

Volume 3

2006



MACQUARIE JOURNAL  
OF BUSINESS LAW

# MACQUARIE JOURNAL OF BUSINESS LAW

VOLUME 3

2006

## PATRON

The Hon Justice Kevin Lindgren  
*Federal Court of Australia*

The Hon Mr Roderick P Meagher QC  
*Retired, NSW Supreme Court of Appeal*

## EXECUTIVE EDITOR

Peter Gillies

## EDITORIAL COMMITTEE

Zada Lipman ✓

John Selby ✓

Robert Stokes ✓

## EDITORIAL BOARD

Hon Justice Patricia Bergin

*Supreme Court of New South Wales*

Cynthia Coleman

*University of Sydney*

Kurt Deketalaere

*University of Leuven*

Henry Gabriel

*Loyola University*

Larry Kreiser

*Cleveland State University*

David Lewis

*Middlesex University Business School*

Mary McComish

*University of Notre Dame Australia*

Gabriel Moens

*Murdoch University*

Ian Ramsay

*University of Melbourne*

Natalie Stoianoff

*University of Wollongong*

*EOem*

*24/1-2012*

*2012*

*13/6*

*18/07/12*

*4/8/2012*

*12/06/2012*

## CONTENTS

## ARTICLES

- How Does Australia Regulate the Use of Geographical Indication for Products Other than Wines and Spirits?  
*Miranda Risang Ayu*  1
- Establishment of the WTO and Challenges for the Legal System of Bangladesh  
*Mohammad Monirul Azam* 23
- 'The Song Remains the Same' – The Status of the Rule of Law in China at the 5<sup>th</sup> Year Anniversary of WTO Membership  
*Patricia Blazey and Paul Govind* 47
- The Admissibility of Expert Opinion Economic Evidence in Judicial Review  
*Andrew Dahdal* 63
- The Scope and Limitations of the Doctrine of Misleading or Deceptive Conduct in the Context of Guarantees: Some Perspectives and Uncertainties  
*Charles Y C Chew* 79
- Predicting the Predicament: The World Trade Organisation and Biotechnological Agriculture Via the *EC – Biotech Case*  
*Robert Cunningham* 99
- Non Litigation-Based Redress for International Consumer Transactions is not Cost Effective – A Case for Reform?  
*Daril Gawith* 115
- 'Paying the Piper and Calling the Tune: Spotlight on Debt Collection in Hobart Town, Van Diemen's Land 1817 and Thereabouts  
*Rosemary Lucadou-Wells* 151
- The Black Road – Trade and State-Building in Medieval Sub-Saharan Africa  
*S R Luttrell* 163

## HOW DOES AUSTRALIA REGULATE THE USE OF GEOGRAPHICAL INDICATION FOR PRODUCTS OTHER THAN WINES AND SPIRITS?

MIRANDA RISANG AYU\*

### *Abstract\*\**

*This paper explores the approaches taken by Australia to regulate the use of geographical indication for products other than wines and spirits in line with the general geographical indication protection provided in art 22 of the Agreement on the Trade-Related Aspects of Intellectual Property Rights 1995 (TRIPS Agreement). In terms of the TRIPS Agreement, a geographical indication is an Intellectual Property Right that regulates the mark of a product whose quality and character can be essentially attributed to its place of origin.*

*In Australia only the use of geographical indication for wines and spirits is explicitly regulated (via the Australian Wine and Brandy Corporation Act 1980). This paper demonstrates that Australia does in fact also regulate the use of geographical indication for products other than wines and spirits. The legal framework in the United States of America, which parallels that in Australia in some respects, is also referred to in the course of this review.*

---

\* SH/LLB (Padjajaran University – Indonesia), LLM (University of Technology Sydney), Law Lecturer in the Law Faculty, Padjajaran University, Bandung, West Java, Indonesia, and PhD Candidate in the Faculty of Law, University of Technology Sydney (Aus AID 2004-07).

\*\* I would like to thank Professor Peter Gillies and the Intellectual Property Right referee of the MqJBL, Principal Supervisor Professor Philip Griffith, Dr Rocque Reynolds, Mr. Bill Childs and also Mr Ross Forman and Ms Pat Skinner.