, 203, 327
- Elconnex Pty Ltd v Gerard Industries Pty Ltd* (1991) 32 FCR 491, 474, 513, 518
- Elconnex Pty Ltd v Gerard Industries Pty Ltd* (1992) 25 IPR 173, 444, 449–50
- Electric & Musical Industries Ltd v Lissen Ltd* [1938] 4 All ER 221, 474, 510–11, 513, 514
- Electrolux Ltd v Electrix Ltd* (1954) 71 RPC 23, 167
- Electrolux Ltd v Hudson* [1977] FSR 312, ChD, 363, 487, 488
- Re Application of Eli Lilly & Co* [1982] 1 NSWLR 526, 525, 526
- Eli Lilly & Co v Pfizer Overseas Pharmaceuticals* (2005) 64 IPR 506, 471, 473
- Elliott v Ivey* Unreported No 1561/98 [1998] NSWSC 116 (23 April 1998), 356
- Elmslie v Boursier* (1869–70) LR 9 Eq 217, 525
- Re Application by Elton & Leda Chemicals Ltd* [1957] RPC 267, 407
- Emory University v Biochem Pharma Inc* (1998) 86 FCR 1, 551
- Emperor Sports Pty Ltd v Commissioner of Patents* (2005) 146 FCR 159, 439
- English & American Insurance Co Ltd v Herbert Smith* [1988] FSR 232, 344, 351, 354
- Eos (Aust) Pty Ltd v Expo Tomei Pty Ltd* (1998) 42 IPR 277, 128
- EPI Environmental Technologies Inc v Symphony Plastic Technologies plc* [2005] 1 WLR 3456, 356, 373
- Erickson's Patent* (1923) 40 RPC 477, 513
- Ervin Warnink BV v J Townend & Sons (Hull) Ltd (Advocaat case)* [1979] AC 731, 22, 28, 53
- Esso Australia Resources Ltd v Plowman (Minister for Energy & Minerals)* (1995) 183 CLR 10, 341
- Esso Petroleum Co Ltd v Harper's Garage (Stourport) Ltd* [1968] AC 269, 487
- Estate of Elvis Presley v Russen* 513 F Supp 1339 (DNJ, 1981), 61
- Esteban Zone Industrielle v Digital Crown Holdings* (2004) 64 IPR 122, 117
- Re Estee Lauder Cosmetics Ltd* (2000) 50 IPR 131, 92
- Estex Clothing Manufacturers Pty Ltd v Ellis and Goldstein Ltd* (1967) 116 CLR 254, 77
- European Ltd v Economist Newspaper Ltd* [1996] EMLR 394, 31
- European Ltd v Economist Newspaper Ltd* [1998] ETMR 307, 31
- EV Hawting Ltd v John F Hawting & Co Ltd* [1960] RPC 95, 29
- Evans v Hulton & Co Ltd* [1924] WN 130, 527–8
- Express Newspapers Pty Ltd v Liverpool Daily Post & Echo Pty Ltd* [1985] 3 All ER 680, 212
- Exxon Corp v Exxon Insurance Consultants International Ltd* [1982] RPC 69, 196
- F H Faulding & Co Ltd v Imperial Chemical Industries (Aust & NZ)* [1964] 112 CLR 537, 124, 141
- F Hoffman-La Roche AG v Chiron Corporation* (2000) 47 IPR 516, 449
- F. Hoffmann-La Roche & Co AG v Harris Pharmaceuticals Ltd* [1977] FSR 200, 524, 542
- Faccenda Chicken Ltd v Fowler* [1985] FSR 105, 361, 367
- Faccenda Chicken Ltd v Fowler* [1987] Ch 117, 341, 362, 363, 364, 365, 366, 367–8
- FAI Insurance v Advance Bank of Australia* (1986) 7 IPR 217, 203

- Falcon v Famous Players Film Co* [1926] 2 KB 474, 258, 527–8
- Fanfold Ltd's Application* (1928) 45 RPC 325, 91
- '*Farah*' Trade Mark [1978] FSR 234, 92
- Fastening Supplies Pty Ltd v Olin Mathieson Chemical Corporation* (1969) 119 CLR 572, 499
- Fawcett v Homan* (1896) 13 RPC 398, 456
- Federal Commissioner of Taxation v United Aircraft Corp* (1943) 68 CLR 525, 1, 343, 362
- Feist Publications v Rural Telephone Service Co* 499 US 340 (1991), 211, 212
- Fellows v Thomas William Lench Ltd* (1917) 34 RPC 45, 468
- Fender Australia Pty Ltd v Bevk* (1989) 25 FCR 161, 153–4, 155
- Ferodo Ltd's Appn* [1945] Ch 334, 86
- Festo Corp v Shoketsu Kinzoku Kogyo Kabushiki Co* 234 F 3d 538, 627 (Fed Cir, 2000) (en banc) (Linn J, dissenting), rev'd, 535 US 722 (2002), 4
- Figgins Holdings Pty Ltd v Registrar of Trade Marks* (1995) 59 FCR 147, 123
- Fine Industrial Commodities Ltd v Powling* (1954) 71 RPC 253, 487
- Firebelt Pty Ltd v Brambles Australia Ltd* (2000) 51 IPR 531, 472
- Firebelt Pty Ltd v Brambles Australia Ltd* (2002) 188 ALR 280, 439, 440, 441, 446, 448, 449
- Firmagroup Australia Pty Ltd v Byrne & Davidson Doors (Vic) Pty Ltd* (1987) 9 IPR 353, 326–7, 332
- Firth Industries Ltd v Polyglas Engineering Pty Ltd* (1975) 132 CLR 489, 529, 530
- Fitton's Application* (1949) 66 RPC 110, 109
- Flamingo Park Pty Ltd v Dolly Dolly Creations Pty Ltd* (1986), 62, 63
- Fletcher Challenge Ltd v Fletcher Challenge Pty Ltd* [1981] 1 NSWLR 196, 26–7
- Fletcher v Foodlink Ltd* (1995) 60 FCR 262, 372
- Flexible Steel Lacing Co v Beltreco Ltd* (2000) 49 IPR 331, 474, 510–12, 513, 516
- Flocast Australia Pty Ltd v Purcell (No 3)* [2000] FCA 1020, 597
- FNH Investment Pty Ltd v Sullivan* [2003] FCAFC 246, 268
- Fomento Industrial SA v Mentmore Manufacturing Co Ltd* [1956] RPC 87, 426
- Football League Ltd v Littlewoods Pools Ltd* [1959] Ch 637, 197
- Fortuity Pty Ltd v Barcza* (1995) 32 IPR 517, 268
- Foster v Mountford & Rigby Ltd* (1976) 14 ALR 71, 340, 362
- Franchi v Franchi* [1967] RPC 149, 347, 348, 349, 360, 374
- Francis Day & Hunter Ltd v Twentieth Century Fox Corp Ltd* [1940] AC 112, 196
- Francis Day and Hunter Ltd v Bron* [1963] Ch 587, 223–4, 252
- Francome v Mirror Group Newspapers Ltd* [1984] 2 All ER 408, 352, 353
- Franconi Holdings Ltd v Gunning* (1982) 1SR (WA) 341, 111
- Frank M Winstone (Merchants) Ltd v Plix Products Ltd* (1985) 5 IPR 156, 252
- Franklin v Giddins* [1978] Qd R 72, 344, 351, 353, 354
- Fraser v Evans* [1969] 1 QB 349, 293, 355, 361–2, 369
- Fraser v Thames Television* [1984] QB 44, 343, 346
- Frearson v Loe* (1878) 9 Ch D 48, 479, 542
- Fresenius Medical Care Australia Pty Ltd v Gambro Pty Ltd* (2005) 67 IPR 230, 444, 512, 513, 514, 515
- Frisby v British Broadcasting Corporation* [1967] Ch 932, 239
- Frito-Lay Trading Co GmbH v Aldi Stores Ltd Partnership* (2001) 52 IPR 410, 166–7

