

## PUBLICATIONS

### A. LEGAL PUBLICATIONS

#### 1. BOOKS/CHAPTERS

1. Misdaad, Verweer en Straf (1986) Butterworths (co-author with T Verschoor)
2. Tuquitsprake van die Mediese Raad (1986) Digma (co-author with T Verschoor)
3. Disciplinary Rulings of the Medical Council (1990) Digma (co-author with T Verschoor)
4. Chapter on South Africa in Bereskin (ed) International Trademark Dilution (2013) Thomson Reuter

#### 2. ACCREDITED JOURNALS

1. "Consent to Duels" 1984 TRW 104 (co-author) (Originally – "Verweer by Tweegevegte")
2. "Fraud: Potential Prejudice" 1984 De Jure 115 (Originally – "Potensiële Nadeel by Bedrog")
3. "Autrefois Convict and Prison Courts" 1985 THR-HR 237 (co-author) (Originally – "Autrefois Convict en Gevangenshowe")
4. "Double Jeopardy in Military Law" 1986 THR-HR 459 (Originally – "Militêre Reg en Musiek: 'n Positiewe Nota")
5. "The Harmful Business Practices Act: Its Importance for Consumers" 1988 Modern Business Law 178 (Originally - "Die Wet op Skadelike Sakepraktyke: Betekenis vir Verbruikers")
6. "The Influence of Prohibitions of Restrictive Practices on Existing Agreements" 1989 THR-HR 280
7. "The Meaning of the Public Interest for the Regulation of Competition" 1990 SA Merc LJ 285 (Originally – "Die Betekenis van die Openbare Belang vir die Regulering van Mededinging")
8. "The Laughter Dies Down – The Black Label Case on Appeal" 2005 SA Merc LJ 88
9. "The future of trade mark dilution in South Africa" 2006 TSAR 212
10. "Prior use as a defence in South African trade mark law" 2006 TSAR 330
11. "Honest concurrent use under the 1994 United Kingdom Trade Marks Act" 2006 De Jure 140
12. "Honest concurrent use under the 1938 United Kingdom Trade Marks Act" 2006 THR-HR 491
13. "Thoughts on Trade Mark Priority in American, British and South African Law" 2006 THR-HR 622

14. "Trade mark user rights in the "common law" of the United States" 2007 [De Jure](#) 16
15. "The relevance of prior trade mark use in the common law of the United Kingdom" 2007 [TRW](#) 64
16. "Origin of the species: Trade mark infringement after the [Bergkelder](#) case" 2007 [SALJ](#) 237
17. "The Sheriff of Constitutional Hill and offensive trade marks" 2007 [THR-HR](#) 114
18. "The Relevance of Passing-off Principles in Trade Mark Oppositions" 2007 [THR-HR](#) 284
19. "Origin of the species II: the [Verimark](#) case and trade mark infringement" 2007 [SALJ](#) 702
20. "The Relevance of Prior Trade Mark Use in South African Common Law" 2007 [TRW](#) 47
21. "Prior use as a ground of opposition in South African trade mark law" [Stell LR](#) 2008 51
22. "The relevance of prior trade mark use in the statutory law of the United States" 2008 [De Jure](#) 59
23. "Administrative-law aspects of domain name adjudication" 2008 [SALJ](#) 217
24. "The legal position of the retailer in instances of trade mark infringement" 2009 [SALJ](#) 14
25. "The scope of the fair dealing defence in Australian copyright law" 2010 [De Jure](#) 197
26. "Aspects of passing off in a statutory context in English and South African law" 2010 [SA Merc LJ](#) 645
27. "Substantive and procedural aspects of honest concurrent use in South African trade mark law" 2010 [SALJ](#) 339
28. "The (positive) right to use a trade mark: The [Kurt Geiger](#) case" 2010 [Stell LR](#) 479
29. "Comparative advertising: The more things change.." 2012 [SALJ](#) 154
30. "[Santam v Dial Direct](#): discussion" 2012 [De Jure](#) 201
31. "I love the smell of perfume in the morning: the L'Oréal case and trade mark infringement" 2013 [TSAR](#) 74-89
32. "The timeous enforcement of trade mark rights" 2015 [De Jure](#) 172
33. "Trade marks: The reach of a retail services registration" 2015 [SALJ](#) 31-40
34. "Trade mark law: Can an unregistered mark be protected prior to the acquisition of a reputation? 2015 [De Jure](#) 430
35. "Frankly my dear..." Is trade mark infringement in films gone with the wind? 2016 [SALJ](#) 235
36. "Taxi! Taxi! - The protection of car shapes in intellectual property law" 2017 [SALJ](#) 221 (co-author)
37. "The promotional use of a trade mark: Its potential to have significance" 2017 [SAIPLJ](#) 1
38. "A brief overview of trade dress protection under American law, and a South African case study" 2018 [THR-HR](#) 1

