

PROFESSOR BRIAN FITZGERALD

**BA (Griff) LLB (Hons) (QUT) BCL (Oxon.) LLM (Harv.) PhD (Griff)
Professor - Law Faculty, QUT Brisbane Australia
Barrister of the High Court of Australia
bf.fitzgerald@qut.edu.au**

Professor Fitzgerald is acknowledged as a leading thinker and educator who has written and taught in the areas of Intellectual Property Law, Internet Law, Constitutional Law, Administrative Law and International Law. He holds postgraduate degrees in law from Oxford University and Harvard University and is regularly invited to present at conferences across the world.

Professor Fitzgerald has provided numerous training programs to government and industry. He has worked and consulted with government for over 25 years. In the last five years he has worked closely with governments across the world in the area of information management.

From 1998-2001 Professor Fitzgerald was Head of the School of Law and Justice at Southern Cross University (SCU) in NSW Australia and from 2002 to 2007 was appointed as Head of the School of Law at Queensland University of Technology (QUT) in Brisbane Australia. In these roles he gained valuable experience in managing the financial, human, academic and community engagement aspects of a University department. He is currently a specialist Research Professor in Intellectual Property and Innovation at QUT where he leads a team of approximately 20 researchers.

In recognition of his expertise in “Government 2.0” (using web 2.0 technologies in government) and intellectual property, in 2009, Professor Fitzgerald was appointed to the Australian Federal Government’s “Government 2.0 Taskforce” by Ministers Tanner and Ludwig and to the Australian Government’s Advisory Council on Intellectual Property (ACIP) by Minister Carr. In late 2010 he was appointed by then Attorney General Cameron Dick as a Commissioner of the Queensland Law Reform Commission. In 2011 he was appointed to the Board of Creative Commons an American based not for profit organisation of worldwide significance.

Professor Fitzgerald is an internationally respected Intellectual Property and Information Technology/Internet lawyer who has pioneered the teaching of Internet/Cyber Law in Australia and beyond. He has published articles on Intellectual Property and Internet Law in Australia, the United States, Europe, Nepal, India, Canada, and Japan and his latest (co-authored/edited) books are *Cyberlaw: Cases and Materials on the Internet, Digital Intellectual Property and E Commerce* (2002); *Jurisdiction and the Internet* (2004); *Intellectual Property in Principle* (2004) *Internet and Ecommerce Law* (2007); *Copyright, Digital Content and the Internet in the Asia Pacific* (2008); *Access to Public Sector Information: Law Technology and Policy* (2010); *Knowledge Policy for the 21st Century* (in press 2011) and *Copyright 1709-2010* (in press, 2011)

Professor Fitzgerald is a Chief Investigator and Program Leader for Law in the ARC

Centre of Excellence on Creative Industries and Innovation (CCi) and a Project Leader for Creative Commons in Australia. Since 2005 he has been awarded in excess of \$5 million in research funding and been a member of research teams awarded in excess of \$10 million. His achievements in research were acknowledged by an invitation to present at the inaugural ARC Graeme Clark Research Outcomes Forum on June 18 2008 at Parliament House in Canberra. He has an extensive international network of colleagues with particular emphasis on the USA, China, Europe and more recently the Middle East.

From his days as a lawyer with Crown Law (Qld) and then as a Research Associate at the High Court of Australia Professor Fitzgerald has been committed to engagement with the legal profession. He holds a current practising certificate as a Barrister and throughout 2010 with the assistance of a QUT Community Engagement Grant, QPILCH and the local legal profession established a pro bono advisory and referral service for creators and start up enterprises in the IP and Technology law area (which now runs as a student clinic with QPILCH). He is well known to judges and lawyers throughout the country, with his work being cited in the High Court of Australia and was recently appointed to the managing committee of QPILCH.

While Professor Fitzgerald is acknowledged as a blue sky thinker he also has the ability to engage with industry stakeholders particularly government. During 2010 in collaboration with IP Australia he lead the Australian pilot of the Peer to Patent project. Peer-to-Patent Australia was designed to test if an open community of reviewers could effectively locate prior art that might not otherwise be found by the patent office during a typical examination. His groundbreaking work in applying Creative Commons licences to public sector information has lead world practice.

EDUCATIONAL HISTORY AND QUALIFICATIONS

Degrees

BA - Bachelor of Arts (Griffith University, 1983)

LLB (Hons) - Bachelor of Laws (First Class Hons) (Queensland University of Technology, 1988)

BCL - Bachelor of Civil Laws (Hons) (Oxford University, UK, 1992)

LLM - Masters of Laws (Harvard University, USA, 1996)

PhD – Doctor of Philosophy by Publication (Griffith University, 2003)

PROFESSIONAL ADMISSION

Barrister of the Supreme Court of Queensland and Tasmania and the High Court of Australia

Barrister and Solicitor of the Supreme Court of the Australian Capital Territory

Legal Practitioner of the Supreme Court of NSW

ACADEMIC DISTINCTIONS

QUT Law Outstanding Alumni of the Year 1998

Harvard Law School Scholarship (1995)

Commonwealth Scholarship to Oxford University (1991-1992)

Queensland University of Technology Medal in Law (1988)

EMPLOYMENT HISTORY

NOVEMBER 1984 - MAY 1989 -LAW CLERK ATTORNEY GENERAL'S OFFICE (Q)

MAY 1989 TO NOVEMBER 1992 (ON AND OFF) - BARRISTER FOR ATTORNEY GENERAL'S OFFICE (Q)

JULY 1989 TO AUGUST 1990 - SENIOR RESEARCH OFFICER TO THE HIGH COURT OF AUSTRALIA

CONSULTANT TO THE OFFICE OF PARLIAMENTARY COUNSEL (Q) (1993-4)

