

**Andrew David Bailey Fox**

5 Wentworth

Level 5, 180 Phillip Street

Sydney NSW 2000

T: +61 2 8066 6154

**Selected Cases**

**Patent cases (Federal Court & High Court)**

*Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* [[2022] HCA 29](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2022/29.html) (retained to prepare written submissions for Fédération Internationale des Conseils en Propriété Intellectuelle, which appeared as amicus curiae)

*Globaltech Corporation Pty Ltd v Reflex Instruments Asia Pacific Pty* Ltd [[2022] FCA 797](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2022/797.html)

*Hood v Down Under Enterprises International Pty Limited* [[2022] FCAFC 69](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2022/69.html)

*Fuchs Lubricants (Australasia) Pty Ltd v Quaker Chemical (Australasia) Pty Ltd* [[2021] FCAFC 65](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2021/65.html)

*C.M.E. Blasting & Mining Equipment Ltd v Rock Tool Refurbishment Solutions Pty Ltd* [[2021] FCA 160](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2021/160.html)

*Australian Mud Company Pty Ltd v Globaltech Corporation Pty Ltd* [[2020] FCA 811](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2020/811.html)

*Australian Mud Company Pty Ltd v Globaltech Corporation Pty Ltd* [[2018] FCA 1839](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/1839.html)

*Generic Health Pty Ltd v Bayer Pharma Aktiengesellschaft* [[2018] FCAFC 183](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2018/183.html)

*Sigma Pharmaceuticals (Australia) Pty Ltd v Wyeth* [[2018] FCA 1556](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/1556.html)

*Davies v Lazer Safe Pty Ltd* [[2018] FCA 702](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/702.html)

*Multisteps Pty Ltd v Specialty Packaging Aust Pty Ltd* [[2018] FCA 587](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/587.html)

*Bayer Pharma Aktiengesellschaft v Generic Health Pty Ltd* [[2017] FCA 250](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2017/250.html)

*Konami Australia Pty Ltd v Aristocrat Technologies Australia Pty Ltd* [[2016] FCAFC 103](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2016/103.html)

*Lynx Engineering Consultants Pty Ltd v The Pilbara Infrastructure Pty Ltd* [[2016] FCAFC 19](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2016/19.html)

*Otsuka Pharmaceuticals Co Ltd v Generic Health Pty Ltd (No 2)* [[2016] FCAFC 111](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2016/111.html) *Bradken Resources Pty Ltd v Lynx Engineering Consultants Pty Ltd* [[2015] FCA 1100](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2015/1100.html)

*Otsuka Pharmaceutical Co Ltd v Generic Health Pty Ltd (No. 4)* [[2015] FCA 634](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2015/634.html) *Konami Gaming Inc v Aristocrat Technologies Australia Pty Ltd* [[2015] FCA 92](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2015/92.html) *Generic Health Pty Ltd v Bayer Pharma Aktiengesellschaft* [[2014] FCAFC 73](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2014/73.html)  *Generic Health Pty Ltd v Otsuka Pharmaceutical Co., Ltd* [[2013] FCAFC 17](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2013/17.html)

*Breezway Australia (Holdings) Pty Ltd v Preference Manufacturing Pte Ltd* [[2013] FCA 66;](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2013/66.html) [[2013] FCA 67;](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2013/67.html) [[2011] FCA 764](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2011/764.html)

*Kimberly-Clark Australia Pty Limited v Multigate Medical Products Pty Limited* [[2011] FCAFC 86](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2011/86.html)

*Sigma Pharmaceuticals (Australia) Pty Ltd & Ors v Wyeth* [[2011] FCAFC 132](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2011/132.html)

*Seafood Innovations Pty Ltd v Richard Bass* [[2011] FCAFC 83](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2011/83.html)

*Samsung Electronics Co. Limited v Apple Inc.* [[2011] FCAFC 156](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2011/156.html)

*Apple Inc v Samsung Electronics Co Ltd* [[2011] FCA 1164](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2011/1164.html)

*Expo-Net Danmark A/S v Buono-Net Australia Pty Ltd (No.2)* [[2011] FCA 710](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2011/710.html)

*Bradken Resources Pty Ltd v Lynx Engineering Consultants Pty Ltd* [[2007] 72 IPR 63](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2007/11.html); [[2008] 78 IPR 586](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2008/1257.html?query=); [[2010] FCA 662](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2010/662.html)

*Inverness Medical Switzerland GmbH v MDS Diagnostics Pty Ltd* [[2010] FCA 108](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2010/108.html)

*Sunnyfield Association v Cronk* [[2009] FCA 33;](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2009/33.html) [[2010] FCA 143](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2010/143.html)