39. "The English Caspian Pizza cases and South African trade mark law: passing off as a sword and shield?" 2019 THRHR 299

### 3. OTHER LEGAL JOURNALS

#### South Africa

1. "Character Merchandising in South Africa – Recognition at last" 1995 Juta's Business Law 77
2. Book review of Van Heerden and Neethling's Unlawful Competition De Rebus September 1995
3. "Trade Mark Protection and Marketing Strategy" 1998 Brands and Branding 30
4. "Trade Marks : Protect what you select" 1999 Juta's Business Law 16
5. "The protection of vehicle shapes" 2002 (1) Juta's Business Law 5
6. "The Red Bull Case" Without Prejudice August 2002 8
7. "Promotional Use of a Trade Mark" De Rebus January 2003 22
8. "A Case Of Black Label – More Than Just Free Speech" De Rebus July 2003 32
9. "Dilution and the Constitution" 2004 Journal of the Corporate Lawyer's Association 25
10. "The 'Black Label' case on appeal" De Rebus December 2004 36
11. "Getting Away, Escaping the Trade Marks Act – A discussion of Ramsay v Media 24" 2005 Juta's Business Law 55
12. "Dividing the country – regional trade mark rights" 2005 Juta's Business Law 103
13. "Trade-mark use v trade mark registration" 2005 (4) Juta's Business Law 160
14. "The Reach of the Trade Marks Act" Without Prejudice October 2005 10
15. "The theft of a foreign mark" 2006 Juta's Business Law 13
16. "The honest concurrent use of a mark" 2006 Juta's Business Law 24
17. "The difference between passing-off and trade mark infringement" 2006 (2) Juta's Business Law 44
18. "Concurrent trade mark use in the common law" 2006 volume 14 Juta's Business Law 136
19. "Genuine goods and trade-mark infringement" 2006 Juta's Business Law part 4 155
20. "The legal position of trade mark licensees" 2006 Juta's Business Law part 1 8
21. "Passing off the interior of a business" 2006 Juta's Business Law part 4 170

22. "Offensive marks" 2006 Brands & Branding 32
23. "The descriptive use of the BMW trade mark" Without Prejudice December 2006 51
24. "Delays in the enforcement of trade mark rights" Juta's Business Law 2007 part 1 32
25. "The 'right' to use a registered trade mark or company name" 2007 volume 14 Juta's Business Law 110
26. "What is intellectual property"? De Rebus November 2007 45
27. "Intellectual property: The requirements for the registration of a patent" De Rebus December 2007 52
28. "Bona fide use of a trade mark" Juta's Business Law 2007 part 3 105
29. "Fiduciary duties of franchisors" Juta's Business Law 2007 part 3 136
30. "Sport trade marks" Without Prejudice 2007 23
31. "Regional trade mark rights" Without Prejudice October 2007 30
32. "The Laughing Off case: Not easily exported" Without Prejudice November 2007 36
33. "La cosa nostra on the Trade Marks Register" Without Prejudice December 2007 8
34. "The new domain name dispute resolution structure - First decisions" Juta's Business Law 2008 part 2, 66
35. "...until the fat ladies have sung" - Joint ownership of copyright in musical works" Juta's Business Law 2008 part 2, 88
36. Patent Infringement" De Rebus January 2008 70
37. "Registered design protection" De Rebus March 2008 51
38. "Basic requirements for copyright protection" De Rebus April 2008 53
39. "Copyright infringement" De Rebus May 2008 52
40. "The registration of trade marks" De Rebus June 2008 56
41. "Trade mark infringement" De Rebus July 2008 52
42. "What is unlawful competition?" De Rebus August 2008 57
43. "The scope of passing-off" De Rebus September 2008
44. "Acquiring intellectual property" De Rebus October 2008 56.
45. "The 2010 Soccer World Cup: Where does the law stand?" De Rebus November 2008 55
46. "Arbitration and mediation in trade mark disputes" Juta's Business Law 2008 part 1 5 (co-author)
47. "Copyright in ideas: A lesson from the ivory tower" Juta's Business Law 2008 part 2

