

CLIVE ELLIOT
New Zealand

Biographical Details

Areas of Expertise

Intellectual Property Law
Information Technology Law
Commercial Litigation
Alternative Dispute Resolution

General Background

Clive is a registered patent attorney and barrister admitted in both New Zealand and New South Wales. Before going to the Bar, Clive was a partner and headed the litigation team at Baldwin Shelston Waters and was at the firm for just on 17 years.

He is a council member of the Legal Practice Division of the London based International Bar Association (IBA) and the immediate past co chair of the Intellectual Property and Entertainment Law Committee of the IBA.

He sits on two New Zealand Law Society committees and he is the Chair of the New Zealand Committee of the Intellectual Property Society of Australia and New Zealand (IPANZ).

He is a co-author of the Butterworths loose-leaf texts Copyright and Design, Electronic Business Law and the chapter on Computer Contracts in Butterworths New Zealand Precedents.

He is a part time lecturer in the post-graduate Masters course at the Department of Law at Auckland University.

He is a frequent writer and commentator on IP and information technology issues and is on the editorial boards of a number of journals.

Professional Background

Educational and Professional Qualifications

B.A.	University of Natal, Durban, 1978
LL.B.	University of Natal, Durban, 1981
Practicing Certificate	District Law Society, Auckland 1985
Registered Patent Attorney	Patent Office, Lower Hutt 1990
LL.M	Victoria University, Wellington 1991
Admitted to NSW Bar	2002

Membership of Professional Bodies

International Bar Association:	Council Member of LPD Immediate past Co Chair of (Intellectual Property and Entertainment Law Committee)
Auckland District Law Society:	Spokesperson, information technology law issues Member of Technology and Law Committee;
New Zealand Law Society:	Member Electronic Commerce Committee;
Intellectual Property Society of Australia and New Zealand (IPSANZ):	Chair of New Zealand Committee ;
New Zealand Institute of Patent Attorneys:	Fellow; Previously Convenor, Legislation Committee
New South Wales Bar	Interstate member since 2002

Case History

Clive has acted as counsel in a number of major IP cases. He has handled diverse technologies and all aspects of IP, including patents, trade marks, trade secrets and copyright in the High Court, Court of Appeal and Privy Council. He was the first New Zealander to be appointed to WIPO's panel of neutrals and has decided a number of international domain name disputes.

Recent Experience

Recently was counsel in the first three cybersquatting case to go to the New Zealand High Court *Cadbury Confectionery & Ors v. The Domain Name Company Ltd, Oggi Advertising v McKenzie* and *NZ Post v Leng*.

Recently was counsel in Privy Council in *Ancare v Fort Dodge* (Patent revocation - 2002) and Court of Appeal in *McCain Foods v Conagra* (Trade Mark registration - 2002) and *Pacific Software v Perry Group* (software commissioning - 2003).

Publications and Relevant Activities

Electronic Business Law (*Butterworths*)(co-author);

Copyright and Design in New Zealand (*Butterworths*) (co-author);

Chapter on "Computer Contracts," in *Butterworths New Zealand Precedents* (co-author);

Contributing author, Law Society's *Legal Practice Manual*, on the topic of intellectual property;

The New Zealand Law Journal, August 2001 - Butterworths "The Napster Saga"

Venture Magazine, May 2001 - Contributions to "Cover story"

New Zealand member of Editorial Board of International Journals: *IP Asia*;

"Domain Name Disputes in a Cross-border Contract", *EIPR* vol 21 issue 8, August 1999;

The Internet – A New World without Frontiers – New Zealand Law Journal, November 1998;

The Oggi Case – New Zealand Domain Grabber Dealt To – Trademark World, August 1998;

"Informed Discussion Name of the Game," *NZ Infotech Weekly*, December 9, 1996;

"Infoline Names and Telephone Numbers: A New Form of Intellectual Property?" *Trademark World*, p. 13, October 1996;

"The Design/Copyright Overlap--Update on Reform Process," *Lawtalk*, p. 7, July 22, 1996;

"CER at the Crossroads: Business Law Harmonisation--Where to Now," *Commercial Law*, p. 47, February 1995;

"New Copyright Act," *International News*, p. 10, February 1995;