NOVEMBER 1992 TO DECEMBER 1996

- LECTURER IN LAW GRIFFITH UNIVERSITY

MAY-AUGUST 1994 AND 1995 VISITING PROFESSOR IN CONSTITUTIONAL LAW BOND UNIVERSITY - GOLD COAST AUSTRALIA

JUNE - JULY 1996 and 1997 (SUMMER TERM) – VISITING PROFESSOR OF LAW, MARQUETTE UNIVERSITY WISCONSIN USA

JANUARY 1997 - FEBRUARY 1998 - SENIOR LECTURER IN LAW GRIFFITH UNIVERSITY

JANUARY 1997- APRIL 1997 - CONSULTANT TO QANTM COLLABORATIVE MULTIMEDIA CENTRE

FEBRUARY 1997 – FEBRUARY 1998 - DEPUTY DIRECTOR - NATIONAL INSTITUTE LAW ETHICS PUBLIC AFFAIRS (NILEPA)

JULY 1997 – JANUARY 1998 - LEGAL ADVISER QUEENSLAND PARLIAMENT SCRUTINY OF LEGISLATION COMMITTEE

JANUARY 1998 -2001

HEAD OF SCHOOL OF LAW AND JUSTICE SOUTHERN CROSS UNIVERSITY

MARCH-JUNE 2001

VISITING PROFESSOR SANTA CLARA UNIVERSITY LAW SCHOOL (SPRING AND SUMMER TERMS)

JANUARY 2002 –2007

HEAD OF SCHOOL OF LAW, QUT

JANUARY 2007-

PROFESSOR OF INTELLECTUAL PROPERTY AND INNOVATION (QUT SPECIALIST RESEARCH PROFESSOR)

RESEARCH AND PUBLICATIONS

1. International Publications

(i) Articles

United Kingdom and Europe

“*Horta v Commonwealth: A Case in the High Court of Australia Concerning the Validity of the Timor Gap Treaty and its Domestic Implementation*” (1995) 44 *International and Comparative Law Quarterly* 643

“Computer Copyright: Same Words, Different Source Code: *Data Access v Powerflex*” (1996) 2 *Computer and Telecommunications Law Review* 120

“Life in Cyberspace: A Simulating Experience” (1997) 3 *Computer and Telecommunications Law Review* 121

(with Gamertsfelder) “Protecting Informational Products through Unjust Enrichment Law” [1998] *European Intellectual Property Review* 244

“Software as Discourse: The Challenge for Information Law?” [2000] *EIPR* 47

“(Australian) Constitutional Limits on Intellectual Property” (2001) 23 *European Intellectual Property Review* 103

“Intellectual Property Rights in Digital Architecture (including Software): The Question of Digital Diversity?” (2001) 23 *EIPR* 121.

“Copyright 2010: The Future of Copyright” [2008] *European Intellectual Property Review* 43 <http://eprints.qut.edu.au/archive/00013305>

(with R Olwan), “Copyright Law in the United Arab Emirates in the Digital Age” [2010] *European Intellectual Property Review* (forthcoming)

United States and Canada

“*Portugal v Australia: Deploying the Missiles of Sovereign Autonomy and Sovereign Community*” (1996) 37 *Harvard International Law Journal* 260

“Trade Based Constitutionalisms: A Framework for Universalising Substantive International law” (1996-7) 5 *University of Miami Yearbook of International Law* 131

“Software as Discourse: The Power of Intellectual Property in Digital Architecture” (2000) 18 *Cardozo Journal of Arts and Entertainment Law Journal* 337 reprinted in P Yu, (ed.) *Market Place of Ideas: 20 Years of Cardozo Arts and Entertainment Law Journal* (Kluwer 2003)

(with Cifuentes, Fitzgerald and Lehmann) **“Innovation, Software, and Reverse Engineering”** 18 *Santa Clara Computer & High Tech. L.J.* 121 (2001)

“Digital Property: The Ultimate Boundary?” (2001) 7 *Roger Williams University Law Journal* 47

“Theoretical Underpinning of Intellectual Property: “I am a Pragmatist But Theory is my Rhetoric”” (2003) 16 *Canadian Journal of Law and Jurisprudence* 179

(with K Pappalardo) **“The Law as Cyberinfrastructure”** (2007) 3 *CT Watch Quarterly* (Special Edition: **August 2007 The Coming Revolution in Scholarly Communications & Cyberinfrastructure**)

<http://www.ctwatch.org/quarterly/articles/2007/08/the-law-as-cyberinfrastructure/>

(with P, Samuelson and Copyright Principles Project team members) **“The Copyright Principles Project: Directions for Reform”** forthcoming *Berkeley Journal of Law and Technology* (2010) http://www.law.berkeley.edu/files/bclt_CPP.pdf

Japan

(with A Fitzgerald) **“Legal Aspects Concerning Software Infrastructure of the Internet”** (in Japanese) in M Ibusuki (ed) *Cyberspace Law* (2000) Nihon Hyronsha Tokyo

2. Australian Publications

(i) Books

Australian Constitutional Law and Theory (1996) co author with Tony Blackshield and George Williams.

Going Digital: Legal Issues for Electronic Commerce, Multimedia and the Internet (Prospect 1998) co-editor

Going Digital 2000: Legal Issues for Electronic Commerce, Multimedia and the Internet (Prospect 2000) co-editor

Cyberlaw: Cases and Materials on the Internet, Digital Intellectual Property and E Commerce (2002) co-author

***Courts and the 21st Century: Public Access, Privacy and Security* (Faculty of Law QUT and Supreme Court of Queensland, Brisbane, 6 November 2003, self-published) co-editor**

***Legal Issues for Free and Open Source Software* (2003) co-editor self published papers from Open Source Conference**

***Jurisdiction and the Internet* (2004) LBC Sydney (with Gaye Middleton and Anne Fitzgerald)**

(with Anne Fitzgerald) *Intellectual Property in Principle* (2004) Law Book Co.

