

# David Tan

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## Executive Summary

*An innovative systems-thinker, a passionate teacher, a dedicated researcher and an energetic individual.*

*Joined NUS as Assistant Professor in December 2008. Promoted to tenured Associate Professor in 2012. Appointed to Dean's Chair in 2016. Promoted to Professor in July 2018. Appointed Vice Dean (Academic Affairs) from January 2015 to June 2021, overseeing all undergraduate and graduate coursework curriculum at NUS Law, and chairing the Faculty Teaching Excellence Committee and Faculty Curriculum Committee.*

*Has held visiting positions at Melbourne Law School, Center for Transnational Legal Studies (King's College London) and University of Hong Kong. Specialises in comparative copyright and trademark law, personality rights, freedom of expression and negligence law. Pioneered courses at NUS Law in Entertainment Law, Fashion Law, Freedom of Speech, and Privacy & Data Protection Law. Impactful publishing contributions to top law journals like Yale Journal of International Law, Harvard Journal of Sports & Entertainment Law, Fordham Intellectual Property, Media & Entertainment Law Journal, Australian Intellectual Property Journal, Sydney Law Review, Torts Law Journal and Law Quarterly Review.*

*Previously in the Singapore Administrative Service; served as Director of International Talent Division and Contact Singapore at Ministry of Manpower, and as Director of Sports at Ministry of Community Development, Youth & Sports.*

*Accomplished fine art and fashion photographer having held solo exhibitions in association with Cartier and Versace; David Tan Visual Arts Studio established at Trinity College, University of Melbourne in 2020.*

## Selected Career Accomplishments

### National University of Singapore

- As Vice Dean (Academic Affairs), led design/launch of new JD programme and review of LLB Class of Honours awarded, improved visiting professor program (with publication output in *Singapore Journal of Legal Studies*), initiated Law & Technology Primer webinar for all undergraduates, and introduced "Being A Woman In Law" webinar series in collaboration with the NUS Law Club for female undergraduates
- As Head (Intellectual Property) at the EW Barker Centre for Law & Business, initiated co-branded Annual Developments in IP Law series with IPOPOS and regular IP law & technology seminars for the legal profession
- As Deputy Director at the Centre for Technology, Robotics, Artificial Intelligence & the Law, organised the launch of the centre in 2019 with a global conference in association with the Asian Privacy Scholars Network, edited a special symposium issue of the conference published in the *Singapore Journal of Legal Studies*
- As Director of Communications, revamped all marketing materials (e.g. LLB and LLM brochures) including the alumni magazine *LawLink*; implemented cohesive marketing strategies for all the coursework programmes
- Pioneered courses, each with endowed prizes, in Entertainment Law, Freedom of Speech, and Privacy & Data Protection Law

### Singapore Administrative Service

- Developed policies for Singapore government to facilitate the growth of a sporting culture in Singapore and for the sustainable development of competitive and recreational sports in Singapore
- Launched global invitation for PPP (public-private partnership) tender for construction of S\$1.3 billion sports hub in Singapore which eventually bagged 9 financial awards, including the prestigious Global Deal of the Year 2010 handed out by Project Finance/Euromoney – the launch included a roadshow to New York, London, Hong Kong and Sydney to meet with potential consortia

- Produced and co-wrote lyrics for Singapore's first sports anthem *Live Our Dreams* for Team Singapore with French composer Thomas Schönberg and Australian lyricist Robert Vicencio
- Led policy reviews in international talent attraction, and identifying key leverage points to promote Singapore as a global talent destination; this included the launch of the Honorary Citizen in 2003 and EntrePass (with EDB)
- Managed the Contact Singapore international network of offices in Boston, Chicago, San Francisco, London, Shanghai, Hong Kong, Chennai, Sydney and Singapore (over 80 staff)
- Conceptualised and launched a successful testimonial print ad campaign "Singapore. Your World of Possibilities" in selected US, Europe and China catchments; advertisement campaign received positive editorial coverage in *Wall Street Journal – US, Europe & Asia*, and on the front page of *The Straits Times* (2 Jan 2003)
- Served as Member of Board of Directors of Wildlife Reserves Singapore overseeing the Zoo, Night Safari and Bird Park; revamped the tourist attractions and established synergistic programmes linking the three attractions

### **Development Bank of Singapore (DBS)**

- Initiated the *DBS Theatre Fantasy* – a triple bill of world-class productions – an annual arts festival to build corporate brand equity featuring award-winning drama, dance and musical performances presented by DBS in association with IMG
- Led the negotiations that successfully resulted in a funding endowment to establish the *DBS Arts Centre – Home of the Singapore Repertory Theatre* in 2001

### **Selected Appointments**

2022 – present	Co-Director, Centre for Technology, Robotics, Artificial Intelligence & the Law, NUS Law Member, College Advisory Committee, Temasek Junior College Consultant, National Arts Council (Singapore)
2019 – present	Head (Intellectual Property), EW Barker Centre for Law & Business, NUS Law
2015 – present	Member/Advisor, Publications Committee, Law Society of Singapore Member, International Advisory Board, <i>Persona Studies</i> , Australia Member, Advisory Board, <i>Max Planck Encyclopedia of Comparative Constitutional Law</i> International Contributing Editor, <i>Media &amp; Arts Law Review</i> , Australia
2015 – June 2021	Vice Dean (Academic Affairs), NUS Law Dean's Chair (Associate Professor) (July 2016-July 2018) Chair, Faculty Curriculum Committee, NUS Law Chair, Faculty Teaching Excellence Committee, NUS Law
2014 – present	Senior Fellow, Faculty of Law, University of Melbourne
2013 – present	Member, Faculty Search Committee, NUS Law
2012 – 2019	Member, Institutional Review Board, Singapore Sports Institute
2012 – 2014	Member, Inquiry Panel, Law Society of Singapore Associate Member, Media Literacy Council, Singapore

### **Academic Achievements**

#### **University of Melbourne, Australia, 2010**

PhD (Law)

#### **Harvard Law School, USA, 1999**

LLM (Master of Laws)

- Awarded the Lee Kuan Yew Scholarship

#### **University of Melbourne, Australia, 1995**

LLB (Bachelor of Laws) – First Class Honours; BCom (Bachelor of Commerce)