- FSS Travel and Leisure Systems Ltd v Johnson* [1999] FSR 505 (CA), 363, 366, 368
- Funk Bros Seed Co v Kalo Inoculant Co* (1948) 333 US 127 [92 Law Ed 588], 416
- G D Searle and Co Ltd v Celltech Ltd* [1982] FSR 92, 342
- G v Day* [1982] 1 NSWLR 24, 355
- GA Cramp & Sons Ltd v Frank Smythson Ltd* [1944] AC 239, 212
- The Gadget Shop Ltd v The Bug.Com Ltd* [2001] FSR 26, 345
- Galaxy Electronics Pty Ltd v Sega Enterprises Ltd* (1997) 37 IPR 462, 199, 317
- Gambro Pty Ltd v Fresenius Medical Care South East Asia Pty Ltd* (2000) 49 IPR 321, 393
- Gambro Pty Ltd v Fresenius Medical Care South East Asia Pty Ltd* (2004) 61 IPR 442, 438, 439, 445, 449, 450
- Gartside v Outram* (1857) 26 LJ Ch 113, 369, 370
- Gates v City Life Mutual Assurance Society Ltd* (1986) 160 CLR 1, 62
- Gazal Apparel Pty Ltd v Fine Lines Extraordinary Apparel Pty Ltd* (2000) AIPC 91–543, 92
- ‘GE’ Trade Mark* [1973] RPC 297 per Lord Diplock, 28
- Application by GEC* (1942) 60 RPC 1, 406–7
- Genentech Inc v Wellcome Foundation Ltd* [1989] RPC 147, 444
- General Electric* [1969] RPC 418, 448 (Ch D), 172–3
- General Steel Industries Inc v Commissioner for Railways (NSW)* (1964) 112 CLR 125, 492, 493, 494
- General Tire & Rubber Co v Firestone Tyre & Rubber Co Ltd* [1972] RPC 457, 424, 425, 428, 444
- George C Warner Laboratories Pty Ltd v Georgespray Pty Ltd* (1967) 41 ALJR 75, 548, 549
- George Hensher v Restawhile Upholstery* [1976] AC 64, 204, 205
- George Weston Foods Ltd v Peerless Holding Pty Ltd* (1999) 48 IPR 145, 105
- Gillette Australia Pty Ltd v Energizer Australia Pty Ltd* (2002) 193 ALR 629; (2002) 56 IPR 1, 166
- Gillette Co v Pharma-Goods Australia Pty Ltd* (1997) 38 IPR 509, 165
- Glaverbel SA v British Coal Corporation* [1994] RPC 443, 474
- Goddard v Nationwide Building Society* [1987] QB 670, 354
- Gold Peg International Pty Ltd v Kovan Engineering (Aust) Pty Ltd* [2005] FCA 1521, 239, 337, 338, 339
- Gorne v Scales* [2006] EWCA Civ 311 CA, 374
- Government of Principality of Monaco v TGSG Group Pty Ltd* 51 IPR 191, 92
- Government of Western Australia’s Appln* (1934) AOJP 557, 108
- The Grain Pool of Western Australia v The Commonwealth of Australia* (2000) 202 CLR 479, 17, 500, 520, 541, 554, 570, 571, 572
- Grant v Australian Temporary Fencing Pty Ltd* (2003) 59 IPR 170, 498
- Grant v Commissioner of Patents* (2004) 63 IPR 143, 415
- Grant v Commissioner of Patents* (2005) 67 IPR 1, 378, 409, 415, 416, 541
- Grant v Commissioner of Patents* (2006) 154 FCR 62, 409, 414–17, 419, 456
- Graver Tank & Manufacturing Co Inc v Linde Air Products Co* (1950) 339 US 605, 515
- Great Western Corporation Pty Ltd v Grove Hill Pty Ltd* [2001] FCA 423, 426, 529, 534
- Greater Dandenong City Council v Australian Municipal, Administrative, Clerical and Services Union* (2001) 184 ALR 641, 221
- Greater Glasgow Health Board’s Application* [1996] RPC 207, 487, 489
- Green v Broadcasting Corporation of New Zealand* [1989] RPC 469, 200, 201, 211

- Greenfield Products v Rover-Scott Bonnar* (1990) 17 IPR 417, 203–4
- Griffin v Isaacs* (1938) 1B IPR 619, 425, 426, 428, 450
- Grove Hill Pty Ltd v Great Western Corporation Pty Ltd* (2002) 55 IPR 257, 428, 458, 459, 460–1, 463, 470, 475–6, 518, 529, 531, 534
- Guinness Peat Properties Ltd v Fitzroy Robinson Partnership* [1987] 1 WLR 1027, 354
- Gum v Stevens* (1923) 33 CLR 267, 419
- Habib Bank Ltd v Habib Bank AG Zurich* [1982] 99 RPC 1, 24, 29
- Haines v CAL* [1982] 64 FLR 184, 248
- Half Court Tennis* (1980) FLR 240, 204
- Hallen Co v Brabantia (UK) Ltd* [1991] RPC 195, 382, 383, 435
- Re Application by Hamish Robertson & Co Ltd* (1998) 13 IPR 69, 70
- Hard Rock Cafe International (USA) Inc v Morton* No 97 CIV, 9483 (SD NY, 9 Sep 1999), 49
- Harkness v Commonwealth Bank of Australia Ltd* (1993) 32 NSWLR 543, 347
- Harpur v Lambourne* [1999] 45 IPR 213 (Supreme Court of NSW), 197
- Harris' Patent* [1985] RPC 19, 483, 488, 489
- Harris v CSIRO* (1993) 26 IPR 469, 482
- Harrison v Project & Design Co (Redcar) Ltd (No 1)* [1978] FSR 81, 461–2
- Re Hatschek's Patents; Ex parte Zerenner* [1909] 2 Ch 68, 499
- Hawkes and Son (London) v Paramount Film Service* [1934] Ch 593, 254, 409, 416
- Heller Financial Services Ltd v Brice* (1987) 9 IPR 469 (SC Qld), 35
- Hellewell v Chief Constable of Derbyshire* [1995] 1 WLR 804, 347, 351
- Henry Brothers (Magherafelt) Ltd v Ministry of Defence and Northern Ireland Office* [1999] RPC 442, 484
- Hepples v Federal Commissioner of Taxation* (1990) 22 FCR 1, 486
- Herbert Morris Ltd v Saxelby* [1916] 1 AC 688 (HL), 363, 366, 487
- Hewlett-Packard Co v Repeat-O-Type Stencil Manufacturing Corp* 123 F 3d 1445, 1455 (Fed Cir, 1997), 522
- Hexagon Pty Ltd v Australian Broadcasting Commission* (1975) 7 ALR 233, 27, 34
- Hexal Australia Pty Ltd v Roche Therapeutics Inc* (2005) 66 IPR 325, 428
- Hickton's Patent Syndicate v Patents & Machine Improvements Co Ltd* (1909) 26 RPC 339, 416, 450
- Hill v Evans* (1862) 4 De GF & J 288, 425, 427, 429
- Hivac Ltd v Park Royal Scientific Instruments Ltd* [1946] Ch 169, 362, 363, 488, 490–1
- Hodgkinson & Corby Limited v Wards Mobility Services Ltd* [1995] FSR 169, 37–8, 57
- Hoechst UK Ltd v Chemiculture Ltd* [1993] FSR 270, 341
- Hoescht Celanese International Corp v BP Chemicals Ltd* [1999] RPC 203, 603
- Hogan v Koala Dundee Pty Ltd (Crocodile Dundee/Koala Dundee case)* (1988) 20 FCR 314, 21
- Hogan v Pacific Dunlop* (1988) 83 ALR 187, 62
- Hogg v Scott* (1874) LR 18 Exchequer EQ 444, 188
- Hollinrake v Truswell* [1894] 3 Ch 420, 196
- Honey v Australian Airlines Ltd* (1990) 18 IPR 185, 34, 41–2
- Honiball v Bloomer* (1854) 10 Exch 538, 433
- Hornsby Building Information Centre Pty Ltd v Sydney Building Information Centre Ltd* (1978) 140 CLR 216, 56
- Hosokawa Micron International Inc v Fortune* (1990) 19 IPR 531, 327
- Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 363, 488, 490