***Cyberlaw Volume 1* (2006) Ashgate UK editor**

***Cyberlaw Volume 2* (2006) Ashgate UK editor**

***Open Content Licensing: Cultivating the Creative Commons* (2007) Sydney University Press, Sydney (Principal Editor)**

***Internet and E-Commerce Law – Technology Law and Policy* (2007) LBC Information Sydney (with Anne Fitzgerald, Gaye Middleton, Yee Fen Lim and Timothy Beale)**

(with F Goa, D O’Brien and S Shi) *Copyright, Digital Content and the Internet in the Asia Pacific* Sydney University Press Sydney (2008) editor and contributor

***Legal Framework for e-Research* (2008) Sydney University Press Sydney editor and contributor**

(with M Perry) *Knowledge Policy for the 21st Century*, Irwin Law Toronto (due late 2010) editor and contributor

***Access to Public Sector Information: Law Technology and Policy*, Sydney University Press Sydney (2010) 2 volumes, editor and contributor**

(with Benedict Atkinson) *Copyright Law and Policy 1709-2010* (3 Volumes) Ashgate UK co-editor and contributor (mid 2011)

(with Benedict Atkinson) *Copyright Future: Copyright Freedom* Sydney University Press Sydney (2011) co-editor and contributor

(ii) Book Chapters

“Internet Service Provider Liability (ISP) Liability” in *Going Digital*

“Recent International Initiatives Concerning Copyright in the Digital Era” in *Going Digital*

(with B Horrigan) “International and Transnational Influences On Law and Policy Affecting Government” in B. Horrigan (ed) *Government Law and Policy Federation*

Press, Sydney, July 1998.

“Commodifying and Transacting Informational Products Through Contractual Licences: The Challenge for Informational Constitutionalism” in CEF Rickett and GW Austin (eds), *Intellectual Property and the Common Law World*, Oxford, Hart Pub, 2000, 35.

“Conceptualising the Digital Environment” in *Going Digital 2000*

“Internet Service Provider Liability (ISP) Liability” in *Going Digital 2000*

“Recent International Initiatives Concerning Copyright in the Digital Era” in *Going Digital 2000*

“Copyright Liability of Universities in the Networked Environment: The Issue of Peer to Peer (P2P) File Sharing” in R Wissler et al eds *Innovation in Arts, Media and Design: Fresh Challenges for the Tertiary Sector* (2004) 147-158

(with J Reid) **“DRM: Managing Digital Rights for Open Access”** in D. Rooney, G.Hearn and A. Ninan (2004) *The Knowledge Economy Handbook*. Edward Elgar: Cheltenham UK 268

“Structuring Knowledge Through Open Access: The Creative Commons Story” in C Kapitzke and B Bruce (eds.) *New Libraries and Knowledge Spaces: Critical Perspectives on Information Education* (2005) Lawrence Erlbaum and Assoc. 271

“Creative Commons (CC): Accessing, Negotiating and Remixing Online Content”, in J. Servaes and P. Thomas (eds), *Communications, Intellectual Property and the Public Domain in the Asia Pacific Region: Contestants and Consensus* (2005) Sage 219

(with Damien O'Brien) **“Bloggers and the Law”**, in Axel Bruns and Joanne Jacobs (eds.) *Uses of Blogs* (2006) Peter Lang Publishing Group, New York 223-237

“The Australian Sony PlayStation Case: How Far Will Anti-circumvention Law Reach in the Name of DRM?” in Safavi-Naini, and M. Yung (eds) *Digital Rights Management: Technologies, Issues, Challenges and Systems* (2006) Springer 32-51

“The Role of Open Content Licences in Building Open Communities: Creative Commons, GFDL and Other Licences” (with N Suzor) in C Kapitzke (ed) *Rethinking Intellectual Property* (2007) Sense Publishing

“Copyright 2010: The Need for Better Negotiability/Usability Principles” forthcoming in G Hearn, D Rooney and D Wright (eds), *Knowledge Policy: Foresight for the Twenty First Century* (Edward Elgar, Cheltenham, 2008).

(with Damien O'Brien and Anne Fitzgerald), **“Search Engine Liability for Copyright Infringement”** in Amanda Spink and Michael Zimmer, Eds. *Web Searching: Interdisciplinary Perspectives*. (2008) Springer, Dordrecht.

(with S Hedge) “Traditional Cultural Expression and the Internet World” in C Antons (ed.) *Traditional Knowledge, Traditional Cultural Expression and Intellectual Property in South East Asia* (2008) Kluwer Netherlands

(with S Shi) “Civil Jurisdiction, Intellectual Property and the Internet” in (B Fitzgerald, F Goa, D O’Brien and S Shi) *Copyright, Digital Content and the Internet in the Asia Pacific* Sydney University Press Sydney (2008)

(with A Fitzgerald and N Hooper) “Enabling Open Access to Public Sector Information with CC Licences” in B Fitzgerald (ed.) *Access to Public Sector Information: Law Technology and Policy*, Sydney University Press Sydney (2010)

(with S Shi) “Reconceptualising Copyright Law Through Evolutionary Economics” in D. Araya and M Peters, *Education in the creative economy: Knowledge and learning in the age of innovation* (2010) Peter Lang, New York

“Promoting Creativity and Innovation through Law” in L. Mann and J. Chan (eds.) *Creativity and Innovation in Business and Beyond: Social Science Perspectives and Policy Implications* (2010) Routledge New York

(with S Shi) “A Relational Theory of Authorship in M Perry and B Fitzgerald (eds.) *Knowledge Policy for the 21st Century*, Irwin Law Toronto (in press 2011)

(with R Olwan) “The legality of free and open source software licences: the case of *Jacobsen v. Katzer*” in M. Perry and B. Fitzgerald (eds.) *Knowledge Policy for the 21st Century* Irwin Law Toronto (in press 2011)

