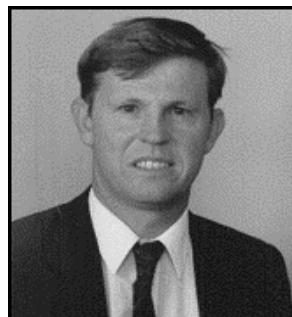




## **WIPO LIST OF NEUTRALS**

### **BIOGRAPHICAL DATA**

Professor Michael D. PENDLETON  
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School of Law  
Chinese University of Hong Kong  
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Shatin, NT, Hong Kong  
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Date of Birth: January 31, 1953

Nationality: Australian, British

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### **EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS**

Barrister and Solicitor, Supreme Court of Western Australia, 1991;  
Solicitor, Supreme Court of Hong Kong, 1982;  
LLM., University of London, 1981;  
Solicitor, Supreme Court of Judicature of England and Wales, 1980;  
Diploma in Jurisprudence - University of Sydney, Faculty of Law, 1979;  
LLB., University of Sydney, Faculty of Law, 1976;  
Solicitor, Supreme Court of New South Wales, 1976.

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### **LANGUAGES**

English

### **PRESENT FUNCTIONS**

Professor in Law, School of Law, Murdoch University, Perth, Western Australia;  
Foundation Director, Asia Pacific Intellectual Property Law Institute, Murdoch University, Perth.

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### **PROFESSIONAL EXPERIENCE BEFORE PRESENT FUNCTIONS**

Chairman of the Law Reform Commission of Western Australia, 1991-93;  
Consultant, Blake Dawson Waldron, 91-92;  
Consultant, Alsop Wilkinson, Hong Kong, 88-90;  
Lecturer and Senior Lecturer, Faculty of Law, University of Hong Kong, 1981-90;  
Consultant, Deacons, Hong Kong, 1984-87;  
Solicitor, Edmund WH Chow & Co, 1982-84;  
Solicitor, Bird & Bird, Grays Inn Square, London, 1979-80;  
Tenured Tutor, Faculty of Law, University of Sydney, 1976-79;  
Solicitor, Wall & Wall, 1976-79;

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### **MEMBERSHIP OF PROFESSIONAL BODIES**

The Law Society, United Kingdom;  
Law Society of Hong Kong;  
Law Society of Western Australia;  
Arbitrator, Center for International Commercial Arbitration, Los Angeles, 1988;  
Law Council of Australia;  
Member, Intellectual Property Committee.

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### **AREAS OF SPECIALIZATION**

Intellectual property in China, Hong Kong and Australia.

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### **EXPERIENCE IN INTELLECTUAL PROPERTY**

Since 1993, has practised law and has published many articles in Hong Kong, (one of the world's leading jurisdictions for intellectual property law).

Intellectual Property Litigation Solicitor, Bird & Bird, Grays Inn Square, London, 1979-80;  
Intellectual Property Litigation Solicitor, Deacons, Hong Kong, 1984-88;  
Intellectual Property Litigation Solicitor, Blake Dawson Waldron, Australia, 1991-92;  
Senior Lecturer in Intellectual Property Law, University of Hong Kong, 1981-90;

Professor of Intellectual Property Law, Murdoch University, Western Australia, since 1990.

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## MAJOR PUBLICATIONS

### **Internet Domain Name Disputes:**

Refereed an article on domain name disputes and another article involving domain name disputes as well as trade mark and copyright issues, for major law journals.

Author, "E-Commerce & the Law", 2000 THC Press Limited;

### **Books in Print:**

"Intellectual Property Rights", with Garland & Margolis, (2003), Lexis Nexis, 1600 Pages.

