

**IN THE SUPREME COURT OF NEW ZEALAND
I TE KŌTI MANA NUI O AOTEAROA**

SC 96/2023

UNDER THE Copyright Act 1994

BETWEEN **IAN JAMES BURDEN**
Appellant

AND **PGT RECLAIMED (INTERNATIONAL) LIMITED**
Second Appellant

AND **PLANTATION GROWN TIMBERS (VIETNAM) LIMITED**
Third Appellant

AND **ESR GROUP (NZ) LIMITED**
Respondent

**AMENDED CHRONOLOGY OF DATES IN RELATION TO WIPO COPYRIGHT
TREATY**

DATED 22 April 2024

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CHRONOLOGY OF DATES IN RELATION TO WIPO COPYRIGHT TREATY

Date	Event
1992 – 1995	Successive meetings of Committee of Experts on Protocol to Berne Convention ie what became the WCT. ¹
June 1993	WIPO International Bureau promulgated a Memorandum for Meeting of Third Committee of Experts. This provided definitions of ‘ <i>right of distribution</i> ’ and ‘ <i>exhaustion of right of distribution</i> ’ (both requiring authorization by author or other copyright owner). Published these in WIPO <i>Copyright</i> publication June 1993. ²
June 1993	Third Meeting of Committee of Experts in Geneva. New Zealand participated in the deliberations as part of the Committee of Experts. ³
20 – 29 September 1993	Assembly and Conference of WIPO and Representatives of Berne Convention members. New Zealand participated. ⁴
26 September – 4 October 1994	Assembly and Conference of WIPO and Representatives of Berne Convention members. New Zealand participated. ⁵
November 1994	WIPO International Bureau republished the same definitions of ‘right of distribution’ and ‘exhaustion of right of distribution’ as part of its Memorandum for Fourth Meeting of Committee of Experts. Published in <i>Copyright</i> publication. ⁶
September 1995	WIPO International Bureau published draft texts of WCT put forward by EU, US and Australia. Published in WIPO <i>Industrial Property and Copyright</i> magazine. ⁷

¹ Reinbothe [7.6.6] – [7.6.15]. **Tab 67.**

² *Copyright* Monthly Review of the World Intellectual Property Organisation June 1993 page 84 paras 4 – 12 . Published to all WIPO countries. **Tab 61.**

³ Report of Director General of WIPO for Twenty Fourth Series of Meetings Sept 20-29 1993 (AB XXIV/9) page 45 para 376 showing countries forming part of Committee. **Tab 68.**

⁴ WIPO Doc AB/XXIV/INF/4. **Tab 70.**

⁵ WIPO Doc AB/XXV/INF/4. **Tab 71.**

⁶ *Copyright* Monthly Review of the World Intellectual Property Organisation Nov 1994 p 214 paras 49- 50. **Tab 62.**

⁷ *Industrial Property and Copyright* September 1995 page 299 ff. Drafts from EU and Australia continued requirement of ‘authorization.’ (p302) and (p312). **Tab 64.**

Date	Event
December 1996	Diplomatic Conference on WCT. New Zealand voted in favour of distribution right in Art 6(1). ⁸ New Zealand played an active role in wording of Art 6(2). ⁹
20 December 1996	WCT finalised in Geneva. New Zealand signed the Final Act of the Diplomatic Conference which was to adopt the WCT. ¹⁰
19 May 1998	Copyright (Removal of Ban on Parallel Importing) Amendment Act 1998. Amends s 9(1) to exempt from breach of Distribution Right the distribution of imported genuine goods made overseas by or with the consent of the copyright owner in that country.
22 May 2001	EU issued Information Society Directive (2001/29/EC) to implement new international obligations in WCT in EU countries including UK. Changes to s 18 CDPA UK to meet Art 6 already made with effect from 1 December 1996 as a result of earlier EU Rental and Related Rights Directive which used the same language as Art 6 WCT.
6 March 2002	WCT entered into force (three months after accession of 30 th signatory country, Gabon).
December 2002	MED Position Paper <i>Digital Technology and the Copyright Act 1994</i> . Part Nine states that Distribution Right provisions in Copyright Act already comply with Art 6 WCT.
1 April 2008	New Zealand Copyright (New Technologies) Amendment Bill 2008 passed to implement matters covered by WCT. No change to Distribution Right provisions in Act.
25 January 2016	New Zealand National Interest Analysis for WCT released. This states “New Zealand already complies with the obligations in the WCT through the Copyright Act 1994” and that “New Zealand already substantially complies with the WCT...”.

⁸ Senior Policy Advisor Andrew Wierzbicki from Ministry of Commerce was lead representative. See https://www.wipo.int/export/sites/www/treaties/en/docs/prep-docs/1996_dec_Geneva_348-vol2-en.pdf Records of the Diplomatic Conference on Certain Copyright and Neighbouring Rights Questions 1996 Vol 2 p 852. New Zealand support for distribution right recorded at page 653 para 137. (Note that Art 6 WCT was previously Art 8 of the Draft Treaty. Also two versions of the distribution right were offered – one which included an importation right as well and one without. New Zealand voted for the version without the importation right as it wished to have freedom of action in respect of parallel imports.) **Tab 66.**

⁹ Reinbothe [7.6.10]; [7.6.11] and [7.6.14]. **Tab 67.**

¹⁰ https://tind.wipo.int/record/28815/files/wipo_pub_348_vol_i.pdf at page 89. **Tab 65.**

Date	Event
25 January 2016	New Zealand National Interest Analysis for Trans-Pacific Partnership tabled by MFAT and presented to Select Committee.
21 November 2016	Trans-Pacific Partnership Agreement Amendment Act 2016 assented to (but did not come into force because of withdrawal of United States from TPP).
8 March 2018	New Zealand National Interest Analysis for Comprehensive and Progressive Trans-Pacific Partnership (CPTPP).
3 May 2018	Opening Statement by MFAT to Foreign Affairs Defence and Trade Select Committee considering CPTPP National Interest Analysis.
30 December 2018	Comprehensive & Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 came into force in respect of amendments to Copyright Act. No changes to relevant Distribution Right provisions.
17 March 2019	New Zealand acceded to WCT (three months after signed documents lodged with WIPO).
May 2019	MBIE Discussion Paper on the Intellectual Property Laws Amendment Bill – Patents Act 2013, Trade Marks Act 2002, Designs Act 1953. Distribution Right is only exhausted where the copy “is placed on the market in another country by or with the permission of the copyright owner ie by acts of circulation of genuine copies”.
28 February 2022	MFAT released National Interest Analysis for NZ-UK FTA .
31 May 2023	NZ-UK FTA came into force.
2023	MFAT issued National Interest Analysis for the NZ-EU FTA .
July 2023	Select Committee considered National Interest Analysis for NZ-EU FTA.

Counsel has made appropriate inquiries to ascertain whether this WIPO Copyright Treaty chronology contains any suppressed information. Counsel certifies that, to the best of their knowledge, this WIPO Copyright Treaty chronology is suitable for publication.

DATED at Auckland this 22 April 2024

Andrew Brown QC / J Oliver-Hood / J R Wach

Counsel for PGT