

**IN THE HIGH COURT OF AUSTRALIA  
SYDNEY REGISTRY**

**No. S23 of 2010**

**BETWEEN:**

**PHONOGRAPHIC PERFORMANCE  
COMPANY OF AUSTRALIA LIMITED  
ACN 000 680 704  
First Plaintiff**

10

**EMI MUSIC AUSTRALIA PTY LIMITED  
ACN 000 070 235  
Second Plaintiff**

**SONY MUSIC ENTERTAINMENT  
(AUSTRALIA) PTY LIMITED  
ACN 107 133 184  
Third Plaintiff**

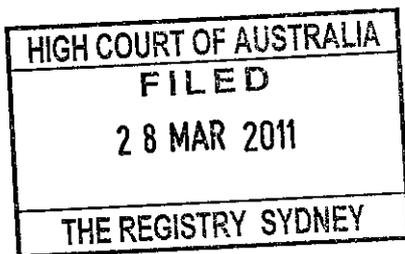
20

**UNIVERSAL MUSIC AUSTRALIA PTY LIMITED  
ACN 000 158 592  
Fourth Plaintiff**

**WARNER MUSIC AUSTRALIA PTY LIMITED  
ACN 000 815 565  
Fifth Plaintiff**

**J ALBERT & SON PTY LTD  
ACN 000 026 513  
Sixth Plaintiff**

30



**AND**

**COMMONWEALTH OF AUSTRALIA  
First Defendant**

**AUSTRALIAN BROADCASTING CORPORATION  
Second Defendant**

40

**COMMERCIAL RADIO AUSTRALIA  
LIMITED  
ACN 059 731 467  
Third Defendant**

50

**PLAINTIFFS' CHRONOLOGY**

---

Filed on behalf of the Plaintiffs on 28 March 2011 by:

GILBERT + TOBIN  
Lawyers  
2 Park Street  
Sydney NSW 2000

Tel (02) 9263 4000  
Fax (02) 9263 4111  
DX 10348 SSE  
Ref 1008306 (Siabon Seet)

**Part I: Certification the chronology is suitable for publication on the Internet.**

The plaintiffs certify that this chronology is in a form suitable for publication on the internet.

**Part II: Chronology of events**

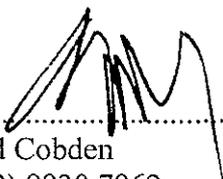
<b>Date</b>	<b>Event</b>	<b>SC ref</b>	<b>BD ref</b>
1833	<i>Dramatic Copyright Act 1833</i> (3 & 4 Will 4 c 15) confers a statutory performing right in certain dramatic works	100	BD 1/281-282
1842	The <i>Copyright Act 1842</i> (5 & 6 Vict. c. 45) extends performing right in the <i>Dramatic Copyright Act 1833</i> to musical works	101	BD 1/283-288
1911	<i>Copyright Act 1911</i> (Imp) is enacted providing that copyright subsists in sound recordings	112	BD 1/383-433
1912	<i>Copyright Act 1911</i> (Imp) declared to be in force in Australia by <i>Copyright Act 1912</i> (Cth)	112	BD 1/383-433
1924	A scheme is implemented for regulating radio broadcasts in two classes. In 1924 there were 7 "B Class" stations, being privately funded stations carried on for profit	17	NR
1927	Report of the Royal Commission on Wireless makes recommendations concerning the broadcasting of music and royalties payable for its use	114	BD 1/453-454
1931	The Australian EMI group asserts a right to prevent the radio broadcast of sound recordings made by them	116	BD 1/212-216
1932	The Australian EMI group and the ABC reach an agreement under which the ABC can broadcast records	221	BD 1/1575-1584
1933	Sir William Langer Owen delivers the Report of the Royal Commission on Performing Rights (the 'Owen Report')	119	BD 1/89-141
1933	The <i>Copyright Act 1912</i> (Cth) is amended to provide for a mechanism for the determination of disputes between owners and users of musical and	120	BD 1/534