- Howard Auto-Cultivators Ltd v Webb Industries Pty Ltd* (1946) 72 CLR 175, 91
- Howard v Reid* (1993) 31 NSWLR 298, 598
- HRC Project Design Pty Ltd v Orford Pty Ltd* (1997) 38 IPR 121, 502
- HRH Prince of Wales v Associated Newspapers Ltd* [2006] EWHC 522, 347, 348, 369
- Hubbard v Vosper* [1972] 2 QB 84, 277, 280, 282, 369
- Hughes Aircraft Systems International v Airservices Australia* (1997) 76 FCR 151, 341
- Humpherson v Syer* (1887) 4 RPC 407, 419, 426, 459
- HVE (Electric) Ltd v Cufflin Holdings Ltd* [1964] RPC 149, 546
- Re Hwang* (2004) AIPC 92–031, 463, 465
- Hy-Line Chicks Pty Ltd v Swifte* (1966) 115 CLR 159, 109, 164
- Hyperion Records Limited v Sawkins* [2005] EWCA Civ 565, 201–2
- I G Farbenindustrie AG's Patents* (1930) 47 RPC 289, 382, 434, 435
- Ibcos Computers v Barclays Mercantile Highland Finance* [1994] FSR 275, 253
- IBM Corporation v Commissioner of Patents* (1991) 33 FCR 218, 11, 407, 410, 413, 415
- ICI Chemicals & Polymers Ltd v Lubrizol Corporation Inc* (1999) 45 IPR 577, 453
- ICI Chemicals & Polymers Ltd v The Lubrizol Corporation Inc* (2000) 106 FCR 214, 393, 421, 424, 425, 437, 438, 444, 446, 453, 550–1
- Illinois Tool Works Incorporated v Autobars Company (Services) Ltd* [1972] FSR 67, 477
- Illuka Midwest Ltd v Wimmera Industrial Minerals Pty Ltd* (2001) 55 IPR 140, 548
- Imperial Chemicals Industries Pty Ltd v Commissioner of Patents* (2004) 63 IPR 476, 382, 388, 429
- Imperial Group Ltd v Philip Morris & Co* [1982] FSR 72, 74, 133
- Improver Corporation v Remington Consumer Products Ltd* [1990] FSR 181, 511, 517
- INC Corp v The Smith Family, MCK Pacific and Foss Manufacturing* (2006) AIPC 92–183, 450
- Independent Management Resources Pty Ltd v Brown* [1987] VR 605, 345, 488
- Industrial Rollformers Pty Ltd v Ingersoll-Rand (Australia) Ltd* [2001] NSWCA 111, 359
- Infabrics Ltd v Jaytex Shirt Co. Ltd* [1981] 1 All ER 1057, 225
- Initial Services Ltd v Putterill* [1968] 1 QB 396, 369, 371
- Innes v Short & Beal* (1898) 15 RPC 449, 530
- Innovative Agricultural Products Pty Ltd v Cranshaw* (1996) 35 IPR 643, 402, 426, 474
- Re Institut Francais du Petrole des Carburants et Lubricants' Application* [1972] FSR 147, 434
- Interfirm Comparison (Australia) Pty Ltd v Law Society of NSW* [1975] 2 NSWLR 104, 358, 368, 374, 601
- Interlego AG v Toltoys Pty Ltd* (1973) 130 CLR 461, 474, 512, 513
- International Business Machines Corp v Phoenix International (Computers) Ltd* (1995) 1 All ER 413, 350
- International News Services v Associated Press* (1918) 248 US 215, 4, 60, 188
- Interstate Parcel Express Co Pty Ltd v Time-Life International (Nederlands) BV* (1977) 138 CLR 534, 526
- ISTIL Group Inc v Zahoor* [2003] 2 All ER 252, 354
- Ithaca Ice Works Pty Ltd v Queensland Ice Supplies Pty Ltd* [2002] QSC 222, 374
- J Rapee and Co Pty Ltd v Kas Cushions Pty Ltd* (1989) 90 ALR 288, 329

- Jafferjee v Scarlett* (1937) 57 CLR 115, 101–2
- James Minifie & Co v Edwin Davey & Sons* (1933) 49 CLR 349, 77–8
- James North Australia Pty Ltd v Blundstone Pty Ltd* (1978) 18 IPR 596, 80
- Jelinnék's Application* (1946) 63 RPC 59, 104–5
- Jennings v Stephens* [1936] 1 All ER 409, 226
- Jerry's Famous Deli, Inc, Plaintiff-Appellee v Constantino Papanicolaou, d b a Roxy's Famous Deli Restaurant* 383 F 3d 998 (9th Cir, 2004), 24
- JH Coles Pty Ltd v Need* (1933) 49 CLR 499, 111
- Jian Tools for Sales Inc v Roderick Manhattan Group Ltd* [1995] FSR 924, 25
- JMVB Enterprises Pty Ltd v Camoflag Pty Ltd* (2005) 67 IPR 68, 424, 425, 428, 446–8, 459, 482, 486, 548, 549, 551
- JMVB Enterprises Pty Ltd v Camoflag Pty Ltd* (2006) 70 IPR 77, 447, 481, 483
- John Brodel v Telstra Corp* [2004] FCA 505, 196
- John Fairfax & Sons Pty Ltd v Australian Consolidated Press Ltd* [1960] SR (NSW) 413, 197
- John Zink Co Ltd v Wilkinson* [1973] RPC 717, 345
- Johns v Australian Securities Commission* (1993) 178 CLR 408, 343, 351, 354
- Johns-Manville Corporation's Patent* [1967] FSR 327, 444
- Johnson & Johnson v Sterling Pharmaceuticals* (1991) 30 FCR 326, 137–8, 164–5
- Johnson and Johnson v Unilever Aust Ltd* [1994] AIPC 91–038, 75
- Johnson v Mortgage Processing Centre & Ors* [2003] FMCA 483, 599
- Jonathan Cape Ltd v Consolidated Press Ltd* [1954] 1 WLR 1313, 239
- Julia Fiona Roberts v Russell Boyd* D2000–0210 (WIPO 29 May 2000), 46
- Jupiters Ltd v Neurizon Ltd* (2005) 65 IPR 86, 427, 511–12, 513, 516, 518, 550
- K Taylor Distilling Co v Food Center of St Louis, Inc* 31 F Supp 460 (ED Mo, 1940), 24
- Kabushiki Kaisha Sony Computer Entertainment v Stevens* [2002] FCA 906, 224
- Kabushiki Kaisha Sony Computer Entertainment v Stevens* [2003] FCAFC 157, 199, 224
- Kalamazoo (Aust) Pty Ltd v Compact Business Systems* (1985) 5 IPR 213, 197, 212, 269
- Kalman v Packaging (UK) Limited* [1982] FSR 406, 529
- Keech v Sandford* (1726) Sel Cas Cha 61, 22 ER 629 (Ch), 488
- Keith Henry & Co Pty Ltd v Stuart Walker & Co Pty Ltd* (1958) 100 CLR 342, 488
- Kellogg Co v National Biscuit Co*, 305 US 111 (1938), 24
- Kenman Kandy Australia Pty Ltd v The Registrar of Trade Marks* (2002) 122 FCR 494, 71–2, 89–90, 92, 94–6
- Kenrick & Co v Lawrence & Co* (1890) 25 QBD 99, 203, 217
- Kestos Ltd v Kempat Ltd* (1935) 53 RPC 139, 326
- Kettle Chip Co Pty Ltd v Pepsico Australia Pty Ltd* (1995) 32 IPR 302, 165
- Kevlacat Pty Ltd v Trailcraft Marine* (1987) 11 IPR 77, 339
- Kimberley-Clark Australia Pty Ltd v Arico Trading International Pty Ltd* (1998) 42 IPR 111, 528
- Kimberley-Clark Australia Pty Ltd v Arico Trading International Pty Ltd* (2001) 207 CLR 1, 405, 424, 453, 468–9, 470–6, 512, 513, 519
- King Features Syndicate Inc v D & M Kluman* [1941] AC 417, 252
- King v Milpurrurru* (1996) 66 FCR 474, 528
- Kirin-Amgen Inc v Board of Regents of University of Washington* (1995) 33 IPR 557, 410, 416–17