*Inamed Development Company v Morton Surgical Pty Ltd* [[2007] 73 IPR 308](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2007/1359.html)

*Lockwood Security Products Pty Ltd v Doric Products Pty Ltd (No.2)*[[2007] 235 ALR 202](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2007/21.html)

**Patent cases (Oppositions)**

*Smart Hub Pty Ltd v Decathlon* [[2022] APO 75](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2022/75.html)

*Dorel Australia Pty Ltd v HBG IP Holding Pty Ltd* [[2019] APO 12](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2019/12.html)

*Britax Childcare Pty Ltd v HBG IP Holding Pty Ltd* [[2019] APO 31](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2019/31.html?context=1;query=%5b2019%5d%20APO%2031;mask_path=)

*Gary B Cox v MacroGenics, Inc* [[2019] APO 13](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2019/13.html)

*Dorel Australia Pty Ltd v HBC IP Holding Pty Ltd* [2019] APO 9 *Globel Blue S.A. v Visa U.S.A Inc.* [[2018] APO 86](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2018/86.html)

*John Jarvie v Comtec Industries Pty Ltd* [2018] APO 46

*Alphapharm Pty Ltd v Gilead Sciences, Inc*[*.*[2016] APO 50](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2016/50.html?context=1;query=Alphapharm%20Pty%20Ltd%20v%20Gilead%20Sciences,%20Inc.;mask_path=au/cases/cth/APO)

*Fisher & Paykel Healthcare Ltd v ResMed Ltd* [[2016] APO 48](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2016/48.html)

*BGC (Australia) Pty & CSR Building Products Limited v James Hardie Technology Limited* [[2016] APO 31](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2016/31.html)

*Merck, Sharpe & Dohme (Australia) Pty Ltd. v Genentech, Inc* [[2015] APO 19](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2015/19.html)

*Fonterra Co-operative Group Limited and Kraft Foods Global Brands LLC v Leprino Foods Company* [[2015] APO 22](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2015/22.html)

*Woodside Energy Limited v Exxon Mobil Upstream Research Company* [2015] APO 6

*BHP Billiton Aluminium Australia Pty Ltd v Central Chemical Consulting Pty Ltd* [2014] APO 16

*BHP Billiton Worsley Pty Ltd v Alcoa of Australia Pty Ltd* [2014] APO 30

*Woodside Energy Limited v Exxon Mobil Upstream Research Company* [[2014] APO 53](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2014/53.html)

*Aristocrat Technologies Australia Pty Ltd v IGT* [[2008] APO 3;](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/APO/2008/3.html) [(2008) 75 IPR 409](file:///C:\Users\5%20Wentworth\Desktop\ARISTOCRAT%20TECHNOLOGIES%20AUSTRALIA%20PTY%20LTD%20V%20IGT.pdf)

**Trade marks (Federal Court and oppositions)**

*Puma SE v Caterpillar Inc* [[2022] FCAFC 153](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2022/153.html)

*The Cultural Intelligence Project Pty Ltd v The Entourage Education Group Pty Ltd (No 2)* [[2021] FCCA 1317](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2021/1317.html)

*Manolo Blahnik Worldwide Limited v Estro Concept Pty Limited* [[2020] FCA 1561](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2020/1561.html)

*Sovereign Hydroseal Pty Ltd v Steynberg (No 2)* [[2020] FCA 1239](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2020/1239.html)

*Monster Energy Company v Mixi Inc* [[2020] FCA 1398; 156 IPR 378](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2020/1398.html)

*The Real Thing Food Supplements CC v Media Tag Pty Ltd* [[2018] NSWSC 585](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/2018/585.html)

*Hood v Bush Pharmacy Pty Ltd* [[2020] FCA 1686; 158 IPR 229](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2020/1686.html)

*Trident Seafoods Corporation v Trident Foods Pty Ltd* [[2019] FCAFC 100](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2019/100.html?context=1;query=%5b2019%5d%20FCAFC%20100;mask_path=)

*Bauer Consumer Media Ltd v Evergreen Television Pty Ltd* [[2019] FCAFC 71](file:///C:\Users\5%20Wentworth\Desktop\BAUER%20CONSUMER%20MEDIA%20LTD%20v%20EVERGREEN%20TELEVISION%20PTY%20LTD%20BC201903592.pdf)

*Trident Seafoods Corporation v Trident Foods Pty Limited* [[2018] FCA 1490](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/1490.html)

*Aldi Foods Pty Ltd v Moroccanoil Israel Ltd* [2018] FCAFC 93

*Moroccanoil Israel Ltd v Aldi Foods Pty Ltd* [[2017] FCA 823](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2017/823.html)

*Tim Ho Wan Pte Ltd v Viadar Holdings Pty Ltd* [[2018] FCA 715](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/715.html)

