



## WIPO LIST OF NEUTRALS

### BIOGRAPHICAL DATA

Dr. Michael J. SPENCE  
The University of Sydney  
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Date of Birth: January 10, 1962

Nationality: Australian/British

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### EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS

PG Dip., Theol. University of Oxford, 2005;  
D.Phil., “*Australian Estoppel and the Protection of Reliance*” University of Oxford, 1996;  
LL.B., (hons), University of Sydney, 1987;  
B.A., (hons), University of Sydney, 1985.

Admitted to Supreme Court of New South Wales, 1987.

#### Awards/Accolades:

John Geddes Prize for Equity;  
J.D. Roper Memorial Prize No.2;  
Julius Stone Prize for Sociological Jurisprudence;  
Nancy Gordon Smith Prize;  
Minter Ellison Prize for Industrial and Commercial Property;  
Butterworths Prize;  
Walter Reid Fund Awards 1981–1986;  
Commonwealth Scholarship;  
ENI-Enrico Mattei Award;  
David Blank Senior Scholarship, St Catherine’s College, Oxford.

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### LANGUAGES

English, Italian.

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August 5, 2008

**PRESENT POSITION**

Vice Chancellor, University of Sydney, 2008.

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**PROFESSIONAL EXPERIENCE BEFORE PRESENT POSITION**

Head, Social Sciences Division, University of Oxford, 1992-2008;  
 Fellow, St Catherine's College, Oxford 1992-2008;  
 Consultant, Olswang Solicitors, London since 1992-2008;  
 Senior Research Fellow, Oxford Intellectual Property Research Centre, 2002-2008;  
 Chair, Law Board, University of Oxford, 2002-2004;  
 Chair, Faculty of Law, University of Oxford, 2001-2002;  
 Special Lecturership/Trade-off awarded for 1997-98, 1998-99, 1999-2000, 2001-2002, 2004-2005;  
 Director, Boston University Oxford Programme, 1993-2006;  
 Stipendiary Lecturer in Law, St Catherine's College, Oxford, 1990-92;  
 Enrolled in D.Phil, St Catherine's College, Oxford, 1989;  
 Full-time Lecturer in Law, University of Sydney, 1987-1988;  
 Part-time Consultant, Australian Copyright Council, 1987-1988;  
 Part-time Italian Teacher, University of New South Wales, 1987-88;  
 Part-time Private Tutoring in Law, Italian and ESL, 1987-88;  
 Law Clerk - Mallesons Stephen Jaques, 1987.

**Visiting Positions:**

Boston University School of Law, 1996, 1994, 1993;  
 Max-Planck-Institut für ausländisches und internationales Patent-, Urheber- und Wettbewerbsrecht, Munich, Visiting Fellow, 1995, 1997, 1999, 2001;  
 Visiting Lecturer, University of Munich, 2001;  
 Visiting Professor, Università degli Studi di Siena, 1997;  
 Parsons Fellow, University of Sydney Law School, 1995, 2000;  
 Visiting Research Student, Cornell University, 1989.

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**MEMBERSHIP IN PROFESSIONAL BODIES**

Society for Public Teachers of Law.

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**AREAS OF SPECIALIZATION**

Trade mark and unfair competition law.

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## EXPERIENCE WITH RESPECT TO DOMAIN NAMES

Domain Name Panelist for the WIPO Arbitration and Mediation Center, Geneva, Switzerland.

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## MAJOR PUBLICATIONS

### (a) Contract

#### Books

*Protecting Reliance: The Emergent Doctrine of Equitable Estoppel* Oxford: Hart, 1999

#### Articles and Chapters

“Australian Estoppel and the Protection of Reliance” (1997) 11 *Journal of Contract Law* 203

“Estoppel and Limitation” (1991) 107 *Law Quarterly Review* 221

#### Reviews

Review of Treitel, *Frustration and Force Majeure* and McKendrick (ed.) *Force Majeure and Frustration of Contract* [1996] *Lloyd’s Maritime and Commercial Law Quarterly* 156

### (b) Equity

#### Articles and Chapters

“Equitable Defences” in *Equity* P. Parkinson (ed.), 2nd ed, Sydney: LBC Information Services, 2001;

“Equitable Defences” in *Equity* P. Parkinson (ed.), Sydney: Law Book Company, 1996;

“Equitable Defences” in *The Laws of Australia: Equity* Sydney: Law Book Company, 1995;

“Equitable Defences” in *The Laws of Australia: Equity* Sydney: Law Book Company, 1993 (and supplements 1994, 1995 and 1997).