- Awarded the RJ Hamer and Corrs Chambers Westgarth Prizes in Constitutional & Administrative Law, Price Waterhouse Prize in Contracts, and Rayne Dickson Memorial Exhibition Prize in Health & Medical Law

## Employment History

- Dec 2008 – present **National University of Singapore, Faculty of Law**  
Joined NUS Law as an Assistant Professor in December 2008. Promoted to Associate Professor with tenure on 1 July 2012. Promoted to Professor on 1 July 2018. Appointed Vice Dean (Academic Affairs) in charge of teaching and LLB & LLM curriculum planning 2015-2021.
- Feb 2006 – Dec 2008 **Trinity College, University of Melbourne, Australia**  
As Director of Commerce Studies & Resident Tutor in Law, had oversight of the tutorial programme in the Bachelor of Commerce degree; tutored in tort law and constitutional law.
- Sep 2004 – Feb 2006 **Sports Division, Ministry of Community Development, Youth & Sports**  
As Director, managed the Sports Division of the Ministry which is responsible for developing a sporting culture and a sporting industry in Singapore. Responsibilities include: (a) overseeing the launch of the ITT for the Sports Hub (a new S\$1.3 billion leisure infrastructure development comprising a 55,000-seater stadium, indoor arena and an aquatic leisure centre); (b) overseeing the development of the Sports School, Sports Institute and programs to support the growth of sports.
- Dec 2001 – Aug 2004 **International Talent Division, Ministry of Manpower**  
As Divisional Director, headed a division of over 70 employees in a global Contact Singapore network in 9 cities that is responsible for augmenting Singapore’s manpower resources through facilitating the mobility of international talent so as to build up a globally competitive workforce. Responsibilities include overseeing efforts to: (a) brand & market Singapore internationally as a dynamic and attractive destination to work, study and live; (b) assist employers to recruit global talent and facilitating their relocation to Singapore; (c) engage overseas Singaporeans in value-creating relationships; (d) conduct reviews of competitor ‘war for talent’ strategies & refine existing policies to meet these challenges.
- Jan 1996 – Nov 2001 **Development Bank of Singapore (DBS)**  
First started work at DBS as an officer in the international banking department working on project financing deals. Moved on to corporate communications and change management work (with the McKinsey team). In my change management work, I conducted workshops for senior management in Singapore, Hong Kong and Thailand, and launched a highly successful staff magazine *BUZZ*. I also advised the CEO directly on internal communications matters and had direct responsibility for the strategies relating to corporate community investments (reinventing the donation/sponsorship paradigm).
- Dec 1994 – Feb 1995 **McKinsey & Company, Melbourne**  
I was the first undergraduate hired by the McKinsey Melbourne Office as a Summer Business Analyst working alongside MBA candidates on various client projects. I was offered a full-time position at the end of the internship but I declined and returned to Singapore.

## Selected Research Grants – Law

“Access to Copyright Justice: Dispute Resolution & Creativity” - \$75,915 (EW Barker Centre for Law & Business)

This book will develop new thinking on ways to resolve copyright disputes that are cost-effective, efficient, culturally sensitive, and fair – and bring this thinking to a wider international audience. Access to copyright justice issues will become even more acute as dissemination of culture increasingly occurs in digital contexts. This is not just an issue for individual authors, cultural organisations and SMEs. Established firms also seek out cost-effective ways of resolving disputes, including through various forms of alternative dispute resolution, including arbitration. These issues are amplified in the international trade context, in which many nations recognise the urgent need to develop “weightless” exports that supplement their traditional reliance on tangible commodity markets. A key part of the project will be to examine these different initiatives for the lessons they offer in the access to copyright justice context. Co-edited with Professor Graeme Austin (Melbourne/VU Wellington). The project has been delayed due to the COVID-19 pandemic.

“Fashioning Intellectual Property Law” - \$74,229 (EW Barker Centre for Law & Business)

Fashion is a multi-billion-dollar commercial industry as well as part of our artistic and cultural heritage. Its interaction with the law merits further exploration in an interdisciplinary style that draws from studies on the practices of production, dissemination and consumption of fashion. This book presents a meticulously curated collection of how contemporary fashion interacts with intellectual property laws such as copyright, trademarks, patents, design, and passing off; it also presents a selection of interdisciplinary approaches and doctrinal analyses. This edited volume, likely to be published by Oxford University Press, brings together some of the best-known scholars in the field of intellectual property from the United States, UK, Europe, Australia and Asia. Co-edited with Professor Jeanne Fromer (NYU) and Professor Megan Richardson (Melbourne). The project has been delayed due to the COVID-19 pandemic.

## Selected Publications – Law

David Tan has published almost 100 articles, comments, book chapters and review essays – including a monograph – since joining NUS Law in 2008.

### I. MONOGRAPH

*The Commercial Appropriation of Fame: A Cultural Analysis of the Right of Publicity and Passing Off* (Cambridge University Press) (Hardcover 2017; Paperback 2018)

### II. ARTICLES

#### **Intellectual Property/Entertainment Law – Copyright, Trademarks and Personality Rights**

‘AI, Author, Amanuensis’

(2022) 5(2) *Journal of Intellectual Property Studies* 1 (33pp) (co-author Tan Wee Liang)

‘Copying Right in Copyright Law:

Fair Use, Computational Data Analysis and the Personal Data Protection Act’

(2021) 33 *Singapore Academy of Law Journal* 1032 (51pp) (co-author Thomas Lee Chee Seng)

‘Intellectual Property Law’

(2020) 21 *Singapore Academy of Law Annual Review of Singapore Cases* 634 (26pp) (co-author Susanna Leong)

‘Digital Memes, Fair Use, and the First Amendment’

(2021) 24(9) *Journal of Internet Law* 1 (9pp)

‘Copyright Fair Use and the Digital Carnavalesque:

Towards a New Lexicon of Transformative Internet Memes’

(2021) 31 *Fordham Intellectual Property, Media & Entertainment Law Journal* 864 (62pp)

(co-author Angus Wilson)

‘All the World’s a Stage, but what is a Dramatic Work?’