- Kirin-Amgen Inc v Hoechst Marion Roussel Ltd* [2005] RPC 169, 405–6, 471–2, 514, 515, 516, 517
- Kitchen and Sons Pty Ltd v Inman* (1939) AOJP 1383, 99
- Klissers Bakeries v Harvest Bakers* (1986) 5 IPR 33, 254
- Kockums AB v The Commonwealth of Australia* [2001] FCA 398, 357
- Koninklijke Philips Electronics NV & Another v Remington Products Australia Pty Ltd* (1999) 91 FCR 167, 330
- Koninklijke Philips Electronics NV v Remington Products Australia* (2000) 100 FCR 90, 32–3, 65, 71–2, 94, 138, 141, 152–3, 330
- Kromschroder AG's Patent* [1960] RPC 75, 549, 550
- Kurtz v Spence* (1888) 5 RPC 161, 482
- Kwan v The Queensland Corrective Services Commission* (1994) 31 IPR 25, 487
- Kyowa's Application (No 1)* [1968] RPC 101, 468
- LAC Minerals v International Corona Resources* (1989) 69 OR (2d) 287, 372
- Ladbroke (Football) Ltd v William Hill (Football) Ltd* [1964] 1 WLR 273, 196, 215, 223–4, 255
- Lamb v Evans* [1893] 1 Ch 218, 196
- Lancashire Fires Ltd v S A Lyons & Co Ltd* [1996] FSR 629, 363, 364, 368, 488
- Lane Fox v Kensington and Knightsbridge Electric Lighting Co* (1892) 9 RPC 413, 416
- Lansing Linde Ltd v Kerr* [1991] 1 WLR 251 (CA), 363, 367
- Re Lawson* [2001] AIPC 91–693, 120–1
- Leather Cloth Co v Lorsont* (1869) LR 9 Eq 345, 487
- Lego Australia Pty Ltd v Paul's (Merchants) Pty Ltd* (1982) 42 ALR 344, 57
- Lego System Aktieselskab & Another v Lego M Lemelstricht Ltd* [1983] FSR 155, 39, 61
- Re Lenard's Application* (1954) 71 RPC 190, 408
- Lend Lease Homes Pty Ltd v Warrigal Homes Pty Ltd* [1970] 3 NSWLR 265, 204
- Leonardis v Sartas No 1 Pty Ltd* (1996) 67 FCR 126, 395–6, 396, 424, 444, 475–6, 512
- Leroy SA v Regal Grange Pty Ltd* (2001) 51 IPR 199, 100
- Levey v Henderson-Kenton (Holdings) Ltd* [1974] RPC 617 (ChD), 35
- Liberty Financial Pty Ltd v Scott* [2002] FCA 345, 596–7
- Lido Manufacturing Co Pty Ltd v Meyers & Leslie Pty Ltd* [1964] 5 FLR 443, 546
- Life Savers (A'asia) Ltd's Application* (1952) 22 AOJP 3106, 71
- Lincoln Industries Ltd v Wham-O Manufacturing Co* (1984) 3 IPR 115, 155–6 (CA NZ), 123
- Lindner v Murdock's Garage* (1950) 83 CLR 628, 366, 488
- Linter Group (in liq) v Price Waterhouse* [2000] VSC 90, 221
- Lion Laboratories Ltd v Evans* [1985] QB 526, 369, 370
- LJ Fisher & Co Ltd v Fabtile Industries Pty Ltd* (1979) 49 AOJP 3611, 326
- Lockwood Security Products Pty Ltd v Doric Products Pty Ltd* (2004) 217 CLR 274, 393, 436, 444, 468–72, 475–7
- Lockwood Security Products Pty Ltd v Doric Products Pty Ltd* (2005) 226 ALR 70, 405, 470, 520
- Lockwood Security Products Pty Ltd v Doric Products Pty Ltd* (2007) 235 ALR 202, 438, 443, 446–8, 448, 454, 455
- London Printing and Publishing Alliance Ltd v Cox* [1891] 3 Ch 291, 239
- Lone Star Steakhouse & Saloon Inc v Zurcas* (2000) 48 IPR 325, 111, 142
- Longworth v Emerton* (1951) 83 CLR 539, 432–3
- Lord Ashburton v Pape* [1913] 2 Ch 469, 353, 354

- Lott v JBW & Friends Pty Ltd & Endeavour Corp Design No. SCGRG-99-679* [2000] SASC 3, 196
- Re Luminis Pty Ltd & Fertilitescentrum AB* (2004) 62 IPR 420, 463–4
- Luna Advertising Co Ltd v Burnham & Co Ltd* (1928) 45 RPC 258, 546
- Lux Traffic Controls Ltd v Pike Signals Ltd* [1993] RPC 107, 427
- M K Hutchence et Ors, t a INXS v South Sea Bubble Co Pty Ltd, t/a Bootleg T-Shirts* (1986) 64 ALR 330, 34
- MacKay v McKay* (2004) 63 IPR 441, 488
- Macmillan & Co Ltd v Cooper* (1924) 93 LJPC 113, 188, 227
- Macmillan & Co Ltd v Cooper* (1923) 40 TLR 186, 212
- Macquarie Bank Ltd v Seagle* [2005] FCA 1239, 45
- Maeder v Bush* (1938) 59 CLR 684, 411
- Maggbury Pty Ltd v Hafele Australia Pty Ltd* (2001) 210 CLR 181, 341, 346, 359, 361, 366, 487–8
- Major Bros v Franklin & Son* (1908) 25 RPC, 77
- Malleys Ltd v JW Tomlin Pty Ltd* (1961) 35 ALJR 352, 326, 332
- Malone v Commissioner of Police of the Metropolis (No 2)* [1979] 2 All ER 620, 294, 351, 352, 353
- Mander v O'Brien* [1934] SASR 87, 197
- Marconi v British Radio Telegraph and Telephone Co Ltd* (1911) 28 RPC 181, 515
- Marianne Bihari and Bihari Interiors, Inc v Craig Gross and Yolanda Truglio* 119 F Supp 2d 309 (SD NY, 2000), 49
- Mark Foy's Pty Ltd v TVSN (Pacific) Ltd* (2000) 104 FCR 61, 35
- Mars UK Ltd v Teknowledge Ltd* (1999) 46 IPR 248, 348–9, 351–2, 373
- Martin v Scribal Pty Ltd* (1954) 92 CLR 17, 474, 510, 512, 513, 551
- Martin v Scribal* (1956) 95 CLR 213
- Martin Engineering Co v Nicaro Holdings Pty Ltd* (1990) 16 IPR 545, 529
- Martin Engineering Co v Trison Holdings Pty Ltd* (1989) 14 IPR 330, 456, 457, 513
- Master Plumbers & Mechanical Services Assn (Aust) v Master Plumbers & Mechanical Contractors Assn (NSW)* (2003) 60 IPR 156, 92
- Mather v Lockwood Australia Pty Ltd* (2001) FCA 1814, 439
- Mayne Nickless Ltd v Multigroup Distribution Services Pty Ltd* (2001) FCA 1620, 63
- McCain International Ltd v Country Fair Foods Ltd* [1981] RPC 69, 30–1
- McCormick & Co Inc v McCormick* (1998) 42 IPR 515, 115
- McCormick & Co Inc v McCormick* (2001) 51 IPR 102, 115
- McCulloch v Lewis A May Ltd ('Uncle Mac')* [1947] 2 All ER 845, 39
- McDonald v Graham* [1994] RPC 407 (CA), 523
- McDonald's Corp v McDonald's Corp Ltd* [1997] FSR 200, 25
- McWilliams Wines Pty Ltd v LS Booth Wine Transport* (1992) 25 NSWLR 723, 29
- McWilliam's Wines Pty Ltd v McDonald's System of Australia Pty Ltd* (1980) 33 ALR 394, 57
- Melbourne v Terry Fluid Controls Pty Ltd* (1993) 26 IPR 292, 427, 459, 461
- Mellor v William Beardmore & Co Ltd* (1927) 44 RPC 175, 487
- Mense & Ampere Electrical Manufacturing Co Pty Ltd v Milenkovic* [1973] VR 784, 342, 349, 368
- Merchandising Corp of America v Harpbond* [1983] FSR 32, 202
- Merck & Co Inc v Arrow Pharmaceuticals Ltd* (2003) 59 IPR 226, 393
- Merck & Co Inc v Arrow Pharmaceuticals Ltd* (2006) 154 FCR 31, 411, 426, 429, 452, 453–4, 455
- Merrell Dow Pharmaceuticals Inc v HN Norton & Co Ltd* (1995) 33 IPR 1, 427
- Merryweather v Moore* [1892] 2 Ch 518, 364