(with B Atkinson), “Third Party Copyright and Public Information Infrastructure/Registries: How much copyright tax must the public pay?” in M. Perry and B. Fitzgerald (eds.) *Knowledge Policy for the 21st Century* Irwin Law Toronto (in press 2011)

Gething S., and Fitzgerald, B., ‘The Criminalization of Copyright Law’ in Antons C. (ed), *The Enforcement of Intellectual Property Rights: Comparative Perspectives from the Asia-Pacific Region* (2011)

(iii) Refereed Articles

1990

“Walsh v Lonsdale: Eighties Style” 6 *Queensland University of Technology Law Journal* 288 (R)

1993

“Ultra Vires as an Unjust Factor in the Law of Unjust Enrichment” (1993) 2 *Griffith Law*

Review 1

“Proportionality and Australian Constitutionalism” (1993) 12 *University of Tasmania Law Review* 363

1994

“Tracing at Law, Exchange Product Theory and Ignorance as an Unjust Factor in the Law of Unjust Enrichment” (1994) 13 *University of Tasmania Law Review* 116

“International Human Rights and the High Court of Australia” 1994 (1) *James Cook University Law Review* 78

1995

“Theorising About International Law Through the Liberal Paradigm” (1995) 16 *Australian Yearbook of International Law* 311

“When Should Unconstitutionality Mean Void Ab Initio” (1994) 1 *Canberra LR* 205

“Ownership as the Proximity or Privity Principle in Unjust Enrichment” (1995) 18 *University of Queensland Law Journal* 166

“Lotus Development Corporation v Borland International Inc: Is the Lotus 1-2-3 Menu Command Hierarchy Copyrightable” (1995) 6 *Journal of Law and Information Science* 277

1997

(with Gamertsfelder) “A Conceptual Framework For Protecting the Value of Informational Products through Unjust Enrichment Law” 16 *Australian Bar Review* 1

1998

(with Gamertsfelder and Gulliksen) “Marketing Your Website: Legal Issues Relating to Internet Domain Names” (1998) 21 *UNSW Law Journal* 549

(with Evans) “UCC Draft Art 2B: The Ascendancy of Freedom of Contract in the Digital Millennium?” (1998) 21 *University of New South Wales Law Journal* 404

“Underlying Rationales of Fair Use” (1998) 2 *SCULR* 153

1999

“Software as Discourse? A Constitutionalism for Information Society” 24 *Alternative Law Journal* 144

“Navigating Cyberspace: Frontier Land or Legal Minefield?” 3 *SCULR* 153

(with E Sheehan) “Trademark Dilution and the Commodification of Information: Understanding the ‘Cultural Command’” (1999) 3 *Mac LR* 61

2002

“The Mod Chip is not a Circumvention Device under Australian Copyright Law: *Kabushiki Kaisha Sony Computer Entertainment v Stevens* [2002] FCA 906” (2002) 6 *Southern Cross University Law Review* 354.

2003

(with Graham Bassett) “Legal Issues Relating to Free and Open Source Software” (2001) 12 *JLIS* 159-187

“*Dow Jones & Company Inc v Gutnick* [2002] HCA 56: Negotiating American Legal Hegemony in the Transnational World of Cyberspace” (2003) 27 *MULR* 590

2005

(with N Suzor) “Legal Issues Relating to Free and Open Source Software in Government” (2005) 29 *Melbourne University Law Review* 412

(with S Humphreys, J Banks and N Suzor) “Fan based production for computer games: User led innovation, the ‘drift of value’ and the negotiation of intellectual property rights” (2005) 114 *Media International Australia* 234

(with Damien O’Brien) “Digital Sampling and Culture Jamming in a Remix World: What Does the Law Allow?” (2005) 10(4) *Media and Arts Law Review* 279.

“The PlayStation Mod Chip: A Technological Guarantee of the Digital Consumer’s Liberty or Copyright Menace/Circumvention Device?” (2005) 10 *Media and Arts Law Review* 85-98

2006

(with Kiel-Chisholm, Scott D) “The Rise of Open Access in the Creative, Educational and Science Commons” (2006) 4 *Policy Futures in Education Special Edition* 366-369

(with Damien O’Brien) “Mashups, Remixes and Copyright Law” (2006) 9 *Internet Law Bulletin* 17

(with Damien O’Brien) “Digital Copyright in a YouTube World?” (2006) 9 *Internet Law Bulletin* 71

(with M Perry) “FLOSS as Democratic Principle” (2006) *International Journal of Technology, Knowledge and Society* 155-164

(with Lucy Montgomery) “Copyright and the Creative Industries in China” (2006) 9 *International Journal of Cultural Studies* 407-418

2007

(with Peter Black and Hayden Delaney) “Legal Issues for Wikis: The Challenge of User-generated and Peer-produced Knowledge, Content and Culture” (2007) 14(1) *eLaw Journal* 245-282

2010

“Creative Commons” (2010) *Telecommunications Journal of Australia*. 60 (4): pp. 62.1 to 62.17. DOI: 10.2104/tja10062

2011

(with N Suzor) “The Legitimacy of Graduated Response Schemes in Copyright Law” (2011) 34 *UNSWLJ* 1

CONFERENCE AND SEMINAR PRESENTATIONS

1993

“International Human Rights and the High Court of Australia” paper presented at the Annual Meeting of the Australian and New Zealand Society of International Lawyers published in Proceedings of the Meeting

“Port State Control and UNCLOS III” paper presented to conference on Towards Shipping Management in the 21st Century run by Australian Maritime Law Association on 14 October 1993 - Published in Proceedings of the Conference.

1994

“Theorising About International Law Through the Liberal Paradigm” - paper presented at the Annual Meeting of the Australian and New Zealand Society of International Lawyers in May 1994 and published in Proceedings of the Meeting.