[2020] *Singapore Journal of Legal Studies* 702 (24pp) (co-author Samuel Lim)

‘Intellectual Property Law’

(2019) 20 *Singapore Academy of Law Annual Review of Singapore Cases* 541 (26pp) (co-author Susanna Leong)

‘De(Re)constructing Narratives in Intellectual Property Law:

Transformative Play, Culture Jamming, and Poststructural Disruptions’

(2020) 32 *Law and Literature* 75 (32pp)

‘Intellectual Property Law’

(2018) 19 *Singapore Academy of Law Annual Review of Singapore Cases* 586 (59pp) (co-author Susanna Leong)

‘Intellectual Property Law’

(2017) 18 *Singapore Academy of Law Annual Review of Singapore Cases* 538 (51pp) (co-author Stanley Lai)

‘Semiotics and the Spectacle of Transformation in Copyright Law’

(2017) 30(4) *International Journal for the Semiotics of Law (Revue internationale de Sémiotique juridique)* 593 (31pp)

‘Intellectual Property Law’

(2016) 17 *Singapore Academy of Law Annual Review of Singapore Cases* 504 (61pp) (co-author Stanley Lai)

‘The Lost Language of the First Amendment in Copyright Fair Use:

A Semiotic Perspective of the “Transformative Use” Doctrine ‘Twenty-Five Years On’

(2016) 26 *Fordham Intellectual Property, Media & Entertainment Law Journal* 311 (69pp)

‘The Unbearable Lightness of Fair Dealing: Towards an Autochthonous Approach in Singapore’

(2016) 28 *Singapore Academy of Law Journal* 124 (co-author Benjamin Foo) (48pp)

- ‘The Extraneous Factors Rule in Trademark Infringement: Avoiding Confusion or Simply Confusing?’  
[2016] *Singapore Journal of Legal Studies* 118 (co-author Benjamin Foo) (31pp)
- ‘Copyright Subsistence in Contemporary Times: A Dead Shark, an Unmade Bed and Bright Lights in an Empty Room’  
[2013] *Singapore Journal of Legal Studies* 402 (co-author Chan Yong Neng) (26pp)
- ‘The Semiotics of Alpha Brands:  
Encoding/Decoding/Recoding/Transcoding of Louis Vuitton and Implications for Trademark Laws’  
(2013) 32 *Cardozo Arts & Entertainment Law Journal* 221 (32pp)
- ‘Aesthetic Functionality Back In Vogue: Clash of the Fashion Titans’  
(2013) 18 *Media & Arts Law Review* 164 (13pp)
- ‘Copyright in Compilations: Embarking on a Renewed Quest for the Human Author and the Creative Spark’  
(2013) 18 *Media & Arts Law Review* 151 (13pp)
- ‘Going Gaga: Intellectual Property and Pop Culture’  
(2012) 4 *WIPO Journal* 63 (10pp)
- ‘The Transformative Use Doctrine and Fair Dealing in Singapore:  
Understanding the “Purpose and Character” of Appropriation Art’  
(2012) 24 *Singapore Academy of Law Journal* 832 (35pp)
- “‘Goo Goo GaGa’: The Chilling Effect of the Trade Mark Monster’  
(2012) 17 *Media & Arts Law Review* 82 (15pp)
- ‘What Do Judges Know About Contemporary Art?:  
Richard Prince and Reimagining the Fair Use Test in Copyright Law’  
(2011) 16 *Media & Arts Law Review* 381 (18pp)
- ‘Political Recoding of the Contemporary Celebrity and the First Amendment’  
(2011) 2 *Harvard Journal of Sports & Entertainment Law* 1 (52pp)
- ‘Much Ado About Evocation: A Cultural Analysis of Well-Knownness and the Right of Publicity’  
(2010) 28 *Cardozo Arts & Entertainment Law Journal* 317 (41pp)
- ‘Affective Transfer & the Appropriation of Commercial Value: A Cultural Analysis of the Right of Publicity’  
(2010) 9 *Virginia Sports & Entertainment Law Journal* 272 (40pp)
- ‘The Fame Monster Reloaded: The Contemporary Celebrity, Cultural Studies and Passing Off’  
(2010) 32 *Sydney Law Review* 291 (20pp)
- ‘The Art of Retelling: Harry Potter and Copyright in a Fan-Literature Era’  
(2009) 14 *Media & Arts Law Review* 31 (co-author Prof Megan Richardson) (15pp)
- ‘*Wood v Duff-Gordon* and the Modernist Cult of Personality’  
(2008) 28 *Pace Law Review* 379 (co-author Prof Megan Richardson) (15pp)
- ‘Beyond Trademark Law: What the Right of Publicity Can Learn from Cultural Studies’  
(2008) 25 *Cardozo Arts & Entertainment Law Journal* 913 (82pp)
- ‘Seeing Red over Stravinsky’s *Firebird*’  
(1996) 7 *Australian Intellectual Property Journal* 63 (13pp)

#### **International Law/International Relations**

- ‘Towards a New Regime for the Protection of Outer Space as the Province of All Mankind’  
(2000) 25 *Yale Journal of International Law* 145 (50pp)

## **Torts/Equity**

- 'Instrumentality and the Scope of the Unlawful Means Tort'  
(2022) 34 *Singapore Academy of Law Journal* (forthcoming) (co-author Joshua Phang Shih Ern) (32pp)
- "Internalising Externalities": An Enterprise Risk Approach to Vicarious Liability in the 21st Century'  
(2015) 27 *Singapore Academy of Law Journal* 822 (31pp)
- 'Debunking a Myth: A Rejection of the "Assumption of Responsibility" Test for Duty of Care'  
(2014) 22 *Torts Law Journal* 183 (14pp)
- 'The Promise of Universality: The *Spandeck* Formulation Half A Decade On'  
(2013) 25 *Singapore Academy of Law Journal* 510 (co-author Goh Yihan) (38pp)
- 'The Phoenix Rises: Resurrecting Occupiers' Liability within the Negligence Framework'  
(2013) 21 *Torts Law Journal* 59 (13pp)
- 'For Judges Rush In Where Angels Fear To Tread:  
"Insofar as it is Fair, Just and Reasonable" to Impose Vicarious Liability'  
(2013) 21 *Torts Law Journal* 43 (16pp)
- 'The Salient Features of Proximity: Examining the *Spandeck* Formulation for Establishing a Duty of Care'  
[2010] *Singapore Journal of Legal Studies* 459 (25pp)
- 'Sexual Misconduct by Doctors and the Intervention of Equity'  
(1997) 4 *Journal of Law and Medicine* 243 (16pp)
- 'The Fiduciary as an Accordion Term: Can the Crown Play a Different Tune?'  
(1995) 69 *Australian Law Journal* 440 (15pp)

