

## What your ALIA Copyright Advisor does for you



**Helen Roberts**  
ALIA Copyright  
Advisor

I have been ALIA's copyright advisor since June 2008. I work Tuesdays and Thursdays, and accept questions by phone and email. I have had a long term interest in copyright and extensive experience in providing copyright advice. I was responsible for copyright information in the Australian National University Library, and have acted in the position of Assistant Copyright Officer in the Legal Office, also at ANU. I have an Honours degree in Law and a Graduate Diploma in Legal Practice (with merit), an Honours degree in English, and a Diploma in Librarianship. I have been an

active ALIA member at the group level in the ACT and NSW and have served on several ALIA advisory committees, including as a member, and later chair, of the ALIA Copyright and Intellectual Property Advisory Committee.

### Copyright queries from members

The volume of queries has increased in the last year. I think this is because copyright is becoming more central to what we do – libraries are putting material up as copyright creators as well as being users and guardians of copyright. Also copyright is now overlapping with issues such as privacy and licenses for digital material. I am also responsible for privacy issues.

### Presentations, articles, and submissions

I give talks and presentations on copyright; the most recent was a plenary session on Copyright Issues at the 2009 ALIA National Library and Information Technicians Conference with Ian McDonald, Acting Director of the Australian Copyright Council (ACC). I will be giving a talk on 5 November at the State Library of Queensland on section 200AB *Copyright Act*. Other talks have included a two hour practical session for Canberra Institute of Technology library technician students, a presentation to the River of Opportunities Conference on *Copyright: How do you approach it?*, and a workshop on copyright issues in education in Sydney in November 2008 where I was on the panel answering questions.

I regularly update the Copyright pages on the ALIA website, including the Members-only Copyright FAQs.

I also contribute to *LIS Management in Focus* and ALIA e-lists on issues such as parallel importation of books. In July and August I provided extensive suggested practical revisions to the new edition of the Australian Copyright Council's *Libraries: a copyright guide*, which was launched at the ALIA National Library and Information Technicians Conference. I write regular copyright columns for *inCite*, covering such topics as 'How the copyright flexible dealing exception can help your library', and 'How library renovations could cause legal problems'. I provide input for ALIA submissions to government enquiries, like the Productivity Commission's enquiry into the parallel importation of books.

### Representing ALIA and its members

I represent ALIA as a member of the Australian Libraries Copyright Committee and the Australian Digital Alliance. I am a member of the ALIA Copyright and Intellectual Property Advisory Committee and help the members keep in touch by email about issues as they arise.

I am a member of the Department of Foreign Affairs and Trade (DFAT) Intellectual Property Consultative Group on issues such as the Australia-Chile FTA, including the Anti-Counterfeiting Trade Agreement (ACTA) and Australia's participation in the Trans-Pacific Partnership initiative.

### Staying abreast of copyright issues

I monitor the media, copyright sites, and have email information sent to me on copyright. I get regular updates from blogs like that of Anne Lennox at RMIT. I have set up alerts to get new copyright information from media and the web. I attend talks like that of Dr Frances Gurry, Director General of World Intellectual Property Organisation on 4 August 2009 and conferences like *Reimagining copyright for the 21st century*. In 2008 I attended the two days of the major copyright case in the High Court, *IceTV v Nine Network*.

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## Copyright council publishes new guide for libraries

If you're wrestling with how copyright applies in libraries, grab a copy of the Australian Copyright Council's new publication *Libraries: a copyright guide*. Written with invaluable input from ALIA staff and members – including ALIA Copyright Advisor Helen Roberts, and Margarita Moreno and her ALIA colleagues from the National Library – this is a completely new practical guide for people working in libraries and archives in the non-profit, government, and corporate sectors. It includes comprehensive information about how to deal with the copyright issues associated with client services such as providing online and internet access, vertical files, listening posts, and book clubs, as well as details about what you can do under the Copyright Act to manage your collection and to supply copies of material to clients and other libraries. To view the table of contents, and for information about special deals, library publications packages, and how to order, see the Council's website at <http://www.copyright.org.au/b136>.