*Law of Intellectual and Industrial Property in Hong Kong*, A Guide to Copyright, Trade Marks, Patents, Registered Designs and Other Protected Commercial Information, 1984, Butterworths, London, 536 pages;

*Intellectual Property Law in the People's Republic of China*, A Guide to Patents, Trade Marks and Technology Transfer, 1986, Butterworths, 138 pages;

*Chinese Intellectual Property and Technology Transfer Law*, with Professor Zheng Chengsi (major author), Law Institute, Chinese Academy of Social Sciences, Beijing, 1987, Sweet & Maxwell, 331 pages;

*Copyright Law in China*, with Professor Zheng Chengsi, Law Institute, Chinese Academy of Social Sciences, Beijing, 1991, CCH International, 341 pages;

*Law of Intellectual and Industrial Property in Hong Kong*, 2nd Edition 1993, with Perter Garland and Jared Margolis, A Guide to Copyright, Trade Marks, Patents, Registered Designs and Other Protected Commercial Information, Butterworths, Singapore, 536 pages;

### **Books:**

Co-Author with Alice Lee of Hong Kong University Law Faculty, "Intellectual Property – a guide to the law in Hong Kong with reference to developments in China", *Butterworths*, 2001;

### **Chapters in Books:**

"Patent Law in Hong Kong," in *Digest of Commercial Laws of the World*, 1984, Oceana, Dobbs Ferry, New York;

"Trade Mark Law in Hong Kong," in *Digest of Commercial Laws of the World*, 1984, Oceana, Dobbs Ferry, New York;

"Patent Law & Practice, Trademark Law & Practice, Copyright Law & Practice, Trade Secrets

Law & Practice, Common Law Protection, Passing Off & Related Actions,” in *Digest of Intellectual Property Laws of the World*, June 1992, Oceana Publications Inc., New York;

“International Intellectual Property,” in Derrick Wild, *International Trade & Investment Law*, 1993, Law Book Company;

“Breach of Confidence in Hong Kong,” in *World Wide Trade Secrets Law*, Terrence Maclaren editor, 1993, Matthew Bender, New York;

**Articles:**

“Catnic-Signpost to Where?” 3, *European Intellectual Property Review*, 79, 1982;

“The Evolving Law of Unfair Competition,” *Law Lecturers for Practitioners 1982, Hong Kong Law Journal*, 76, 1982;

“Opposition to Trade Mark Applications and Foreign Trading Reputation in Hong Kong: *Hong Kong Caterers Ltd v. Maxims Ltd.*,” *European Intellectual Property Review*, 140, 1984;

“The Protection of Foreign Company Trade Names and Trade Marks in Hong Kong,” *Business Law Review*, Vol. 3, No. 10, 314, 1982;

“The Purposive Approach to Patent Construction: A Divergence in Anglo-Australian Judicial Interpretation,” 14 *Melbourne University Law Review*, 75, 1983;

“The Relevance of Chinese Intellectual Property to the Practitioner in Hong Kong,” *Law Lectures for Practitioners, Hong Kong Law Journal*, 173, 1985;

“Intellectual Property, Information Based Society and a New International Economic Order--the Policy Options?” *European Intellectual Property Review*, 29, 1985;

“Hong Kong: Colonial Intellectual Property Law Discourages Local Innovation and Design,” 3 *IP Asia*, 2, 1989;

“Information Technology: Balancing Restrictions on Access to Information. Hong Kong and the PRC,” 6 *IP Asia*, 5, 1989;

“The Quan Jui--Drama; The Beginning of an Awareness of Chinese Copyright Protection,” with Zheng Chengsi, 8 *Copyright World*, 40, 1990;

“China’s First Court Decision on Copyright: Jiang v. Qiao and the Film ‘Hospital Ward No. 16 ’,” with Zheng Chengsi, *European Intellectual Property Review*, 217, 1990;

“Character Merchandising and the Proper Scope of Intellectual Property,” *Intellectual Property Journal*, 242, November 1990;

“Information Based Society and the Challenges for Intellectual Property Law Reform,” in *Recent Development in Intellectual Property*, Law Society of Western Australia, 1990;

“A Response to United States Government Criticisms of the Chinese Copyright Law,” with Zheng Chengsi, *European Intellectual Property Review*, 1991;

“Chinese Copyright Law 1990--Opportunities for Foreign Investors and for China,” *Current Developments in Intellectual Property and Trade Practices*, pp. 30-35, June 1991;

“Possible Changes to Australian Trade Mark Law,” *Current Developments in Intellectual Property and Trade Practices*, pp. 36-39, October 1991;

“Intellectual Property Regimes of Selected East Asian Jurisdictions,” Policy Paper, Asia Research Centre, 1992;

“Excising Consumer Protection--The Key to Trade Mark Law Reform,” *3 Intellectual Property Journal*, 110, 1992;