## **Freedom of Speech**

- 'Free Speech, Fake News and Finding Constitutional Congruence'  
(2020) 32 *Singapore Academy of Law Journal* 207 (42pp) (co-author Jessica Teng Sijie)
- 'Revisiting the *Reynolds* Recipe for Media Freedom: *Flood v Times Newspaper Ltd*  
(2012) 17 *Media & Arts Law Review* 243 (13pp)
- 'The *Reynolds* Privilege in a Neo-Confucianist Communitarian Democracy:  
Reinvigorating Freedom of Political Communication in Singapore'  
[2011] *Singapore Journal of Legal Studies* 456 (30pp)
- 'A "Real Risk" of Undermining Public Confidence in the Administration of Justice'  
(2011) 16 *Media & Arts Law Review* 191 (13pp)
- 'Defaming a Political Leader is a Serious Matter in Singapore'  
(2011) 16 *Media & Arts Law Review* 39 (12pp)

## **Constitutional Law**

- 'Walking the Tightrope Between Legality and Legitimacy: Taking Rights Balancing Seriously'  
(2017) 29 *Singapore Academy of Law Journal* 743 (31pp)
- 'Death of Judicial Independence: Putting the Japanese Bureaucracy on Trial'  
(1996) 70 *Australian Law Journal* 125 (17pp)
- 'Judicial Independence in the People's Republic of China: Myth or Reality?'  
(1994) 68 *Australian Law Journal* 660 (10pp)

## Corporations Law

'Delivering Judgment on a Statutory Business Judgment Rule in Australia'  
(1995) 5 *Australian Journal of Corporate Law* 442 (13pp)

## III. EDITED BOOK

*Legal Frontiers: Volume III - Civil Justice, Restructuring and Insolvency, and Intellectual Property Rights* (Academy Publishing)  
(forthcoming AY2022-23) (co-editor Sharon Loh)

## IV. SHORT ARTICLES/ CASE COMMENTS

### Intellectual Property/Entertainment Law – Copyright, Trademarks and Personality Rights

'Data Analytics in Fintech and the New Copyright Act'  
[2022] *SAL Practitioner* 4 (9pp)

'We Don't Need Permission to Dance': Key Features of the New Copyright Act 2021'  
(2021) *Singapore Law Gazette* (December issue) (online)

'Designing a New Future-Ready Copyright Regime in Singapore: Quick Wins and Missed Opportunities'  
(2021) 70(12) *GRUR International (Journal of European and International IP Law)* 1131 (2pp)

'Mad About Memes, but is it Fair Use in Singapore?'  
(2021) *Singapore Law Gazette* (June issue) (online)

'Intellectual Creation in Compilations: No Sweat Required'  
(2018) 40 *European Intellectual Property Review* 338 (5pp)

'The Celebrity Halo Effect and Passing Off'  
(2017) *Singapore Law Gazette* 15 (July issue) (7pp)

'Navigating the Nebulous "Transformative Use" Doctrine: Key Learning Points for Australia'  
(2014) 27 *Australian Intellectual Property Law Bulletin* 214 (5pp)

'Differentiating between Brand and Trade Mark: *City Chain v. Louis Vuitton Malletier*' [2010] *Singapore Journal of Legal Studies* 202 (9pp)

'Recent Developments in Singapore: Time's Up for Louis Vuitton'  
(2010) 15 *Media & Arts Law Review* 258 (6pp)

### Freedom of Speech

'"O Say Can You See ...": The Court of Appeal Sings a Different Tune with the First Amendment'  
[2022] *Singapore Journal of Legal Studies Law* 155 (11pp)

'Online Speech and the Law – Do You Say What You Mean or Mean What You Say?'  
(2020) *Singapore Law Gazette* (June issue) (online)

'Any Risk Will Do – The New Law on Scandalising Contempt in Singapore'  
(2016) *Singapore Law Gazette* 29 (September issue) (5pp)

'The *Reynolds* Privilege Revitalised'  
(2013) 129 *Law Quarterly Review* 27 (4pp)

### Torts

'A Modern Approach to Breach of Confidence based on an Obligation of Confidence'  
(2020) 136 *Law Quarterly Review* 548 (6pp) (co-author Benjamin Wong)

‘The End of the Search for a Universal Touchstone for Duty of Care?’  
(2019) 135 *Law Quarterly Review* 200 (6pp)

‘Taking Two Bites at the Cherry: Vicarious Liability and Non-Delegable Duty’  
(2018) 134 *Law Quarterly Review* 193 (6pp)

‘A Sufficiently Close Relationship Akin to Employment’  
(2013) 129 *Law Quarterly Review* 30 (5pp)

#### **Others (Legal Education)**

‘Transnationalism, Technology and Tradition: What We Are (And Should Be) Teaching’  
(2020) *Singapore Law Gazette* (July issue – online)

#### **V. COMMENTARIES**

‘Privacy, Confidence & Data Protection in the 21<sup>st</sup> Century’  
[2021] *Singapore Journal of Legal Studies* 1 (5pp)  
(as editor of the 8<sup>th</sup> Asian Privacy Scholars Network Conference special issue)

#### **VI. BOOK CHAPTERS**

##### **Intellectual Property/Entertainment Law – Copyright, Trademarks and Personality Rights**

‘Logo Hacking, Downmarket Irony, and Counterfeit Chic: A Study of Contemporary Fashion Trends and Their Implications for Trademark Law’ in Barton Beebe and Sun Haochen (eds), *Charting Limitations on Trademark Rights* (Oxford University Press, 2022) (forthcoming AY2021-22)

‘Intellectual Property Law and Technology’ in Andrew Phang, Simon Chesterman and Goh Yi-han (eds), *Law and Technology in Singapore* (Academy Publishing, 2021) 399 (26pp) (co-author Ng-Loy Wee Loon)

