

CUMULATIVE TABLE OF CASES REPORTED

Australian Law Reports

- Al Jadeed TV v United Broadcasting International Pty Ltd (ACN 110 092 049)** (FCA — Flick J) (2011) **283.205**
- Ann Street Mezzanine Pty Ltd (in liq) (ACN 102 854 866) v Beck** (FCA — Kenny J) (2011) **283.288**
- Australian Competition and Consumer Commission v Prysmian Cavi E Sistemi Energia SRL (formerly Pirelli Cavi E Sistemi Energia SPA) (FCA — Lander J) (2011) **283.137**
- Australian Competition and Consumer Commission v Sensaslim Australia Pty Ltd (in liq) (ACN 140 333 133) (No 1)** (FCA — Yates J) (2011) **283.235**
- Australian Competition and Consumer Commission v Trading Post Australia Pty Ltd (ACN 001 821 156)** (FCA — Nicholas J) (2011) **283.310**
- Australian Securities and Investments Commission v Australian Lending Centre Pty Ltd (No 2)** (FCA — Perram J) (2011) **283.299**
- Birdon Pty Ltd (ABN 59002810255) v Houben Marine Pty Ltd (ACN 14002623396) (FCAFC — Full Court) (2011) **283.39**
- Channel Seven Sydney Pty Ltd v Fierravanti-Wells (NSWCA — Full Court) (2011) **283.178**
- Comcare v John Holland Rail Pty Ltd (ABN 61 009 252 653) (No 5) (FCA — Bromberg J) (2011) **283.111**
- Daebo Shipping Co Ltd v Ship Go Star** (FCA — Siopis J) (2011) **283.255**
- FamilyVoice Australia (ABN 57479 058 057) v Members of the Classification Review Board** (FCA — Stone J) (2011) **283.245**

(Continues on p ii of cover)

CUMULATIVE TABLE OF CASES REPORTED — *continued*

Green v R (Matter No S146/2011) (HCA — Full Court) (2011) **283.1**

Optical 88 Ltd v Optical 88 Pty Ltd (ACN 060 355 437) (FCAFC — Full Court) (2011) **283.78**

Quinn v R (Matter No S143/2011) (HCA — Full Court) (2011) **283.1**

Vickers, Re York Street Mezzanine Pty Ltd (in liq) (FCA — Gordon J) (2011) **283.271**

