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## Book Reviews

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### **Commercial Exploitation of Intellectual Property**

*Hilary Pearson & Clifford Miller*

*Blackstone Press Ltd, 1990, xi + 464 pages*

*Paperback \$76.00*

*(\$71.00 if cheque accompanies order)*

*Distributed by The Federation Press*

The laws protecting intellectual property are many and complex. At times they do not sit together with particular comfort or coherence. The professed aim of this book is to explain in non-technical terms and to laypersons the salient features of intellectual property law. In this aim it succeeds admirably. The authors also suggest that it may be useful as a text of first reference for non-specialist lawyers and an introductory work for students. I suspect that it is not sufficiently detailed to give anything but a broad sketch of the field for lawyers or students, so in this sense it is not perhaps the most useful work. However, this does not detract from its value for

non-lawyers, and for lawyers to explain principles to clients.

The book notes that intellectual property law is underutilized by British businesses. The same is no doubt true in Australia, New Zealand and South-East Asia. The law which it covers, that of the United Kingdom, is not significantly different from Australia's or New Zealand's. Perhaps more importantly, specific sections of the relevant UK act are not much referred to or relied upon, and general principles are as applicable here as there.

The introductory chapters give examples of the way in which intellectual property operates in a commercial environment, and explains basic concepts. Excellent use is made of examples, and how the strong application of IP laws has been vital for a number of companies (for example, Xerox) and failure to do so has been disastrous for others (for example, the inventors of the digital computer).

The book then divides IP law into three extremely useful categories: protection of ideas and information (patents and confidential informa-

tion), protection of form and appearance (copyright, semiconductor chip protection, designs) and protection of image and reputation (passing off and trade marks). The authors then discuss remedies and competition law.

The final six chapters are perhaps the most interesting and useful. They deal with business applications of IP, including how to stop infringement, prepare for litigation, and licensing and selling intellectual property. For anyone involved in IP litigation or its precursors, the chapters entitled 'Heading off infringers' and 'War on infringers' should be required reading. It explains in non-patronizing language the process, the problems, the pitfalls and the range of possible outcomes in IP litigation.

All IP lawyers should read this book, if only for the last six chapters, and insist that their clients read it. All corporate counsel in high tech companies should recommend it to their non-lawyer colleagues. Though not specifically aimed at computer law, this is a valuable book, providing instruction for lawyers and laypersons alike. ♪

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### **Intellectual Property Rights in Sound Recordings, Film & Video**

*J.A.L. Sterling*

*Sweet & Maxwell, 1992, lcxiii + 721 pages*

*Hardback \$325.00*

*Distributed by The Law Book Company*

It may surprise some that a review of a work on this topic should appear in a journal devoted to computers and law. That it appears is

due to two reasons. First, the book has an admirably clear and concise appendix which explains computer law principles which are relevant to the recording industry. Second, the field of the law of sound recordings, film and video often overlaps with computer law.

No one person could be expected to know all intellectual property laws of every country, relating to sound recordings, film and video, along with a smattering of the various municipal laws relating to computers. Much less could one expect a book covering all these fields and countries in 721 pages. However

J.A.L. Sterling has staggered this reviewer and provided just that.

This book is a compendious and remarkable examination of the municipal laws of most (if not every) country which regulate the rights in phonographic or cinematographic recordings. The work describes general principles (for example, the different types of protection available for video works - soundtrack copyright, performer's copyright, artistic/visual copyright, etc) and where practicable gives examples of particular domestic laws. The primary sources for this book are the international conventions and the do-

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mestic law of the United Kingdom, Germany, the United States and France. With the exception of some specific examples, the work concentrates on the copyright laws.

The book is divided into two parts, Commentary and Reference. The Commentary opens with a number of very clear introductory chapters which provide an introduction to the field and explanations of the technical principles behind recording processes and technical expressions used in the book and in industry.

Chapter 4 begins the legal analysis. It looks at the international conventions in great detail and gives specific examples from a number of countries. This use of examples is a feature of this book. Examples from the United Kingdom, Germany, France and the United States are extremely common. Indeed, most sections of the book have examples and legal explanations from at least three of these jurisdictions. In cer-


tain sections examples from other countries are used: Austria, Italy, Canada, Ghana, Barbados, Malawi, Sri Lanka, (even Australia) all rate mentions and discussion in some sections.

Chapter 4 will be of most use to the computer lawyer. It finishes with an admirably concise and accurate appendix explaining computer law of relevance to the recording industry. With computer-based recording equipment becoming increasingly common, this appendix can only become more valuable to computer and entertainment lawyers alike.

The remainder of the Commentary comprises chapters on legal terminology, the basis and structure of protection, an examination of national laws and international conventions, a range of challenges to intellectual property rights and a summary of concepts discussed. The range of topics covered is impressive, and current. Issues such as

transmissions from space, 'sampling' in the music industry, colourisation of black and white film stock, and the Serial Copying Management System in CD to DAT copying are all raised. Many of these current issues arise by dint of the impact of computers on recording techniques. The comments made will be as applicable to say CD-ROMs as to CDs, to give but one example.

