What's **happening in** copyright

Copyright

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The last couple of months have been full of important and interesting developments in copyright. Not only in Australia, but also overseas.

In Australia, December saw the commencement of the Copyright Amendment Act 2006. This Act, the full implications of which are still unclear for libraries, was the culmination of a number of copyright reforms which began with the Digital Agenda Amendment Act in 2001. It included the government's response to the Digital Agenda Review conducted by Phillips Fox in 2004 and to the review by a parliamentary committee of the Technological Protection Measures (TPMs) amendments. These amendments are required by the Australia–US Free Trade Agreement. Unfortunately the result of of the amendments is to make copyright law in Australia, in the words of Senator Andrew Bartlett, (Senate Hansard 30 November 2006, p155) 'a congealed, wobbling blob of copyright'. It adds 221 pages of amendments to the existing 500 pages of the Copyright Act. At a recent seminar one of the speakers remarked that copyright law was now almost as complex as taxation law!

Hard on the heels of the Act came the Cooper decision. This was the decision of the Full Federal Court in the appeal of Cooper v Universal Music Australia Pty Ltd. It found that Cooper, a website designer, and the ISP which hosted the website, were liable for authorising infringement of copyright by providing access to infringing MP3 files. The initial reaction to the decision was somewhat overheated, with some predicting the end of the internet. This has been predicted before and it hasn't happened. The decision does reinforce the importance of being careful about what exactly you link to.

In the UK, the release of the report of the Gowers Review of Intellectual Property was generally welcomed by the library community as a reaffirmation of the importance of balance in intellectual property legislation. This review was commissioned by the UK Treasury to 'examine all elements of the IP system to ensure that it delivers incentives while minimising inefficiency.' Of particular interest was the recommendation that the copyright term for sound recordings not be extended from the current 50 years, this was despite intense lobbying from the recording industry to follow the US model (95 years). Australia, under pressure of the AUSFTA extended the term to 70 years in 2005. Other positive recommendations relate to the strengthening of library exceptions and to the problem of 'orphan works'. Of course, the Gowers report is just that – a report. It remains to be seen whether the UK government embodies its recommendations in legislation.

Across the Tasman, the NZ parliament has released a draft bill which is a mixture of our Digital Agenda Amendment Act of 2001 and the recent Copyright Amendment Act. It's a mixed bag, containing some really well-drafted clauses, but also some provisions that bring to mind the 'wobbling blob' described above. It would make legal the circumvention of TPMs for a permitted purpose such as research or study.

In Canada, recent legislation has extended the legal deposit requirements to include all electronic and online material and requires the publishers to remove any TPMs before depositing. This is in stark contrast to our own federal legislation which does not even require the deposit of materials in formats other than print.

To continue the international theme, the website http://www.worldmapper.org has published some maps that dramatically illustrate the flow of royalties across the world. Go to the website and type 'royalties' into the Search box. There is a huge imbalance between the USA, Japan, Western Europe and the rest of the world.

Information such as this demonstrates why we are not and never will be a 'clever' country while successive governments fail to realise the importance of IP as opposed to agriculture and mining when negotiating trade deals.