Date	Event	SC ref	BD ref
	mechanical copyright regarding rates		
1934	<i>Gramophone Co Ltd v Stephen Cawardine &amp; Co</i> [1934] 1 Ch 450 confirms that record manufacturers have the right to perform sound recordings to the public	121	BD 1/583-595
1934	The Australian EMI group and the ABC reach a further agreement under which the ABC can broadcast records for £5,000 per annum	222	BD 3/1567-1574
1934	The ABC obtains the opinion of Sir Robert Garran KC as to whether fees are payable for the broadcasting of records	223	BD 3/1585-1599
1934	The Australian EMI group and commercial broadcasters agree on terms of licence agreement with respect to the broadcasting of records, including the payment of royalties	178-181	NR
1937	The Australian EMI group and the ABC reach an agreement under which the ABC can broadcast records in return for payment of £625 per 800,000 listener's licenses	228	BD 3/1615-1623
1943	First Report of the Parliamentary Standing Committee on Broadcasting	126	BD 1/607-637
1951	Australian Federation of Commercial Broadcasting Stations and the Australian EMI group reach an agreement on the terms of a standard agreement (including as to the payment of royalties) to replace the agreements entered into in 1934	198-200	BD 3/1499-1504
1952	Report of the United Kingdom Copyright Committee (Gregory Committee) recommends that the performing right in records be retained	129	BD 2/751
1954	The commercial broadcasters obtain advice from Sir Garfield Barwick and G.B. Thomas of counsel	206	BD 3/1511-1537
1954	The commercial broadcasters give notice to the EMI group of termination of the agreements entered into in 1951	207	BD 3/1539-1540

Date	Event	SC ref	BD ref
December 1955 - April 1956	Commercial broadcasters implement a radio ban	209	BD 3/1541-1542
1956	Commercial broadcasters and the EMI group settle the dispute regarding the radio ban on terms which include restrictions on the broadcasters' playing of records and allowing the manufacturers 15 minutes of "airplay" per week	212-216	BD 3/1547-1555
1956	<i>Copyright Act 1956</i> (UK) enacted	130	BD 2/817-911
1957	The song "A Pub With No Beer" was recorded by Slim Dusty	12(f)(i)	NR
1959	Report of the Copyright Law Review Committee (the 'Spicer Report') recommends public performance and broadcasting right in sound recordings be provided for in new copyright legislation	145	BD 1/513-520
1961	Rome Convention is signed and ratified by Australia with reservations. Article 12 provides that "if a phonogram is published for commercial purposes, or a reproduction of such a phonogram, is used directly for broadcasting or for any communication to the public, a single equitable remuneration shall be paid by the user to the performers, or to the producers of the phonograms, or to both."	153	BD 3/1238
1963	The song "Move Baby Move" was recorded by Johnny O'Keefe	15(f)(i)	NR
1965	The song "Yesterday" was recorded by The Beatles	12(g)(i)	NR
1966	The song "You Don't Have to Say You Love Me" was recorded by Dusty Springfield	14(f)(i)	NR
April 1966	The Attorney-General makes a Ministerial Statement that the Government intended to confer a right to restrict the broadcasting of a record only until its release for retail sale, but did not intend to confer a right to collect royalties in respect of the	148	BD 2/1111-1115

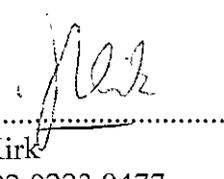
Date	Event	SC ref	BD ref
	broadcasting of that record		
May 1967	The new Attorney-General recommends that broadcast rights be given to the owners of copyright in phonograph records (i.e. a departure from the previous decision)	149	BD 2/1122
10 May 1967	Cabinet endorses the Attorney-General's recommendation that rights be given to owners of copyright in phonograph records, including that equitable remuneration be payable, as agreed by the parties, or failing agreement, by the Copyright Tribunal	150	BD 2/1129-1130
May 1968	Attorney-General introduces a revised <i>Copyright Bill 1968</i> into the House of Representatives via comparative memorandum, which includes a cap on royalties payable by commercial broadcasters and by the ABC. It also includes a mechanism for the review of the maximum royalty after 5 years and the power to vary the maximum by regulation (the 'review clause')	165-166	BD 3/1355-1387
June 1968	Attorney-General proposes an amendment to the <i>Copyright Bill 1968</i> to delete the review clause	169	BD 3/1447
1 May 1969	<i>Copyright Act 1968</i> (Cth) comes into effect	172	NR

Dated: 28 March 2011



Richard Cobden  
 Tel: (02) 9930 7962  
 Fax: (02) 9223 2177  
 Email: rcobden@nigelbowen.com.au

10



J K Kirk  
 Tel: 02 9223 9477  
 Fax: 02 8028 6060  
 Email: kirk@wentworthchambers.com.au



Aditi Rao  
 Tel: (02) 9230 3269  
 Fax: (02) 8023-9542  
 Email: rao@wentworthchambers.com.au