“Property Restitution and the Constitution” - paper presented at Inaugural Meeting of the Constitutional law Interest Group in Brisbane in July 1994 and in an expanded version as a Staff Seminar to the Law Faculty University of Tasmania Hobart 1994.

“Principles of Australian Constitutionalism” - paper presented at the Australasian Law Teachers Conference in Hobart September 1994 and published in the Proceedings of the Conference.

1997

“Copyright for Multimedia: Recent International Initiatives” - Paper delivered at Qantm CMC Going Digital Seminar, Brisbane February 1997

“Rise and Fall of Australian Proportionality” Paper delivered to Constitutional Law Interest Group, Brisbane May 1997

“Legal Issues Arising from *Kruger v Commonwealth*” Paper delivered to Constitutional Law Interest Group, Brisbane October 1997

“Navigating Cyberspace: Frontier land or Legal Minefield” - paper presented to a Opening Plenary Session of the Australasian Law Teachers Conference in Sydney, October 1997

“Fundamental Legislative Principles Rationale and Meaning” - Queensland Government Seminar, Parliament House, October 1997

“ISP/On Line Liability” Qantm CMC Going Digital Seminar, Melbourne 19 November 1997

1998

“ISP Liability” Qantm Seminar Hobart April 1998

"Law and the Internet" WWW7 Brisbane April 1998

"ISP Liability" Going Digital Seminar Brisbane November 1998

1999

“Imagining the Digital Environment” AIPC Conference March 1999

“Laws for the Digital Millennium” Qld Law Society Conference March 1999

“Paralegal, Distance and Technology Based Law Studies”, International Law Deans Conference on Legal Education for the 21st Century (in Chinese), Beijing, May 1999

“Law and the Digital Millennium” UWS Law Students Society (invited Keynote) May 1999

“Conceptualising the Digital Environment” mp3 Forum: Digital Distribution and the Music Revolution - July 1999

“Commodifying and Transacting Informational Products Through Contractual Licences: The Challenge for Informational Constitutionalism” Intellectual Property and the Common Law World Conference, Auckland NZ, July 1999

“Software as Discourse: The Power of Intellectual Property in Digital Architecture” Seventh Annual Tenzer Lecture Cardozo Law School New York 1999 - October 1999

“Software as Discourse: The Power of Intellectual Property in Digital Architecture” Berkman Centre for Internet and Society Harvard Law School - October 1999

“Software as Discourse: The Power of Intellectual Property in Digital Architecture” Law Offices of Baker Mckenzie, Chicago - October 1999

“Software as Discourse: The Power of Intellectual Property in Digital Architecture” Computer and Law Centre, Law School University of Oslo, Oslo Norway - October 1999

“Software as Discourse: The Power of Intellectual Property in Digital Architecture” Institute for Information Law, Law School University of Amsterdam, Amsterdam Netherlands - October 1999

“Commodifying and Transacting Informational Products Through Contractual Licences: The Challenge for Informational Constitutionalism” Allens Solicitors Sydney, November 1999

“Conceptualising the Digital Environment” Law and Business for the Digital Millennium December 1999

“Software as Discourse: The Construction of Digital Identity” 17th Annual Law and Society Conference Byron Bay December 1999

2000

“Law School Welcome” Australian Indigenous Human Rights Conference, Ballina February 2000

“Law and Theory of Proprietary Rights in Digital Architecture (Software)” UCLA Berkeley, Centre for Law and Technology, Berkeley CA

“Law and Theory of Proprietary Rights in Digital Architecture (Software)” Intellectual Deserts Seminar Series, Sun Microsystems Palo Alto California (Silicon Valley)

“Law and Theory of the Legal Regulation of Software” International Intellectual Property Conference, Fordham University law School New York - April 2000

“Legal Issues for Doing Business on Line” Tutorial at WWW9 in Amsterdam in May 2000

“Informational (including Intellectual Property) Rights in Digital Architecture” Panel Session WWW 9 Amsterdam May 2000

Keynote Address “Law and the Internet” Ausweb 2000, Cairns June 2000

“Legal Issues for Doing Business on Line” Tutorial at Ausweb 2000, Cairns June 2000

“Propertizing Information” Digital Horizons: Law and Business for the Digital Environment - E Commerce Seminar, Cairns June 2000

Keynote Address “Law and the Internet” North American (NA) Web 2000, University of New Brunswick, Fredricton Canada - October 2000

“Propertizing Information”, Law School University of New Brunswick, Fredricton Canada October 2000

“Digital Property” Centre for Innovation Law and Policy, University of Western Ontario London Ontario Canada, October 2000 (this Centre is co-hosted with University of Toronto)

“Intellectual Property Rights in Digital Architecture (including Software): The Question of Digital Diversity?” 7th Working Conference on Reverse Engineering (IEEE)

Brisbane, 23 November 2000

2003

**“Legal Issues for Free and Open Source Software” Lawasia Business Law Conference
New Delhi, January 2003**

“Digital Property” Lawasia Business Law Conference New Delhi, January 2003

“Cyberlaw” Nepal Law Campus, January 2003

**“Theoretical Underpinning of Intellectual Property” University of Western Ontario
Canada, February 2003**

“Copyright Law and the Internet” Lawasia Conference Tokyo, Sept 2003

2004

“Copyright Law and the Internet” Asia Law Institute Conference Singapore, May 2004

**“Creative Commons” Communications, Intellectual Property and the Public Domain in
the Asia Pacific Region Conference Brisbane, December 2004**

2005

**“Anti-circumvention Law and the Sony PlayStation Case” DRM 3rd Berlin, January
2005**

**“An Overview of Creative Commons” Open Content Licensing Cultivating the Creative
Commons Conference, QUT Brisbane, January 2005**

**“e-Courts and Electronic Justice” IT Security Conference, Chennai, Amity Law School,
and Jawaharlal Nehru University (JNU) February 2005**

**“Digital Rights Management” IT Security Conference, Chennai, Amity Law School,
and Jawaharlal Nehru University (JNU) February 2005**

**“Creative Commons and Collecting Societies” iCommons Summit Harvard Law School,
June 2005**

**“Copyright and Internet Law” International Creative Industries in China and Oxford
Internet Institute Summer School, Beijing, July 2005**

**“Copyright and the Creative Industries in China” Creative Industries in China
Conference, Shanghai Intellectual Property Bureau, December 2005**

2006

“Open Content Licensing and Open Education Resources” OECD Experts Workshop Malmo Sweden, February 2006.

