

Scholarship, intellectual ownership and the law

In the September issue Colette Ormonde provided a summary of the recent symposium *Scholarship, intellectual ownership and the law*, hosted by the National Academies Forum and the National Library of Australia and sponsored by IP Australia and the Commonwealth Department of Communications, Information Technology and the Arts. As promised following are summaries of two papers presented at the symposium. The summaries are reproduced with the kind permission of the National Academies Forum. See also <http://www.naf.org.au/iosymp.htm>

Government policy

Dr Kay Daniels

This is a very active period of copyright reform. A number of amendments to the *Copyright Act 1968* are under way. This year two copyright amendment bills — on decompiling computer software and on sound recordings — have been introduced into Federal Parliament. Two more — on the digital agenda and on moral rights — will be introduced soon.

With this legislation the government is trying to create a balanced, workable, up-to-date régime, one that encourages creators and investors while ensuring that users gain appropriate access. The intention is also to acknowledge the fundamental impact that changes in technology are having on the creation and transmission of copyright material.

In the *Digital Agenda Bill* the exceptions given to libraries, museums, galleries and educational institutions allow reproduction for purposes such as study and research. Copyright holders argue that there is too much latitude in the proposed law. The

libraries have also put their views forcefully. The dominant issue is the need to balance the interests of users on the one hand and creators and investors on the other.

Another issue is the intellectual property of indigenous people: issues of traditional knowledge, community ownership and authenticity arise. Indigenous creators require more effective protection for their work. The government is encouraging the development of protocols and model contracts and a national authenticity label.

To provide an incentive for creativity, the new régime requires mechanisms that distribute payments back to legitimate copyright holders in an efficient, equitable and transparent way. They need to be paid a fair price, not a price that is so high that it stifles the market.

Copyright is not well understood. Lack of awareness leads to copyright infringement and a failure to manage intellectual property effectively. The

government is developing guidelines on the use of intellectual property associated with information technology projects to improve Commonwealth management of its intellectual property and, where appropriate, allow its commercialisation by the private sector.

Universities are major creators and users of intellectual property. The government discussion paper, *New knowledge, new opportunities*, makes it clear that universities will have to become much more efficient managers of intellectual property.

Universities must ask whether it is wise to relinquish without payment control of their intellectual property (as in some journals), and then have to pay a third party for its use.

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