The spokesman for the other omitted group, IBM mainframe users hiding under that extraordinary name Australasian Share Guide, effectively conceded defeat for the ACESA position with an outburst of abuse directed against the social service organisation and anyone else he perceived as not representing his favorite supplier. That, of course, came straight up against international convention requirements, making it obvious that satisfactory short-term legislation would take about as long to draft as anything that might replace it.

Even the proposed sunset clause then ran into trouble. A member of the NSW Society for Computers and the Law suggested that any protection period under sunset legislation would have to be kept to two or three years so that recipients of the protection could not be in a position to claim that subsequent legislation was depriving them of pre-existing rights.

The lawyers then went to town, decreeing neither copyright nor patent to be appropriate and demanding that protection be part of a new coherent information law, with other legal and social implications fully examined.

Despite a brief flurry of concern for perceived dangers to Computer Power's new offset software contracts, the symposium suddenly became a forum for a pleasant return to centre stage by retired copyright regulators. One of them suggested that, by developing legislation from scratch, Australia would be in a strong position to influence the shape of international agreements.

In their summing up, the panel's references to short-term protection no longer assumed the copyright mechanism, and they got on with emphasising the lack of industry forward planning, the need for the industry to explain itself properly, and the need for further community involvement.

Langer, seeming only to address his supporters, talked of triumph and the need to beware of a massive rear-guard action from large and powerful foes. But, master tactician that he is, maybe he was challenging ACESA secretariat to come in heavy, knowing that such a move was the last thing the rest of the industry wanted and would fail.
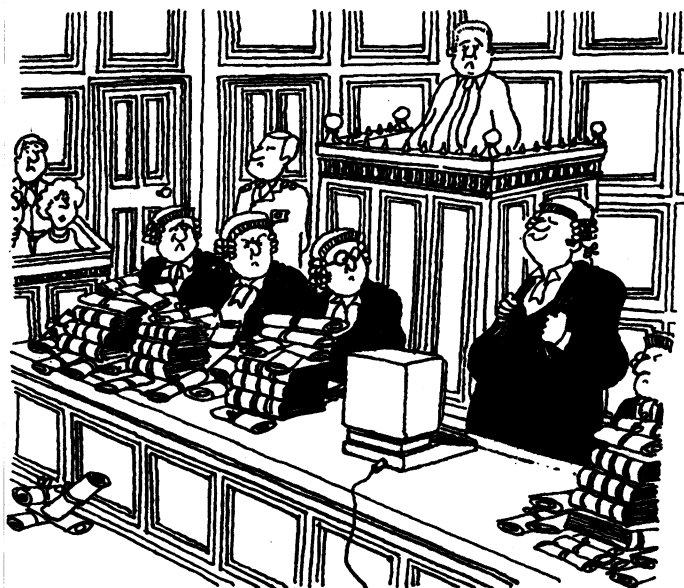


*from THE TIMES May 22, 1984*

## BEHIND OUR BACKS —
## Computer Software Copyright

Reproduced below is the paper by Albert Langer of Software Liberation, presented at the National Symposium on Legal Protection of Computer Software, which was held in Canberra on 15 and 16 March 1984.

*"We'd have had solar power long ago, if only multinational companies could put a blanket around the sun and sell holes in it."*

Copyright law puts an artificial legal blanket around computer information and confers a monopoly right to sell holes in that blanket. Production of software is financed by users paying for the right to use it.

Alternatively, software could be treated like scientific research, road building and other "public goods" and infrastructure projects.

Most people don't use computers and wouldn't know whether copyright matters. But the fundamental issue will affect us all:

There are two major options . . . First, and most likely, information networks will be centralised, oligopolist and limited — essentially means of preserving existing power structures, and controlled by the same people who own newspapers, television networks and radio stations. Second, and much preferable, information networks will be regarded as a public utility, open to all who can pay an appropriate low-cost fee for data . . . a consumer organisation could have the same access to information as a tyre manufacture, trades unions as employers, an opposition party as a government, backbenchers as parliamentary ministers, pacifists as the military, media users as media proprietors . . .