“The Stevens v Sony Case and Free and Open Source Software” Fordham International Intellectual Property Conference New York April 2006

“Licensing Frameworks for Access to Knowledge” Access to Knowledge Conference (A2K) at Yale Law School, April 2006.

“Facilitating access to inventions for research purposes” CSIC/OECD/OEPM Conference Research Use of Patented Inventions, Madrid, May 2006.

“Creative Commons and collecting societies: the Australian experience” iCommons Summit Brazil, June 2006

“OAK Law: Conceptualizing a fundamental right to share/access knowledge” Unlocking IP Conference, UNSW, Sydney, July 2006

“Creative Commons and Community” Charles Darwin University Annual Symposium on Creative Citizenship, Alice Springs, September 2006

2007

“Approaches to Open Access to Public Sector Information” iCommons Summit 2007 Dubrovnik, Croatia, June 2007

“Unauthorized Use of Works on the Web: What Can be Done? What Should be Done?” Fordham International Intellectual Property Conference New York, April 2007

“copyright + new technologies such as wikis and blogs” Knowledge Policy for the 21st Century Conference at the University of Western Ontario, London, Canada, April 2007.

“copyright reform: australia, new zealand + Canada” Knowledge Policy for the 21st Century Conference at the University of Western Ontario, London, Canada, April 2007.

“The Future of Copyright Law” Legal and Policy Framework for the Digital Content Industry Conference China (ECUPL), May 2007.

Legal Framework for e-Research Project, Gold Coast Queensland, chaired session and opening comments, June 2007.

“Changing research practices in the digital information and communication environment” National Scholarly Communication Forum, June 2007.

“Science, business and the law: Locking up innovation or sharing and harvesting it - which way to go?” Alfred Deakin Innovation Lectures, Victoria, June 2007.

“Access to and Ruse of Public Sector Information” ePSIPlus Seminar Bratislava

Slovakia 6 October 2007

“An Australian Perspective on Open Access to and the Pricing of Public Sector Information” ePSIPlus PSI Pricing Conference London 1-2 November 2007

Invited Keynote Address, “Jurisdiction and the Internet” Fourth International Conference on Intellectual Property Protection and High Technology Organised by Tsinghua University and Harvard University Beijing 26 October

Invited Expert National Electronic Health Transition Authority (HEHTA) Roundtable – Sydney 12 November 2007

2008

“An Australian Perspective: The PSI Commons” at Building the Knowledge Commons QUT 6 February 2008

Program Chair and presenter “Data Management, Access and Use Roundtable” QUT 7 February

Co-Program Chair and Introduction at First International Summit on Open Access to Public Sector Information Management Parliament House Brisbane 4 March 2008

“The Web 2.0 Landscape – Access as a Driver of Innovation” at Open Access to Public Sector Information, GeoSciences Australia Canberra 6 March 2008

“Creative Commons and Public Sector Information” CC Korea Conference National Museum Seoul Korea 14 March 2008

“Web 2.0: Creator Utopia, Platform Owners Paradise or Still the Same?” Fordham International IP Conference New York USA March 2008

(with A Austin) “Legal Issues for Academic Authors, Institutional Repositories, Open Access Journals and End-Users” Third International Conference on Open Repositories Southampton April 1-2 2008

Invited Participant – Review of the National Innovation System Roundtable on Information Flows and Information Markets – Brisbane - May 30 2008

“Managing Digital Copyright” – ARC Graeme Clark Research Outcomes Forum - June 18 2008 - Reprinted in *Outcomes – Results of Research in the Real World (2008)* Published by ARC Canberra page 33

Workshop Participant “Copyright Principles Project” UC Berkeley April 4 and July 25-25 - 2008

“The Impact of Copyright Law on Preservation: An Australian Perspective” WIPO, Geneva July 16 2008

Keynote - “Creative Commons Licensing” Queensland Spatial Conference 2008 Gold Coast July 19 2008

Appeared and Presented Evidence before Victorian Parliamentary Committee on Economic Development and Infrastructure – Inquiry into Improving Access to Victorian Public Sector Information and Data – Queensland Parliament House 12 August 2008

Appeared and Presented Evidence before Commonwealth House of Representatives Standing Committee on Industry, Science and Innovation - Inquiry into Research Training and Research Workforce Issues in Australian Universities – Queensland Parliament House 18 August 2008

“Copyright Licensing for Open Access” Open Access and Research (OAR) Conference Brisbane September 24-25 2008

2009

“Open Access to PSI” Communia Workshop London 20 March 2009

“Copyright Law in the UAE in the Digital Age” at the *E Commerce and E Governance Conference* held by the College of Law at the UAE University in Abu Dhabi UAE, 20 May 2009

“Copyright Future: Copyright Freedom” – Copyright Future: Copyright Freedom Conference, Parliament House Canberra 27-28 May 2009

GARMA Festival (Key Forum) – Arnhem Land – 8-10 August 2009 (On the conference organising committee and chaired plenary panel on “Opportunities Created by Communication Technology for Indigenous Art and Cultural Industries”)

“The Future of Knowledge” - Keynote - International Congress of Medical Librarians, Brisbane 4 September 2009

