

WEBINAR

Burger Wars: Down and Out

presented by
Elisabeth White, Daniella Lambert and Megan Evetts

Date: Thursday, 13 May 2021

Time: 1.00 pm AEST (ACT, NSW, QLD TAS and VIC)
3.00 pm New Zealand
12.30 pm South Australia
11.00 am Western Australia
2.00 pm AEST Concludes

Webinar: Hosted via Zoom™

Topic: **Burger Wars: Down and Out - Practical lessons learned from *In-N-Out Burgers, Inc v Hashtag Burgers Pty Ltd***
In February 2020, Justice Katzmann deliberated "What is the line between inspiration and appropriation?" and found that Hashtag Burgers had crossed the line to appropriation, infringing In-N-Out Burgers' registered marks by using the mark DOWN N OUT, and had engaged in passing off and conduct contravening the Australian Consumer Law.

In December 2020, the Full Court upheld Justice Katzmann's decision, as well as In-N-Out Burger's cross-appeal in relation to the liability of Hashtag's directors.

In this presentation, Elisabeth White, Daniella Lambert and Megan Evetts will provide an overview of key issues in the case including: the role of *Woollen Mills* intent in the context of establishing deceptive similarity, the strategic use of third party subpoenas, establishing a brand owner's goodwill / reputation without a permanent Australian presence and principles of individual liability following the Full Court's decision.

Panel Speakers: **Elisabeth White**, Partner, Baker McKenzie
Elisabeth White is a partner in Baker McKenzie's Sydney office with over 20 years' experience as an intellectual property and regulatory advisor.



Elisabeth's practice focuses on advising market leading companies on IP protection and enforcement, including in the healthcare, FMCG and technology sectors. Elisabeth handles a broad range of contentious matters, including Australian Federal Court litigation concerning patents, trade marks, passing off and trade practices issues. She is ranked in Chambers, Legal 500 and Best Lawyers for Intellectual Property, and noted in Chambers for her "exceptional client care, availability and the excellent quality of her advice, especially in the area of disputes."

Elisabeth acted for In-N-Out Burgers in Federal Court Proceedings: *In-N-Out Burgers, Inc v Hashtag Burgers Pty Ltd*.



Daniella Lambert, Associate, Baker McKenzie
Daniella Lambert is an associate in Baker McKenzie's Sydney office. She has experience across key aspects of intellectual property, as well as consumer law and health regulatory and compliance matters. Daniella assists global brand owners across a range of industries including entertainment, food, consumer foods and healthcare with local intellectual property protection, enforcement programs and disputes concerning trademarks, copyright, passing off and consumer law.



Megan Evetts, Barrister, Nigel Bowen Chambers
Megan Evetts is a barrister at Nigel Bowen Chambers in Sydney. Megan has over nine years of litigation experience. Examples of significant cases that she has been involved in include the High Court appeal of *AstraZeneca AB v Apotex Pty Ltd*, regarding pharmaceutical patents for cholesterol drug rosuvastatin (Crestor); the first patent repair case in Australia, *Seiko Epson Corporation v Calidad Pty Ltd*; and the trade mark dispute *In-N-Out Burgers, Inc v Hashtag Burgers Pty Ltd*.

Prior to being called to the Bar, Megan was Associate to the Hon Justice Burley of the Federal Court of Australia. Megan has also previously been a Senior Associate in MinterEllison's intellectual property disputes team; in-house IP Counsel for generic pharmaceutical company Hospira, (now Pfizer); and solicitor at King & Wood Mallesons.

Megan is also a qualified Trade Mark Attorney and holds a Bachelor of Biomedical Science and Bachelor of Laws (Hons) from Monash University.



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TAX INVOICE

CPD: 1 CPD point – Substantive Law

Cost: **FREE to IPSANZ Members**
A\$50 for Australian Non-Members (incl. A\$4.55 GST)
A\$46.50 for NZ and Int. Non-Members (Excludes GST)

RSVP: Friday, 7 May 2021 (register on-line) Cancellations after RSVP date non-refundable however transferable

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