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INTELLECTUAL PROPERTY PROCEEDINGS

1. *Axent Holdings Pty Ltd v Compusign Australia Pty Ltd (No 5) [2018] FCA 675 (27 April 2018); Axent Holdings Pty Ltd v Compusign Australia Pty Ltd (No 4) [2018] FCA 674 (26 April 2018); Axent Holdings Pty Ltd v Compusign Australia Pty Ltd (No 3) [2018] FCA 6 (11 January 2018); Axent Holdings Pty Ltd v Compusign Australia Pty Ltd (No 2) [2017] FCA 1102 (18 September 2017); Axent Holdings Pty Ltd v Compusign Australia Pty Ltd [2017] FCA 1077 (11 September 2017)*

As sole counsel retained in the proceedings for the applicant patentee, successfully defending an application for security for costs and prosecuting a successful application for discovery in a patent proceeding where both validity and infringement are in issue. The patent concerns a variable speed limit system, and the liability hearing was in April and October 2018, with various published evidence rulings during the April hearing. The Court's decision is reserved.

2. *Magi Enterprises Pty Ltd v Luvalot Clothing Pty Ltd (No 2) [2017] FCA 1143 (25 September 2017); Magi Enterprises Pty Ltd v Luvalot Clothing Pty Ltd [2017] FCA 340 (31 March 2017)*

As sole counsel for the design owner, successfully defending an application for evidence to be given by video link in a matter involving allegations of infringement and invalidity of a registered design for a ladies' garment. Undertakings to the Court were subsequently obtained, together with orders for payment of \$127,000 as damages and also costs orders.

3. *Tramanco Pty Ltd v BPW Transpec Pty Ltd [2012] FCA 613 (14 June 2012); Tramanco Pty Ltd v BPW Transpec Pty Ltd (2014) 105 IPR 18; [2014] FCAFC 23*

With Peter Collinson QC, a 3 week patent trial before Dowsett J followed by an appeal before Allsop CJ, Greenwood and Nicholas JJ concerning a method of

monitoring the performance of a vehicle suspension system. Both validity and infringement were in issue, with novelty, inventive step, and section 40 challenges to the patent and live section 117 issues in the infringement case. The inventor gave evidence, as did numerous experts. Dowsett J found the patent to be invalid and not infringed in any event. The Full Court upheld the infringement finding but re-instated the patent.

4. *Ranbaxy Laboratories Limited v AstraZeneca AB (2013) 101 IPR 11; [2013] FCA 368 (23 April 2013)*

With Ross Macaw QC and Adrian Ryan SC, a 5 week patent trial before Middleton J challenging the validity of two patents and claims of infringement in relation to them and a third patent, all relating to the proton pump inhibitor omeprazole, which is prescribed for the treatment of heartburn and gastric reflux. The proceeding involved extensive technical evidence from pharmacologists, organic chemists, pharmaceutical formulators, gastroenterologists, and included experimental evidence and complex analytical techniques such as Time of Flight Secondary Ion Mass Spectrometry (TOF-SIMS). The validity of the first two patents (in respect of which infringement was admitted) was upheld. The third patent was held not to be infringed.

5. *Ladakh Pty Ltd v Quick Fashion Pty Ltd [2011] FMCA 519 ; Ladakh Pty Ltd v Quick Fashion Pty Ltd [2012] FCA 389*

As sole counsel at trial and with Adrian Ryan SC in the appeal, a one week copyright trial before Riley FM followed by an appeal before Jessup J concerning the copyright in a fabric print. It involved an originality challenge, reputational damages and additional damages claims. Much of the evidence was in Chinese, and required document translations and the oral evidence given with the assistance of interpreters.

6. *Review 2 Pty Ltd v Redberry Enterprise Pty Ltd (2008) 173 FCR 450; (2008) 791 IPR 214; [2008] FCA 1588*

As sole counsel, a 2 week trial before Kenny J. The first case under the *Designs Act 2003*, it involved the validity and infringement of a registered design for a ladies' dress, the articulation of the concept of the informed user, the use of expert evidence, and claims for additional and reputational damage.

CORPORATIONS, COMMERCIAL AND TRADE PRACTICES PROCEEDINGS

1. *Tikiri Pty Ltd v Fung* [2016] VSC 460 (5 August 2016)

As sole counsel, a hearing as to the applicability of section 28(2) of the *Evidence (Miscellaneous Provisions) Act 1958* in a proceeding involving allegations of misuse of confidential information by a medical practitioner. Successfully argued that section 28(2) applied to discovered documents such as to preclude the identification of patient's names. The proceeding later settled.

2. *Cleal Holdings v JG King Developments Pty Ltd* [2015] VSC 573 (23 September 2015)

As sole counsel, an appeal before Justice Digby as to the adequacy of security for costs orders made in a proceeding concerning a property development. Successfully obtained increased security.

3. *Jack Brabham Engines Ltd v Beare* [2010] FCA 872

As sole counsel, a 2 week trial before Justice Jagot involving analysis of licensing and funding arrangements for a new type of motor bike engine. It involved allegations of misleading conduct, injurious falsehoods and *Corporations Act* claims as well as extensive expert evidence of loss and damage.

4. *Polaris Communications v Dynamic Hearing* [2009] FCA 890 ; *Dynamic Hearing v Polaris Communications* (2010) 273 ALR 696; [2010] FCAFC 135

With Colin Golvan QC, a 3 week trial before Sundberg J followed by an appeal before Moore, Besanko and Gordon JJ of a misleading conduct claim arising from the publication of a comparative report testing two acoustic shock protection devices.