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Copyright



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Say 'cheese' and picture this

I was studying the instruction booklet for my new digital camera when I came across a setting for 'Copy'; the explanation in the booklet is that this setting is for 'taking sharp pictures of printed text'. This made me think about the uses to which cameras can be put, apart that is, from holiday snaps. It seems unlikely that digital cameras will replace photocopiers any time soon, but perhaps cameras should be sold with warning notices about copyright infringement?

In a previous column (*inCite*, Sept 2006) I dealt briefly with the topic of ownership of copyright in photographs, but what are the laws dealing with the taking of photographs? These may not be copyright issues at all, but rather ones of trespass, trade practices and privacy.

Buildings

Although buildings are covered by copyright, there is an exception permitting the taking of photographs of a building (*Copyright Act 1968*, Sect 66). So those pictures you took of the Sydney Opera House are safe. However the owners of private land have the right to prevent the taking of unauthorised photographs—in 2006, there was an outcry in Melbourne when it was reported that the operators of the popular Southbank centre had erected signs prohibiting the taking of photographs ('Picture this: city puts photo ban in the frame' *The Age*, 30 July 2006). The signs were removed but the ban remained. There may also be issues of security involved.

Artwork

The Copyright Act also permits the taking of photographs of sculptures and other artistic works in public places (Sect 65). Paintings in art galleries however, may still be protected and many galleries ban photography.

People

The image of a person is not protected by copyright, but using the image without permission may contravene the Trade Practices Act. For example, if the image of a well-known person is used in an advertisement, it may falsely imply that the person endorses the product or service being advertised. This law however, is unlikely to apply to the ordinary person. If a photograph is used in a manner that demeans the human object of the photograph, then there may be a case for defamation.

The Privacy Act does not prevent the taking and publishing of photographs of persons without permission. Clearly, countless

numbers of photographs are taken that include people almost inadvertently. Problems may arise when these photographs are used for purposes that were never intended. The increasing use of the internet has meant that photographs often find a very wide audience. The development of photo-sharing websites, such as Flickr.com, are an example of this. If you are taking a photograph which may appear on a website then it would be wise to ask permission of the people involved: if they object they can always refuse to be photographed.

Children

In 2005, the Standing Committee of Attorneys-General released a discussion paper entitled *Unauthorised photographs on the Internet and ancillary privacy issues*. This was in response to concerns, inter alia, over the publication on the internet of photographs of children engaged in sporting and other harmless recreational activities which were pandering to the interests of paedophiles and others.

There have also been cases where photographs were taken of children who were the subject of protection orders.

If you are taking photographs of children at story time in the library, for example, it would be wise to get permission in writing from their parents if you intend to use the photograph in a library publication or on a library website (or if you might send a report to another publication, such as *inCite*).

Cinemas

On a less serious note, there has been a rise in the use of video cameras and camcorders in cinemas to record movies with a view to burning and selling DVDs before they are officially released. Personally I can imagine nothing less appealing, but if you are tempted—don't do it. This is a flagrant breach of copyright and the penalties are severe.



• **6/8 ALIA PD Workshop in partnership with CAVAL** *Negotiating e-licences*. Special rates for members. Practical one-day workshop suitable for all library and information professionals. Venue: Palmerston Campus, CDU. Register online, <http://training.caval.edu.au/>. For further information e-mail training@caval.edu.au, 03 9450 5508 or pd@alia.org.au, 02 6215 8216

• **15/8 Top End Library Tour**. Cridlands Law Firm, 5:00 for 5:30pm. Contact Sarah White, 08 8935 9991, sarah.white@palmerston.nt.gov.au

• **19/9 Top End Meeting**. Venue: CDU, Palmerston, 5:30pm. Contact Sarah White, 08 8935 9991, sarah.white@palmerston.nt.gov.au

• **24/10 Top End Library Tour**. Venue: Darwin High School Library, 5:00 for 5:30pm. Contact Sarah White, 08 8935 9991, sarah.white@palmerston.nt.gov.au

QLD

• **7/8 QOPAL Meeting**. Hopgood Ganim Lawyers. Level 8, 1 Eagle Street, Waterfront Place, Brisbane, Time: TBA. Contact: Helen Gambley, 07 3024 0391, h.gambley@hopgoodganim.com.au

• **8/8 ALIA PD Workshop in partnership with CAVAL** *Negotiating e-licences*. Venue: Seagulls Resort, Townsville. Register online, <http://training.caval.edu.au/>. Further information: training@caval.edu.au, 03 9450 5508 or pd@alia.org.au, 02 6215 8216.

• **18/8 Library Technicians QLD Tour/Workshop**. Contact Trish D'Arcy, 07 3623 7407, p.darcy@mcauley.acu.edu.au

• **7/9 Australian Committee on Cataloguing Seminar 2007**: Promise for the future, or legacy of the past – Cataloguing in a changing world. Venue: State Library of Queensland. Time: 9:30am – 5:00pm. Contact Jane Hardy, 02 6215 8235, jane.hardy@alia.org.au

• **18/9 Library Technicians QLD General Meeting**. Location: TBA. Time: 5pm for 5:30pm start. Contact Trish D'Arcy, 07 3623 7407, p.darcy@mcauley.acu.edu.au

• **19/9 QOPAL Meeting**. Resource Options, Suite 5, 936 Logan Road, Holland Park. Contact Jenny Hale or Kerri Nixon, ph 07 3847 6499, info@resource-options.com.au

• **20/10 Library Technicians QLD Tour/Conference Feedback**. Venue & Time: TBA. Contact Trish D'Arcy, 07 3623 7407, p.darcy@mcauley.acu.edu.au

• **25/10 Australian Copyright Council seminars**, Brisbane Presented by ACC copyright law experts. A day of seminars on copyright topics for librarians, including the new provision for maintaining or operating a library or archive. Contact Reception: ph 02 8815 9777, info@copyright.org.au, <http://www.copyright.org.au>

• **29/10 QOPAL Meeting**. Smiths Aero-space, 3 Hakea St, Brisbane Airport. Time: 3:00pm. Host & Contact: Sonja Potgieter, ph 07 3860 0758, sonja.potgieter@chapav.com.au