"Once a Copy Always a Copy," *Copyright World*, Issue 43, p. 28, September 1994;

"The Primetime Case in New Zealand--*TV3 Network Services Limited v. Television New Zealand Ltd Fisher J*, HC-Auckland CP50/93; 8th February 1993. Application for Interim

Injunction Regarding Television Programme Name,” *Copyright World*, Issue 32, p. 44, August 1993;

“The Common Law: Unfair Competition and *sui generis* Legislation--A Time for Reappraisal,” *Copyright World*, Issue 20, p. 25, January/February 1992;

“Crucial Issues in IP Commercialisation,” *Managing Intellectual Property*, p. 13, November 1992;

“Copyright Law--The ABC’s,” *Design Z*, December 1988;

“Call for New Copyright Laws to Cover Computer Field,” *Mercantile Gazette International*, August 22, 1988;

“Service Mark Registration Arrives,” *NZ Business*, p. 6, March 1988;

“New Zealand--Imprudent Use of ‘Prudential’ Trademark,” *IP Asia*, p. 28, November 25, 1988;

Marketing Magazine, contributing columnist on intellectual property topics (1985-1989);

Infolene Names & Telephone Numbers. A New Form of Intellectual Property, Trademark World, October 1996;

Papers/Public Speaking Engagements:

Chair, Biotechnology Law Conference, 2003, sponsored by LexisNexis "*Where Biotechnology, Law and Commerce Converge*".

Guest Speaker, *The Protection of Traditional/Cultural Rights - Part II - Legal Perspectives*, November 2000

Digital Copyright Seminar, April 2002, "Content on the Internet"

Workshop, September 2001 "*Effectively Structuring Joint Ventures Between Traditional Businesses and E Business*".

NZLS - Guest Speaker at Seminar, August 2001 - "*Enabling Your Clients to do Business Online*".

Guest Speaker Conference, July 2001 "*Intellectual Property Rights - An update on Key Developments*"

Guest Speaker at Conference, June 2001 - "*Untangling Web Law*"

“Making the Rules Up As You Go!”, Multimedia Agreements, Australia and New Zealand LES Conference, Rotorua, April 1996;

“Legal Issues for Intellectual Property and Packaging,” Intellectual Property--A Seminar sponsored by the International Trademark Association and the Packaging Industry Advisory Council;

“Outline of the Major Provisions of the Copyright Act 1994 as They Relate to the Computer/Communications Industry,” The New Copyright Act, New Zealand Society for Computers and the Law Inc., Wellington, March 1995;

“Intellectual Property Law--Understanding the Interface Between Australia and New Zealand,” Maximising Profit through Internationalising and Commercialising Intellectual Property, Sydney, November 1994;

“Patents Update,” Intellectual Property, University of Auckland, July 1994;

“Government Reform of Industrial Design and Copyright Law,” Auckland Manufacturers’ Association Inc., October 1992;

“Workshop II--Commercialising Research from Universities and Crown Research Institutes,” The Commercial Benefits and Realities of Intellectual Property--Protect your Assets and Profits, Auckland, June 1992;

“Maximising your Legal Protection, Part A: The Basic Issues, Part B: Advanced Issues in Software Copyright,” Computer and Database Law, Wellington, September 1992;

“The Legalities of Computer Fraud,” Combating Fraud and Improving Security, Auckland, May 1991;

“Market Entry Strategies,” Agents, Distributors and Licensees Seminar, Auckland Regional Chamber of Commerce, August 1991;

“A Licensing Success Story and a Disaster: What went Right and Wrong?”, member of the panel of commentators, Licensing and your Export Business, Licensing Executives Society Australia and New Zealand, Auckland, November 1990;

“Unfair Competition and *sui generis* Legislation--Necessary Evils?”, Institute of Patent Attorneys, September 1990;

“Aspects of Copyright and Intellectual Property in GIS,” Getting it all Together with GIS, The First National GIS Conference, Wellington, June 1989;

Presentation at Patents and Trademarks Seminar, Chamber of Commerce, Auckland, May 1990;

“Legal Protection and the New Technologies--The Need for Reform,” thesis for LL.M. degree, Victoria University.