



Friday, 16 October 2020

## Weekly Intellectual Property Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Intellectual Property Law

 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.

### Executive Summary (1 minute read)

**Meat and Livestock Australia Limited v Branhaven LLC** (FCAFC) - patent - primary judge ordered amendments to patent application - application for leave to appeal refused

**ViiV Healthcare Company v Gilead Sciences Pty Limited (No 2)** (FCA) - patent - discovery - inutility - Gilead sought documents' discovery - ViiV sought to strike out parts of 'amended particulars' - discovery allowed in certain categories - strike-out application adjourned

## Summaries With Link (Five Minute Read)

### **Meat and Livestock Australia Limited v Branhaven LLC [2020] FCAFC 171**

Full Court of the Federal Court of Australia

Kenny, Nicholas & Burley JJ

Patent - respondents sought to amend patent application - primary judge ordered amendments to 'patent application' - applicant sought to appeal - whether amendments were 'allowable' - 'amendments to existing claims' - 'amendments introducing additional dependent claims' - 'amendment deleting claim' - s105(1A) *Patents Act 1990* (Cth) - s158(2) *Federal Court of Australia Act 1976* (Cth) - ss102 & 40(3) *Patents Act* - held: leave to appeal refused.

[Meat and Livestock](#)

[From Benchmark Tuesday, 13 October 2020]

### **ViiV Healthcare Company v Gilead Sciences Pty Limited (No 2) [2020] FCA 1455**

Federal Court of Australia

Beach J

Patent - Gilead sought documents' discovery in categories relevant to Gilead's allegation that claimed invention was 'not useful' - ViiV opposed Gilead's application - ViiV sought to strike out parts of 'amended particulars' in respect of inutility plea (strike-out application) - whether compliance with r34.46 *Federal Court Rules 2011* (Cth) - consideration of categories of documents - relevance - held: discovery allowed in certain categories - strike-out application adjourned.

[ViiV](#)

[From Benchmark Tuesday, 13 October 2020]



# Benchmark

## To the Nightingale

By: John Milton

O NIGHTINGALE, that on yon bloomy spray  
Warblest at eve, when all the woods are still;  
Thou with fresh hope the lover's heart dost fill,  
While the jolly Hours lead on propitious May.  
Thy liquid notes that close the eye of day,  
First heard before the shallow cuckoo's bill,  
Portend success in love; O, if Jove's will  
Have linked that amorous power to thy soft lay,  
Now timely sing, ere the rude bird of hate  
Foretell my hopeless doom, in some grove nigh;  
10  
As thou from year to year, hast sung too late  
For my relief, yet had'st no reason why:  
Whether the Muse or Love call thee his mate,  
Both them I serve, and of their train am I.

5

[https://en.wikipedia.org/wiki/John\\_Milton](https://en.wikipedia.org/wiki/John_Milton)

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