

AHRB Workshop on Neighbouring Rights
30th March 2005
Arcade Room, University of New South Wales.

Invited Speakers

Dr David Brennan, Faculty of Law, University Of Melbourne

Australian Broadcasts as Copyright Property

The recent (and on-going) litigation in Australia relating to the television program *The Panel* has brought to the foreground uncertainties surrounding sound and television broadcasts as copyright subject matter. This paper examines the history, context and implications of the current treatment of broadcast copyright in the Copyright Act 1968. In light of these perspectives it analyzes and assesses the respective approaches applied by the trial judge, Full Federal Court and High Court in *The Panel* litigation. From this it arrives at some conclusions as to the desirability of the current treatment of broadcast signals as copyright subject matter in the existing regime.

Dr Johanna Gibson, Queen Mary Intellectual Property Research Institute, University of London

A Right to My Public: Copyright, Human Right or Privacy?

In the preparation of celebrity culture for consumption, a careful branding of private personalities as public images and, indeed, as property, is applied. In the process, a critical tension between a right to privacy and a right to property in one's image as "brand" has emerged. When or how is the image of the celebrity fixed in such a way that it is worthy of protection, and reproducible for production? What is the impact of the incidental witness as distinct from the physical fixation in the photograph of the paparazzi or passer-by? Through an analysis of property in personality, and a critical examination of "celebrity," this paper considers the notion of publicity rights, and the awkward relationship to individual interests in privacy, protection of brands, and copyright in images.

Dr Matthew Rimmer, Faculty of Law, Australian National University

The Garden of Australian Dreams: The Moral Rights of Landscape Architects

This seminar considers the moral rights controversy over plans to redesign the landscape architecture of the National Museum of Australia.

The Garden of Australian Dreams is a landscaped concrete courtyard, which includes a swimming pool, a map of Gallipoli and other Australian references such as the dingo fence and paintings of Jeffrey Smart and Jackson Pollock's "Blue Poles". In July 2003, the Carroll Report on the National Museum of Australia recommended that the courtyard should be redesigned, with the addition of lawn, trees, a sun dial and representations of Aboriginal rock art. Conservative members of the Council supported the renovation; however one member compared the proposed makeover to "putting earrings on the Mona Lisa". In response, the landscape architect Richard Weller threatened to bring an action for a breach of the new moral right of integrity: "The plans are offensive to our artistic integrity. To change our design makes a complete mockery of the entire process by which the work was chosen and created. We don't want (NMA review chairman) John Carroll to be the first man in history to

cancel a garden." He concluded: "Perhaps we should let Backyard Blitz (a Lifestyle TV program) have a go at the national museum". This seminar considers the cultural, legal, and political dimensions of this intriguing moral rights controversy.

Professor Adam Shoemaker, Dean of the Faculty of Arts, ANU

To be advised.

Kimberlee Weatherall, Faculty of Law, University Of Melbourne, Associate Director (Law) IPRIA

Australia's New and Unusual Performers' Rights Regime

On 1 January 2005, Australian copyright law changed as a result of the Free Trade Agreement with the United States. The FTA was supposed to help harmonise Australian and US copyright law. But in the area of performers' rights, Australia actually moved away from a near perfect harmony to oh-so-20th Century discord. The new Australian regime makes performers co-owners of copyright in the recordings of their performances. This paper will outline the new Australian regime and some of its many quirks, complications and eccentricities. It will also examine how this new system compares to performers' rights regimes in other signatories to the WPPT, and what the implications are for those dealing with performers' rights worldwide.

Dr Guido Westkamp, Queen Mary Intellectual Property Research Institute, University of London

International Copyright Conflicts: Artistic Cultural Expression, Performing Artists and the Resale Rights

The paper will focus upon the treatment of cultural expression in international copyright (Berne; TRIPs), but particularly focus upon aspects of private international law with regard to claims arising under the proposed Australian resale right in the European Union. In addition, the introduction of "folklore" as protected subject matter into the German Copyright Act and its treatment under private international law will be looked at, with a view to highlighting the inconsistencies these new additions to the copyright system will bring about.