CASES JUDICIALLY CONSIDERED IN THIS PART

- Alpine Beef Pty Ltd (in liq), Re [2011] FCA 748, applied 283.271
Austral Ships Pty Ltd v Incan Australia (No 3) (2010) 272 ALR 177; [2010] FCA 795, considered 283.288
Australian Competition and Consumer Commission v Australian Safeway Stores Pty Ltd (1998) 81 FCR 526; 153 ALR 393, not followed 283.299
—v Cadbury Schweppes Pty Ltd (2009) 174 FCR 547; 254 ALR 198; [2009] FCAFC 32, distinguished 283.299
—v Channel Seven Brisbane Pty Ltd (2009) 239 CLR 305; 255 ALR 1; 80 IPR 497; [2009] HCA 19, applied 283.310
—v Chen (2003) 132 FCR 309; 201 ALR 40; [2003] FCA 897, considered 283.235
—v Hughes (2002) ATPR 41-863; [2002] FCA 270, considered 283.235
—v Visy Industries Holdings Pty Ltd (No 2) (2007) 239 ALR 762; [2007] FCA 444, followed 283.299
—v World Play Services Pty Ltd (2004) 210 ALR 562; [2004] FCA 1138, considered 283.235
Australian Power Steering Pty Ltd v Exego Pty Ltd [2010] VSC 497, considered 283.271
Australian Securities and Investments Commission v Fortescue Metals Group Ltd (2011) 190 FCR 364; 274 ALR 731; 81 ACSR 563; [2011] FCAFC 19, applied 283.205
- Barnes v Commissioner of Taxation (2007) 242 ALR 601; [2007] FCAFC 88, distinguished 283.299
Butcher v Lachlan Elder Realty Pty Ltd (2004) 218 CLR 592; 212 ALR 357; [2004] HCA 60, applied 283.310
Buzzle Operations Pty Ltd (in liq) v Apple Computer Australia Pty Ltd (2009) 74 NSWLR 469; [2009] NSWSC 225, distinguished 283.299
- Chamberlain v RG & H Investments Pty Ltd (No 2) (2009) 76 ACSR 415; [2009] FCA 1531, applied 283.271
- Elderslie Finance Corporation Ltd v Newpage Pty Ltd (No 6) (2007) 160 FCR 423; [2007] FCA 1030, applied 283.271
- HIH Insurance Group Ltd, Re (2001) 19 ACLC 1102; [2001] NSWSC 308, applied 283.271
Hutchison v Hillcrest Litigation Services Ltd [2010] NSWSC 934, applied 283.271
- Johns v Australian Securities Commission (1993) 178 CLR 408; 116 ALR 567; 31 ALD 417; 11 ACSR 467, considered 283.299
- Macedonian Orthodox Community Church St Petka Inc v His Eminence Petar; the Diocesan Bishop of the Macedonian Orthodox Church of Australia and New Zealand (2006) 66 NSWLR 112; [2006] NSWCA 160, followed 283.271
Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1997] AC 749; [1997] 3 All ER 352, applied 283.205
Mitsubishi Electric Australia Pty Ltd v WorkCover Authority (Vic) (2002) 4 VR 332; [2002] VSCA 59, followed 283.299
- New South Wales v Jackson [2007] NSWCA 279, distinguished 283.299
- Parker, Re Purcom No 34 Pty Ltd (in liq) (2009) 262 ALR 85; [2009] FCA 1359, applied 283.271
- Read, Re (2007) 164 FCR 237; 243 ALR 532; [2007] FCA 1985, applied 283.271
Ritz Hotel Ltd v Charles of the Ritz Ltd (No 22) (1988) 14 NSWLR 132, applied 283.299
- Saint Anna, Re [1980] 1 Lloyd's Rep 180, considered 283.255
Span Terza (No 2), Re [1983] 1 WLR 632, considered 283.255
Span Terza (No 2) [1984] 1 WLR 27, considered 283.255
Spedley Securities Ltd (in liq), Re (1992) 9 ACSR 83; 10 ACLC 1742, applied 283.271
Stewart, Re; Newtronics Pty Ltd [2007] FCA 1375, applied 283.271
- Universal Telecasters (Qld) Ltd v Guthrie (1978) 18 ALR 531, applied 283.310; distinguished 283.310

(Continues on p iv of cover)

CASES JUDICIALLY CONSIDERED IN THIS PART — *continued*

Voth v Manildra Flour Mills Pty Ltd (1990) 171 CLR 538; 97 ALR 124, applied 283.255

WA Pines Pty Ltd v Bannerman (1980) 30 ALR 559; 41 FLR 175, considered 283.288

Walton v Gardiner (1993) 177 CLR 378; 112 ALR 289, distinguished 283.288

Wells v John R Lewis (International) Pty Ltd (1975) 25 FLR 194, considered 283.235

Weston v Publishing and Broadcasting Ltd [2010] NSWSC 1288, considered 283.271

—v Publishing and Broadcasting Ltd [2011] NSWSC 14, considered 283.271

Windsor v Sydney Medical Service Co-operative Ltd (No 2) [2009] FCA 704, distinguished 283.288

World Play Services Pty Ltd v Australian Competition and Consumer Commission (2005) 143 FCR
345; 219 ALR 363; [2005] FCAFC 70, considered 283.235

STATUTES, RULES ETC CITED IN THIS PART

COMMONWEALTH

Classification (Publications, Films and
Computer Games) Act 1995
s 7 **283.245**
s 9 **283.245**
Competition and Consumer Act 2010
s 5(1)(c) **283.235**
s 6(2)(a) **283.235**
s 6(2)(h) **283.235**
s 6(3) **283.235**
Corporations Act 2001
s 477(2B) **283.271**
s 479(3) **283.271**
s 511 **283.271**

s 1322(4)(d) **283.271**
Evidence Act 1995
s 81 **283.310**
s 88 **283.310**
s 135 **283.310**
Federal Court Act 1976
s 50 **283.310**
Federal Court Rules 1979
r 21.01 **283.288**
O 22 r 3 **283.205**
Trade Practices Act 1974
s 52 **283.310**
s 53 **283.310**
s 65A **283.310**
s 85 **283.310**

INDEX OF CASES IN THIS PART

CONFLICT OF LAWS

Choice of law — Claim for unlawful interference in contractual relations — Double actionability rule — Whether the events comprising the tort in substance took place in the People's Republic of China: *Daebo Shipping Co Ltd v Ship Go Star* 283 ALR 255