‘Intellectual Property and Semiotics: The Signs of the Times’ in Irene Calboli and Maria Lilla Montagnani (eds), *Handbook on Intellectual Property Law Research: Lenses, Methods, and Approaches* (Oxford University Press, 2021) 373 (15pp)

‘Parody, Satire, Caricature and Pastiche: Fair Dealing is No Laughing Matter’, in Shyamkrishna Balganes, Ng-Loy Wee Loon, and Haochen Sun (eds), *The Cambridge Handbook of Copyright Limitations and Exceptions* (Cambridge University Press, 2021) 324 (19pp)

‘Commercial Exploitation of the Human Persona in the United States: Who Needs Trademarks When You Have the Right of Publicity’ in Jane Ginsburg and Irene Calboli (eds), *The Cambridge Handbook of International and Comparative Trademark Law* (Cambridge University Press, 2020) 353 (12pp)

‘Taking the Mickey out of Disney: A Cultural Approach to the Transformative Use Doctrine in Copyright Law’ in Rochelle Cooper Dreyfuss and Elizabeth Ng Siew Kuan (eds), *Framing Intellectual Property Law in the 21<sup>st</sup> Century: Integrating Incentives, Trade, Development, Culture and Human Rights* (Cambridge University Press, 2018) 171 (39pp)

‘Image Rights and Data Protection’, in Simon Chesterman (ed), *Data Protection Law in Singapore: Privacy and Sovereignty in an Interconnected World* (2<sup>nd</sup> ed, Academy Publishing, 2018) 240 (29pp)

‘Fair Use and Transformative Play in the Digital Age’ in Megan Richardson (ed), *Research Handbook on Intellectual Property in Media and Entertainment* (Edward Elgar, 2017) 102 (30pp)

‘The Transformative Potential of Countercultural Recoding in Copyright Law: A Study of Superheroes and Fair Use’ in Irene Calboli and Srividhya Ragavan (eds), *Diversity in Intellectual Property: Identities, Interests and Intersections* (Cambridge University Press, 2015) 403 (23pp)

‘Transcoding and Transformation: A Cultural Studies Approach to Copyright Fair Use Doctrine’ in Graeme Dinwoodie (ed), *Methods and Perspectives in Intellectual Property* (Edward Elgar, 2013) 213 (29pp)



'Harry Potter and the Transformation Wand: Fair Use, Canonicity and Fan Activity' in Dan Hunter, Ramon Lobato, Megan Richardson and Julian Thomas (eds), *Amateur Media: Social, Cultural and Legal Perspectives* (Routledge, 2012) 94 (9pp)

'Legal and Cultural Approaches to the Protection of the Contemporary Celebrity Brand in the Asia Pacific Region' in Andrew Kenyon, Megan Richardson and Ng-Loy Wee Loon (eds), *The Law of Reputation and Brands in the Asia Pacific Region* (Cambridge University Press, 2012) 45 (19pp)

'The Unbearable Whiteness of Beckham: Political Recoding of Celebrity Signs in First Amendment Jurisprudence' in Vijay K Bhatia, Christoph Hafner, Lindsay Miller and Anne Wagner (eds), *Transparency, Power & Control: Perspectives on Legal Communication* (Ashgate, 2012) 217 (26pp)

### **Constitutional Law and Freedom of Speech**

'Whither the Autochthonous Narrative of Freedom of Speech in Singapore?: A Guide to Defaming Politicians and Scandalising Judges in Singapore' in Jaclyn Neo (ed), *Constitutional Interpretation in Singapore: Theory and Practice* (Routledge, 2016) 210 (44pp)

### **Torts**

'Enterprise Risk and Vicarious Liability in Singapore' in Paula Giliker (ed), *Vicarious Liability in the Common Law World* (Hart, 2022) (forthcoming AY2021-22)

### **International Law/International Relations**

'Towards a New Regime for the Protection of Outer Space as the Province of All Mankind' in Charlotte Ku and Paul F Diehl (eds) *International Law: Classic and Contemporary Readings* (3<sup>rd</sup> ed, Lynne Rienner, 2009) 421 (36pp) ((2000) 25 *Yale Journal of International Law* 145 republished)

## **VII. TREATISE**

### **Intellectual Property/Entertainment Law – Personality Rights**

'Legal Sources Defining the Rights of Publicity and Privacy – Foreign Law – Australia' in J Thomas McCarthy, *The Rights of Publicity and Privacy* (2<sup>nd</sup> ed, West Group, 2000) (2008 & 2010 updates) §§ 6:157-6:159 (19pp)

## **VIII. BOOK REVIEWS**

'Book Review – Data Protection Law in Singapore' [2014] *Singapore Journal of Legal Studies* 258 (5pp)

'Book Review – The Law of Private Nuisance' [2014] *Singapore Journal of Legal Studies* 256 (3pp)

'Book Review – *Creativity and Its Discontents: China's Creative Industries and Intellectual Property Rights Offenses*' (2014) 24 *Asian Journal of Communication* 101 (4pp)

'Book Review – *The Evolution of International Human Rights: Visions Seen*' (1999) 12 *Harvard Human Rights Journal* 393 (5pp)

## **IX. OPINION EDITORIALS**

'Fashion forays in the metaverse', *The Straits Times*, 19 September 2022, B6

'AI as artist: Applause, yes – but sorry, no copyright', *The Straits Times*, 9 September 2022, B3

'Celebrity endorsements: The prize and price of fame', *The Straits Times*, 3 September 2022, B9

'Copyright reform and what it means for your wedding photos', *The Straits Times*, 17 September 2021, A20

'Schooling's fame now comes at a price – for advertisers', *The Sunday Times*, 8 April 2018, B10

‘Copyright Fair Use: Are We “Future-Ready”?’ *The Straits Times*, 14 September 2016, A21

‘When Copying is not Infringing’, *The Straits Times*, 12 October 2013, A42

‘Safeguarding Free Speech and Confidence in Judiciary’, *The Straits Times*, 4 May 2013, A40

‘The 10 Cyberspace Commandments’, *The Straits Times*, 30 March 2013, A30

## Selected Lectures

‘Marks, Works and Personae: De(Re)Constructing Narratives in Intellectual Property Law’, Inaugural Professorial Lecture, at NUS Law, Singapore, 16 October 2019