### (c) Unfair Competition

#### Books

*The Law of Comparative Advertising: Directive 97/55/EC in the United Kingdom and Germany* Oxford: Hart, 1999 (with A. Ohly)

*Comparative Advertising Directive* London: Intellectual Property Institute 2000 with (A. Ohly)

#### Articles

“Vergleichende Werbung: Die Auslegung der Richtlinie 97/55/EG in Deutschland und Großbritannien” *GRUR Int* 1999, 681 (with A Ohly)

### (d) Intellectual Property

#### Books and Studies

*Intellectual Property* Oxford: Clarendon Press (2007);

*The Modern Law of Patents* London: Butterworths, 2005 (with T. Cook and A. Roughton (eds));

*Opposition in the European Patent Office: An Underestimated Weapon?* – Olswang/OIPRC

- study (2001) (with T. Adam);  
*The First Mover Monopoly* – Olswang/OIPRC study (2000) (with M. Likhovski (principal author) and M. Molineaux.);  
*Protecting Traditional Knowledge and Folklore* – Report for the Commonwealth Secretariat (2001) (with G Dutfield (principal author)).

### Articles and Chapters

- “Restricting Allusion to Trade Marks: A New Justification” in G. Dinwoodie and M. Janis (eds), *Trade Mark Law and Theory: A Handbook of Contemporary Research* Edward Elgar: Northampton MA 2008;
- “An Alternative Approach to Dilution Protection: A Response to Scott, Oliver and Ley Pineda” in L. Bently, J. Davis, and J. Ginsburg *Trade Marks and Brands* Cambridge: CUP 2008
- “Clearing House Mechanisms: Conceptual Framework: Comment on a Paper by Esther Van Zimmerman” in G. Van Overwalle *Gene Patents and Clearing Models* Cambridge: CUP (in press 2008);
- “*Rogers v. Koons*: Copyright and the Problem of Artistic Appropriation” in D. McLean (ed) *Trials of Art* Ridinghouse: London 2007;
- “Private Control/Public Speech” in K. Ziegler *Human Rights and Private Law: Privacy as Autonomy* Hart: Oxford 2007 (with L. K. Treiger-Bar-Am);
- “The Mark as Expression/The Mark as Property” (2005) 58 *Current Legal Problems* 491;
- “Vagueness and the Scope of Copyright” (with T. Endicott) (2005) 121 L.Q.R. 657;
- “La tutela dei format scoperti negli archivi televisivi” (2003) 8 *Quaderni di AIDA* 35;
- “I brevetti di metodi per attività commerciali”, [2002] *Studi Senesi* 583;
- “Justifying Copyright” in K. Schubert and D. McLean (eds) *Dear Images* London: Ridinghouse 2002;
- “Two Australian Comparative Advertising Cases: The View from Europe” [2001] EIPR 524;
- “Section 10(3) of the Trade Marks Act 1994: Is there really a logical lapse?” [2001] EIPR 423;
- “Which Intellectual Property Rights are Trade-Related?” in Francioni, F. and Scovazzi, M. (eds), *Environment, Human Rights and International Trade* Oxford: Hart, 2001;
- “Intellectual Property and the Problem of Parody”, (1998) 114 *Law Quarterly Review* 594;
- “Patents and Biotechnology” (1997) 113 *Law Quarterly Review* 368;
- “Passing Off and the Misappropriation of Valuable Intangibles” (1996) *Law Quarterly Review* 472;
- “Aspects of Co-ownership” (1987) 5 *Copyright Reporter* No.2;
- “The Report of the CLRC on Performer’s Protection: Brief Summary” (1987) 5 *Copyright Reporter* No.3;
- “License-it-or-lose-it” (1987) 5 *Copyright Reporter* No.6;
- “Copyright and Historians” (1987) *Royal Australian Historical Society Technical Information Service* No.9;
- “Arts Administrators and Copyright” *ACC Bulletin No.60* (with S. Bridge);
- “Copyright and Designs Law: Reform issues” *ACC Bulletin No.61* (with S. Bridge);
- “Copyright and Historians” *ACC Bulletin No.62* (with E. Baulch).

