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NOTE FROM THE ACTING GENERAL EDITOR 3

TOPIC OF INTEREST

**Use of subject matter with missing owners – Australian copyright policy options –
*David Brennan and Michael Fraser*** 4

ARTICLES

**2011 ESSAY COMPETITION WINNER: Trade mark dilution in Australia revisited:
How far have we come? – *Tyrone Berger***

This article examines whether or not an anti-dilution remedy exists in s 120(3) of the Trade Marks Act 1995 (Cth) and whether such a remedy is desirable. It examines ambiguities surrounding key terms of the provision – “connection”, “well known”, and “relevant sector of the public” – in relation to the established concept of consumer “confusion”, and proposes that the current orthodoxy towards s 120(3) does not afford registered owners an appropriate level of legal protection. 19

**2011 ESSAY COMPETITION RUNNER-UP: Directions for, and issues with, gTLD
expansion – *Robert (Bob) Vangenne JD***

The pending expansion of generic top-level domains (gTLDs) raises many potential legal and business concerns. This article seeks to provide some perspective on the likely depth of those concerns after considering the argument for expansion. An outline of the proposed application procedure examines how the Internet Corporation for Assigned Names and Numbers intends to ensure the success of new domain registrars and the restrictions on various categories of new gTLDs. This is intended to be the first layer of protection in preventing abusive domain name registrations. A review is made of which business models are likely to succeed considering past gTLD introductions and current trends in domain names. Changes in how users locate information on the internet are also considered. Possible opportunities and cautions for brand and trademark owners are considered throughout. 35

**A response to the Senate inquiry into the Patent Amendment (Human Genes and
Biological Materials) Bill 2010 – *Clare Bradin***

The rapid evolution of biotechnological innovation is a challenge to the durability of Australian patent law. Prompted by the Senate inquiry into the Patent Amendment (Human Genes and Biological Materials) Bill 2010 (Cth), this article examines the difficulties associated with defining the boundaries of patentable subject matter through the contentious example of isolated gene sequences. It is through this paradigm that a number of inherent ambiguities in this legislative requirement of patentability are revealed. An

examination of both Australian and US precedent uncovers a pervasive demand for flexibility in the resolution of such ambiguity; if patent law is to develop with technology it must be governed by broad principles capable of differing emphasis depending on the specific invention under consideration.	49
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