

- Part A: Questions 1 – 7 –


Question 1

You recently came across an old newspaper article (February, 2006) concerning a dispute over the scope of artistic merit in the context of copyright and designs protection. The article mentioned that two of the parties' names were Burge and Swarbrick, and that the decision had been made by the Full Federal Court. Answer **all** of the following questions, stating briefly (a) which database(s) you would use and (b) any necessary steps including search terms where appropriate:

- i) How do you find a copy of the decision at the Full Federal Court (ie appeal) level?
- ii) How do you find whether the case has been appealed to the High Court, and its pending status?
- iii) How do you find a copy of the High Court decision, assuming that the case was heard by the High Court?
- iv) How do you find the text of the High Court decision as reported in the Commonwealth Law Reports?
- v) How to find transcripts of the proceedings before the High Court?

Question 2

Read the following extract from a case report on LexisNexis Casebase, for the case *Lange v Australian Broadcasting Corporation* and answer **any two** of the following:



Cases referring to this case [Top](#) - Hide

Filter By: Annotation:

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Annotation	Case Name	Citations	Court	Date	Signal
Considered	Catch the Fire Ministries Inc v Islamic Council of Victoria Inc	[2006] VSCA 284; BC200610408	VSCA	14/12/2006	
Cited	Clayton v R; Hartwick v R; Hartwick v R	[2006] HCA 58; BC200610332	HCA	13/12/2006	
Considered	Snowy Mountains Organic Dairy Products Pty Ltd v Wholefoods Pty Ltd	[2006] FCA 1361; BC200608330	FCA	19/10/2006	
Applied	Obeid v John Fairfax Publications Pty Ltd	[2006] NSWSC 1059; BC200608170	NSWSC	12/10/2006	
Considered	Australian Broadcasting Corp v O'Neill	(2006) 229 ALR 457; (2006) 80 ALJR 1672; [2006] HCA 46; BC200607692	HCA	28/9/2006	

[Answer any **two**]

- i) If I wish to rely on *Lange v ABC* in litigation, what does this extract tell me? Would I need to consult any additional databases; if so, which ones?

- ii) If I wish to rely on *Obeid v John Fairfax Publications*, what does this extract tell me? Would I need to consult any additional databases; if so, which ones?
- iii) How would I find the five most recent decisions of Australian Courts and Tribunals that have considered the decision in *Lange v ABC*? Would I need to consult any additional databases; if so, which ones?

Question 3

Explain how **all** of the following searches over AustLII could be improved (if at all). The single quotes enclosing each search are not part of the search terms. You should assume that the searches below are being carried out from AustLII's front page, unless you consider that this is not the best location on AustLII to start the search. You may propose a better search, including a search from a different location on AustLII. You may also indicate any steps you would take after your initial search in order to get to the materials you seek. Your answers should be brief and concise (a line or two for each question is adequate).

- i) 'penalties or fines near drink driving and Queensland' for legislation and caselaw from Queensland
- ii) legislation concerning 'adoption of Aboriginal children' in Australia
- iii) 'national near treatment and WTO and Australia' as a search for materials discussing World Trade Organisation decisions involving Australia and the phrase "national treatment"
- iv) Caselaw for 'domestic violence in same sex relationships' in NSW
- v) 'free speech and domain names' as a search for decisions concerning Internet domain names (eg. www.mcdonalds.com.au) involving issues of free speech

Question 4

Answer (a) or (b) but not both.

(a) Set out the steps you would take to find all current legislation concerning discrimination on the grounds of race in as many Australian jurisdictions as possible. Compare the use of LawLex, AustLII, and LexisNexis AU to carry out this task. Describe briefly their strengths or weaknesses for this task.

(b) Your client may have committed offences under section 8 of the *Imported Food Control Act 1992* (Cth) (importation offence of food that does not meet applicable standards) at various dates in the past. Describe the steps you would take to determine the text of s8 of the Act at each of the following dates, in order to work out your client's liability. Assume that you normally use AustLII for such research, but note in your answer if it would be necessary or desirable for you to also refer to other online services in order to be more certain of your answers.

- i) today
- ii) January 2, 2005
- iii) When the section was originally enacted
- iv) If this research concerned a section of a NSW Act, would there be any significant difference in the approach that you would take to any of i) to iii) above .

Question 5

The Commonwealth Minister for the Environment has decided to make new regulations pertaining to climate change in all Australian jurisdictions. To advise the Minister, you need to find the texts of all State and Territory legislation (including pending bills) primarily concerned with this issue, irrespective of what the legislation is called. Set out the steps you take to do so, including which systems you will use, what approach you will take and any search terms you will use.

Question 6

Answer **both** (a) and (b)

(a) Which of the following is the most accurate statement of what is included in the NSW point-in-time legislation database on AustLII?

- (i) All NSW Acts as at the most recent point-in-time for which data is provided to AustLII;
- (ii) All NSW Acts including all previous versions back to the time when each Act was first enacted;
- (iii) Each Act as it existed at 1 July 2002, plus all amendments since then;
- (iv) New legislation enacted since 1 July 2002, plus all amendments since then.

(b) Outline the steps it is necessary to take when using Halsbury's Laws of Australia on Lexis Nexis AU to obtain the most up-to-date information about an area of law discussed in a paragraph of Halsbury commentary.

Question 7

Answer **both** (a) and (b)

(a) Discuss the advantages and limitations of doing legal research using Google as opposed to conducting legal research using web catalogs (indexes) of law sites.

(b) You are required to do comprehensive research to find law journal articles written on very specific topic in Australian intellectual property law, at least back to the early 1990s. State the 5 most valuable resources that you would use to conduct this research, stating briefly the strengths and weaknesses of each resource.

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Part B: Questions 8 to 10

Question 8

You are involved in litigation concerning a child custody dispute between a father who now resides in India, and a mother residing in Sydney. Both want full custody of their two young children. The father wishes to take the children with him to India. The mother wishes to retain custody of the children and keep them in Sydney. You know that one important element of such cases is the standard of “best interest of the child.” Provide the most efficient steps, including specific searches where possible, in order to find **all** of the following (make sure to specify what database(s) you will use):

- i) International Agreement(s) on international child custody disputes
- ii) Whether Australia has signed and ratified the International Agreement(s).
- iii) Whether there is domestic legislation implementing the Agreement(s).
- iv) Most relevant caselaw in Australia.
- v) Most recent caselaw in Australia..

Question 9

The facts are the same for this question as for question 8. Answer the following questions in relation to Indian law. Provide the most efficient steps including specific searches where possible for **any two** of the following areas of law (make sure to specify what database(s) you will use)

- i) Whether India has signed and ratified the International Agreements.
- ii) Most relevant caselaw in India on point, and most recent caselaw.
- iii) Commentary resources on Indian law on these issues.

Question 10

The *Australia-US Free Trade Agreement* contains provisions which oblige Australia to amend its *Copyright Act 1968 (Cth)*. In particular, the substance of criminal copyright provisions are required under the Agreement to be changed. Set out the steps you would take to find any and all legislative documents (including explanatory memoranda, Parliamentary hearings, bills, and enacted legislative instruments, etc.) relating to the criminal provisions of the *Copyright Act* and the *Australia–US Free Trade Agreement (AUSFTA)*.

Make sure to include in your answer:

- (a) which databases you will use and why;
- (b) what information you think you will find in each database selected relevant to your research; and
- (c) any specific steps relevant to finding such information, including the terms of any searches used.

END OF EXAM PAPER