“The First Copyright Law of the People’s Republic of China,” Zheng Chengsi (M.D. Pendleton, editor), *European Intellectual Property Review*, 34, 1990;

“Commercial Exploitation of Intellectual Property,” Technology Park Trade Fair, Bently, March 10, 1992;

“Protection for Supranational Trading Reputation in Australia,” *3 Intellectual Property and Trade Practices*, 1992;

“Chinese Intellectual Property--Some Global Implications for Legal Culture and National Sovereignty,” *European Intellectual Property Review*, 1993;

**“Law Reform Commission of Western Australia Discussion Papers and Reports** (While Chairman or Member):

“Report on the Effect of Marriage or Divorce on Wills,” Project No. 76, Part 11, December 1991;

“Discussion on Limitation and Notice of Action,” Project No. 36, part 11, February 1992;

“Report on Evidence of Children and Other Vulnerable Witnesses,” Project No. 87;

“Discussion Paper on Professional Privilege,” Project 1992;

“Report on Medical Treatment of the Dying,” Project No. 1990;

“Report on Police Act,” Report No. 1992;

“Report on Professional Privilege,” Project No. 1993;

**Shorter Articles:**

“Anton Piller Order in Hong Kong,” with P.D. Sinden, 2 *European Intellectual Property Review*, 50, 1982;

“The Common Field of Activity Test and Merchandising Rights in Hong Kong,” *European Intellectual Property Review*, 76, 1983;

“The Hong Kong Atari Cases: Copyright in Computer Software for Video Games,” *European Intellectual Property Review*, 132, 1983;

“Hong Kong Focus,” *Computer Law and Security Report*, 18, 1987;

“Trade Secrets Keeping Company with Privacy,” 12 *Trade Secret Law Reporter*, Vol. II, 191, 1987;

“A Personal View of Democracy and Human Rights in Hong Kong,” *Hong Kong Law Journal*, 1988;

“Discouraging Innovation and Design Expertise in Hong Kong--Colonial Intellectual Property Law,” in *Design & Development in South and South East Asia*, Centre of Asian Studies, University of Hong Kong, 1990;

“Application of the Trade Practices Act to Intellectual Property--The Trade Practices Commission Background Paper, July 1991,” *Current Developments in Intellectual Property and Trade Practices*, 30, October 1991;

“Creating a Vocabulary and a Conceptual Ordering Device for Conferring Appropriate Rights in Information: The Challenge for Law,” in *Proceedings of Fifth Round Table on Semiotics*, Penn State, Roberta Kevelson, Editor;

**Editor:**

*Law Lectures for Practitioners 1985*, Hong Kong Law Journal Ltd;

*Murdoch University Law--Occasional Papers 1990*, with Professor R.L. Simmonds, Murdoch University;

*Murdoch University Law--Occasional Papers 1991*, with Professor R.L. Simmonds, Murdoch University;

*Murdoch University Law--Occasional Papers 1992*, with Professor R.L. Simmonds, Murdoch University;

**Monographs:**

*Some Aspects of the Legal Regulation of Technology Transfer in Hong Kong*, Centre of Asian Studies, University of Hong Kong, 1984;

*China's Intellectual Property Law*, Chinese Law Programme, Series No. 2, Centre for Contemporary Asian Studies, Chinese University of Hong Kong, 1985;

**Case Comments:**

“Copyright and Passing-Off: *Englishtown Sportswear Ltd. v. Climax Ltd.*,” 4 *European Intellectual Property Review*, 1992;

“Passing-Off: *Gracious Industries Ltd v. Cheung Hop Garment Factory Ltd.*,” 5 *European Intellectual Property Review*, D114, 1982;

“Copyright: *WIK Electro Hausergate BMGH v. Yamada Electric (HK) Ltd.*,” 12 *HKLJ*, 74, 1982 with P.O. Sinden; and in *European Intellectual Property Review*, D182, 1982;

“Registered Design and Passing-Off: *Cartier International v. National Ebauch Ltd & Stelux Manufacturing Co. v. Montres Rolex & Co.*,” 9 *European Intellectual Property Review*, D206, 1982;

