



JANI McCUTCHEON

Personal details

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Professional Qualifications

Barrister and Solicitor of the Supreme Courts of Victoria (March 1989) and Western Australia (December 1989), Federal Court and High Court (March 1989)

Academic Qualifications

Jani gained her Bachelor of Laws degree from Monash University, Victoria in 1987, and her Bachelor of Arts with English Honours in 1985, also from Monash University, Victoria.

In 2003 Jani gained a Master of Laws by Research (LLM) from the University of Western Australia for her thesis 'New Signposts: The scope for registration of the new signs in the *Trade Marks Act 1995 (Cth)*'. Jani intends to begin her PHD on copyright issues in 2008.

Employment history

Law lecturer

Jani has been a Lecturer in the University of Western Australia Law School since 1999, where she has taught a number of law subjects. Her specialist subjects are Intellectual Property Law and Electronic Commerce Law. She has also taught Contract law, Marketing Law, Legal Framework of Business, Introduction to Law, and Company Law. Jani also taught the unit Technology and the Law at Murdoch University in 1999.

Jani was nominated for an Excellence in Teaching Award in 2006. She has published extensively in Australian and international journals in the area of intellectual property law, particularly trade marks. Her publications are listed below.

Solicitor

Between 1988 and 1992 Jani practised as a solicitor in both the Melbourne and Perth offices of Freehills, one of Australia's largest commercial law firms. Jani practised in the area of general commercial litigation, including trade practices matters, corporate and contractual disputes, commercial torts and intellectual property law. Jani gained extensive experience drafting court documents, briefs to counsel, opinions, and letters of advice.

During 1999, Jani was also a Legal Officer at the (then) Ministry of Fair Trading, where she provided advice to Ministry staff concerning a wide variety of legislation under the Minister's portfolio, including *Fair Trading Act*, *Real Estate and Business Agent's Act*, *Travel Agent's Act*, and *Consumer Credit Code*.

Legal Research Officer

Between January 1994 - January 1999 Jani worked as a part-time legal research officer for the Independent Member for Churchlands, Elizabeth Constable MLA, where she provided extensive research and advice relating to bills before the Parliament of Western Australia; drafted amendments to bills and private members bills; wrote speeches and briefing notes, articles and newsletters; drafted Parliamentary questions and submissions to Committees and Inquiries; and drafted correspondence to Ministers, Parliamentary committees and constituents pertaining to Parliamentary/legal matters.

Consultant, Quality Assurance auditor

Between 1999 and 2003 Jani also acted as a consultant to quality assurance auditors during law firm audits.

Publications

2007

- McCutcheon, J.L. 'Property in Literary Characters - Protection under Australian Copyright Law', *European Intellectual Property Review* (pending publication in issue 29:05 (2007))

2006

- McCutcheon, J.L. 'Search and Ye Shall Infringe? Current issues Concerning the Use and Abuse of Trade Marks in Cyberspace'

Australian Intellectual Property Journal , 17:2, pp 99-113 (2006)

- McCutcheon, J.L. 'Searching for Trouble: When Search Terms and Trade Marks Collide'

Published Proceedings of AusWeb 06, the Australasian World Wide Web Conference (2006).

- McCutcheon, J.L. 'Copyright Protection for Fictional Literary Characters' *Intellectual Property Forum* 67 (2006), pp 14-28.

2004

- McCutcheon, J.L. 'How Many colours in the Rainbow? The Registration of Colour per se under Australian Trade Mark Law'

European Intellectual Property Review 26:1, pp 27-33 (2004)

- McCutcheon, J.L. 'Monopolised Product Shapes and Factual Distinctiveness Under s 41(6) of the *Trade Marks Act* 1995 (Cth)'

Australian Intellectual Property Journal , 15:1, pp 18-33 (2004)

- McCutcheon, J.L. 'The Registration of Sounds and Scents Under Australian Trade Mark Law',

Intellectual Property Quarterly , 2, pp 138-172 (2004)

2002

- McCutcheon, J.L. 'Rectification of the Trade Marks Register on Grounds Existing at the Time of Application to Rectify - an Analysis of Sections

88(2)(a) and (c) and 89 of the *Trade Marks Act* 1995 (Cth)', *Australian Intellectual Property Journal* , 13:4, pp 199-217 (2002)

(All of these journals are refereed).

- McCutcheon, J.L. Book chapter: 'Intellectual Property: Licensing and Franchising', in Lloyd Gould, *Legal Framework of Business* 4 th ed (2002), pp 185-213.

2001

- McCutcheon, J.L. Book Review: E-Business: Law and Management for the 21 st Century ",

Australian Law Librarian , 9:2, pp 163-164 (2001).

- McCutcheon, J.L. Book chapter: 'Intellectual Property: Licensing and Franchising', in Lloyd Gould,

Legal Framework of Business 3rd ed (2001), pp 185-215.

2000

- McCutcheon, J.L. Book chapter: 'Intellectual Property: Licensing and Franchising', in Lloyd Gould,

Legal Framework of Business 2nd ed (2000), pp 173-203.

Conference Presentations

In 2006 Jani was invited to present a paper at AusWeb 06, the Australasian World Wide Web Conference entitled 'Searching for Trouble: When Search Terms and Trade Marks Collide'.

Prizes 2006 Intellectual Property Society of Australia and New Zealand Essay Prize for the article 'Copyright Protection for Fictional Literary Characters'. The Prize was \$2000, free travel to and registration at the 2006 IPSANZ Conference and publication of the article in the IPSANZ journal, *Intellectual Property Forum*

1999 the Parker and Parker Prize of \$200 for the highest mark in the University of Western Australia Masters by Coursework unit, Industrial and Intellectual Property.

Research grants

In second semester 2001 Jani was awarded an internal University of Western Australia Individual Research Grant for \$2500 to prepare articles based on her Master of Laws Thesis.

Other appointments and memberships

- Participant University of Western Australia Leadership Development for Women Program 2005 - 2006

- Chairperson, University of Western Australia Law School Speakers Committee, 2001

- Member, Intellectual Property Society of Australia and New Zealand since 2000