The Reference part of the book includes the full text of all major conventions, charts of country's membership of these conventions, and summaries of national law provisions. The reference material is well-presented and copious. It comprises nearly 300 pages, and gives an extraordinary range of detail on an extraordinary number of countries.

Notwithstanding its high price, this book is sure to earn a place on every entertainment law practitioner's bookshelf, and should be consulted by computer lawyers where overlap occurs. 

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### **Copyright Protection of Computer Programs**

*Beth Gaze*

*The Federation Press, 1989, xviii + 199 pages*

*Hardback \$50.00*

Although this book is beginning to show its age, it is without equal in the field of protection of computer programs. Any practitioner who has not read it cannot say that he or she is aware of the issues relating to copyright and computer programs. Beth Gaze, a lecturer in law at Monash University wrote this book back in 1989. At that time *Apple v Computer Edge* was hot news, so the reader should not expect an exegesis of the *Autodesk* decision or the other more

recent cases. However, Ms Gaze not only addressed the law of computer programs in Australia and the United States that was current at that time, but examined the problems to be faced. Some of these problems have been addressed by the courts while yet others are still the subject of learned comment. It should be the starting point for all people entering the field.

The book opens with a discussion of the computer industry and some essential jargon. This includes discussion that will appeal to both the tyro (for example, explanations of program and software) and to the more expert (for example, firmware) alike. The remainder of the first chapter should be required reading - it focuses on economic, political

and philosophical arguments in the field of computers and copyright. All too often these fundamental points are ignored in the hurry to write a book that explains 'how', and ignores 'why'.

The second chapter explains and examines the protection afforded to computer programs as at 1989. As such, it is somewhat dated, however it is useful as an introduction to American and Australian computer copyright law. It covers not only the initial cases and legislation covering purely identical copying, but also delves into structure and organizational copying, and 'look and feel' copying. Time has stolen a march on the author in the 'look and feel' area with the *Lotus* decision, amongst several others.

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The third chapter is for today's reader the most interesting. It looks at the problems in computer software copyright. It canvasses the difficult issues of the suitability of copyright as a protective regime for programs, the problems with form and substance (the perceptibility problem which was fatal in *Apple v Computer Edge*), and the functional nature of programs, *inter alia*. The chapter finishes with an examina-

tion of the policy questions relating to the scope of protection. These include difficulties with idea and expression (so important in look and feel), antitrust and unfair competition. The final chapter is a brief one which re-examines some of the concepts discussed in previous chapters, but against the broader backdrop of information technology generally.

This is a book which will reward the reader each time he or she opens it. The policy and philosophical questioning which runs through this work is both refreshing and challenging. It is not a book which gives all the answers. However, the questions which it asks should always be borne in mind, and should provide the basis for examination of the new law of computer protection as it emerges. *LD*

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### **1992 Australasian Legal Software Directory**

*Edited by S. McNamara, S. Lewis,  
N. Deluca and P. Allatson*

*Legal Management Consultancy Serv-  
ices Pty Ltd, 1992, 133 pages*

*\$40.00 (\$30.00 to members of the  
Societies)*

There seems to be a never ending stream of software products which are marketed as indispensable for lawyers. The average lawyer simply does not have the time to make enquiries about or to arrange demonstrations of every piece of software so marketed in order to determine whether it meets their requirements. Enter the 1992 Australasian Legal Software Directory.

The 1992 Australasian Legal Software Directory was written to help a lawyer identify software that may be appropriate for their firm. The book reviews all the legal software of which the authors are aware, under a number of headings; supplier, product characterisation, contact, features, system overview, software age, documentation, training and support, system requirements, hardware and cost.

The book begins with an introduction which briefly canvasses some of the issues relevant to the choice of software for a law firm, such as desirable attributes for any software purchased and training. After an explanation on how to use the directory, the editors provide an overview of the main categories of software products which are avail-

able for lawyers, for example solicitor's office management systems, precedents/matter support systems, automated practice systems, litigation support products and barrister systems. Following the 16 pages of introductory material, are 133 pages of pithy software reviews, listed alphabetically.

While the Editors obviously cannot and do not attempt to provide advice about software which is specific to a particular practice, they do offer the lawyers in that practice area an opportunity to be familiar with the range of software which is available. The Australasian Legal Software Directory puts them in a position to approach a manageable number of software vendors with an informed perspective and, if they take the authors' advice, with 'healthy scepticism'. £

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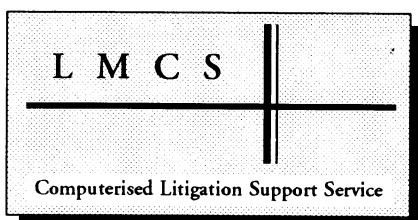
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For information on the Directory contact:

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