

Preface

This book was prompted in part by a request by Philip Crisp, at the time special counsel for the Australian Government Solicitor, to present a ‘blue skies’ seminar at the 4th Australian Government Solicitor IP Law, Policy and Practice symposium in August 2007. His instructions were as follows:

I note that about two weeks ago the PM [Kevin Rudd] said that the solution to climate change was largely in improved technology. Some might prefer to emphasise individual responsibility. Nevertheless I thought it was an interesting proposition and to the extent that it is valid it would follow that the regimes for protection of intellectual property in such technology are critical – in particular getting an appropriate balance between the proprietary rights of creators and the need to get the useful technologies adopted widely, including within countries that are net importers of intellectual property/technology.

There are externalities in the way economic activities affect climate, which we seek to convert into internalities through carbon trading. One might make an analogy with intellectual property regimes which are essentially a way of converting knowledge, at various levels of distillation, into a proprietary thing

...
There may be issues about whether the intellectual property regimes we have in place are effective in promoting the most useful technologies, in the most rapid and efficient way, without duplication of research. When one thinks about what is at stake, there is no more important role for today’s intellectual property systems than to generate solutions for a problem that could inflict an awful calamity on the human race. One could get passionate about this topic.

Delivering the talk at the National Museum of Australia, I was intrigued that the assembled lawyers were comfortable talking about the impact of intellectual property upon information technology and biotechnology, but were still grappling with the implications of intellectual property for the research, development, and deployment of clean technologies. So, at the outset, I would like to acknowledge, with gratitude, Philip Crisp’s foresight and prescience in asking me to think about these issues.

This research project has been generously supported by an Australian Research Council Future Fellowship to study ‘Intellectual Property and Climate Change: Inventing Clean Technologies’ (2011–2015). The public

description of this project is that: ‘By providing recommendations in respect of intellectual property law, policy and practice to policy-makers and stakeholders, this project will promote research and development of clean technologies in Australia. It will also facilitate the transfer of such technologies, in Australia, and to developing countries and least developed countries.’

I have also been supported as a chief investigator of an Australian Research Council Discovery Project, ‘Promoting Plant Innovation in Australia’ (2008–2011).

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, the Associate Dean Professor Fiona Wheeler, and the Head of School, Associate Professor Antony Connolly. I have also appreciated the insights of Professor Tim Bonyhady, the director of the Australian Centre for Environmental Law and the Centre for Climate Law and Policy, and his colleagues Associate Professor Donald Anton, Andrew Macintosh, Dr James Prest, and Matthew Zagor. Professor Kim Rubenstein, the director of the Centre of International and Public Law, has also been a great supporter of the research. Emeritus Professor Dennis Pearce – who established the intellectual property concentration at the Australian National University College of Law – has also been a wise mentor over the years. I have learnt much from my intellectually intrepid research students including Judith Bannister, Hafiz Aziz ur Rehman, Alison McLennan, Gusman Siswandi, Terri Janke, and Alan Hui. I have had productive exchanges with tutors in Intellectual Property at the Australian National University College of Law, including Sarah Waladan, Laura Simes, and Dr Miranda Forsyth.

This book has been written in the research centre, the Australian Centre for Intellectual Property in Agriculture (ACIPA), which is based at the Australian National University, and Griffith University. Versions of a couple of chapters were presented at the events hosted by this centre. The Director, Professor Brad Sherman, has always been an energetic leader. I have also benefited greatly from discussions with Associate Professor Charles Lawson, Jay Sanderson, Associate Professor Leanne Wiseman, Stephen Hubicki, and Dr Kathryn Adams; and from the administrative support of Carol Ballard. I am also indebted to Antony Taubman, a fellow of the centre, who has done much work in this area, in his roles at both the World Intellectual Property Organization and the World Trade Organization. The centre can be justly proud of being the catalyst for such an original and distinctive body of work over the last decade. My interest in the impact of agriculture upon climate change has been augmented

by friends of the centre, such as Geoff Budd of the Grains Research and Development Corporation, and John Lovett, associated now with the Global Crop Diversity Trust.

This work has also been fostered through dialogues with members of the wider intellectual property community. My doctoral supervisor, Professor Kathy Bowrey of the University of New South Wales, provided some helpful suggestions about the role of history in debates about innovation. Professor Jill McKeough, Dean of the University of Technology Sydney, has always been kind and supportive. Professor Dianne Nicol of the University of Tasmania has been a generous and helpful scholar. I have also learnt much from my Canadian peers, including Professor Michael Geist, Jeremy de Beer and Professor Ian Kerr of the University of Ottawa Centre for Law, Technology, and Society; Professor Margaret Ann Wilkinson of the University of Western Ontario law school; and Professor Daniel Gervais of Vanderbilt University. Professor Eva Hemmungs Wirtén of Uppsala University in Sweden has been a creative exemplar to emulate.

