

LUZKER & LUZKER — LLP —

Lutzker & Lutzker Newsletter August 2020

To our clients, colleagues and friends:

We hope this finds you safe and well and managing to find ways to enjoy your summer. We continue to serve our clients from our remote locations and will do so for the foreseeable future.

This is the fourth of our periodic newsletters in which we discuss important new developments that

may affect your business. It seems that IP and related issues are making headlines every day.

First, some news: After more than a decade of litigation, a series of royalty proceedings involving more than \$3.5 billion of copyright and satellite royalties has come to a conclusion with appellate rulings affirming decisions of the Copyright Royalty Board. Lutzker & Lutzker serves as lead counsel for prominent religious ministries, whose share of the royalties increased dramatically as a result of the litigation. Similar compulsory licensing regimes are playing a critical role in legislative reform to encourage fair compensation for the creative community, as described in our blogs on the [Music Modernization Act](#).

We are excited to report that we will shortly launch an FAQ feature on our website that we hope will provide some helpful answers to legal issues that are repeatedly arising in our current environment. As educators prepare for the opening of school in the fall, which will involve hybrid variations of physical and remote classrooms, our first set of FAQs will focus on the safe and appropriate use of technology. We have identified some of the most pressing IP, privacy and security issues generated by these innovative enhancements, and, through these FAQs, will provide guidance to educators as to how to use them legally and responsibly. Other FAQ topics coming soon!

We continue our deep dive into the IP and privacy issues in K-12 education in new blogs about the [law of the remote classroom](#) and [safe uses of educational technology](#), with more coming shortly. And, [our earlier blog about legal issues encountered by online summer camps](#) may be worth another look in connection with after-school care and enrichment programs that will be operating remotely this fall.

This has been a busy time in the IP arena! See our blog about [the trademark fumble of the Washington Redskins](#) as they seek to rebrand the team. Also, as promised, we have offered [an analysis of the Supreme Court's decision](#) in United States Patent and Trademark Office v. Booking.com B.V. and its implications for existing brands and new businesses. We also took a close look at the copyright issues that are causing problems with the [live streaming of music on social media platforms](#).

In the privacy area, a major [new decision of the EU's Court of Justice](#) has caused chaos in the world of international data transfer since the Court invalidated the Privacy Shield, a safe harbor program that businesses of all sizes have relied upon.

Finally, we have a long-standing interest in the ways in which legal systems in different countries provide – or fail to provide - remedies for appropriation of the cultural property of indigenous peoples. [Our new blog](#) addresses the destruction of 46,000-year-old Aboriginal rock shelters in Australia and focuses on place-based intellectual property rights. Other blogs have addressed the [general lack of legal protection for Australian indigenous property](#) and the [controversy surrounding the use of Mexican indigenous designs by a famous fashion designer](#). We look forward to exploring the treatment of indigenous cultural property around the world in future blogs.

Don't hesitate to reach out to us at info@lutzker.com with any questions and please stay safe.

Blog Posts from the Firm

Destruction of Australian Indigenous Rock Art and the Concept of Place-Based IP: Another Casualty of COVID-19

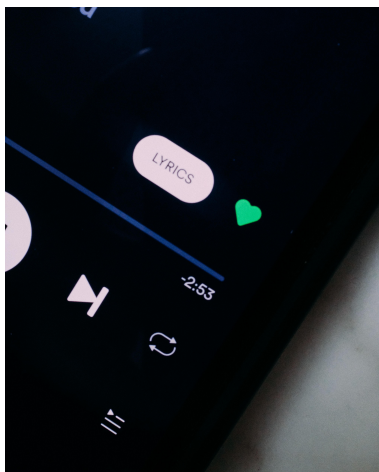
The recent destruction of 46,000 year-old rock shelters in Western Australia by the actions of mining giant Rio Tinto has focused attention on the proposed new Aboriginal Cultural Heritage Act. The new law would expand the definition of significant sites from dots on a map to broader cultural landscapes, including associated place-based intellectual property.



[Read Here>>](#)

"Your Video Was Not Posted": Copyright Issues and Live Streaming

Although many social media platforms have been disabling feeds featuring copyrighted music, performing rights organizations and other companies are providing opportunities to keep the streams



alive.

[Read Here >>](#)

The Supreme Court Endorses Federal Trademark Registration of "Booking.com"

In a highly anticipated ruling, the Supreme Court has held, 8-1, that the online hotel reservation company, Booking.com, is entitled to federal trademark registration for its company name. According to the Court, the combination of ".com" with a generic and otherwise unregistrable term creates a federally protectable trademark if consumers associate the mark with a particular company or product. Our blog analyzes the winners and losers from this decision.

[Read Here >>](#)



Hail to the....Washington Football Team?

The colossal trademark fumble of the Washington Redskins in failing to plan ahead for the need to change the team name has lessons for anyone contemplating a rebranding. The PTO's "intent to use" application option process and other strategic preparation can avoid the vulnerable trademark position the team finds itself



in.

[Read Here >>](#)

The Law of the Remote Classroom

As remote education becomes the norm, it is imperative to understand the implications of existing and developing copyright and privacy law.

[Read Here >>](#)



Ed Tech: Safe Uses and Partnerships

Now more than ever in a remote learning environment, it is crucial that schools thoroughly vet third-party technology providers and protect the privacy of their students in accordance with the law.

[Read Here >>](#)



EU Court Decision Invalidating Privacy Shield Results in Massive Confusion for U.S. Businesses

The July 16 decision of the highest court in the European Union has invalidated a major legal basis for the international transfer of personal data, threatening the smooth operation of many U.S. businesses.

[Read Here >>](#)



Connect with us online





LUTZKER & LUTZKER — LLP —

Arnold Lutzker and Susan Lutzker founded Lutzker & Lutzker LLP in 1998 to provide high-quality, cost-effective legal services to businesses, creative professionals and their lawyers in the creation, strategic exploitation and defense of intellectual property assets.

Drawing on their experiences in law, business and the arts, our firm’s lawyers have stayed on the leading edge of digital-era issues, including online content, social media, mobile applications, cybersecurity and data privacy requirements. We advise corporate counsel on challenging intellectual property matters and also help more than 300 clients protect and manage their traditional copyright and trademark portfolios.

Questions: please email us at info@lutzker.com



© 2020 Lutzker & Lutzker LLP All Rights Reserved.

This update is for general information purposes only and is not intended to provide legal advice. You should consult an attorney for advice regarding your specific situation. We invite you to contact us, but please be aware that contacting us does not create an attorney-client relationship between you and Lutzker & Lutzker LLP. The creation of such a relationship occurs only after client clearance procedures have been followed, including assurance that representing you will not create a conflict of interest. Therefore, you should not send us any confidential information since, prior to establishing an attorney-client relationship, the information may not be a privileged communication.

No longer wish to receive these emails from us? You can unsubscribe from this list.