

Judge indicated that even if the teacher was appointed as the agent of all his students, a truly artificial situation, the copying of substantially the whole of certain works would not constitute fair dealing, whereas it could legitimately be carried out under Section 53B.

(b) There was no actual infringement of copyright, as no actual infringement was proved as required by decision of Kearney J in **RCA Corporation v John Fairfax & Son Limited** (1981) 1 NSWLR 251.

(c) There was no significant risk of copyright infringement in relation to Section 39A.

(d) There was no threatened injury to the business of the plaintiffs by unlawful means, as there was no intention of inflicting injury on the plaintiffs. (The argument on this point was based on the tort revealed in the decisions of **Carlin Music Corporation v Collins** 5 FSR 548 and **Beaudesert Shire Council v Smith** 120 CLR 145.) The Judge did not deny that there may be some generalised tort which in certain circumstances will provide relief against unlawful interference with economic activity. But, the unlawful means had to be a means forbidden by law and not merely invalid or ultra vires.

(e) Section 203E conferred the right of inspection of a library collection on copyright owners or their agents regardless of whether there were any records of copying under Section 50 or 51A in that library.

Copyright owners are able to investigate whether the library had made copies of their works in addition to inspecting any declarations made in relation to such copies.

(f) In respect of records of copying kept in educational institutions, a copyright owner or his agent was entitled to inspect all the records kept by that educational institution, and not just those relating to works of which he was the copyright owner, or the agent of the copyright owner, and the right of inspection carried with it an incidental right

to copy all such records.

The Judge granted two quia timet mandatory injunctions.

The first was in relation to the Section 40/Section 53B issue, on the basis that there was a significant prospect that the rights of a number of the plaintiffs might be infringed by the defendants or their employees if the relevant part of the memorandum was not withdrawn.

The second was in relation to Section 203E. The injunctions required the Attorney-General to issue a corrective memorandum. Declarations were made in relation to the meaning of Section 203E. The injunctions have been stayed pending the outcome of an Appeal, although the Director-General of Education is to write a letter to the recipients of Memorandum No 81248 giving notice of the judgment in relation to Section 53B/Section 40.

* An Appeal was heard in June by the Full Federal Court. The Notice of Appeal canvasses practically all the copyright related points in **McLelland J's** judgment.

ACLA Lunches

Two of the key figures in Australian communications today are the Hon. Neil Brown QC, MP, the new Minister for Communications, and Mr Bill Mansfield, Federal Secretary of the ATEA. Both will be guest speakers at forthcoming ACLA lunches.

Bill Mansfield will speak on "The role of the national telecommunications carrier in the coming information age" on **Wednesday 28 July**.

Neil Brown will speak on his new portfolio and "Communications in the 1980's" on **Thursday 2 September**.

ACLA members and visitors are welcome to attend both lunches. They will be held in the Menzies Hotel, Carrington St, Wynyard 2000. Members will receive a circular with details of the lunches. Non-members should contact Ms Elizabeth Lucas on (02) 406 5464 to arrange bookings.