Would you like a copy of this new publication for your library? The first two ALIA members to provide Helen's correct job title here at ALIA to [helen.roberts@alia.org.au](mailto:helen.roberts@alia.org.au) will receive a copy!

## What's new in copyright

### News from ADA and ALCC

ALIA is a member of both the Australian Libraries Copyright Committee (ALCC) and the Australian Digital Alliance (ADA).

The Australian Libraries Copyright Committee (ALCC) is a cross-sectoral committee and is the main consultative body and policy forum for the discussion of copyright issues affecting Australian libraries and archives. <http://www.digital.org.au/alcc/>

The Australian Digital Alliance (ADA) is a non-profit coalition of public and private sector interests formed to promote balanced copyright law and provide an effective voice for a public interest perspective in the copyright debate. <http://www.digital.org.au/>

In this issue of *inCite*, there is a profile of the ADA and its new Copyright Advisor, Matt Dawes. Matt has recently taken up the position, and fills it jointly with his role as Copyright Advisor to the ALCC.

### The Google Book Settlement

The New York District Court was scheduled to begin hearings on 7 October on the Google Book Settlement proposed between



Google, the Authors Guild, and the Association of American Publishers. A wide range of organisations had submitted comments and argument to the District Court judge, Denny Chin, by the deadline. The court has now given them a month to rework their agreement. The agreement is intended to be in settlement of a class action brought against Google for the mass digitisation of books still in copyright, and which Google digitised under the fair use provisions of the US Copyright Act.

The American Library Association has a website at <http://wo.ala.org/gbs/> and Wikipedia also has an entry on the settlement. The Copyright Agency Limited has updates on the settlement at [http://www.copyright.com.au/Latest\\_News/Google\\_book\\_settlement\\_1.aspx](http://www.copyright.com.au/Latest_News/Google_book_settlement_1.aspx). There is a website at <http://www.googlebooksettlement.org> which includes the text of the agreement between the three parties.

### Three strikes

An approach taken by several countries has been to adopt a graduated response approach to copyright infringement, sometimes expressed as 'three strikes.' This is a baseball metaphor, and usually refers to a rule that requires an internet service provider (ISP) to cut off internet access to a customer after a third copyright infringement. The first two infringements attract warnings. There are variations on this basic approach.

In April 2009 the French Parliament approved a three strikes law, establishing an administrative tribunal to enforce it. This law was struck down by the French Constitutional Court on the grounds that internet access was so important in the modern world, especially in relation to free access to information, that denying it required a court decision, not simply an administrative one. The new French tribunal has been rather imaginatively named the High Authority for the Distribution of Works and the Protection of Rights on the Internet – HADOPI. In September, the French Parliament approved a new version of the HADOPI law providing for judicial oversight.

We understand that Senator Stephen Conroy, the Minister for Broadband, Communication and the Digital Economy, has expressed interest in the three strikes concept.

### iiNet and Safe harbours

The Australian Federation Against Copyright Theft (AFACT) is a coalition of copyright owner interests (32 music and movie companies) which earlier this year began an action against iiNet, Australia's third-largest internet service provider. AFACT asserts that iiNet failed to prevent copyright infringement by its customers. In the past few weeks AFACT has abandoned several of its claims, prior to commencement of the trial on 6 October.

The case is likely to re-awaken interest in Australia in 'safe harbour' laws. A safe harbour (in this case) is a provision in copyright law which reduces an ISP's liability under the law, provided that the party acted in good faith in ways specified in the legislation. Australia has a very narrow provision which applies only to ISPs, and not to internet content hosts – a much larger category.

### Parallel importation – end game?

ALIA is a strong supporter of the repeal of the parallel importation provisions in the Copyright Act 1968. Following a call by the Productivity Commission for repeal, the matter is now approaching resolution. The outcome will be determined by the Commonwealth Government, and at this stage it appears likely that the Government will yield to pressure from publishers, printer, and some authors to retain parallel importation, rather than pressure from the Productivity Commission and Australian consumers to deregulate the book market.