### Reviews

- Review of Sherman and Strowel, *Of Authors and Origins* (1995) 111 *Law Quarterly Review* 346;
- Review of Woodmansee and Jaszi, *The Construction of Authorship* (1995) 46 *Review of English Studies* 610;

Review of Saunders *Authorship and Copyright*, (1994) 45 *Review of English Studies* 302.

**(e) Information Technology**

**Books and Studies**

*Towards Institutional Infrastructures for E-Science: The Scope of the Challenge*, Report to the Joint Information Systems Committee, (2003) (with Paul A. David). Final Report published as Oxford Internet Institute Research Report No. 2 (2003).

**(f) In Progress**

“Clearing House Mechanisms: Conceptual Framework: Comment on a Paper by Esther Van Zimmerman” in G. Van Overwalle *Gene Patents and Clearing Models* (CUP: Cambridge);

“Comment on ‘Trade Marks as Property: a Philosophical Perspective’” in L. Bently and J. Ginsburg (eds) *Signs Commodities and Communications: Interdisciplinary Approaches to Trade Marks*;

“The Institutional Infrastructures of e-Research” in W. H. Dutton and P. Jeffreys (eds) *The Promises, Threats and Realities of e-Research*;

“Private Labels and Trade Mark Theory” in A. Ezrachi and U. Bernitz (eds), *Private Labels, Brands and Competition Policy*;

“The Quantification of Damages for the Infringement of Intellectual Property Rights” (with A. Plaia);

“Sectoral Specificity in the Use of the Patent System” (with S. Thambisetty).

**(g) Editorial/Advisory Boards**

*iCreative Commons UK* 2003 -;

*CMLP*, Advisory Board 1998-;

*Copyright Reporter*, Editorial Committee, 1988;

*European National Patent Reports*, Editor, 2000 – 2003;

*New Horizons in Intellectual Property*, Co-Editor with C. Greenhalgh and R. Pitkethly, 2002 -:  
*OULCF*, Editorial Board, 2000-;

*Oxford Analytica Daily Brief*, Contributor;

*New Horizons in Intellectual Property* - Forthcoming Edward Elgar series - Co-editor;

*Sydney Law Review*, Student Editorial Committee, 1986.

**Guest Lectures/Conference Papers:**

“The Legal Framework for e-Research/Cyberinfrastructure: Challenges and Opportunities” and “The International;

Dimension” *International e-Research Conference*, Surfers Paradise, 2007;

*Intellectual Property Theory in Practice* Mannheimer Swartling Conference, Oxford, 2006;

*Clearing House Mechanisms: Conceptual Framework: Comment on a Paper by Esther Van Zimmerman* University of Leuven Conference Centre for Intellectual Property Rights “Gene Patents and Clearing Models” , Leuven 2006;

*Institutional Infrastructures for Global Research Networks in the Public Sector*, CODATA, UNESCO, ICSTI, INASP, ISU, IAP, TWAS International Workshop “Creating an Information Commons for e-Science”, UNESCO, Paris, 2005;

*Intellectual Property and the creator*, University of Birmingham seminar series “Christian Perspectives on Current Legal Issues”, Birmingham, 2005;