“PSI in Action: making it Work” - PSI In Action Conference - London – 20 October 2009 (Panellist)

“Managing Your Rights” Revealing the Arts ABC Studios Sydney 27 October 2009

“Copyright in the Digital Age” - Keynote Presentation – Copyright in the Digital Age Conference Amman Jordan 15 November 2009

“Copyright in the Digital Age” – The International Forum of the Union of the Mediterranean and the Challenges of Information Technology - International Congress Centre Sharm El Sheikh, Egypt – 19 November 2009

“Open Access to Knowledge Law” in session on *Copyright v Free Knowledge* – 4th Meeting of the Internet Governance Forum - Sharm El Sheikh, Egypt – 18 November 2009 (Presenter in and Chair of this session)

“Open Content and Open Licensing in the Arab World”– 4th Meeting of the Internet Governance Forum - Sharm El Sheikh, Egypt – 18 November 2009 (Chair and facilitator of this session)

Participation and Invited Expert at International Workshop - Free Culture - Harvard University Law School Cambridge MA USA – 23 October 2009

“Creative Commons” – Australian Film Television and Radio School – Sydney – 25 November 2009

"Creative Commons Licensing" - National Film and Sound Archive – Canberra - 8 December 2009

2010

"Australian and UK Approaches to Licensing PSI" at Extracting Value from Public Sector Information: Legal Framework and Regional Policies Seminar in Turin Italy – 26 March

http://www.epsiplatform.eu/psi_library/reports/evpsi_launch_seminar_26_march_2010

“Google Book Settlement” at Victorian State Library Seminar “The Searchers” – 11 May

During September 2010, Professor Fitzgerald organised and presented the “Creative Commons Roadshow” which held events at the following cities in Australia:

Melbourne, 1 September - <http://creativecommons.org.au/cc-roadshow-2010/cities/melbourne>

Perth, 2 September - <http://creativecommons.org.au/cc-roadshow-2010/cities/perth>

Sydney, 15 September - <http://creativecommons.org.au/cc-roadshow-2010/cities/sydney>

Brisbane, 17 September - <http://creativecommons.org.au/cc-roadshow-2010/cities/brisbane>

Adelaide, 22 September - <http://creativecommons.org.au/cc-roadshow-2010/cities/adelaide>

Hobart, 23 September - <http://creativecommons.org.au/cc-roadshow-2010/cities/hobart>

“CC Licensing and PSI” - on 6 September 2010, Professor Fitzgerald addressed the World eGovernance Organisation (WeGO) Conference in Seoul Korea on “CC Licensing and PSI”.

“The Changing Landscape of Social Interaction and What It Means for Law Reform” – 10 September address to the Australasian Law Reform Agencies Conference held in Brisbane

“CC Licensing and PSI” - 20 September 2010, address to the World Computer Congress 2010 held at the Brisbane Convention Centre

“Peer to Patent” - 21 September 2010, panel session the World Computer Congress

2010 held at the Brisbane Convention Centre

“Peer to Patent” - 23 September 2010, address to “Connected Tasmania: Work and Play with NBN” forum at the University of Tasmania in Hobart.

“CC Licensing and Public Sector Information” - 28 September 2010 address to the Right to Information Day Conference in Brisbane.

Peer to Patent Workshop - 14-15 October WIPO Geneva Switzerland

2011

“Copyright Reform” - The Blue Sky Conference on the Future of Copyright Law – Sydney - 25 February 2011

Presentations on “Creative Commons – “CC and the Innovation Agenda” Panellist, Hobart, University of Tasmania 11 August 2011; “Creative Commons” to 3rd year visual arts students at Queensland College of the Arts, Griffith University Brisbane, 16 August 2011; “Creative Commons” nationwide link up to Telstra Legal Department, 18 August 2011.

“Creative Commons” – Museum of Northern Territory Darwin NT 13 October 2011 (hosted by Arts NT Northern Territory Government (ENRITAS))

“Creative Commons” – Old Court House, Alice Springs NT 14 October 2011 (hosted by Screen NT Northern Territory Government (ENRITAS))

“Web 2.0, Social Networking and the Courts” - Judicial Conference of Australia (JCA) Colloquium Alice Springs NT 14 October 2011

(ii) Conferences Organised

sub-Convenor, Australian Intellectual Property Conference, Intellectual Property in the Digital Age, Coolangatta, March 1999

Co-Convenor, mp3 Forum: Digital Distribution and the Music Revolution, Parliament House Brisbane (I organised Harvard Law Professor Terry Fisher to participate in this event) July 1999

Co-Convenor, Law and Business for the Digital Millennium, Byron Bay, December 1999

Convenor - Tutorial and Panel Sessions at WWW9 Amsterdam, May 2000

Convenor - Tutorial Session - Ausweb 2k Conference - Cairns, June 2000

Convenor - Digital Horizons: Law and Business in the Digital Environment Cairns, June 2000

sub-Organiser of Summer School 1998, 1999, 2000 and 2001- especially Cyberlaw Course - organising for Harvard Law Professors (Nesson 98), (Lessig 99) (Fisher 00) to teach the course with me.