### UWA v Gray

Early in October the University of Western Australia (UWA) sought leave to appeal to the High Court in an intellectual property case. In September the full bench of the Federal Court upheld an earlier court judgment which found for Dr Bruce Gray in a

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case brought against him by UWA. Dr Gray and others patented several inventions which they had worked on while he was a professor at UWA.

After considering the terms of Dr Gray's employment and employment contract, together with aspects of UWA's administrative systems, the Full Federal Court held that Dr Gray had no "duty to invent". UWA did not therefore have an interest in the inventions as a result of the fact that Dr Gray was employed by it.

## Pirate parties

Readers may have noticed the proliferation of Pirate Parties in Europe recently. This follows the demise of the Pirate Bay website in Sweden, which facilitated copyright infringement. Closing down of the website was followed by a 7% vote in Sweden for the newly-formed Pirate Party in the June 2009 European elections. Interestingly, the German Pirate Party gained 1% of the vote in the European elections, and 2% in the national elections in September.

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## Freedom to read

*"Freedom can be protected in a democratic society only if its citizens have unrestricted access to information and ideas."*<sup>1</sup>

ALIA Hunter decided to promote the free flow of information and ideas through *Freedom to Read: an exploration of censorship in Australia*. This event took the form of readings from works that had been banned in Australia. The aims of the event were twofold – to invite discussion about censorship, its role in the free flow of information and ideas, and to connect ALIA to the wider community.

*Freedom to Read* was held on 28 September 2009, to coincide with Banned Books Week, celebrated by the American Library Association. Banned Books Week "celebrates the freedom to choose or the freedom to express one's opinion even if that opinion might be considered unorthodox or unpopular and stresses the importance of ensuring the availability of those unorthodox or unpopular viewpoints to all who wish to read them."<sup>2</sup>

The organising committee – Kieran O'Donoghue, Julieanne Bright and I – deliberately chose a non-library venue in order to reach a wider audience. We held the event at the Royal Exchange, a Newcastle theatre venue. The readers came from across the local creative community, while ALIA Hunter was ably represented by Julia Gollan. The readers were invited to select a work that had been banned and appealed to them.

We were fortunate to have Bonny Cassidy, President of Sydney PEN, as a guest speaker. Bonny spoke about the history and activity of Sydney PEN; the Empty Chair campaign (which represents a particular writer who cannot be present, silenced because of their work); the current writer profile – JS Tissainayagam from Sri Lanka; and the Empty Chair kit, which describes how to participate in the Empty Chair campaign. Bonny also addressed current issues of censorship in Australia – internet filtering and sedition laws, the Melbourne Film Festival, Harry Nicolaidis, and how PEN's ethos and the work of libraries are synchronised in responding to this issue. This event has formed a strong link between ALIA Hunter and Sydney PEN and we are looking for future opportunities to collaborate.<sup>3</sup>



Catherine Knight, Hunter ALIA, Bonny Cassidy, Sydney PEN, Debra Hely, University of Newcastle & Newcastle Theatre Company, Bryan Joyce, Hunter Writers Centre

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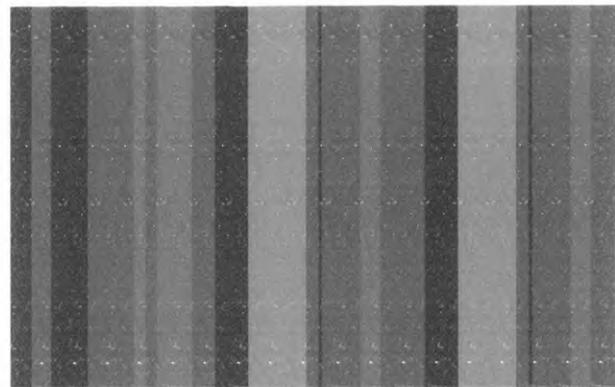


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