

Editors' Note

Dear Readers

Preparing this edition of the Communications Law Bulletin was a pleasant if unnecessary reminder of how much wisdom abounds in the CAMLA community, and we're so delighted to share some of it with you through these pages.

Christmas has come early for **trade mark** lawyers this year. **Ashleigh Fehrenbach** at RPC looks at the recent EU case involving DC Comics and an Italian retailer and what the EU courts will consider when deciding if a trade mark is distinctive or not. Our friends at **Minters** take us through trade mark protection for rabbit shaped marks, and implied licences following the High Court's REA decision. **Mallesons' Michael Baker** and **James Keeves** discuss the value of behavioural experts in misleading representation cases, following the **ACCC's** claim against **Google**. And, having covered *ad nauseum* the various Taylor Swift copyright issues in previous edition in deference to my co-editor, we finally cover some **Katy Perry** trade mark litigation thanks to the good folks at **Clayton Utz**, **Dean Gerakiteys** and **Antonia Wayne-Boyle**. #TeamKaty

Artificial intelligence is also on our minds this edition. **Clayton Utz** takes us on a deep dive into the world of **deepfakes**. **Michael Douglas** provides his views on OpenAI's potential liability for defamation for content created on **ChatGPT** in light of the recent claim brought by Mayor Brian Hood of Hepburn Shire, Victoria. The team at **Freehills** comment on IP's critical role in policing the use of AI and protecting the rights of inventors and creators. And **Bird & Bird's Hamish Fraser** and **Bel Rowe** comment on the recent **Clearview** privacy decision of the AAT.

Defamation law reform – that which has arrived and that which is still yet to – features heavily in this edition as well. **Bartier Perry's Adam Cutri** and **David de Mestre** comment on the Stage 2 Part A Model Defamation Amendment Provisions, and what to expect for the rest of 2023. **Thomson Geer's Marlia Saunders** and **Issy Gwinner** take us through the WA judgment in *Bartlett v Roffey*, significant for being the first decision to deal with the choice of law issues created by the non-uniform adoption of the 2021 amendments to the Model Defamation Provisions.



Ashleigh Fehrenbach



Eli Fisher

And, speaking of defamation law, **Marlia** and New Corp's **Michael Cameron** let us in on their chat about the consequences of the **Ben Roberts-Smith** litigation.

Disney's Daniel Roe reports on the CAMLA Young Lawyers' Networking Event and **Bakers' Kristi Hewetson** reports on the Journalists' Privilege webinar featuring **Matt Collins AM KC**, **Gina McWilliams** and **Paul Farrell**.

This edition, we're also delighted to feature Alana Callus' profile of legendary litigator, **Richard Leder**, who provides his reflections on the Rebel Wilson trial, justice, risk and defamation law.

This edition follows a busy week at CAMLA with three events on consecutive nights, covering **Online Safety**, **Defamation and Investigative Journalism**, and **creativity within legal careers**, on all of which we will report in the next edition. That edition of the CLB will be a special **Art Industry** edition, and we excitedly welcome contributions on any matter pertinent to the art world.

Lastly, CAMLA bids a sad farewell to its long-time administrative secretary, **Cath Hill**, and we thank her in these pages. Despite the mournful tone of our tear-stained farewell, Cath is actually alive, healthy and super-happy – and moving onto an exciting new chapter of her career, for which we congratulate her and wish her all the best.

Happy reading,

Eli & Ash