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Articles

Australian publishing agreements lack basic protections for authors while publishers routinely take broad assignments of rights. This is a result of the flawed model of freedom of contract which governs copyright contracts, to which authors are especially vulnerable due to the unique dynamics of creative labour markets. This article discusses how we can overcome barriers to reform in order to implement statutory protection for authors. To this end, other key areas of Australian legislative intervention are analysed and compared while foreign jurisdictions are examined in the hope that Australia can draw some influence from these more progressive copyright regimes.

The extent to which descriptive words can be registered as trade marks is a controversial issue in intellectual property law. Under s 3(1)(c) of the Trade Marks Act 1994 (UK), a sign which serves to designate the quality, purpose or other characteristics of a product cannot be registered unless it has acquired prior distinctiveness through use. However, it is not clear whether the descriptiveness exclusion in s 3(1)(c) applies to suggestive word marks that only indirectly describe or allude to attributes associated with a product or its user. Through a comparative analysis, this article argues that clearer guidelines are needed in the UK to explain the interplay between the absolute grounds for refusal of registration in the examination of suggestive marks. It also considers the extent to which suggestive word marks should be treated as being 'devoid of distinctive character' under s 3(1)(b), as part of a broader effort to safeguard key elements of the public domain from misappropriation by individual traders.

One of the principal objectives of copyright law in Australia is to serve the public interest by promoting the composition of new creative works. This objective is particularly topical in a musical context, in light of recent high-profile musical copyright infringement findings by the Federal Court and the diminished state of the Australian music industry post-pandemic. This article aims to assess whether

Australia's current musical copyright infringement regime is appropriately adapted to promoting this objective — and to provide recommendations for reform where it is not.