- Meskenas v ACP Publishing Ltd* [2006] FMCA 1136, 302
- Meters v Metropolitan Gas Meters* (1911) 29 RPC 157, 169
- Metix v Maughan* [1997] FSR 718, 203
- Meyers Taylor Pty Ltd v Vicarr Industries Ltd* (1977) 137 CLR 228, 428, 442, 447, 450
- MG Distribution Pty Ltd & Ors v Luthra & Anor* [2004] FMCA 1027, 599
- Microsoft Corporation v ATIFO Pty Ltd* (1997) 38 IPR 643, 268
- Microsoft Corporation v Blanch* [2002] FCA 895, 224
- Microsoft Corporation v CX Computer Pty Ltd* (2002) AIPC 91–780, 598
- Microsoft Corporation v Ezy Loans Pty Ltd* (with Corrigendum dated 4 Feb 2005) [2004] FCA 1135, 268
- Microsoft Corporation v Goodview Electronics Pty Ltd* (1999) FCA 754, 596
- MID Sydney Pty Ltd v Australian Tourism Co Ltd* (1998) 90 FCR 236, 105–6
- Midamarine Pty Ltd v DMC International Pty Ltd* [2006] FCA 1458, 330
- Millar v Taylor* (1769) 4 Burr 2303; 98 ER 201, 188, 189
- Millwell Holdings Ltd v Johnson* (1988) 12 IPR 378, 362
- Milpurrurru v Indofurn Pty Ltd* (1994) 30 IPR 209, 262, 268
- Milwell Pty Ltd v Olympic Amusements Pty Ltd* (1999) 43 IPR 32, 197, 217, 269
- Minerals Separation North America Corporation v Noranda Mines Ltd* (1952) 69 RPC 81, 457, 513
- Minnesota Mining & Manufacturing Co v Beiersdorf (Australia) Ltd* (1980) 144 CLR 253, 383, 408, 428, 429, 437, 443, 445, 449, 453, 474, 512, 513
- Minnesota Mining & Manufacturing Co v Tyco Electronics Pty Ltd* (2001) 53 IPR 32, 520
- Minnesota Mining & Manufacturing Co v Tyco Electronics Pty Ltd* (2002) 56 IPR 248, 444, 448
- Minter v Williams* (1835) 4 AD & E 250, 256; 31 ER 781, 783, 541
- Mirror Newspapers Ltd v Queensland Newspapers Pty Ltd* (1982) 59 FLR 71, 197
- Molins & Molins Machine Co Ltd v Industrial Machine Co Ltd* (1936) 54 RPC 94, 542
- Molnlycke AB v Procter & Gamble Ltd (No 4)* [1992] 1 WLR 1112, 529
- Monckton v Pathe Freres Pathephone Ltd* [1914] 1 KB 395, 527–8
- In the Matter of the Mond Nickel Company Ltd's Application for a Patent* [1956] RPC 189, 395–6
- Monsanto Canada Inc v Schmeiser* [2004] 1 SCR 902, 523
- Monsanto Co v Stauffer Chemical Co (NZ) Ltd* [1984] FSR 559, 479, 541
- Monsanto Co v Syngenta Participations AG* (2005) AIPC 92–128, 447
- Montana Tyres Rims and Tubes Pty Ltd v Transport Tyre Sales Pty Ltd* (1998) 41 IPR 301, 154–6
- Montana Tyres Rims and Tubes Pty Ltd v Transport Tyre Sales Pty Ltd* (1999) 93 FCR 421, 168
- Montana v Villa Maria* [1985] FSR 400, 166
- Montgomery v Thompson* [1891] AC 217, 51
- Moorgate Tobacco Co Ltd v Philip Morris Ltd [No 2]* [1984] 156 CLR 414, 4, 21, 61, 79–80, 81, 342, 343, 344, 345, 346, 358, 360, 361
- Morgan v Seaward* (1837) 2 M & W 544, 549, 150 ER 874, 880, 458, 549
- Morison v Moat* (1851) 9 Hare 241, 68 ER 492 (Ch), 342, 343
- Morris Comms Corp v PGA Tour Inc.*, 364 F 3d 1288 (11th Cir, 2004), 4
- Morrison Leahy Music Limited v Lightbond Limited* [1993] EMLR 144, 300
- Morton-Norwich Products Inc v Intercen Ltd* [1978] RPC 501, 529
- Motor Improvements, Inc, v A.C Spark Plug Co* 80 F 2d 385 (6th Cir, Mich, 1935), 24

- Mullard Radio Valve Co Ltd v Philco Radio & Television Corporation of Great Britain Ltd* (1936) 53 RPC 323, 475–6
- Re Multiplex Pty Ltd* (1999) 47 IPR 153, 93, 97
- Muntz v Foster* (1844) 2 WPC 93, 542
- Murex Diagnostics Australia Pty Ltd v Chiron Corporation* (1995) 55 FCR 194, 529, 607
- Musca v Astle Corp Pty Ltd* (1988) 80 ALR 251, 63
- My Kinda Town Ltd v Soll* [1982] FSR 147, 604
- National Basketball Association v Motorola Inc* 105 F 3d 841 (2nd Cir, 1997), 60
- National News Pty Ltd v Copyright Agency Limited* (1996) 34 IPR 53, 208
- National Phonograph Co of Australia Ltd v Menck* (1911) 12 CLR 15, 519–20, 526, 541, 570
- Nationwide News v Copyright Agency Limited* (1996) 136 ALR 273, 254
- NBA v Motorola, Inc* 105 F 3d 841 (2nd Cir, 1997), 4
- Nesbit Evans Group Australia Pty Ltd v Impro Ltd* (1997) 39 IPR 56, 457, 513, 517, 518, 548
- Network Ten Pty Ltd v TCN Channel Nine Pty Ltd* (2004) 218 CLR 273, 4, 208, 276–8
- Neurizon Pty Ltd v Jupiters Ltd* (2004) 62 IPR 569, 517
- New England Biolabs Inc v F Hoffmann-La Roche AG* (2004) 141 FCR 1, 551
- New York University v Nissin Molecular Biology Institute Inc* (1994) 29 IPR 173, 479
- Re Newall and Elliot* (1858) 4 CB (NS) 269; 140 ER 1087, 432–3
- Newspaper Licensing Agency v Marks & Spencer* [2000] 4 All ER 239, 273, 275
- Nicarco Holdings Pty Ltd v Martin Engineering Co* (1990) 16 IPR 545, 383, 425, 428, 429, 430, 537
- Nine Films & Television Pty Ltd v Ninnox Television Ltd* [2005] FCA 1404, 201, 270
- Nine Network Australia Pty Ltd v Australian Broadcasting Corp* [2000] IPR 333 Federal Court, 200
- Nintendo Co Ltd v CARE* (2000) 52 IPR 34, 147
- Nintendo Co Ltd v Centronics Systems Pty Ltd* (1994) 181 CLR 134, 17, 18, 316–18
- Re Nir Haim Toren & Department of Immigration & Ethnic Affairs* (1996) 64 FoI Review 53, 358
- Noah v Shuba* (1991) FSR 14, 219
- Nobel's Explosives Co Ltd v Jones, Scott & Co* (1881) 17 ChD 721, 524
- No-Fume Ltd v Frank Pitchford & Co Ltd* (1935) 52 RPC 231, 471, 471–2, 474
- Norbrook Laboratories Ltd v Bomac Laboratories Ltd* [2006] UKPC 25, 355
- Nordenfelt v Maxim Nordenfelt Guns and Ammunition Co* [1894] AC 535 (HL), 363, 365
- Norman v Federal Commissioner of Taxation* (1963) 109 CLR 9, 486
- Norowzian v Arks* (2000) FSR 363, 200
- Norowzian v Arks (No 2)* [2000] EMLR 67, 200
- Norton and Gregory Ltd v Jacob* (1937) 54 RPC 271, 457
- Norwich Pharmacal Co v Customs and Excise Commissioners* [1974] AC 133, 346
- Re Notetry Ltd* (1999) 45 IPR 547, 93
- NRDC v Commissioner of Patents* (1959) 102 CLR 252, 378, 403, 408–9, 416, 451, 452
- NRMA v Geeson* (2001) 40 ACSR 1, 347, 357, 368
- NSI Dental Pty Ltd v University of Melbourne* (2006) 69 IPR 542, 434, 447
- NSW Dairy Corporation v Murray-Goulburn Co-operative Co Ltd (No 2)* (1989) 14 IPR 75, 123