“Passing-Off in Hong Kong: *Kjeldsen & Co. v. Hong Kong Peggy Foods Co. Ltd.*,” 11 *European Intellectual Property Review*, D250, 1982;

“Passing-Off Secondary Meaning & Relevant Confusion: *Commercial Trademark Services SA & Anor v. Liscaroll Co. Ltd* trading as *Commercial Investigation Services & Others.*,” *European Intellectual Property Review*, 286, 1983;

“Confidential Information and Norwich Pharmacol Principles in Hong Kong: *Tramways Ltd & Others v. Realty Development Corp. Ltd & Others.*,” *European Intellectual Property Review*, D197, 1983;

“Restrictive Covenants: *Robin M. Bridge v. Deacons.*,” *European Intellectual Property Review*, D216, 1983;

“Copyright: *Interlego v. Tyco.*,” *HKLJ*, 369, 1983;

“PRC. A Copyright Case That Was Not,” *IP Asia*, 11, 1988;

“Breach of Confidence: *Li Yau-Wai v. Genesis Films Ltd.*,” *European Intellectual Property Review*, 1987 and *HKLJ*, 362, 1987;

“Trap Orders: *Leader Radio v. X Ltd.*,” *IP Asia*, 1988;

“Validity of Hong Kong Patents: *Pfizer & Toyama v. Jiwa*,” *HKLJ*, 133, 1988;

“Proving Subsistence and Ownership of Copyright--*Phonographic Performance (South East Asia) Ltd. v. California Entertainments*,” *HKLJ*, 1989;

“Passing-Off: *Polo Lauren v. Surplusway*,” *European Intellectual Property Review*, 1989;

“Misrepresentations Arising from Dealings with Bank Branches--*Adour Holdings Pty Ltd v. Commonwealth Bank of Australia*,” 1 *Intellectual Property and Trade Practices*, 45, 1992;

“*Linda Chih Ling Koo and Another v. Tam Tai Hing*,” 23 *Intellectual Property Reports*, 607, 1992;

“*Mattel Inc v. Tonka Corporation*,” 23 *Intellectual Property Reports*, 91, 1992;

**Printed Papers in Published Conference Proceedings:**

“The Evolving Law of Unfair Competition,” paper delivered to the Law Lectures for Practitioners, *Hong Kong Law Journal*, Hilton Hotel, January 13, 1982;

“Confidential Information: The Commission (UK) Proposals,” paper given at a *Hong Kong Law Journal* Seminar, July 5, 1982;

“Some Aspects of the Legal Regulation of Technology Transfer in Hong Kong,” paper presented to the Centre for Asian Studies, University of Hong Kong, 1983;

“China’s Intellectual Property Law,” paper given to the Chinese University of Hong Kong Programme on Law and State Building in China, on June 23, 1984, at a meeting chaired by the Hon. Mr. Justice T.L. Yang at Court No. 7, Supreme Court, Jackson Road, Hong Kong;

“China’s New Patent Law,” paper delivered to the 7th Annual Conference on Law and State Building in China, Chinese University of Hong Kong, November 1984;

“Software Piracy in Asia: The Policy Aspects,” paper delivered to Protection of Computer Software Conference, ESC Ltd, Regent Hotel, November 1984;

“The Relevance of Chinese Intellectual Property Law to the Practitioner in Hong Kong,” paper delivered to the Law Lectures for Practitioners *Hong Kong Law Journal*, Hilton Hotel, January 9, 1985;

“Nullity of Patents: A Hong Kong Perspective,” paper delivered to the Twelfth International Congress of Comparative Law (Sydney/Melbourne), August 20, 1986, Faculties of Law: University of Sydney and University of Melbourne;