Right now, the Attorney-General's Department is deciding that issue, by drafting urgent, short term copyright legislation to be introduced within a few weeks. This follows confidential submissions just before Christmas, from an organization of multi-national computer companies, the "Australian Computer Equipment Suppliers Association" (which has no Australian members). It is being hurried along by empty threats that US companies will "boycott" Australia and deny access to the latest software, and by hypocritical claims that no Australian software industry could develop without copyright protection. US inspired opposition to an inquiry before legislating has become quite hysterical.

Retrospective legislation has been threatened, so that the many schools and others with cheap "compatible" computers could be forced to abandon them, and also to destroy their existing large collections of unlicensed software. No decision to "privatise" or destroy a large slab of public property has ever before been taken so casually.

Politics lives in a crisis atmosphere. Short-term, urgent considerations inevitably receive more attention than long-term important ones . . . Technology develops its own momentum and can be used as an instrument of the strong

against the weak. The only thing that can stop (this) is a vigorous revival of the political process and an insistence that changes, both major and minor, be analysed thoroughly and argued out in a spirit of passionate scepticism.

Over the next few years, computers will be used on nearly every office and school desk, and in most other occupations. Already computers can be purchased for less than $30 in the U.S.A. and quite powerful systems are less than $100. French Telecom is supplying videotext terminals free of charge because they can replace annual phone directories more cheaply. Computers will be incorporated in domestic TVs, stereos and videos. They will enter most homes as "part of the furniture".

Most new books, newspapers and periodicals are typeset using computers. Their full text can easily be placed "on line" along with the extensive indexing and abstracting database services already available. Optical character recognition now makes it possible to quickly add the entire backlog of all printed matter in all the world's libraries. The public library service, already established as publicly funded and free to all, can be made all embracing and instantaneous, and can largely replace commercial publishing, through direct access over the phone.

A single "compact disk" costing less than $20 can hold the equivalent of more than 1000 paperback books, and can be accessed through the digital audio Hi Fi systems that will soon be cheap enough to replace turntables in most homes, That's 2 cents per book.

For $2000 each, "middle management" can now have software for organizing and processing information, so simple to use, that even a business executive can handle it. For $100 per hour, they can access most existing public databases. In a non-copyright system, the costs could be $20 for software and $5 per hour for information.

The rapidly falling price of computer hardware is an inevitable "spin off" from the most massive publicly funded research and development effort in the world — US military electronics, which has bypassed the stifling effects of patent laws. Prices of software, and of public information will fall too, but how much and how quickly depends on the legislation now being drafted.

If a "user pays" copyright system is established, those 1000 paperbacks will still cost hundreds of dollars instead of $20.

Access to knowledge, capital or wealth is roughly equivalent and there is a widening gap between the information-rich and the information-poor whereby the unskilled become an intellectual proletariat.

If a "public domain" system is retained, society will still have to pay the research and development costs for computer software, and the costs of creating literary works and other information stored in public databases. But instead of erecting a blanket around computer information, for the same total cost, a much wider range of people will be able to use it.

Allocation of public funds could involve contracts, whether performed by public institutions or by private firms as in the publicly funded US military industrial complex. Grants could come from a variety of funding bodies, as in scientific research, literature, and the arts etc. A "market" system could be used, similar to "public lending right" for authors, based on surveys of useage. (If we *must* have a commercial broadcasting system, as well as the ABC, why couldn't a portion of sales tax be paid to broadcasters directly in proportion to audience ratings, instead of requiring us to put up with ads as well as paying for them?)

Well over 90% of software royalties are paid abroad. We could simply pay for U.S. software in kind instead of in cash, just as we do for scientific research. An equivalent tax levy would pay for Australian public domain software that would also be useful abroad.

Legislation prepared behind our backs, with no public inquiry first, would pre-empt all these options — if people don't act now.

*(Quotations are from "Sleepers, Wake!" by Barry Jones, who as Minister for Science and Technology, ought to be able to insist on an inquiry.)*

Albert Langer
Software Liberation

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