- NSW Dairy Corporation v Murray-Goulburn Co-operative Co Ltd* (1990) 171 CLR 363, 127, 128, 130
- NT Power Generation Pty Ltd v Power and Water Authority* (2004) 219 CLR 90, 500
- NutraSweet Australia Pty Ltd v Ajinomoto Co Inc* (2005) 224 ALR 200, 439, 444, 445, 447
- NV Philips Gloeilampenfabrieken v Mirabella International Pty Ltd* (1992) 26 IPR 513, 402
- NV Philips Gloeilampenfabrieken v Mirabella International Pty Ltd* (1993) 44 FCR 239, 452, 471
- NV Philips Gloeilampenfabrieken v Mirabella International Pty Ltd* (1995) 183 CLR 655, 403, 408, 451–3, 455
- Oakley Inc v Franchise China Pty Ltd* (2003) 58 IPR 452, 77, 77–8
- O'Brien v Komesaroff* (1982) 150 CLR 310, 344, 345, 347, 348
- Ocean Spray Cranberries v Registrar of Trade Marks* (2000) 47 IPR 579, 90, 93
- Ocular Sciences Ltd v Aspect Vision Care Ltd* [1997] RPC 289 (PatC), 363
- Ofrex Ltd v Rapesco Ltd* [1963] RPC 169, 143
- Old Digger Pty Ltd v Azuko Pty Ltd* (2000) 51 IPR 43, 422, 423, 427
- Olin Corporation v Super Cartridge Co Pty Ltd* (1977) 180 CLR 236, 395, 475–6, 515
- Olin Mathieson Chemical Corporation v Biorex Laboratories Ltd* [1970] RPC 157, 448
- Olympic Amusements Pty Ltd v Milwell Pty Ltd* (1998) 40 IPR 180, 211
- O'Mustad v Alcock and Dosen* [1963] 3 All ER 416, 346, 349, 360, 362, 374
- Orica Australia Pty Ltd v Dyno Nobel Inc* (2003) 57 IPR 545, 474
- Ormonoid Roofing and Asphalts Ltd v Bitumenoids Ltd* (1930) 31 SR (NSW) 347, 364
- O'Sullivan v Management Agency and Music Ltd* [1985] QB 428, 240
- Otrivin Trade Mark* [1967] RPC 613, 121
- Pacific Brands Sport & Leisure Pty Ltd v Underworks Pty Ltd* [2006] FCAFC 40, 175, 497
- Pacific Brands Sport & Leisure Pty Ltd v Underworks Pty Ltd* (2006) FCR 395, 497
- Pacific Dunlop Ltd v Hogan* (1989) 23 FCR 553, 27, 40–1
- Pacific Publications Pty Ltd v IPC Media Pty Ltd* [2003] FCA 104, 31
- Paragon Shoes Pty Ltd v Paragini Distributors (NSW) Pty Ltd* (1988) 13 IPR 323, 133
- Paramount Design v Awaba Group & Ors* [2003] FMCA 336, 599
- Parkdale Custom Built Furniture Pty Ltd v Puxu Pty Ltd* (1982) 149 CLR 191, 52, 56, 204
- Parker-Knoll Ltd v Knoll International Ltd* [1961] RPC 346, 164
- Parker-Knoll Ltd v Knoll International Ltd* [1962] RPC 265, 29–30
- Parramatta Design and Developments Pty Ltd v Concrete Pty Ltd* [2005] FCAFC 138, 241
- Re Parry-Husband's Application* [1965] RPC 382, 549
- Patent Gesellschaft AG v Saudi Livestock Transport and Trading Co* (1996) 33 IPR 426, 456
- Pavel v Sony SRIS CC/14/93*, 532
- PB Foods Ltd v Malanda Dairy Foods Ltd* (1999) 47 IPR 47, 107, 108
- Penn v Bibby* (1866) LR 2 Ch 127, 467
- Pepsico Australia Pty Ltd (t/a Frito-Lay Australia) v Kettle Chip Company Pty Ltd* (1996) 135 ALR 192, 31, 32, 138
- Pessers and Moody v Haydon & Co* (1909) 26 RPC 58, 465
- Peter Isaacson Publications v Nationwide News Pty Ltd and Another* (1984) 6 FCR 289, 29, 58
- Peter Pan Manufacturing Corp v Corsets Silhouette Ltd* [1964] 1 WLR 96, 342, 355, 356

- Re Peter Szabo and Associates Pty Ltd* (2005) 66 IPR 370, 415
- Peters (WA) Ltd v Petersville Ltd* (2001) 205 CLR 126, 366, 487
- Petrofina (Great Britain) Ltd v Martin* [1966] Ch 146, 487
- Pfizer Corporation v Commissioner of Patents (No 2)* (2006) 69 IPR 525, 393
- Pfizer Corporation v Ministry of Health* [1965] AC 512, 494, 521, 522–3, 523, 524, 525, 541
- Re Pfizer, Inc* (2004) 62 IPR 627, 393
- Pfizer Inc v Commissioner of Patents* (2005) 141 FCR 413, 393, 434, 435
- Pfizer Overseas Pharmaceuticals v Eli Lilly & Co* (2005) 68 IPR 1, 428, 444, 446, 447, 470–2, 473, 549
- Pfizer Products Inc* [2004] 61 IPR 165, 86, 148, 150
- Pharmacia Italia SPA v Mayne Pharma Pty Ltd* (2005) 66 IPR 84, 473, 513, 517, 518
- Philips Electronics NV v Remington Products Australia Pty Ltd* (1997) 39 IPR 283, 327
- Philmac Pty Ltd v Registrar of Trade Marks* (2002) 126 FCR 525, 93, 97–8
- Phonographic Performance Ltd v Pontin's Ltd* [1968] Ch 290, 293
- PhotoCure ASA v Queen's University at Kingston* (2002) 56 IPR 86, 341
- PhotoCure ASA v Queen's University at Kingston* (2005) 64 IPR 314, 444, 446, 453, 474, 511, 512, 517
- Pierre Fabre SA v Marion Laboratories Inc* (1986) 7 IPR 387 (Reg), 134
- Pinefair Pty Ltd v Bedford Industries Rehabilitation Association Inc* (1998) 87 FCR 458, 460, 520, 521, 521–2, 541
- Pioneer Electronic Corp v Registrar of Trade Marks* (1977) 137 CLR 670, 78, 172, 173
- Pioneer Electronics Capital Inc v Warner Music Manufacturing Europe GmbH* [1995] RPC 487 (Pat Ct), 526
- Pirie and Sons Ltd's Application* [1933] All ER Rep 956, 107
- Pitman Training Ltd v Nominet UK* (1997) 38 IPR 341, 44
- Playboy Enterprises Inc v Netscape Communications Corp* 354 F 3d 1020 (9th Cir, 2004), 50
- Playboy Enterprises v Terri Welles* 279 F 3d 796 (9th Cir, 2002), 49–50
- PLG Research Ltd v Ardon International Ltd* [1993] FSR 197, 427
- Pollock v JC Williamson Ltd* [1923] VLR 225, 227
- Polo Textile Industries v Domestic Textile Corp Pty Ltd* (1993) 42 FCR 227, 173–4
- Polyaire Ptd Ltd v K-Aire Pty Ltd* [2005] 64 IPR 223, 330
- Polygram Pty Ltd v Golden Editions Pty Ltd* (1994) 30 IPR 183, 269
- Polygram Records Inc v Raben Footwear Pty Ltd* (1996) 35 IPR 426, 206, 268, 269
- Polysium Corp v Fuller Co* 709 F Supp 560, 532
- Populin v HB Nominees Pty Ltd* (1982) 41 ALR 471, 510–11, 514, 516
- Powell's Trade Mark* (1893) 10 RPC 195, 122
- Powerflex Services Pty Ltd v Data Access Corporation* (1997) 37 IPR 436, 199
- Pracdes Pty Ltd v Stanilite Electronics Pty Ltd* (1995) 35 IPR 259, 456
- Prebble v Reeves* [1910] VLR 88, 364
- Prejay Holdings Ltd v Commissioner of Patents* [2002] FCA 881, 531, 534
- Prejay Holdings Ltd v Commissioner of Patents* (2003) 57 IPR 424, 392, 531
- Press-Form v Henderson* (1993) 40 FCR 274, 339
- Prestige Group (Aust) Pty Ltd v Dart Industries Inc* (1990) 26 FCR 197, 549–50
- Preston Erection Pty Ltd v Speedy Gantry Hire Pty Ltd* (1998) 43 IPR 74, 483
- Prince Albert v Strange* (1849) 1 H & Tw 1, 47 ER 1302 (Ch), 342, 343, 346, 358