I am grateful to my research assistant Katherine Phillips for her work editing and trimming the manuscript. She is a fine scholar of international intellectual property law in her own right, having participated in the Copenhagen Competition on Access to Medicines, and worked as an intern at the World Trade Organization. I am also indebted to my research assistant Arjuna Dibley for also providing assistance in the closing stages of finishing the manuscript, particularly on the sections dealing with international law and development. He, too, has the makings of a great scholar – having won a Prime Minister’s Australia Asia Award to research Indonesian politics and law.

I am most grateful for the support and help of the publisher, Edward Elgar, and his team, including Tim Williams, John-Paul McDonald and Kate Pearce. It has been a joy and a pleasure to work with such a visionary, professional, and energetic publishing house.

As always, I am grateful for the kindness of kith and kin. I am grateful for the friendship and support of Kevin Boreham and Edwin Ho, Helen and James Chisholm, Murray Chisholm, Lisa Gilmore, Janine Lapworth, Dr Mark Nolan, Ivan Sun, Professor George Williams and Emma Armson.

I am indebted to my parents, Professor Peter Rimmer and Dr Susan Rimmer, for nourishing my interest in science, technology, and globalisation. My siblings, Joe Rimmer and Rachel Rimmer, have provided welcome distractions and diversions. My grandmother, Joane Ford, has certainly passed on her love of literature and letters to me. My children, Marina Rimmer and Joshua Rimmer, have been a wonder and a delight.

The two have shown an interest in clean technologies (albeit through an abiding enthusiasm for the Pixar science fiction animation classic, *Wall-E*). As always, I am grateful to my wife, Dr Susan Harris Rimmer, for her unstinting love, support, and understanding.

T. A. EDISON.
Electric-Lamp.

No. 223,898.

Patented Jan. 27, 1880.

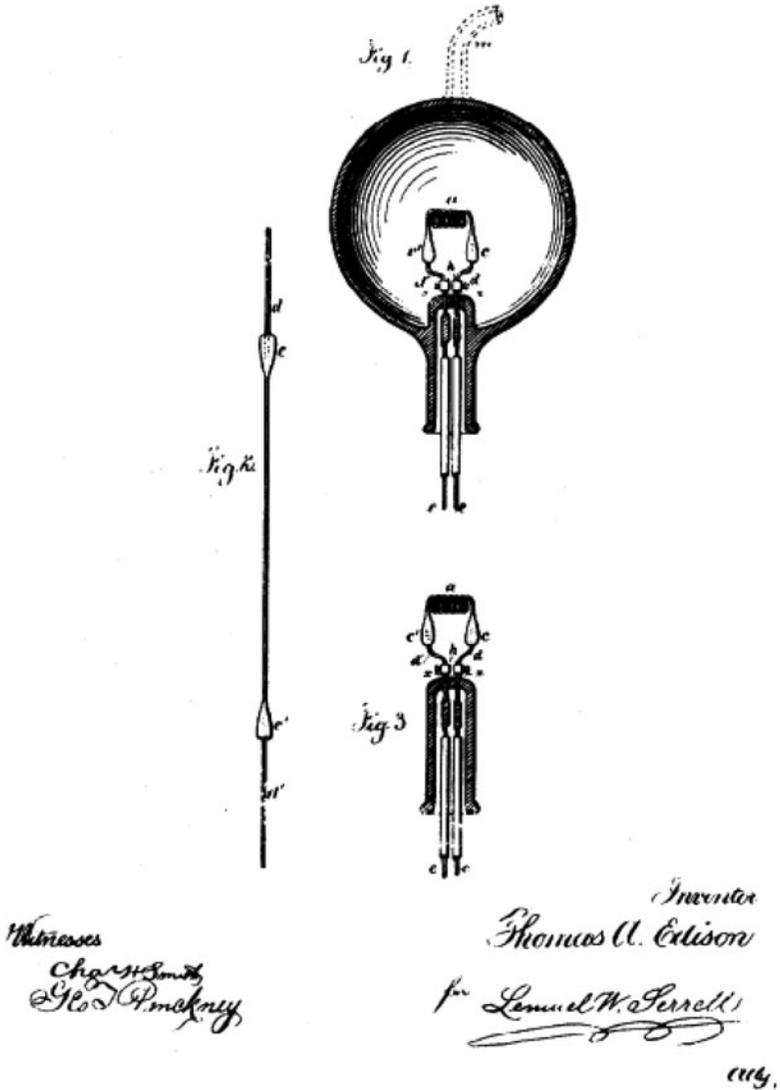


Figure 0.1 The front cover of Thomas Edison's Patent Application for an Electric-Lamp (United States Patent No. 223,898)