

120 YEARS EARLIER: THE GLOBAL INFORMATION INFRASTRUCTURE AND PROPERTY IN INFORMATION

Professor Lionel Bently

Faculty of Law, Cambridge University, UK

Abstract:

The last decade has seen a transformation of national, regional, and international legal rules governing the ownership of information products in response to the new modes of creation and dissemination associated with digitization. In Europe, for example, the ‘database right’ has been introduced to protect investment in the creation of information products that might previously have fallen outside the scope of copyright. At an international level, the WIPO Treaties of 1996 required signatories to introduce a new ‘making available’ right, so that the owners of copyright and related rights have protection in relation to digital dissemination over the Internet. This paper examines legal responses to (what Tom Standage) called the ‘Victorian Internet’: the development over 120 years earlier of a global network of electronic communication through telegraphy. In this period, claims emerged for the protection of information products disseminated by the new technology, in particular ‘news’. In response to some such claims, in the 1870s a few Australian states adopted laws conferring proprietary rights over such ‘news’, and these laws spread widely through the British Empire (being adapted where necessary to suit local needs). However, the UK and US never adopted such laws themselves, and they never became part of the multilateral system of protection that emerged after 1886. What were the political, economic and cultural influences that account for the patchy operation of these laws? Why were they adopted in Australia but not Canada? Why in Ceylon but not India? Why did new global technologies of distribution 120 years ago not produce global laws?