CONTRACT

Interpretation — Election — Whether licence granted under contract exclusive — Whether grant of exclusivity conditional on timely payment of licence fee — Whether licensor elected to waive requirement of timely payment: *Al Jadeed TV v United Broadcasting International Pty Ltd (ACN 110 092 049)* 283 ALR 205

Rescission — Express termination clause in contract — Alleged non-payment of licence fee and misrepresentations — Whether grounds for termination under clause established — Whether notice of intention to terminate required — Whether purported notices of termination clearly conveyed decision to terminate — Principles applicable to interpretation of notices of termination: *Al Jadeed TV v United Broadcasting International Pty Ltd (ACN 110 092 049)* 283 ALR 205

CORPORATIONS

Liquidators — Application for retrospective approval of deeds of settlement — Application for directions on liquidators' approach to apportioning proceeds from deeds of settlement: *Vickers, Re York Street Mezzanine Pty Ltd (in liq)* 283 ALR 271

ENTERTAINMENT, SPORT AND TOURISM

Film — Film classification — Judicial review of classification decision — Whether classification decision of Classification Review Board involved error of law — National Classification Code — Guidelines for the Classification of Films and Computer Games: *FamilyVoice Australia (ABN 57479 058 057) v Members of the Classification Review Board* 283 ALR 245

EVIDENCE

Admissibility — Hearsay — Objections — Tender — Rulings — Admissions — Whether adverse to party's interest in outcome of proceedings: *Australian Competition and Consumer Commission v Trading Post Australia Pty Ltd (ACN 001 821 156)* 283 ALR 310

MARITIME LAW

Charters — Claim against shipowner by disponent in charterparty chain for conversion and detinue of certain bunkers — Whether disponent had property in the bunkers — Construction of charterparty agreements: *Daebo Shipping Co Ltd v Ship Go Star* 283 ALR 255

PRACTICE AND PROCEDURE

Costs — Costs where leave granted to discontinue — Whether indemnity costs should be ordered: *Al Jadeed TV v United Broadcasting International Pty Ltd (ACN 110 092 049)* 283 ALR 205

Injunctions — Whether interim injunction should be continued — Consideration of extended or extra-territorial reach of Competition and Consumer Act 2010 (Cth) and Australian Consumer Law: *Australian Competition and Consumer Commission v Sensaslim Australia Pty Ltd (in liq) (ACN 140 333 133) (No 1)* 283 ALR 235

Interrogatories — Misfeasance in public office — Interrogatory seeking identity of public officer — Whether application for interrogatories an abuse of process or fishing exercise: *Ann Street Mezzanine Pty Ltd (in liq) (ACN 102 854 866) v Beck* 283 ALR 288

Privilege — Legal professional privilege — Application for production of discovered documents over which privilege maintained — Whether common law or Evidence Act 1995 (Cth) to be applied — Whether documents confidential — Whether and when litigation contemplated — Whether documents created during investigation process created for dominant purpose of anticipated litigation: *Australian Securities and Investments Commission v Australian Lending Centre Pty Ltd (No 2)* 283 ALR 299

Privilege — Whether legal opinions relied upon by liquidators when entering into deeds of settlement would retain privilege if submitted to court before making directions: *Vickers, Re York Street Mezzanine Pty Ltd (in liq)* 283 ALR 271

(Continues on p viii of cover)

INDEX — *continued*

TRADE AND COMMERCE

Trade practices — Misleading or deceptive conduct — Internet searches — Failure to distinguish between organic search results and sponsored links — Representations as to sponsorship, approval or affiliation between goods and services — Class of consumers by which likely effect of advertisements to be assessed — Whether consumers would have read advertisement as a whole — Whether consumers would have read results page as a whole — Whether advertisement incorporated hyperlink to different website into its headline — Whether representations misleading or deceptive or likely to mislead or deceive — Whether ordinary, reasonable consumers were likely to be misled or deceived as to whether sponsored links in fact advertisements — Liability of search engine — Whether search engine conveyed representations made by advertisements — Defence — Where search engine engaged in business of publishing or arranging for publication of advertisements — Whether advertisements received in ordinary course of business — Use of automation in compilation of advertisements — Whether advertisements needed to be received in completed form — Whether defence available where publisher assists in compilation of advertisement — Receipt of advertisements in ordinary course of business — Actual or constructive knowledge of contravention — Non-publication orders — Confidentiality: *Australian Competition and Consumer Commission v Trading Post Australia Pty Ltd (ACN 001 821 156)* 283 ALR 310