(<https://www.youtube.com/watch?v=x6n-Qvr1Q9I&feature=youtu.be>)

‘Cultural (Re)Codings: Copyright, Trademarks and the Right of Publicity’, keynote lecture at the IP & Media Law Conference, University of Melbourne, 5-6 April 2018 (jointly organised by the Intellectual Property Research Institute of Australia (IPRIA) and the Centre for Media & Communications Law (CMCL))

‘The Right of Publicity: Evocative Identification, Commercial Appropriation and Freedom of Expression’, an invitational lecture by Faculty of Law, at University of Hong Kong, Hong Kong, 24 March 2011

‘Andy Lau, Crocodile Dundee and Eddie Irvine: Understanding the Semiotics of Passing Off’, an invitational lecture by the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 23 March 2011

‘The Business of Luxury Brands and Trademark Protection’, an invitational lecture by the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 20 September 2010

## Selected Paper Presentations

‘Navigating Trademarks and NFTs in the Metaverse: Recent Developments in United States’ a paper presented at the 2nd International Cyberspace Governance Forum, 10 June 2022 (via Zoom) (organised by Beihang University School of Law and Beijing Normal University's School of Journalism and Communication)

‘International Intellectual Property Law: Converging Towards Divergence’, a paper presented at the 2019 CIBEL Global Network Conference *Technological Change and the Future of International Economic Legal Order: China and Beyond at Galleries at John Niland Scientia Building, University of New South Wales, Sydney, Australia, 1 May 2019* (organised by Herbert Smith Freehills China International Business and Economic Law (CIBEL) Centre)

‘Playing with Fashion Brands: Is there a Limit to Humour?’ a paper presented at the *Limitations on Trademark Rights from Comparative & Interdisciplinary Perspectives* conference at Hong Kong University, Hong Kong, 7-8 January 2019 (jointly organised by Law & Technology Centre (HKU) and Engelberg Center on Innovation Law & Policy (NYU))

‘The Autochthonous Narrative of Scandalising Contempt in Singapore: A Tale of the Paranoid Nanny or Pragmatic Daddy?’ a paper presented at the 5th NUS-Sydney Law School Symposium, at Sydney Law School, Sydney, 28-29 September 2018 (jointly organised by NUS Law and Sydney Law School)

‘A Semiotics Perspective of Copyright Fair Dealing/Fair Use and Trademark Infringement/Dilution’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 21 September 2018

‘Semiotics and the Spectacle of Transformation in Copyright Law’, a paper presented at *Spectacular Law, Law, Literature and the Humanities Association of Australasia (LLHAA) Conference*, at University of Hong Kong, 8-11 December 2016

‘Parody, Satire, Caricature and Pastiche: Fair Dealing is No Laughing Matter’, a paper presented at the Comparative Dimensions of Exceptions and Limitations in Copyright Law symposium at Faculty of Law, NUS, 21-22 July 2016 (jointly organised by NUS Law, University of Pennsylvania Law School, HKU Law School)

‘The Lost Language of the First Amendment in Copyright Fair Use: Leval’s “Transformative Use” Doctrine Twenty-Five Years On’, a paper presented at the HKU-NUS-SMU symposium at Faculty of Law, University of Hong Kong, 22-23 February 2016

‘The Unbearable Lightness of Fair Dealing: Towards an Autochthonous Approach in Singapore’, an invited paper presented at IPScholars Asia conference at School of Law, Singapore Management University, 28-29 January 2016

‘Transformative Play in the Digital Age’, an invited paper presented at Intellectual Property in Media and Entertainment Roundtable at School of Law, Singapore Management University, 20 January 2016 (jointly organised by NUS Centre for Law and Business and SMU Applied Research Centre for Intellectual Assets and the Law in Asia)

‘Whither the Autochthonous Narrative of Freedom of Speech in Singapore? : A Guide to Defaming Politicians and Scandalising Judges in Singapore’, a paper presented at the conference on *Judging the Constitution: The Theory and Practice of Constitutional Interpretation in Singapore* at the invitation of the Centre for Asian Legal Studies, NUS Law School, 28-29 May 2015

‘Transformation in Copyright Law – The Infringer’s Magic Wand?’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 24 October 2014 (co-organised with NUS Centre for Law & Business)

‘Taking the Mickey out of Disney: A Critical Evaluation of the Transformative Use Doctrine’, a paper presented at the 3rd NUS-Sydney Law School Symposium, at Sydney Law School, Sydney, 25-26 September 2014

‘Taking the Mickey out of Disney: A Critical Evaluation of the Transformative Use Doctrine’, a paper presented at Conference on Framing Intellectual Property Law in the 21st Century – Integrating Incentives, Trade, Development, Culture and Human Rights, at the invitation of NUS Law School and NYU Engelberg Center, Singapore, 15 August 2014

‘Copyright Subsistence in Contemporary Times: A Dead Shark, an Unmade Bed and Bright Lights in an Empty Room’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 3 April 2014

‘Aesthetic Functionality Back In Vogue: *Christian Louboutin v Yves Saint Laurent*’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, University of Hong Kong (co-organised by Deacons and Centre for Law & Business, NUS Law School) at Alexandra House, Hong Kong, 24 September 2013

‘Lady Gaga and Pop Culture: Rethinking Personality Rights and Trademarks’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 10 October 2012

‘A Cultural Studies Approach to Copyright Fair Use Doctrine: Transcoding and Transformation’, a paper presented at the invitation of ATRIP, at the ATRIP Congress 2012 organised by the International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), at the IIT Chicago-Kent Law School, 29 July-1 August 2012

‘The Semiotics of Louis Vuitton: Encoding/Decoding/Recoding/Transcoding and Implications for Trademark Laws’, an invited paper presented at the *Charting the New Frontiers of Intellectual Property Protection of Luxury Goods* conference, organised by the HKU Law & Technology Centre, at University of Hong Kong, Hong Kong, 15-16 June 2012

‘The *Reynolds* Privilege in a Representative Democracy: A Case for Transnational Convergence’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 28 March 2012

