

BOOK REVIEW

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***William van Caenegem, Intellectual Property Law
and Innovation (Cambridge University Press, 2007)
240 pp***

Intellectual property (IP) has emerged over the last decade as one of the most contested areas of law. In almost every field of IP there has been a major review and reshaping of the law. However, much of the public and academic attention has focused on the technology and copyright side of the IP revolution. Less attention has been devoted to patents, designs, trade secrets and trademarks law. Yet these are areas where innovation is capable of being captured and promoted. In this context, William van Caenegem's new book *Intellectual Property Law and Innovation* does a fine job of drawing together the different fields of IP and addressing their relationship to both technological and product innovation.

Van Caenegem has in the past authored a fine book on IP for the Butterworths' tutorial series. Whilst that book is certainly very useful for student learners, his current book is more suited to academics and practising lawyers. It is still a very informative and easy to read book. In particular, his expositions of confidential information and patent law would be a very useful reference point for law students. It seems clear that the writing style that Van Caenegem developed in the Butterworths' guide has carried over to his recent work. This is a very positive development for the reader as it means that the explanation of legal issues is always succinct, precise and accurate.

Van Caenegem's book is timely because Australia's IP laws have changed greatly since the inception of the Australia-United States Free Trade Agreement (AUSFTA). As the junior party in the free trade agreement it was Australia that was outgunned in the negotiations and which made a number of concessions to its trading partner. The end result was that whilst the AUSFTA was a gain for Australia overall on trade, it was generally conceded that Australia had taken a loss on IP. Australia made a number of substantive changes to its laws after the AUSFTA. The United States made no changes.

Much of the post-AUSFTA academic commentary has at times been very critical of the ramping up of Australia's IP laws. Particularly in the field of copyright there has been much criticism of the lengthening of the copyright term, stronger penalties for

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infringement, the tightening of fair dealing laws and the introduction of new anti-circumvention provisions. Van Caenegem could easily buy into that controversy in greater depth. Instead, he opts to take a more neutral approach and to assess the landscape as he finds it with regard to innovation. Where Van Caenegem does cover policy matters the discussion is less detailed.

In my view, innovators do need to be aware of the broader public policy issues and the likely impacts that they will have upon innovation and economic growth. In Australia at least, the Government has the capacity to play a large role in facilitating and stymieing, the innovation sector. Accordingly, innovators and their advisors need to be well versed in the public debate on these issues.

That is not to say that a black letter approach to IP is not correct. But rather, for people in practice, be they IP managers, technology developers, industrialists or even commercial lawyers, an awareness of the policy context is highly useful. This oversight would be the one flaw in Van Caenegem's latest work. It is hard to fault his legal analysis. There is a definite clarity to his legal writing and analysis that facilitates an easy understanding of the sometime complex subject matter that he is covering.

The book starts by considering the interaction between IP and innovation. There is a strong discussion on risk and innovation. This is effectively what the text is concerned with: managing innovation as a source of risk and reward. Chapter 2 covers trade secrets, otherwise known as confidential information. Chapter 3 deals with patent law. This chapter has a stronger policy discussion and a useful summation of the key areas of patent law. Chapter 4 deals with copyright and designs. Given the wide range of developments in copyright law over the last decade it could be said that copyright warrants a book in its own right. Much of the basics of copyright are covered but there is much more material that deserves attention. Chapter 5 covers sui generis regimes and trade mark registration.

In all, this is a useful book with some excellent summations of key areas of IP law. I would certainly recommend this text to lawyers and innovators as a handy guide to the various fields of IP.