*David Jones Pty Ltd v Pharmaline Pty Ltd* [[2018] ATMO 60](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2018/60.html)

*Dalmec S.p.A. v Dalmec Pty Ltd* [[2018] ATMO 103](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2018/103.html)

*Keune Haircosmetics Manufacturing BV v Guangzhou Hodm Professionals Cosmetics Co Ltd* [[2017] ATMO 143](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2017/143.html)

*Trident Seafoods Corporation v Trident Foods Pty Limited* [[2016] ATMO 45](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2016/45.html)

*Virgin Enterprises Limited v Sugar Virgin Pty Ltd* [[2014] ATMO 39](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2014/39.html?context=1;query=Sugar%20Virgin%20Pty%20Ltd%20%5b2014%5d%20ATMO%2039%20%20;mask_path=au/cases/cth/ATMO)

*Virgin Enterprises Ltd v Agripower Australia Ltd* [[2013] ATMO 79](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2013/79.html)

*Virgin Enterprises Limited v V Group Pty Ltd* [[2012] ATMO 24](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2012/24.html?context=1;query=Virgin%20Enterprises%20Limited%20%5b2012%5d%20ATMO%2024%20;mask_path=au/cases/cth/ATMO)

*V Group Pty Ltd v Virgin Enterprises Limited* [[2011] ATMO 108](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2011/108.html)

*Campomar SL v Nike International Limited* [[2011] ATMO 103](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2011/103.html?context=1;query=Nike%20International%20Limited%20%5b2011%5d%20ATMO%20103%20;mask_path=au/cases/cth/ATMO)

*New Look Limited v Payless Shoes Pty Ltd* [[2011] ATMO 14](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/ATMO/2011/14.html)

*NV Sumatra Tobacco Trading Company v British American Tobacco Australia Services Limited* [[2010] FCA 1372](file:///C:\Users\5%20Wentworth\Desktop\NV%20SUMATRA%20TOBACCO%20TRADING%20CO%20v%20BRITISH%20AMERICAN%20TOBACCO%20AUSTRALIA%20SERVICES%20LTD%20BC201009336.pdf)

*Bavaria NV v Bayerischer Brauerbund eV* [(2009) 81 IPR 279](file:///C:\Users\5%20Wentworth\Desktop\BAVARIA%20NV%20v%20BAYERISCHER%20BRAUERBUND%20eV.pdf)

**Confidential information, copyright, other IP**

*The Real Thing Food Supplements CC v Media Tag Pty Ltd* [[2018] NSWCA 318](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2018/2465.html)

*Microsoft Corporation & Ors v CPL Notting Hill Pty Ltd (No.4)* [[2018] FCCA 2465](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2018/2465.html)

*The Real Thing Food Supplements CC v Media Tag Pty Ltd* [[2018] NSWSC 585](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/2018/585.html)

*Valve Corporation v Australian Competition and Consumer Commission* [[2017] FCAFC 224](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2017/224.html)

*CPL Notting Hill Pty Ltd v Microsoft Corporation* [[2017] FCA 1385](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2017/1385.html)

*Australian Competition and Consumer Commission v Valve Corporation (No 7)* [[2016] FCA 1553](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2016/1553.html)

*Australian Competition and Consumer Commission v Valve Corporation (No 3)* [[2016] FCA 196](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2016/196.html)

*National Surgical Pty Ltd v McPhee* [[2010] FCA 972](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2010/972.html)

*Elecon Australia Pty Ltd v Brevini Australia Pty Ltd* [[2009] FCA 1327](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2009/1327.html)

*Optiver Australia Pty Ltd v Tibra Trading Pty Ltd* [(2007) 163 FCR 554](file:///C:\Users\5%20Wentworth\Desktop\OPTIVER%20AUSTRALIA%20PTY%20LTD%20v%20TIBRA%20TRADING%20PTY%20LTD%20BC200708938.pdf)

**Commercial litigation**

SSPeetham Pty Ltd as trustee for the CHB CDI Trust v Marcos Accountants Pty Ltd [[2020]](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/2020/378.html)

[NSWSC 378](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/2020/378.html)

*Austral Masonry (NSW) Pty Ltd v Cementech Pty Ltd* [[2014] FCAFC 72](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2014/72.html)

*Michael Wilson & Partners v Nicholls & Ors* [[2009] NSWSC 1033;](file:///C:\Users\5%20Wentworth\Desktop\MICHAEL%20WILSON%20AND%20PARTNERS%20LTD%20v%20NICHOLLS%20BC200909087.pdf) [[2010] NSWCA 222;](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWCA/2010/222.html)

[[2011] HCA 48](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2011/48.html)