- The Mark as Expression/The Mark as Property*, Current Legal Studies Lecture, University College, London, 2005;
- Private Control — Public Speech*, Leiden-Munich-Oxford Joint Colloquium on Human Rights: Privacy, Oxford 2005 with Leslie Kim Trieger Bar Am;
- Intellectual Property Law and the Social Sciences* - Peking University Guest Lecture, 2004;
- Vagueness in the Scope of Copyright* - AHRB Workshop, Birkbeck College, London, 2004 (with T A O Endicott);
- Current Issues in Trade Mark and Unfair Competition* - Masters Intensive Course, University of Sydney, 2003;
- Parallel Importation in Australia and Europe* Staff seminar, Freehills,, Sydney, 2003;
- Protecting Business Ideas* - Thames Valley Commercial Lawyers Association, 2003;
- Business Method Patents and Financial Services - Response to Paper by John Conley* - Federal Reserve Bank of Atlanta and University of North Carolina School of Law Financial Markets Conference, 2003;
- Introduction to Patents and Biotechnology* - Said Business School Seminar Series “Genetic Knowledge in Oxford - Networks and Opportunities?”, 2002;
- Opposition in the European Patent Office - “An underestimated weapon?”* , Minnesota Intellectual Property Bar Association, Minneapolis, 2002;
- Opposition in the European Patent Office - “An underestimated weapon?”* Silicon Valley Intellectual Property Bar Association, Santa Clara, 2002;
- La tutela dei format scoperti negli archivi televisivi* Prix Italia Conference, Palermo, 2002;
- What’s so Trade-Related about Intellectual Property?* Vancouver IP Bar Association Meeting, 2002;
- The Patentability of Business Methods in the United States and Europe* Victoria University lunchtime seminar, 2002;
- Trade Marks and Unfair Competition Intensive Course*, Victoria University, Canada, 2002, 2003;
- The Role of the Legal Educator in Legal Education and Legal Education in Britain* China University of Political Science and Law, 2002;
- Patenting Business Methods*, CERNA, Paris 2002;
- La brevettabilità dei metodi commerciali*, Università degli Studi di Siena, 2001;
- Current Issues in European and Japanese Intellectual Property Law*, St Catherine's College (organised with the assistance of the IIP Japan), Kobe and Tokyo 2001 - Speaker and principal organizer;
- “Trade Mark Infringement by Dilution” Licensing Executives Society Annual Conference, Oxford, 2001;
- Oxford-Leiden E-Commerce Staff Exchange - Response to a paper on e-commerce and the Database Directive, 2001;
- Patents for Business Methods*, 2001 NECG/IP Australia/UNSW Conference, “Intellectual Property: Competition Law’s Next Frontier?”;
- Current Law Seminar, Gadens Solicitors, Sydney, *Patents for Business Methods*, 2000;
- “The Convergence of Corporate Law & IP – Patenting of Business Methods” *Corporate Law Seminar Series* 2000;
- University of Sydney "Which Intellectual Property Rights are Trade Related?" *Environment, Human Rights and the Liberalization of Trade* Università degli Studi di Siena, 2000;
- Staff Development Seminar *The E-Commerce Directive* Bird&Bird Solicitors, London, 2000;
- NYU Law-Oxford University Institute Workshop *Emerging Issues in a Global Information Society* Engelbert Centre, NYU, 2000;

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**M. SPENCE**

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IPI Seminar on Comparative Advertising 1999;  
*E-Commerce and E-Tailing*, Hawkesmere Seminars, Spring 1999, Autumn 1999, Spring 2000;  
St Peter's Seminars in Intellectual Property, Hilary Term and Trinity Term 1999, Hilary Term  
2000, Hilary Term 2004;  
*Current Issues in UK and Japanese Intellectual Property Law*, St Catherine's College  
(organised with the assistance of the IIP Japan), Kobe and Tokyo 1999 –  
Speaker and principal organizer Pinsent Curtis Commercial Law Department Training  
Weekend 1998, 1999, 2001;  
Patent Office Forum, London, 1998:  
*Naming the Bones and Claiming the Stones*, Drue Heinz Center/Getty Research Institute  
Conference, Oxford 1998;  
OIPRC/MSM Conference Law and Economics Section, Oxford, 1997;  
Faculty Seminar in Intellectual Property, Università degli Studi di Siena, 1997;  
JCL/UKCCL/SPTL Contract Conference, Cambridge, 1996;  
Centre for Socio-legal Studies, Oxford, Intellectual Property Seminar Series, 1996;  
Internet Seminar, Economics Faculty, Oxford, 1995;  
Staff Seminar, University of Melbourne, 1995;  
Staff Seminar, University of Sydney, 1995;  
Legal Training Section, Association of American Law Schools Conference, 1995;  
Staff Development Seminar, University College London, 1993;  
*Recent Developments* Third International Copyright Law and Practice Symposium, Sydney,  
1987;  
Legal Seminars of the Community Arts Network (Copyright), Tasmania, 1987;  
University of New South Wales, Archives Course Copyright Lecture, 1987;  
Seminars of the Australian Copyright Council, various locations in NSW and WA 1987 – 1988.

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