



Friday, 31 July 2020

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

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Executive Summary (1 minute read)

Ceramiche Caesar S.p.A v Caesarstone Ltd (FCAFC) - trade mark - three proceedings - 'deceptively similar' - 'honest concurrent use' - 'authorised use' - 'quality control' - 'control on a wider basis' - appeals allowed

Hardingham v RP Data Pty Limited (FCA) - security for costs - copyright - primary judge dismissed appellants' copyright infringement claim - respondents sought security for costs - security for costs refused

Summaries With Link (Five Minute Read)

Ceramiche Caesar S.p.A v Caesarstone Ltd [2020] FCAFC 124

Full Court of the Federal Court of Australia

Nicholas, Burley & Thawley JJ

Trade mark - three proceedings - in first proceeding 'Ceramiche Caesar' sought to appeal against orders which allowed application of 'Caeserstone' for 'Caesarstone Goods Word Mark' 'to proceed to registration' - in second proceeding Ceramiche Caesar sought to appeal against orders which allowed application of Caesarstone for 'Caesarstone Device Mark' 'to proceed to registration' - in third proceeding Ceramiche Caesar appealed against orders which allowed application of Caesarstone for 'Caesarstone Services Word Mark' to remain registered - 'deceptively similar' - 'honest concurrent use' - 'authorised use' - 'quality control' - 'control on a wider basis' - "because of other circumstances" - ss8, 44, 88, 89 & 195(2) *Trade Marks Act 1995* (Cth) held: appeals allowed.

[Ceramiche](#)

[From Benchmark Thursday, 30 July 2020]

Hardingham v RP Data Pty Limited [2020] FCA 1062

Federal Court of Australia

Burley J

Security for costs - copyright - primary judge dismissed appellants' copyright infringement claim - primary judge made costs orders and stayed the costs orders pending appeal's outcome - respondents each sought security for costs of appeal - s56 *Federal Court of Australia Act 1976* (Cth) - *Bell Wholesale Co Ltd v Gates Export Corporation* [1984] FCAFC 29 - *Dye v Commonwealth Securities Limited* [2012] FCA 992 - impecuniosity - whether risk respondents would be unable to recover costs if successful - whether appropriate to order that appellants pay security for costs - whether 'sufficiently arguable case' - whether, if security for costs order, appellants could conduct appeal - COVID-19 as contributing factor to impecuniosity - held: security for costs refused.

[Hardingham](#)

[From Benchmark Tuesday, 28 July 2020]



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About Ben Adhem

By: Leigh Hunt

Abou Ben Adhem (may his tribe increase!)

Awoke one night from a deep dream of peace,

And saw, within the moonlight in his room,

Making it rich, and like a lily in bloom,

An angel writing in a book of gold:—

Exceeding peace had made Ben Adhem bold,

And to the presence in the room he said,

"What writest thou?"—The vision raised its head,

And with a look made of all sweet accord,

Answered, "The names of those who love the Lord."

"And is mine one?" said Abou. "Nay, not so,"

Replied the angel. Abou spoke more low,

But cheerly still; and said, "I pray thee, then,

Write me as one that loves his fellow men."

The angel wrote, and vanished. The next night

It came again with a great wakening light,

And showed the names whom love of God had blest,

And lo! Ben Adhem's name led all the rest.

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

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