Preface

furphy *n.* (*pl.* *furphies*). 1 a false report or rumour. 2 an absurd story.
adj. (*furphier*, *furphiest*) absurdly false, unbelievable:
that's the furphiest bit of news I ever heard. (*Australian Oxford Paperback Dictionary*, 1996)¹

In the nineteenth century, patent law provided exclusive rights to inventors in respect of mechanical inventions, but it did not extend such protection to biological inventions. My mother's family hail from Shepparton in the Goulburn Valley in Victoria, Australia. In 1873, the blacksmith, John Furphy, set up a forge in the town, and produced a range of farm machinery. He was awarded a Victorian colonial patent in respect of a 'grain stripping machine' in 1882.² The invention won first prize at the Grand National Show in 1884, and enjoyed great popularity at agricultural fairs. The Furphy Foundry became most famous for the Furphy Water Cart, with its catchy advertising slogan, 'Good, better, best/ Never let it rest/ Until your good is better/ And your better best.' After the Water Cart was used by the Australian army in World War I, the word 'furphy' became a byword for gossip, idle rumour and tall stories. John's brother, Joseph Furphy, wrote the classic work of Australian literature, *Such is Life*, while working at the foundry.³ The Furphy family were inventive in both the arts and the sciences.

Since the time of John and Joseph Furphy, patent law has become unrecognizable. With federation, the Australian Federal Government gained the exclusive power to make laws with respect to intellectual property, including patents of invention. Moreover, the Australian *Patents Act* 1990 (Cth) has been heavily influenced by international treaties, such as the *TRIPS Agreement* 1994, and the *Australia–United States Free Trade Agreement* 2004. Once the province of mechanical inventions and chemicals, patent law has expanded in its scope to cover all sorts of biological inventions, including micro-organisms, plants and animals; methods of human treatment, pharmaceutical drugs and research tools; and human genes, stem cells and tissues. No doubt, some of these inventions would seem to be far-fetched and incredible 'furphies'. The mechanical engineers of the ilk of John and Joseph Furphy have been joined by new species of inventors: micro-biologists, plant and animal breeders, genetic engineers, stem cell scientists and nanotechnology developers. This book considers how the

patent system, a product of the industrial revolution, has accommodated and adapted to the recent developments in the life sciences.

I have been fortunate to have received such support and mentoring from a number of teachers of intellectual property. Professor Peter Drahos at Regnet, at the Australian National University, first sparked my interest in intellectual property and biotechnology. My doctoral supervisor, Professor Kathy Bowrey, of the University of New South Wales, provided the sage advice that 'patents could be fun' and taught the art of writing about intellectual property in an accessible way. Professor Jill McKeough of the University of Technology Sydney has always been a stalwart supporter. Professor Brad Sherman from the University of Queensland has enlarged my vision of patent law, with his historical vision of biological property.

This book was written at the Australian National University College of Law. I am grateful for the academic freedom that I have been given by the leadership of this institution, including the Dean, Professor Michael Coper and the Head of School, Professor Stephen Bottomley, and his predecessor, the late great, Professor Phillipa Weeks. I have also appreciated the insights of Dr Don Anton, Dr Thomas Faunce and Matthew Zagor whose work intersects with my own. A small army of research assistants and Summer Research Scholars have worked with me over the years, including Katrina Gunn, Ishtiaque Omar, Elsa Gilchrist, Jessica Graham, Christine Henry and Paul Clarke.

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NOTES

1. Ludowyk, F. (ed.) (1997), 'Ozwords: Furphy', http://www.anu.edu.au/andc/ozwords/November_97/, November.
2. Furphy, J. (1882), 'Grain stripping machine', Victorian Patent No: 3297.
3. Furphy, Joseph (1903), *Such is Life: Being the Diary of Certain Extracts from the Diary of Tom Collins*, Melbourne: Oxford University Press.