- “Balancing Restrictions On and Rights of Access to Valuable Commercial Information--Intellectual Property Law Applied to Information and Communications Technology in Selected Asian Jurisdictions,” paper delivered at the Fifth Communication Forum of the Japan Society of Information and Communication Research, Tokyo, November 21 and 22, 1998;
- “Discouraging Innovation and Design Expertise in Hong Kong--Colonial Intellectual Property Law,” paper delivered to the Conference on Design & Development in South and South East Asia, organized by Swire School of Design, Hong Kong Polytechnic and the Centre of Asian Studies, University of Hong Kong, December 5 to 8, 1988;
- “Intellectual Property as Information in an Information Based Society--Accommodating the Interests of Innovators, Competitors and Consumers,” paper written for but not delivered as Australian representative at the cancelled Conference on Chinese Economic Law, Beijing, June 8 to 12, 1989, jointly organized by the Chinese Academy of Social Sciences and the International Bar Association;
- “Goodwill Without a Trading Presence--New Directions in the Law of Passing Off in Hong Kong,” paper presented to LAWASIA Conference, Hong Kong Exhibition Centre, September 19, 1989;
- “Information Based Society and the Challenges for Intellectual Property Law Reform,” paper published in *Recent Developments in Intellectual Property*, Law Society of Western Australia, ISBN 1-875204-423;
- “International Intellectual Property,” a series of three days of lectures to the Chinese Patent, Trade Mark and Copyright Offices, held at the World Trade Hotel Chang’an Avenue, Beijing;
- “Glad Consul and the Action for Breach of Confidence,” paper given to the Law Society of Western Australia Summer School, 1991;
- “Information Based Society and the Challenges for Intellectual Property Law Reform,” paper delivered for Law Society of Western Australia on October 25, 1990, at Hilton Perth;
- “The Chinese Copyright Law,” Australian Copyright Society, Sydney, June 18, 1991, and June 27, 1991, West Australian Chamber of Commerce (with Zheng Chengsi);
- “Intellectual Property Laws of East and South East Asia,” Asia Research Centre, October 18, 1991;
- “Chinese Intellectual Property Updated,” LAWASIA, 91, Hyatt Perth;
- “Excising Consumer Protection--The Key to Trade Mark Law Reform,” Industrial and Intellectual Property Society, Hilton Perth, December 11, 1991;

“Balancing Access to Badges of Consumer Recognition with the Prevention of Cashing in on Other’s Investments--the Dilemma of the Registrability of Trade Marks,” Chairman W. Gummow, Federal Court Judge, University of Sydney, Continuing Legal Education, November 12, 1991;

Panel Member, Institute of Patent Attorneys of Australia, Annual Conference, Hyatt Perth, March 26, 1992;

“Hong Kong’s Intellectual Property,” Asia Research Centre Symposium, Murdoch University 1992;

“Ownership of Intellectual Property--University or Academic,” Murdoch University, 1992;

“Discriminating in Favour of Foreigners--Hong Kong’s Approach to Intellectual Property,” December 4, 1992, 2nd Annual Intellectual Property Teacher’s Workshop, School of Law, Murdoch University;

“Legal Regulation of Technology Transfer and the Environment--The Case Against National Sovereignty,” LAWASIA, September 1993, Colombo;

**Contributing Editor:**

*European Intellectual Property Review*, Sweet & Maxwell;  
*Intellectual Property Reports*, Butterworths, Australia;  
*Federal Court Reporter*;  
Former Editor, *IP Asia*, Shomei Ltd, Hong Kong;

**Former Contributing Editor:**

*The Computer Law and Security Report*, Southampton, United Kingdom;  
*Copyright World*, Piccadilly, London;  
*Current Developments in Intellectual Property and Trade Practices*, Blake Dawson Waldron (6 issues per year) (Editor).

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**EXPERIENCE IN COURT LITIGATION**

United Kingdom Solicitor,

“Dow Chemical Inc. & Le Petit Patent Extension, Acted for Tabur Marine against Windsurfer Inc. in UK Litigation”;  
Congoleum Nairn - European Patent Litigation;

Hong Kong: Solicitor:

Disney, Union Carbide and IBM Intellectual Property portfolios in Hong Kong and China 1982-89;

Subject matters have included all areas of industrial and intellectual property law.

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### **EXPERIENCE IN MEDIATION**

Mediation in litigation practice;

Has taught a course in mediation/arbitration at the University of Hong Kong.  
Mediator, WIPO Arbitration and Mediation Center.

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### **PROFESSIONAL TRAINING IN ARBITRATION**

Settlement in litigation practice;

Has taught a course in arbitration/mediation at the University of Hong Kong.

---

### **EXPERIENCE IN ARBITRATION**

Arbitrator, WIPO Arbitration and Mediation Center, Geneva.

Arbitrator, Center for International Commercial Arbitration, Los Angeles, 1988;

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