

Ruling has big IP implications

Joanna Mather

The Federal Court decision to dismiss a bitter legal battle over the rights to lucrative cancer treatments between the University of Western Australia and a former employee has implications for all research organisations, experts warn.

Federal Court judge Robert French last week dismissed the university's \$150 million claim to patents and intellectual property rights for cancer treatment technologies developed by former employee Bruce Gray.

He found the university's IP policy was insufficient to guarantee ownership of any inventions made by Dr Gray, and while his employment contract contained a duty to do research, it did not carry a duty to invent. There was therefore no legal basis for UWA's claims.

The university, which launched legal proceedings in 2004, is considering an appeal.

IP law and commercialisation specialists said universities and other research organisations would be unnerved by the decision, and would need to re-examine their own IP policies and employment contracts. "The judgement has major implications," Andrew



Universities will have to work harder to safeguard inventions.

Photo: JAMES DAVIES

Stewart, the John Bray Professor of Law at the University of Adelaide, said. Justice French's finding that it is not an implied term of any academic's employment contract to produce inventions was, he added, a "contentious yet plausible" interpretation of the law.

"This case demonstrates the importance of getting your policies right, making sure they are properly implemented and followed through,

and having a thoroughly professional approach to the management of research projects that may involve the creation of valuable IP," he said.

Professor Stewart said most universities would have assumed that if they couldn't rely on their formal policies and direct contractual arrangements with staff, they could use the "backstop" of an implied entitlement at common law.

"If Justice French's decision stands, it will require just about every university to rework their policies," he said.

Australian Institute for Commercialisation chief executive Rowan Gilmore said the general assumption had been that if a university employee developed IP, it belonged to the university.

Leaders at universities would now have to act to ensure that the rights and responsibilities associated with the creation of IP were clear to all those involved with research.

Justice French found that although UWA had IP regulations, they had not been promulgated.

"UWA and other universities might well consider the alternative of deriving benefits from inventions produced by their staff by offering highly competent and experienced commercialisation services in exchange for a negotiated interest in the relevant intellectual property," he concluded.

Dr Gray's lawyer, Martin Bennett from Lavan Legal, said his client was threatened with losing his majority shareholding in Sirtex Medical, which was worth some \$150 million. Dr Gray founded Sirtex Medical to commercialise his cancer treatment.

Bligh to open centre

A new \$18 million cancer research centre will be opened by Queensland Premier Anna Bligh at Griffith University on Thursday. The Eskitis Institute for Cell and Molecular Therapies facility is home to \$22 million worth of research activity, including the National Centre for Adult Stem Cell Research, the Drugs from Nature Discovery Program and Queensland Compound Library, a large collection of potential therapeutic ingredients derived from nature.

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Landmark design course

Raffles College of Design and Commerce has introduced a master of design at its North Sydney campus – the first offered by a private college in Australia. Nine students from Iceland, Colombia, Slovenia, Spain, Israel, China, Indonesia, Taiwan and Britain are amongst those enrolled in the program. Specialisations are available in digital media, fashion design, interior design and graphic design and electives can include visual communication in design, design optimisation, and design management. The program is offered either full-time (12 to 18 months) or part-time (up to three years). The college has also launched a master of commerce which has among its specialisations management, marketing, and design management.

Rachel Lebihan

La Trobe expands

La Trobe University will spend \$2 million on a new campus in Shepparton. The university has signed a memorandum of understanding with Greater Shepparton City Council to improve higher education and research opportunities in the Goulburn Valley region.

Joanna Mather

New masters program

Flinders University has launched a new masters program that brings together two prime disciplines – law and international relations. The master of laws (international law and international relations) is a 36-unit degree aimed at those who have completed the equivalent of a four-year degree in law or four-year honours degree in a relevant non-law discipline, or have equivalent workplace experience and skills. Law electives include Islamic law, mafias, warlords and terrorists, and international human rights law. International relations electives include energy, security and energy security dilemmas, and terrorism, counter-terrorism and risk.

Rachel Lebihan

Fritschy in until 2013

Central Queensland University chancellor Rennie Fritschy will serve at the university for another five years. The former managing director of Queensland Alumina, Mr Fritschy was appointed university chancellor in March 2004. His second term runs through to March 2013.

Rachel Lebihan

Technology boost

William Blue College of Hospitality and Tourism has implemented an IT system used by some of Australia's biggest hotels such as the Woolloomooloo Bay Hotel in Sydney and national brands including Bakers Delight and Wendy's to help train students in the use of the latest hospitality technology. The real-time control and reporting solution gives hoteliers control of stock, time and attendance, and cash control. The system cost between \$75,000 and \$100,000.

Rachel Lebihan

More sign up at Kaplan

Six hundred new students have enrolled in postgraduate courses in financial services with private education provider Kaplan Professional. The new students join 2650 existing enrollees.

Joanna Mather

To specialise or generalise: unis divided

Helene Zampetakis

Business people aiming to fuel their professional development through management education are often confronted with the difficult choice of whether to take a generalist MBA or focus on specialising, perhaps with a masters.

The virtues of specialist versus generalist MBAs have been fiercely debated across business schools worldwide over the past few years, with most universities taking a stand with a specific model.

There are now 88 different types of specialist MBAs in Australia, many of them outlined in the *MBA Guide*.

But while business schools generally allow for some degree of specialisation within their MBAs, many top-ranking schools favour the generalist approach.

"Plenty of people believe that specialisation can take away from the solid grounding that business schools strive to achieve," associate dean of academic programs at Melbourne Business School, Jenny George, said.

"By the time you get to upper levels of management you need to be as broadly educated as possible.

"But it depends on what you want to do with your MBA and there are some people who go into an MBA wanting to head up a particular field."

The University of Queensland's business school is one institution that has opted in favour of generalist MBAs, in line with universities such as Yale, stripping electives from its MBA from this year to focus on leadership education.

UQ's MBA director, Polly Parker, noted that a drawback of the recent emphasis on "flexibility at any cost" was the loss of the cohort effect.

"Anecdotal evidence suggests that graduating students from some universities sometimes do not know any of the students graduating with them," Dr Parker said.

As a result, the school encourages students looking to specialise to follow up their MBA with a graduate certificate that builds discipline-specific knowledge.



Melbourne's Jenny George . . . masters choices will be determined by what you want to do with your MBA.

Photo: PAUL JONES

Options include graduate certificates in marketing and communication management, accounting and business analysis, and operations design.

By contrast, Monash University and Macquarie Graduate School of Management offer a broad range of electives, allowing students to tailor their MBAs to their professional aspirations.

MGSM is offering 33 electives this year, although leadership is an underlying theme in many of these courses including discipline-specific electives such as human resource management.

While some believe an MBA is a ticket to the inner circle, many universities encourage ambitious professionals in particular fields to take masters degrees, which are more industry-specific.

The University of Sydney offers both an MBA and a masters focusing on supply chain management, which illustrates the difference.

Its masters is designed for students employed in the service

industries or associated with business operations management but looking for significant insight and skills in areas such as new technology, global competition and new management approaches.

By contrast, the MBA aims to provide a comprehensive business education covering key business disciplines, with options for majors and sub-majors in the subject.

Plenty of people believe specialisation can detract from a solid grounding.

Nevertheless, there's increasing crossover between masters and MBAs at many universities.

MGSM dean Roy Green directs students seeking deeper management education in specific fields to the university's masters degrees, which make some use of the MBA electives.

The majority of masters programs allow for at least four MBA elective