48. "Trade marks without justice" Without Prejudice February 2008 34
49. "The registration of colour marks" Without Prejudice April 2008 42
50. "Descriptive trade marks" Without Prejudice July 2008 24
51. "Trademarks and the Consumer Protection Bill" Without Prejudice September 2008 18 (co-author)
52. "Objecting to company names" Without Prejudice December 2008 18 (co-author)
53. "Passing off" Without Prejudice March 2009 18 (co-author)
54. "Soulfood – The Golden Fried Chicken case" Without Prejudice April 2009 28
55. "A brief examination of the IP profession" Without Prejudice August 2009 30
56. "Copyright ownership and the position of employees" Without Prejudice October 2009 31
57. "The SCA gets Kurt" 2010 Journal of the Corporate Lawyer's Association 13
58. "Protecting trade marks in different languages" Without Prejudice June 2010 22
59. "The franchisor's duty to care" Without Prejudice September 2010 7 (co-author)
60. "Deciding who owns which piece of turf" (The delineation of ASA and High Court jurisdiction) Without Prejudice October 2010 21
61. "Protecting the look and feel of a franchised restaurant" Without Prejudice December 2010 9 (co-author)
62. "Are there special rules for trade marks in printed media?" Legal Times March 2011 1 (co-author)
63. "Lionel Ritchie's greatest hits: Paying tribute or royalties?" De Rebus August 2011 28
64. "Pretty women and copyright law" Without Prejudice July 2011 52 (co-author)
65. "Descriptive v Distinctive" General Counsel May 2011 22 (co-author)
66. "Read the fine print" Without Prejudice May 2011 16
67. Book review: Ramsden A Guide to Intellectual Property 2011 TSAR 831
68. "Protecting the design of a vehicle" Business Law and Tax Review August 2011 7 (co-author)
69. "Driving Miss Daisy without permission" Without Prejudice September 2011 29 (co-author)
70. "Colour Code" Legal Times September 2011 1 (co-author)
71. "Protecting the 'look and feel' of a business" Business Law & Tax Review October 2011 10 (co-author)
72. "Whose red is it anyway?" Without Prejudice October 2011 10 (co-author)
73. "A lively portfolio for corporate counsel" Without Prejudice November 2011 66
74. "Placing a value on intellectual property" Legal Times 2011 1
75. "Placing a value on Intellectual Property" Without Prejudice December 2011 38 (co-author)

76. "An old-fashioned dispute" Legal Times 3 February 2012 1 (co-author)
77. "When two doesn't make three" Business Law & Tax Review 10 February 2012 1 (co-author)
78. "Rights and wrongs of ads" Business Law & Tax Review March 2012 1 (co-author)
79. "But who will find her slipper?" (Future of IP) Without Prejudice June 2012 28
80. "Incidental use in South African Copyright law: Guidelines from overseas cases" De Rebus August 2012 40
81. "Vehicle parts" Without Prejudice September 2012 46 (co-author)
82. "Overseas trade marks: Finding the balance" Without Prejudice October 2012 54 (co-author)
83. Book review: Van der Merwe et al Law of Intellectual Property in South Africa 2012 TSAR 372
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85. "Oh! Those Wrinkles" [The Botox case] Without Prejudice November 2012 17
86. "Trademark: An aid for damages protection" Business Law & Tax Review June 2013 11 (co-author)
87. "Saving the rhino" Without Prejudice April 2015 10-11
88. "Slanted Trade Marks and Permitted Disparagement" Afro IP 25 Feb 2016
89. "A case of tension between copyright and real property rights" IP Briefs March 2017 13
90. "Sheer driving pleasure: Trade mark law through the (BMW) cases" Afro IP 3 July 2017
91. "Problematic aspects of copyright protection for television show formats" Without Prejudice August 2019 26
92. "The copying of shapes: Where do we stand?" IP Briefs April 2019 14

## International

1. "Promotional Use in South Africa" Trademark World October 2002 28
2. "Discordant harmonies – Who owns the rock 'n roll trade mark?" Trademark World December 2003 34
3. "Who's Laughing Now – Dilution and the Constitution in South Africa" Trademark World July 2003 20
4. "Prior use as a ground of opposition in British Law" November 2005 Trademark World 20
5. "Sabotage marketing in South African law" 2005 Trademark World December/January 2005 39
6. "Constitutional law aspects of registering offensive trade marks in South Africa" 2006 Trademark World 41
7. "Mechanisms for protecting side-by-side trade mark use" 2007 October Trademark World 45

8. "A New Era in Domain Name Disputes" Trademark World November 2007 45
9. "Staving off expungement – The 'engineered' use of a trade mark" Trademark World December 2007 30
10. "Irish, English and South African trade mark law: Does a discretion exist in opposition proceedings?" Trademark World June 2008 40
11. "Comparative advertising and trade mark law" Trademark World September 2008 33
12. "Alternative dispute resolution in South Africa: A trade mark perspective" Trademark World October 2008 (co-author)

## **B. NON-LEGAL PUBLICATIONS**

Die Filosofiese Drawwer – collection of Afrikaans short stories (2010)

Die Afrikaanse Skryfgids (ed Scheepers and Kleyn) 2012 – chapters on publishing contracts and intellectual property