

Friday, 11 June 2021

Daily Civil Law A Daily Bulletin listing Decisions of Superior Courts of Australia

 Follow @Benchmark_Legal

Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

CIVIL (Insurance, Banking, Construction & Government)

Executive Summary (1 minute read)

QAD Inc v Shepparton Partners Collective Operations Pty Ltd (FCA) - copyright - licence agreement - applicants ('QAD') contended infringement by respondent (SPC) of copyright in their software - QAD's claim established - SPC's cross-claim dismissed (I B)

Ferdinands v Registrar Cridland (FCA) - judicial review - applicant sought review of respondent's refusal to accept 'proposed originating application and supporting documents' 'for filing' - no error in Registrar's decision - judicial review application dismissed (I B C G)

In the matter of Pacific Steelfixing Pty Ltd (NSWSC) - corporations - winding up - plaintiffs sought order under s588FF(1)(a) *Corporations Act 2001* (Cth) requiring defendant to pay amount to Company on basis 'tax payments' were voidable transactions under 588FE of the Act - proceedings dismissed (B)

Kralcopic v Minister for Resources (No 2) (VSC) - judicial review - corporations - defendant's delegate refused to renew mining licences of plaintiff ('refusal decision') - plaintiff placed into liquidation by order for winding up - defendant sought declaration that plant left on land to which licences had applied 'was forfeited to the Crown' from date six months subsequent to refusal decision - declaration granted - proceeding otherwise dismissed (I B C G)

Seeley International Pty Ltd v Millennium Electronics Pty Ltd (In Liq) (No 3) (SASC) - consumer law - contract - negligence - applicant claimed for losses allegedly sustained due to

respondent's failure to supply to applicant 'a properly working electrical element' - judgment for applicant in sum of \$13,277,000.00 (I B C G)

Summaries With Link (Five Minute Read)

QAD Inc v Shepparton Partners Collective Operations Pty Ltd [2021] FCA 615

Federal Court of Australia

Thawley J

Copyright - licence agreement - applicants ('QAD') contended infringement by respondent (SPC) of copyright in their software - SPC was continuing to use QAD's software after resits purchase of business from respondent (SaleCo) - QAD's software used by SPC without transfer of 'relevant software licence agreement' - SPC did not pay fee required by QAD as condition of 'consent to transfer the licence' - SPC contended it had 'implied licence' to use software - SPC cross-claimed including on basis that, contrary to contract of sale's requirement, SaleCo had 'failed to use "best endeavours" in secure licence agreement's transfer - held: QAD's claim established - SPC's cross-claim failed.

[QAD Inc](#) (I B)

Ferdinands v Registrar Cridland [2021] FCA 592

Federal Court of Australia

White J

Judicial review - applicant sought review of respondent's refusal to accept 'proposed originating application and supporting documents' 'for filing' - r2.26 *Federal Court Rules 2011* (Cth) - *Ferdinands v Registrar Parkyn* [2020] FCA 1676 - *Nyoni v Murphy* [2018] FCAFC 75 - whether applicant's documents were "frivolous" and "vexatious" - held: no error in Registrar's refusal to accept documents for filing - judicial review application dismissed.

[Ferdinands](#) (I B C G)

In the matter of Pacific Steelfixing Pty Ltd [2021] NSWSC 655

Supreme Court of New South Wales

Williams J

Corporations - winding up - plaintiffs sought order under s588FF(1)(a) *Corporations Act 2001* (Cth) (Corporations Act) requiring defendant to pay amount to Company on basis 'tax payments' were voidable transactions under 588FE Corporations Act - whether 'unfair preference transactions' under s588FA Corporations Act which occurred when Company insolvent: s588FC(1)(a) Corporations Act - 'insolvency issue' - 'preference issue' - held: proceedings dismissed.

[In the matter of Pacific](#) (B)

Kralcopic v Minister for Resources (No 2) [2021] VSC 258

Supreme Court of Victoria

Ginnane J

Judicial review - corporations - defendant's delegate refused to renew mining licences of plaintiff ('refusal decision') - plaintiff placed into liquidation by order for winding up - defendant sought declaration that plant left on land to which licences had applied 'was forfeited to the Crown' from date six months subsequent to refusal decision - whether to grant leave to proceed - s471B *Corporations Act 2001* (Cth) - s114 *Mineral Resources (Sustainable Development) Act 1990* (Vic) - held: declaration granted - proceeding otherwise dismissed.

[Kralcopic](#) (I B C G)

Seeley International Pty Ltd v Millennium Electronics Pty Ltd (In Liq) (No 3) [2021] SASC 63

Supreme Court of South Australia

Justice Livesey

Consumer law - contract - negligence - applicant claimed for losses allegedly sustained due to respondent's failure to supply to applicant 'a properly working electrical element' - applicant contended that the element's 'defective design' had caused 'faulty operation' of heaters over 'period of some two years' - whether breach of 'express and implied terms' of contract - whether 'negligent breach of duty' - whether contributory negligence - whether contravention of Australian Consumer Law - whether misleading and deceptive conduct - held: judgment for applicant in sum of \$13,277,000.00.

[Seeley](#) (I B C G)

Summaries With Link



Winter: A Dirge

By: Robert Burns

The wintry west extends his blast,
And hail and rain does blaw;
Or, the stormy north sends driving forth
The blinding sleet and snaw:
While tumbling brown, the burn comes down,
And roars frae bank to brae;
And bird and beast in covert rest,
And pass the heartless day.

The sweeping blast, the sky o'ercast,
The joyless winter-day,
Let others fear, to me more dear
Than all the pride of May:
The tempest's howl, it soothes my soul,
My griefs it seems to join;
The leafless trees my fancy please,
Their fate resembles mine!

Thou Pow'r Supreme, whose mighty scheme
These woes of mine fulfil,
Here, firm, I rest, they must be best,
Because they are Thy will!
Then all I want (O, do Thou grant
This one request of mine!)
Since to enjoy Thou dost deny,

Assist me to resign.

https://en.wikipedia.org/wiki/Robert_Burns

[Click Here to access our Benchmark Search Engine](#)