

AUSTRALIAN BUSINESS LAW REVIEW

Volume 53, Number 1

2025

EDITORIAL – *General Editor: Michael Terceiro* 3

ARTICLES

The Registration of Certification Trade Marks in New Zealand and Australia – *Bram Van Wiele and Mitchell Adams*

Certification trade marks indicate that particular characteristics of the goods or services have been certified to meet specific standards or other criteria. Such marks are examined and registered at the national intellectual property offices, ensuring compliance with stringent requirements for registration, governance and use. This article presents the findings of a comparative empirical study on the application and registration of certification trade marks in New Zealand and Australia filed between 1 January 2002 and 31 December 2023. It analyses trends in applications and registrations and the scope and characteristics of registered certification trade marks, including lifecycle data, intrinsic features, and use conditions. 5

Recent PPSA Cases – *Anthony Duggan*

This article discusses three cases recently decided under the Personal Property Securities Act 2009 (Cth) (PPSA). The first is *Kirkalocka Gold SPV Pty Ltd (recs and mgrs apptd) v Zenith Pacific (KLK) Pty Ltd*, which (broadly speaking) concerned the meaning of “possession” in the PPSA context. The second is *Metal Manufactures Pty Ltd v WesTrac Pty Ltd*, which concerned the rights of a secured party (A) under ss 32 and 46 of the PPSA in circumstances where the grantor (B) sold the collateral to a buyer (C) who subsequently resold to D. The third case is *Volkswagen Financial Services Australia Pty Ltd v Muon*, which concerned the relationship between the repossession provisions in s 123 of the PPSA, and ss 88, 99, 100 and 101 of the *National Consumer Credit Protection Act 2009* (Cth), Sch 1 (the National Credit Code). 27

Australia’s Proposed Digital Competition Regime – *Nicholas Felstead*

The Australian Government recently proposed a new “Digital Competition Regime” to address the anti-competitive and exploitative conduct that thrives in the digital economy. Recognising that existing laws and regulatory tools are unable to keep up with the pace of technological advancement, the proposed regime would introduce ex ante regulatory obligations for designated digital platforms with a critical position in the Australian economy. Australia is seeking to act as a “fast follower” in the race to rein in large digital platforms, drawing on best practices in other national and supranational regimes. At its best, regulation can spur innovation while protecting consumers and markets from anti-competitive behaviour. This brief article will review the proposed regime and argue that it represents a positive step towards responsible regulation of the digital economy. 40

COMPANY LAW AND SECURITIES – *Editor: Olivia Dixon*

Assessing Culpability for a Continuous Disclosure Breach: ASIC v Holista Colltech Ltd – *Jonathan Cheyne and Bailey Britt* 49