- Prince Jefri Bolkiah v KPMG* [1999] 2 AC 222, 341
- Prince Manufacturing Inc v ABAC Corpo Australia Pty Ltd* (1984) 4 FCR 288, 63
- Prince plc v Prince Sports Group plc* [1998] FSR 21, 44, 162
- Printers & Finishers Ltd v Holloway* [1965] RPC 239, 361, 363, 365–8
- Prior v Lansdowne Press Pty Ltd* [1977] VR 65, 268
- Pro Sieben Media v Carlton Television* [1999] FSR 610, 273, 275
- Proctor v Bayley Son* (1888) 6 RPC 106, 542
- Pugh v Riley Cycle Co Ltd* (1912) 1 Ch 613, 326
- Pussy Galore Trade Mark* [1967] RPC 265, 75
- Quadramain Pty Ltd v Sevastapol Investments Pty Ltd* (1976) 133 CLR 390, 487
- Quantel Ltd v Spaceward Microsystems Ltd* [1990] RPC 83, 427
- R v Commissioner of Patents; Ex parte Martin* (1953) 89 CLR 381, 550
- R v Patents Appeal Tribunal; Ex parte Swift & Co* [1962] 1 All ER 610, 427
- RA & A Bailey & Co Ltd v Boccaccio Pty Ltd and others* [1986] 4 NSWLR 701, 158, 267
- R and C Products Pty Ltd v Abundant Earth Pty Ltd* (1985) 7 FCR 233, 51
- Raben Footwear Pty Ltd v Polygram Records Inc* (1997) 75 FCR 88, 262, 268
- Radiation Ltd v Galliers & Klaerr Pty Ltd* (1938) 60 CLR 36, 515
- Radio Corporation Pty Ltd v Disney* (1937) 57 CLR 448, 114
- Radio Corporation v Henderson* (1960) 60 SR (NSW) 576, 34, 39–40, 62
- Raleigh Cycle Co Ltd v H Miller & Co Ltd* (1948) 65 RPC 141, 549
- Ralph M Parsons Co (Beavon's) Application* [1978] FSR 226, 432–4
- Ramsay v Nicol* [1939] VLR, 35
- Ramset Fasteners (Aust) Pty Ltd v Advanced Building Systems Pty Ltd* (1996) 66 FCR 151, 454
- Ramset Fasteners (Aust) Pty Ltd v Advanced Building Systems Pty Ltd* (1999) 44 IPR 481, 419, 428, 529, 531
- Rank Film Distributors Ltd v Video Information Centre* (1982) AC 380, 598
- Re Application by Rantzen* (1946) 64 RPC 63, 407
- Rapid Metal Developments (Australia) Pty Ltd v Anderson Formrite Pty Ltd* [2005] WASC 255, 345, 356, 358, 372
- Re Rau Gesellschafts' Application* (1935) 52 RPC 362, 407
- Ravenscroft v Herbert & New English Library Ltd* [1980] RPC 193, 268
- Rawhide Trade Mark* [1962] RPC 133, 74
- RD Werner & Co Inc v Bailey Aluminium Products Pty Ltd* (1989) 25 FCR 565, 419, 420, 425, 428, 436
- Reckitt and Colman Products Ltd v Borden Inc* [1990] 1 All ER 873, 890, 22, 32, 37
- Reddaway v Banham* [1896] AC 199, 30
- Redrock Holdings and Hotline Communications v Adam Hinkley* [2001] 50 IPR 565, 219
- Redwood Music Ltd v B. Feldman & Co. Ltd* [1979] RPC 1, 385; [1980] 2 All ER 817, 217
- Reed Executive plc and Reed Solutions plc v Reed Business Information Ltd, Reed Elsevier (UK) Ltd* [2003] Info TLR 660 (unreported) (HC), 169
- Registrar of Trade Marks v Woolworths* (1999) 45 IPR 411, 7, 100, 102, 103–4, 106–7, 115, 142, 143, 148
- Rehm Pty Ltd v Websters Security Systems (International) Pty Ltd* (1988) 11 IPR 289, 395, 456, 457, 470, 476, 477, 513, 516
- Reiss Engineering Co Ltd v Harris* [1985] 14 IRLR 232, 487

- Rescare Ltd v Anaesthetic Supplies Pty Ltd* (1992) 25 IPR 119, 412, 418, 456, 457, 472, 527–8, 529, 531, 533
- Revlon Inc v Cripps & Lee* [1980] FSR 85, 156, 173
- Rex Wayne Bell v Starbucks US Brands Corp and Starbucks Corp D B A Starbucks Coffee Company* 389 F Supp 2d 766 (SD Tex, 2005), 24
- RGC Mineral Sands Pty Ltd v Wimmera Industrial Minerals Pty Ltd* (1998) 89 FCR 458, 393
- Richards v Kadian* (2005) 64 NSWLR 204, 368
- Riteway Express Pty Ltd v Clayton* (1987) 10 NSWLR 238, 364
- Ritz Hotel Ltd v Charles of the Ritz Ltd* (1988) 15 NSWLR 158, 122, 173
- Riv-Oland Marble Co (Vic) Pty Ltd v Settef SpA* (1988) 19 FCR 569, 80
- Riv-Oland Marble Co (Vic) Pty Ltd v Settef SpA* (1989) 63 ALJR 519, 80
- Robb v Green* [1895] 2 QB 315, 364, 488
- Robin Jig & Tool Co Ltd v Taylor* [1979] FSR 130, 239
- Rodi and Wienenberger AG v Henry Showell Ltd* [1969] RPC 367, 510, 515
- Roger Bullivant Ltd v Ellis* [1987] 13 FSR 172 (CA), 364, 365, 366
- Rolls-Royce Ltd's Application* [1963] RPC 251, 407, 417
- Root Quality Pty Ltd v Root Control Technologies Pty Ltd* (2000) 49 IPR 225, 424, 468, 510–11, 512, 513, 517, 528
- Rose Holdings Pty Ltd v Carlton Shuttlecocks Ltd* (1957) 98 CLR 444, 475–6
- Rosedale Associated Manufacturers Ltd v Airfix Products Ltd* [1956] RPC 360, 270, 336, 546
- Rothmans Ltd v WD and HO Wills (Australia) Ltd* (1955) 92 CLR 131, 79
- Rotocrop International Ltd v Genbourne Ltd* [1982] FSR 241, 529, 530, 534
- Row Weeder Pty Ltd v Nielsen* (1997) 39 IPR 400, 482, 483, 548
- Royal Typewriter Co v Remington Rand Inc* (1948) 168 F 2d 691, 515
- RS Components Ltd v Holophane Corporation* (1999) 46 IPR 451, 99
- Ryan v Lum* (1989) 14 IPR 513, 529, 548, 549
- Sabaf SpA v MFI Furniture Centres Pty Ltd* [2005] RPC 10, 454
- Saccharin Corporation Ltd v Anglo-Continental Chemical Works Ltd* (1900) 17 RPC 307, 525
- Saccharin Corporation Ltd v Anglo-Continental Chemical Works Ltd* [1901] 1 Ch 414, 521
- Sachtler GmbH and Co KG v RE Miller Pty Ltd* (2005) 65 IPR 605, 510, 511, 512, 514, 516, 517
- Safe Sport Australia Pty Ltd v Puma Australia Pty Ltd* (1985) 4 IPR 120, 339
- Re Sakata Rice Snacks (Australia) Pty Ltd* (1998) 43 IPR 378, 93
- Saltman Engineering Co Ltd v Campbell Engineering Co Ltd* (1948) 65 RPC 203, 342–3, 344, 345, 346, 347, 349, 351, 352, 355, 356, 360, 367
- Sami S Svendsen Incorporated v Independent Products Canada Ltd* (1968) 119 CLR 156, 475–6
- Samuel Taylor Pty Ltd v SA Brush Co Ltd* (1950) 83 CLR 617, 453, 512
- San Remo Macaroni Co Pty Ltd v San Remo Gourmet Coffee Pty Ltd* (2000) 50 IPR 321, 147
- Sands & McDougall Pty Ltd v Robinson* (1917) 23 CLR 49, 203, 211, 215
- Re Sanyo Electric Co Ltd and Commissioner of Patents* (1997) 36 IPR 470, 502
- SAP (Australia) Pty Ltd v Sapient (Aust) Pty Ltd* (1999) 48 IPR 593, 101, 104
- Sartas No 1 Pty Ltd v Koukourou & Partners Pty Ltd* (1994) 30 IPR 479, 390, 449, 470, 513, 527–8, 530, 533
- Schering Chemicals Ltd v Falkman* [1981] 2 WLR 848, 347