Program Chair - Law, Electronic Commerce and the Digital Economy - Telstra Auditorium Sydney - Run for Australian Judges sponsored by the National Office of Information Economy (NOIE) - December 2000

Program Chair – Innovation, Software and Reverse Engineering: Technological and Legal Issues - Santa Clara University Silicon Valley USA - March 23 2001

Program Chair – Legal and Business Issues for Free and Open Source Software - Santa Clara University Silicon Valley USA - June 2001

Program Chair – Legal Issues for Free and Open Source Software - QUT - July 2002
Co Program Chair – Courts for the 21st Century – QUT November 2003

Co Program Chair – Digital Music and the Law – QUT – November 2003

Program Chair - Cultivating the Creative Commons Conference - January 2005

Program Chair - Open Innovation Roundtable – QUT/Phillips Fox – August 2006

Co-Program Chair – Knowledge Policy for the 21st Century Conference - University of Western Ontario London Canada – April 2007

Co-Program Chair – Legal and Policy Framework for Digital Content Industry – East China University of Political Science and Law – Shanghai China – May 2007

Program Chair – Legal Framework for e-Research Conference – Gold Coast July 2007

Co- Program Chair – Australian National Summit on Open Access to PSI Parliament House Brisbane July 2007

Program Chair “Data Management, Access and Use Roundtable” QUT 7 February 2008

Co-Program Chair First International Summit on Open Access to Public Sector Information Management Parliament House Brisbane 4 March 2008

Convenor – “Streamlining Negotiation and Contracting in the Research Sector Roundtable” – Legal Framework for e-Research – QUT Brisbane - June 11 and 12, 2008

Co- Convenor - Open Access and Research (OAR) Conference Brisbane September 24-25 2008 – see the resulting *Brisbane Declaration*

<http://www.oaklaw.qut.edu.au/files/BrisbaneDeclaration.pdf>

Co-Program Chair – Copyright Future: Copyright Freedom Conference, Parliament House Canberra – 27-28 May 2009

Co-Convenor - Copyright in the Digital Age - Amman Jordan - with Creative Commons and Talal Abu-Ghazallah Lawyers – 15 November 2009

Co-Convenor – The Open Model - Innovation in Government, Science and Research – Parliament House Canberra - 28 October 2010

Co-Convenor - Using Creative Commons in the Public Sector: Open Access to Knowledge, Culture and Public Sector Information (PSI) - Parliament House Canberra - 22 November 2010

Co-Convenor - The Blue Sky Conference on the Future of Copyright Law – Sydney - 25 February 2011

REPORTS

1991

Responsible for the preparation of *Supplementary Volume II Part III* of the Fitzgerald Inquiry into Fraser Island 1991 Go Print Brisbane

1992

Co author with Barrett, Bayne and Enright of *Guidelines for the Exercise of Administrative Action in Queensland* 1992 Go Print Brisbane

1993-4

Co-author with Sampford, Horrigan, Erbacher and Parker *Legislative Standards Manual*

2006

(with A Fitzgerald, M Perry, S Kiel-Chisholm, E Driscoll, D Thampapillai and J Coates), *Creating a Legal Framework for Copyright Management of Open Access within the Australia Academic and Research Sector* OAK Law Report No 1, August 2006

2007

“Open Content Licensing (OCL) for Open Educational Resources” (2007) Paper commissioned by the OECD’s Centre for Educational Research and Innovation (CERI) for the project on Open Educational Resources (www.oecd.org/edu/oer)

SUBMISSIONS TO GOVERNMENT

(with N Suzor) “Getting the Balance Right” - A Submission to House of Representatives Standing Committee on Legal and Constitutional Affairs - Inquiry into technological protection measures (TPM) exceptions (2005)

“An Over Broad Definition of TPM Will Defeat the Ability of Australians to Participate as Global Consumers in a WTO World” A Further Submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs - Inquiry into technological protection measures (TPM) exceptions (2005)

(with J Coates, N Suzor, D O’Brien and B Bednarek) *Submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs’ Inquiry into Provisions of the Copyright Amendment Bill 2006* (Submission 46): http://www.aph.gov.au/Senate/committee/legcon_ctte/copyright06/submissions/sublist.htm

(with D Clapperton) *Submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs’ Inquiry into Provisions of the Copyright Amendment Bill 2006* (Submission 42A)

(with A Austin, J Coates and K Pappalardo) Four separate submissions to the Review of the national Innovation System (2008) on “Innovate Australia”; “Copyright and Innovation: Freedom to Innovate”; “Open Access to Research: An Innovation Priority”; “Streamlining Collaborative Research Agreements”

(with A Fitzgerald) submission to Victorian Parliamentary Committee on Economic Development and Infrastructure – Inquiry into Improving Access to Victorian Public Sector Information and Data – 15 August 2008

KEY GRANTS

Chief Investigator and Program Leader
ARC Centre of Excellence for Creative Industries and Innovation (CCI)
2005-2013

Project Leader
DEST-funded - Open Access to Knowledge (OAK) Law
2006-2010

Project Leader
DEST-funded - Legal Framework for e-Research
2007-2010

Project Leader

**CRC Spatial Information – Enabling Real Time Access
2007-2010**

**Chief Investigator
ARC Linkage - Unlocking IP
2005-2009**

OAK LAW and LEGAL FRAMEWORK FOR e-RESEARCH REPORTS

Reports prepared by these research projects under my supervision available at www.oaklaw.qut.edu.au or www.eresearch.law.qut.edu.au :

- **B Fitzgerald et al, *Creating a Legal Framework for Copyright Management of Open Access within the Australia Academic and Research Sector OAK Law Report No 1, August 2006***
- **A Fitzgerald et al, *OAK Law and Legal Framework for e-research project Project Report: Building the Infrastructure for Data Access and Reuse in Collaborative Research: An Analysis of the Legal Context (2007)***
- **M Heffernan et al, *Legal Project Agreement Issues in Collaboration and e-Research : Survey Results (2007)***
- **A Fitzgerald et al, *OAK Law Project, Phase Two Report (2008)***
- **A Austin et al, *OAK Law Project Survey on Academic Authorship, Publishing Agreements and Open Access (2008)***
- **K Pappalardo et al, *OAK Law Project Guide to Developing Open Access through your Digital Repository (2007)***
- **K Pappalardo et al, *OAK Law Project Guide for Academic Authors (2008)***
- **OAK Law Project OAKList Website of Publishers Agreements – www.oaklist.qut.edu.au**
- **D. O'Brien et al, *OAK Law Copyright Guide for Research Students (2007)***