

Fashioning Intellectual Property

Vigorous public debate about intellectual property law has a long history. In this assessment of the shifting relationships between the law and the economic, social and cultural sources of creativity and innovation during the long nineteenth century, Megan Richardson and Julian Thomas examine the ‘fashioning’ of the law by focusing on emblematic cases, key legislative changes and broader debates. Along the way, the authors highlight how, in ‘the age of journalism’, the press shaped, and was shaped by, the idea of intellectual property as a protective crucible for improvements in knowledge and progress in the arts and sciences.

The engagement in our own time between intellectual property law and the creative industries remains volatile and unsettled. As the authors conclude, the fresh opportunities for artistic diversity, expression and communication offered by new media could see the place of intellectual property in the scheme of law being reinvented once again.

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Exhibition, Advertising and the Press, 1789–1918
Megan Richardson, Julian Thomas
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For Sam and Thomas

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Preface

This book was written in a great burst of enthusiasm and without the benefit of extended leaves of absence or research fellowships at renowned institutions in countries other than our own. Unlike the authors of many of the excellent books and chapters and articles that we read in preparation for our project, we did not set out to provide the definitive study of a particular legal field. Instead we took on the equally ambitious task of providing an account of some of the wider intellectual, cultural and social circumstances in which our intellectual property law was framed in the long nineteenth century. Most of our research outside the virtual libraries accessible from our offices and homes was carried out at traditional libraries in our home city of Melbourne, Australia. (Fortunately, these possess wonderful collections dating back to the gold-rush-funded ‘Marvellous Melbourne’.) The research progressed in fits and starts. We had periods of substantial help from some outstanding research assistants and research librarians and useful funding support from the Australian Research Council under the rubric of a research project into amateur media. But as often as not it was one of us who found our way to the Victorian State Library in La Trobe Street, Melbourne, or the Special Collections Library at the University of Melbourne, to read the latest discovery from a dusty volume published more than a century ago (and possibly never before read since). Similarly, when it came to writing, one six-month sabbatical along with two summer breaks and one winter break were just enough for the substantive sections to be fleshed out. The rest was done amid other tasks. In large part, then, the project was fitted around the numerous obligations and commitments making up the majority of our working lives.

There are many people and institutions that we have to thank. These include the Australian Research Council, the University of Melbourne and the Institute for Social Research at Swinburne University of Technology, Melbourne, which provided us with resources and time to do the work, and Cambridge University Press for publishing the book. In searching out material, we had vital assistance from our own and

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other university libraries as well as the State Library of Victoria, the National Library of Australia, the National Library of New Zealand (incorporating the Alexander Turnbull collection) and the British Library. As to individuals, our research assistants, Louise Goebel, Jake Goldenfein, Oscar O’Bryan, Marc Trabsky and Thomas Vranken provided exemplary support and inspiration. Librarians Robin Gardner, Carole Hinchcliffe, Bernard Lyons and Alissa Sputtore were also uniformly helpful and constructive. We are grateful also to our administrative assistant Clarissa Terry for (among many other things) arranging necessary copyright clearances. We have benefited enormously from the expert advice and wisdom of friends and colleagues over many years, in the Law Faculty at the University of Melbourne, the Institute for Social Research at Swinburne and the ARC Centre of Excellence for Creative Industries and Innovation and elsewhere. In relation to the ideas and material for this book, we wish to thank especially Chris Arup, Graeme Austin, Jason Bosland, Kathy Bowrey, David Brennan, Michael Bryan, Barbara Creed, Stuart Cunningham, Melissa de Zwart, Peter Drahos, Chris Dent, Susy Frankel, Ken Gelder, Jane Ginsburg, Jock Given, Diane Hamer, Eva Hemmungs Wirtén, Lesley Hitchens, Dan Hunter, Jeannine Jacobson, Andrew Kenyon, Jessica Lake, Kathy Liddell, Kwanghui Lim, David Lindsay, Ramon Lobato, Janice Luck, Jill McKeough, Denise Meredyth, Nicole Moreham, Ng-Loy Wee Loon, Ivor Richardson, Sam Ricketson, Matthew Rimmer, Brad Sherman, David Tan, Martin Vranken, Peter Yu, Kimberlee Weatherall, Elizabeth Webster and Leanne Wiseman.

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