- Schott Musik International GmbH & Co v Colossal Records Of Australia Pty Ltd* (1997) 75 FCR 321, 300
- Scruples Imports Pty Ltd v Crabtree & Evelyn Pty Ltd* (1983) 1 IPR 315 (SC, NSW), 366
- 'Sea Island Cotton' Certification Trade Marks [1989] RPC 87, 83
- Seager v Copydex Ltd* [1967] 2 All ER 415, 342, 355–6, 373, 374, 602
- Seager v Copydex Ltd (No 2)* [1969] 2 All ER 718, 601
- Sebel and Co Ltd v National Art Metal Co Pty Ltd* (1965) 10 FLR 224, 329
- Sega Enterprises Ltd v Galaxy Electronics Pty Ltd* (1996) 35 IPR 161, 206, 318
- Sega Enterprises Ltd v Galaxy Electronics Pty Ltd* (1998) 39 IPR 577, 240
- Seiller's Application* [1970] RPC 103, 425
- Sent v John Fairfax Publication Pty Ltd* [2002] VSC 429, 345
- Settef SpA v Riv-Oland Marble Co (Vic) Pty Ltd* (1987) 10 IPR 402 (SC Vic), 77
- Seven-up Co v Bubble Up Co Inc* (1987) 9 IPR 259, 99
- Sharp & Dohme Inc v Boots Pure Drug Co Ltd* (1927) 44 RPC 367, 430
- Shave v HV McKay Massey Harris Pty Ltd* (1935) 52 CLR 701, 471–2, 475–6
- Sheldon and Hammond Pty Ltd v Metrokane Inc* (2004) 61 IPR 1, 206
- Shell Co (Aust) Ltd v Esso Standard Oil (Aust) Ltd* (1961) 109 CLR 407, 101
- Shell Co of Australia Ltd v Esso Standard Oil (Aust) Ltd* (1963) 109 CLR 409, 136–7
- Shelley Films Ltd v Rex Features Ltd* [1994] EMLR 134, 348, 351
- Sheraton Corporation of America v Sheraton Motels Ltd* [1964] RPC 202, 25
- Shield Mark BV v Joost Kist hodn MEMEX* (C-283/01) (ECR, 27 Nov 2003), 88
- Sillitoe v McGraw Hill Book Co (UK) Ltd* [1983] FSR 545, 276, 278
- Sirdar Rubber Co Ltd v Wallington, Weston & Co* (1907) 24 RPC 539, 522
- Smith Bartlett & Co v British Pure Oil Grease & Carbide Co Ltd* (1934) 51 RPC 157, 109
- Smith Kline & French Laboratories (Australia) Ltd v Secretary, Department of Community Services and Health* (1990) 22 FCR 73, 1, 343, 350, 356, 357, 358, 370, 371
- Smith Kline & French Laboratories Ltd v Attorney-General (NZ)* (1991) 22 IPR 143, 541
- Smith Kline and French Laboratories (Australia) Ltd v Registrar of Trade Marks* (1967) 116 CLR 628, 71, 72–3, 74
- Smith Kline French Laboratories Ltd v RD Harbottle (Mercantile) Ltd* [1980] RPC 363, 523, 524
- Smith Kline v Registrar of Trade Marks* [1976] RPC 511, 71
- Re Smithkline Beecham plc* (2000) 50 IPR 169, 390
- Snow v Eaton Shopping Centre* (1982) 70 CPR (2d) 105, 300
- Société Anonyme des Manufactures de Glaces v Tilghman's Patent Sand Blast Co Ltd* [1884] LR 25 Ch D1, 527
- Societe des Usines Chimiques Rhone-Poulenc v Commission of Patents* (1958) 100 CLR 5, 395, 396, 475–6
- Societe Mars Alimentaire v Societe Aegean Trade CY and Istanbul Gida Dis Ticaret AS* [1993] 12 EIPR D-282–3, 60
- Société Technique de Pulverisation Step v Emson Europe Ltd* [1993] RPC 513, 515
- Solar Thomson Engineering Co Ltd v Barton* [1977] RPC 537, 522
- Re Sony Kabushiki Kaisha's Application* (1987) 9 IPR 315, 121
- Sony Music Australia Ltd v Tansing (t/a Apple House Music)* (1993) 27 IPR 649, 52–3
- Southcorp Wines Pty Ltd v Coy* [2001] AIPC 91–715, 100

- Southern Cross Refrigerating Co v Toowoomba Foundry Pty Ltd* (1954) 91 CLR 592, 104–5, 114
- Southern v Reynolds* (1865) 12 LT (NS) 75, 28
- Spedley Securities Ltd (in Liq) v Bond Brewing Investment Pty Ltd* (1991) 9 ACLC 522, 598
- Speed Seal Products Ltd v Paddington* [1986] 1 All ER 91, 359, 360
- Speedy Gantry Hire Pty Ltd v Preston Erection Pty Ltd* (1998) 40 IPR 543, 483, 548, 549, 550
- Spencer Industries Pty Ltd v Collins* (2003) 58 IPR 425, 488
- Re Application by SPHC(IP) Pty Ltd* 49 IPR 655, 92
- Spiral Foods Ltd v Valio Ltd* (2000) 50 IPR 437, 100
- SPL Worldgroup (Aust) Pty Ltd v Shimmersea (Aust) Pty Ltd* (1998) 43 IPR 641, 106
- Spring Form Inc v Toy Brokers Ltd* [2002] FSR 17, 544
- Stack & G S Technology Pty Ltd v Brisbane City Council* (1995) 59 FCR 71, 221, 463, 491, 492, 493–4
- Stack v Brisbane City Council* (1996) 67 FCR 510, 496–7, 498, 507
- Stack v Brisbane City Council* (1999) 47 IPR 525, 447, 490, 549
- Stack v Davies Shephard Pty Ltd* (2001) 108 FCR 422, 447, 483, 485–6, 547
- Staeng Limited's Patents* [1996] RPC 183, 483
- Standard Cameras Ltd's Appn* (1952) 69 RPC 125, 91
- Standard Oil Development Co* (1951) 68 RPC 114, 407
- Stanway Oyster Cylinders Pty Ltd v Marks* (1996) 66 FCR 577, 425, 426, 427, 459, 474
- Star Industrial Co Ltd v Yap Kwee Kor* [1976] FSR 256 at 270 (PC from Singapore), 35
- Star Micronics Pty Ltd and another v Five Star Computers Pty Ltd (Trading As Computerfair) and others* (1991) 22 IPR 473, 157
- Star Micronics Pty Ltd v General Synthetics Pty Ltd* (Unreported, No V G390 of 1991 Fed No 868), 596
- Starr Partners Pty Ltd v Dev Prem Pty Ltd* [2007] FCAFC 42, 611
- The State of Tennessee ex rel The Elvis Presley International Memorial Foundation v Crowley* 733 SW 2d 889 (Tenn Ct App, 1987), 61
- State St Bank & Trust Co v Signature Financial Group* 149 F 3d 1368 (US Ct of Apps (Fed Cir), 1998), 415
- Stauffer Chemical Co's Application* [1977] RPC 33, 396
- Steers v Rogers* [1893] AC 232, 519–20, 541, 570
- Stena Rederi Aktiebolag, Stena Line Aktiebolag v Irish Ferries Limited* [2003] EWCA (Civ) 66, 536
- Stephens v Avery* [1988] Ch 449, 343, 360
- Stephens v West Australian Newspapers Ltd* (1994) 124 ALR 80, 370
- Stephenson Jordan & Harrison Ltd v MacDonald & Evans* (1952) 69 RPC 10, 219, 351
- Sterling Engineering Co Ltd v Patchett* [1955] AC 534, 483, 488–9
- Stevens v Brodcribb Sawmilling Co Pty Ltd* (1986) 160 CLR 16, 219
- Stevens v Kabushiki Kaisha Sony Computer Entertainment* [2005] HCA 58, 224, 232
- Stewart v Casey* (1892) 9 RPC 9, 507
- Stoke on Trent City Council v W&J Wass* [1988] 1 WLR 1406, 169
- Sullivan v FNH Investment Pty Ltd* [2003] FCA 323, 268
- Sullivan v Sclanders* (2000) 77 SASR 419, 344, 351, 354, 368, 369, 371
- Sumitomo Electric Industries Ltd v Metal Manufacturers Ltd* (1993) AIPC 91–000, 434, 435
- Sun World International Inc v Registrar, Plant Breeder's Rights* (1998) 87 FCR 405, 504, 559–60, 570
- Sunbeam Corporation v Morphy-Richards (Aust) Pty Ltd* (1961) 180 CLR 98, 426, 436, 453, 512