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Pirates of the Australian Election

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“Pirate parties” have proliferated across Europe and North America in the past decade, championing issues such as intellectual property (IP), freedom of speech, and the protection of privacy and anonymity.

This year, the movement hit Australian shores: The Pirate Party Australia was officially registered by the Australian Electoral Commission in January 2013. (You can read its principles and platform [here](#).)

“More than ever before, there is a necessity in Australia for a party that holds empowerment, participation, free culture and openness as its central tenets”, Pirate Party founder Rodney Serkowski said in a press release announcing the group’s successful registration. Their first test will be this year’s federal election, scheduled for September 14, in which the fledgling party will contest Senate seats in New South Wales, Queensland and Victoria.

There has been much political discussion as to how Pirate Party Australia will fare in September’s poll. The Swedish *Piratpartiet* has two members in the European Parliament. The German Pirate Party has won seats in regional and municipal elections. The Czech Pirate Party had a member elected to the national parliament. But pirate parties contesting elections in the United Kingdom and North American have failed to make an electoral impact.

Will Pirate Party Australia emulate the success of its European counterparts? Or will the Pirate Party Australia struggle to gain attention and votes as a micro-party in a crowded field?

They might find that the times suit them: this year's election is shaping up as a battle royal over IP. Just in the past fortnight, there has been [a high-profile debate](#) over IT pricing and geoblocking – with Apple, Adobe, and Microsoft seeking to justify price discrimination against Australian consumers.

Party Lines provides an enlightening insight into the politics of IP in the Australian Parliament. The Hansard search tool reveals past policy conflicts and battlegrounds; dominant themes of contemporary times; and perhaps even hints at future developments in the field.

The Coalition

The Coalition was most active on the topic of IP when it was in government, engaging in three distinct bursts of legislative activity.

In 2000, the Coalition Government introduced [new reforms](#) in respect of copyright law and the digital agenda, and moral rights.

In 2004, the Coalition agreed to the *Australia-United States Free Trade Agreement* – which included a hefty chapter on IP. This required significant changes to Australian copyright law, patent law, and trademark law. Under the direction of the then-Attorney-General, Philip

Ruddock, the Coalition passed the *Copyright Amendment Act 2006*. This legislative package included both specific new copyright exceptions, as well as enforcement measures.

Party Lines illustrates that the parliamentary debate over copyright law peaked in 2006. In opposition, however, the Coalition has gone quiet on the issue.

The Australian Labor Party (ALP)

Across two terms of government, the ALP has had a range of initiatives across the broad field encompassed by IP. On the topic of copyright law, the Rudd and Gillard governments have offered little, preferring to spin the issue of reform off to the Australian Law Reform Commission.

The topic of copyright exceptions has not received significant attention in the Australian Parliament since 2006, according to Party Lines. However, there has been a significant debate over IT price discrimination – with Ed Husic MP and other politicians focusing on the relationship between copyright law, consumer rights, and competition policy. There was also some parliamentary debate about the introduction of a right of resale for Australian visual artists.

The Rudd and Gillard Governments have been pioneers in the field of IP and public health. As Minister for Health, and Attorney-General, Nicola Roxon introduced and defended the plain packaging of tobacco products. This conflict has played out in public debate, the Parliament, the High Court of Australia, and international trade forums such as the World Trade Organization.

Party Lines highlights the rise of tobacco control and plain packaging as a significant policy issue.

The topic of patent law has become increasingly significant. The ALP passed the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* (Cth), which contains significant reforms in respect of patent standards, the defence of experimental use, and administration. There has been debate over patent law and biotechnology, with divisions over the legitimacy of gene patents, and stem cell patents. However, generally, the debate over biotechnology has languished since the political debate over stem cell regulation.

The Rudd and Gillard Governments have also shown some enthusiasm for the *Anti-Counterfeiting Trade Agreement*, and the *Trans-Pacific Partnership*. There was significant debate in 2012 over the *Anti-Counterfeiting Trade Agreement*, which the Joint Standing Committee Treaties recommended be deferred. However, the Party Lines search tools highlights how little such trade agreements have been discussed in the Australian Parliament.

The Australian Greens

Looking at Party Lines, it is noticeable that the Australian Greens have shown a greater interest in IP. Senator Christine Milne and Senator Peter Whish-Wilson have raised questions about IP and trade.[vi] Senator Scott Ludlam has looked at IP, information technology, and national security.[vii] Senator Richard di Natale has been vocal on public health matters – such as the plain packaging of tobacco products.[viii] The Australian Greens have taken a particular interest

in intellectual property, clean technologies, and renewable energy. The Australian Greens have been interested in whether intellectual property has a role to play in respect of climate change.

Julian Assange and The Wikileaks Party

In addition to the Pirate Party, the WikiLeaks Party plans to contest the Federal election.[ix]

Julian Assange's run for the Senate promises to renew the focus on these topics, and highlight other issues such as privacy, freedom of information, surveillance, and the work of WikiLeaks.

Will Julian Assange steal the thunder of the Pirate Party? Or will there be a synergy between the two groups?

The Pirate Party's deputy president, Simon Frew, says that while there have been no formal meetings between the two movements so far, "we're hoping to organise some collaboration before the campaigns gets underway".

Australia Votes

IP has become a mainstream political issue in Australian politics. With the entry of the Pirate Party, and the publicity generated by Assange's own run for the Senate, the 2013 election is likely to include unprecedented coverage of IP issues.

There have been significant debates over the last decade in respect of copyright law, trademark law, and patent law across the fields of information technology, health, biotechnology, and clean technology. Matters such as plain packaging of tobacco products and IT pricing have received great attention.

The platforms of the ALP, the Coalition and the Greens on intellectual property and technology will be closely watched at the election. The challenge for newcomers such as the Pirate Party Australia and Julian Assange will be to capitalise on this attention, and turn it into votes in the booth.

Biography

*Dr Matthew Rimmer is an Australian Research Council Future Fellow, working on Intellectual Property and Climate Change. He is an associate professor at the ANU College of Law, and an associate director of the Australian Centre for Intellectual Property in Agriculture (ACIPA). He holds a BA (Hons) and a University Medal in literature, and a LLB (Hons) from the Australian National University. Rimmer received a PhD in law from the University of New South Wales for his dissertation on *The Pirate Bazaar: The Social Life of Copyright Law*. He is a member of the ANU Climate Change Institute. Rimmer has published widely on copyright law and information technology, patent law and biotechnology, access to medicines, clean technologies, and traditional knowledge.*