‘Andy Warhol, Richard Prince and the Dilemma of Contemporary Art: Making (Non)Sense of Fair Use in Copyright Law’, a paper presented at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 19 September 2011

‘Recoding of Popular Iconography in the 21<sup>st</sup> Century and its Implications for Rights Owners’, a paper presented at the Third Annual Conference on Innovation and Communications Law, at Melbourne Business School, Australia, 29-31 May 2011

‘Copyright, Trademarks and Publicity Rights: A Countercultural Dilemma’, at The Academic and Practitioners’ Law Conference Addressing Current Issues Affecting International Business Activity, organised by the Vanderbilt Law School, at Peninsula Beijing, People’s Republic of China, 20-21 May 2011

‘From “Public Figure” to “Protected Figure”’: The Curious Case of the Singaporean Politician’, a paper presented at the Annual Conference of the CMCL-Centre for Media & Communications Law, at Melbourne Law School, Australia, 25-26 November 2010

‘The Unbearable Whiteness of Beckham: Political Recoding of Celebrity Signs in First Amendment Jurisprudence’, a paper presented at the 2nd NUS-Sydney Law School Symposium – *Negotiating Dichotomies: Public/Private, Present/Future, Rights/Responsibilities* – at NUS Law School, Singapore, 15-16 July 2010

‘The Unbearable Whiteness of Beckham: Political Recoding of Celebrity Signs in First Amendment Jurisprudence’, a paper presented at the 8th International Roundtable for the Semiotics of Law, at City University of Hong Kong, Hong Kong, 1-4 December 2009

‘Fame Reloaded: The Contemporary Celebrity, Cultural Studies and Passing Off’, a paper presented at the Inaugural NUS-Sydney Law School Symposium – *Rights, Regulation and Responsibilities: Australian and Singaporean Perspectives* – at Sydney Law School, Australia, 30-31 July 2009

‘Copyright in a Fan-Literature Era: From *Sherlock Holmes* to *Ulysses* to *Harry Potter*’, a paper presented at the Conference of the CMCL-Centre for Media & Communications Law, at Melbourne Law School, Australia, 20-21 November 2008 (jointly with Professor Megan Richardson)

‘Rethinking Harm: Copyright in a Fan-Literature Era’, a paper presented at the Obligations IV Conference, at NUS Law School, Singapore, 23-25 July 2008 (jointly with Professor Megan Richardson)

‘*Wood v Duff-Gordon* and the Modernist Cult of Personality’, a paper presented at The Enduring Legacy of *Wood v Lucy, Lady Duff-Gordon* Symposium, at Pace University School of Law, New York, 8-9 November 2007 (jointly with Professor Megan Richardson)

## Selected Seminars on Legal Education

‘Raising Your Global Profile’, at 2020 Americas Regional Law Deans’ Forum, Florida International University College of Law, Florida, 15 February 2020

‘Raising the Bar: Legal Education in the 21<sup>st</sup> Century’, at International Malaysia Law Conference, Kuala Lumpur, Malaysia, 16 August 2018

## Selected Seminars

‘Intellectual Property Rights and the Metaverse: A Global Survey’ at *Understanding the Metaverse: Law, Policy & Practice* organised by Centre for Technology, Robotics, Artificial Intelligence & the Law (TRAIL) and co-presented by Meta and Rajah & Tann, Singapore, 20 September 2022 (with Professor Lee Jyh-An, CUHK) - <https://news.nus.edu.sg/nus-law-understanding-the-metaverse-conference/>

‘Copyright Fair Use and the Digital Carnavalesque’ at SLATE I (Seminars on LAW and TEchnology), organised by Centre for Technology, Robotics, Artificial Intelligence & the Law (TRAIL), Singapore, 23 April 2021

‘Developments in Trademark Law in the United States’, at *8th Developments in IP Law Series*, organised by IPOS International and EW Barker Centre for Law & Business, Singapore (online), 18 February 2021

‘Freedom of Expression Online’ at *Human Rights in Cyberspace: Emerging Challenges*, organised by European Delegation to Singapore, Singapore (online), 20 January 2021

‘Developments in Copyright Law in Singapore and the United States’, at *8th Developments in IP Law Series*, organised by IPOS International and EW Barker Centre for Law & Business, Singapore (online), 21 January 2021

‘Fair Use, Technological Change & the Internet in the 21<sup>st</sup> Century’, organised by IPOS and EW Barker Centre for Law & Business, Singapore, 17 July 2020

‘Developments in Trademark Law in the United States’, at *7th Developments in IP Law Series*, organised by IPOS International and EW Barker Centre for Law & Business, Singapore, 4 February 2020

‘Developments in Copyright Law in Singapore and the United States’, at *7th Developments in IP Law Series*, organised by IPOS International and EW Barker Centre for Law & Business, Singapore, 14 January 2020

‘A Review of Copyright Decisions in the United States: From Air Jordan to Blurred Lines’, at the invitation of the Law & Technology Centre, Faculty of Law, at University of Hong Kong, Hong Kong, 2 April 2019

‘Economic Pragmatism: An Instrumentalist Approach to the Rule of Law in Singapore’, at Tsinghua World Forum on the Rule of Law, organised by Tsinghua University, Beijing, People’s Republic of China, 9 September 2018

‘Developments in Copyright Law in Singapore and the United States’, at *5th Developments in IP Law Series*, organised by IP Academy, Singapore, 6 February 2018

Panel Chair, Indigenising Administrative Law in Common Law Systems Conference, organised by Centre for Asian Legal Studies, NUS Law, Singapore, 7-8 December 2017

Invited Panel Chair, 6th Asian Privacy Scholars Network International Conference, organised by Faculty of Law, University of Hong Kong, Hong Kong, 27 September 2017

‘Codifying Contempt: The Administration of Justice (Protection) Act’, Continuing Legal Education Seminar (accredited CPD activity), organised by NUS Law, Singapore, 5 April 2017

‘Developments in Copyright Law in Singapore and the United States’, at *4th Developments in IP Law Series*, organised by IP Academy, Singapore, 16 February 2017

‘Fair Use and Fair Dealing’, at *Copyright Challenges in the 21st Century*, organised by NUS CLB and SMU ARCIALA, Singapore, 5 December 2016

Invited Panelist, ‘Fireside Chat with Senior IP Lawyers’ Seminar, organised by IP Academy Singapore, Singapore, 19 April 2016

‘Duty of Care for Pure Economic Loss in Singapore: Recent Developments 2014-2015’, Continuing Legal Education Seminar (accredited CPD activity), organised by NUS Law, Singapore, 4 November 2015

Invited Panelist, ‘Tort – Pure Economic Loss and Liability of Public and Statutory Authorities’ Seminar, co-organised by Law Society of Singapore and Australian Bar Association, Singapore, 30 October 2015

Invited Speaker, ‘Intellectual Property and Social Media’ at ‘IP Considerations When Leveraging on Social Media Platforms’ Seminar, organised by IP Academy Singapore, Singapore, 17 September 2015

Invited Speaker/Panelist, ‘Forging Ahead: Views on the Future of Singapore’s Copyright Laws’, at IP Academy’s Roundtable Series, organised by IP Academy, Singapore, 1 July 2015

Invited Speaker/Panelist, ‘Freedom of Speech’ at Administrative & Constitutional Law Conference, organised by Law Society of Singapore, Singapore, 27 February 2015

Invited Speaker, ‘Intellectual Property and Social Media’ at ‘IP Considerations When Leveraging on Social Media Platforms’ Seminar, organised by IP Academy Singapore, Singapore, 15 July 2014

Speaker/Panelist at ‘Protection from Harassment – The New Legal Remedies’, Continuing Legal Education Staff Seminar organised by NUS Law, Singapore, 25 March 2014

‘Negligence, Duty of Care and the Court of Appeal: A Review of the *Spandek* Test and The Way Forward’, Continuing Legal Education Seminar (accredited CPD activity), organised by NUS Law, Singapore, 17 April 2013

Panelist at Intellectual Property Management Community of Practice Forum (Trade Marks, the Internet & Social Media) organised by Intellectual Property Office of Singapore (IPOS), Singapore, 25 April 2013

Panelist at Southeast Asia In-house Counsel Summit organised by AsiaLaw, Singapore, 17 May 2012

Panelist at Intellectual Property Management Community of Practice Forum organised by Intellectual Property Office of Singapore (IPOS), Singapore, 24 April 2012

## Selected Quotes in the Media

### **‘What’s in a meme? It is more than just a laugh’, *The Straits Times*, 27 December 2021, page B1:**

Professor David Tan, deputy director of the Centre for Technology, Robotics, Artificial Intelligence and the Law at NUS, said memes are generally “a harmless safety valve for citizens to vent their anger, frustration or discontent in this digital age”.

But he acknowledged the difficulty with managing them: “Internet memes which undermine racial and religious harmony can be a covert way of using humour to disguise one’s racist or xenophobic sentiments.”

But “invoking the law to punish one or two individuals will not defuse the issues as thousands more will continue to air their unhappiness in less obvious fora”, he added.

### **‘Fair use changes to law in Singapore could make it easier to defend memes’, *The Straits Times*, 13 July 2021, page B6:**

Professor David Tan from the National University of Singapore’s Faculty of Law, said the fair-dealing term caused some confusion here as some people took it to mean Singapore's approach was like that of other jurisdictions like England, in which using copyrighted material could infringe rights if it does not fall neatly into specific uses.

But the change to fair use, and related matters, would make Singapore's copyright law “more future-ready and closer to the American system”, he said, as the United States model is not reliant on such pre-defined uses. “This fair-use definition allows the courts to better assess whether the (extensive collection) of technological and artistic uses are permitted uses,” added Prof Tan.

...

But Prof Tan said the amendments would not mean anyone can freely repost or share content he or she did not create on social media.

For members of the public, this would likely be deemed fair use. However, for celebrities, influencers and businesses, the commercial aspect of their online accounts may result in a finding that the reposting is not fair use and thus infringes copyright, he said.

It will also depend on whether the meaning of the original work is transformed, such as making fun of it in a meme or criticising an aspect of it. “It is highly unlikely that it is fair use if you post a video of yourself dancing or lip-syncing to an entire song. But if you change the lyrics and parody the original, then it is probably fair use,” Prof Tan said. Another proposed change to the Copyright Act says the original singer must be identified too, added Prof Tan.

### **‘Sharing someone else’s dance video online in S’pore? You’ll soon need to credit the performer’, *The Straits Times (online)*, 6 July 2021:**

Professor David Tan from the National University of Singapore's Faculty of Law said the moral right to properly acknowledge the creators of works is an important one that has been recognised in many countries, including France, Italy and Australia. “I am glad to see Singapore joining this good company, framing it as the right to be identified and the right not to be falsely identified, applicable to living creators,” he added.

Prof Tan said that when social media users, such as influencers who make money from their accounts, repost content such as videos and images, they could be infringing the copyrights for the content unless they can prove that they used the videos and images fairly. But if they do not identify the creators of the content, they could be flouting the requirement to identify the creators, with no general fair use defence they can rely on. “I find this... discomfiting. It seems to be an overly onerous requirement that is skewed too much in favour of creators who may not suffer significant economic harm from a lack of identification,” said Prof Tan. The creator-crediting requirement could also cause some people to be afraid of the potential legal implications of not attributing, such as being sued, he added. This could mean “members of the public end up sharing fewer images and videos on social media, thus chilling social communication”, said Prof Tan.

**‘Simplifying the language of Singapore laws on track, as more people visit law website’, *Channel NewsAsia (online)*, 7 November 2018:**

National University of Singapore (NUS) law professor David Tan said the AGC “is doing a good job in the use of plain English when drafting some recent legislation”, such as the Protection from Harassment Act 2015. “In particular, the use of illustrative examples within the legislation is a helpful guide for both the public and the courts in the interpretation of certain sections,” said Prof Tan.

**‘Tackling question of intent the way to root out fake news: Expert’, *Today*, 5 April 2017, page 4:**

The experts also highlighted the challenge of dealing with perpetrators based outside Singapore. “Even if we can block a particular site from being accessed in Singapore, we would be powerless to stop the circulation of fake news on social media platforms like Facebook and Twitter,” said Associate Professor David Tan, vice dean of academic affairs at the NUS Faculty of Law.