

the Copyright Law Review Committee was that many of the problems perceived to arise from the lack of moral rights in Australia could be remedied by an increase in the understanding by both authors and the public of matters with which moral rights are concerned.⁶ A similar reasoning could be applied to issues affecting Internet copyright.

Where to from here?

So we may ask in the light of recent Australian and US experience what is the future of copyright in cyberspace? We must first have a clear understanding of what the Internet is and what we, as a society, want it to do for us.

Barlow has painted a very exciting picture of the Information Age as lived through the Internet:

all of the expressions once contained in books or film strips or newsletters will exist either as pure thought or something very much like thought: voltage conditions darting around the Net at the speed of light, in conditions that one might behold in effect, as glowing pixels or transmitted sounds, but never touch or claim to 'own' in the old sense of the word.

Lance Rose, another contributor to *Wired*, paints a less glamorous view of the Internet and hence a more optimistic view of the role of copyright. He notes that piracy on a mass scale is not new, highlighting the availability at markets and street stalls of 'bootleg' music, videos, software, T-shirts and watches. He stresses that:

copyright succeeds at maintaining public markets for copy-righted products — markets where the owners can charge and receive a price for those products. It is irrelevant whether any given infringement goes unpunished — as long as it is kept outside the public marketplace.⁷

His view is that the rules of the marketplace should be allowed to operate and that copyright remains a valid and valuable right.

The Internet provides a very important, perhaps soon to be the most important, forum for the exchange of ideas. It is clear that a balance of philosophies is needed. Law cannot operate in a vacuum divorced from the developments taking place in the (virtually) real world. However, one should not be blinded by the wonder of the new technology and abandon all that has gone before. The Internet is a new medium for transmitting information but the content remains words, sounds, images. They just happen to be conveyed to us as noughts and ones. Copyright has adapted in the past; it will

again. Copyright cannot be blamed for the attempts of regulators to rein in the uses (and excesses) of the Internet.

Of course, the fact that the infringement in *Trumpet* was a wholesale appropriation makes the case a straightforward one. Much greater difficulties are going to arise where the copying is only part of a digital work, particularly where that part has been manipulated in some way. Digital technologies do pose a particular challenge to copyright law in terms of detection and proof of copying of parts of works but these can be dealt with as they arise in accordance with existing principles.

There is no excuse for complacency on the issue of copyright's relevance to the Internet. It is not only a narrow legalistic concern. We cannot have an informed debate about the future use and regulation of cyberspace if many of the participants have only a limited grasp of intellectual property law. The information superhighway will be of little use if there is no traffic on it because the absence of traffic police, or copyright protection, has meant the dangers of travelling the Net are too great for copyright creators. We must be wary of being too willing to view cyberspace as a new world requiring different rules, when the ones we already have seem to work reasonably well.

References

1. Subsection 36(1) of the *Copyright Act* provides that copyright in a literary work (such as the Trumpet Winsock software) is infringed by a person who, not being the owner of the copyright in that work, does or authorises the doing of, in Australia, an act comprised in the copyright of that work, without the licence of the owner of the relevant copyright. Such 'acts' are defined in s.31, in relation to literary works, as reproduction, publication, performance of the work in public, broadcast, causing the work to be transmitted to subscribers to a diffusion service, making an adaptation of the work or doing any of the above acts in relation to an adaptation of the original work (other than adaptation).
2. See for example, the articles published in *Wired* magazine (and via its online counterpart, *Hotwired*) by Pamela Samuelson and John Perry Barlow canvassing the validity of old law in a new environment.
3. Barlow, John Perry, 'The Economy of Ideas', *Wired* 2.03 (<http://www.hotwired.com/wired/2.03/features/economy.ideas.html>).
4. See Davies, Gillian, *Copyright and the Public Interest*, IIC Studies, Max Planck Institute, Munich
5. Davies, G., above, p.68.
6. Copyright Law Review Committee, 'Report on Moral Rights', January 1988, p.21.
7. Rose, Lance, 'The Emperor's Clothes Still Fit Just Fine or Copyright is Dead. Long Live Copyright', *Wired* 3.02 (<http://www.hotwired.com/wired/3.02/departments/rose.if.html>).

Virtual law and crime artwork by Julian Wong

Julian Wong is a Melbourne-based digital artist currently studying electronic design and interactive media at RMIT. The following images and the work on the cover present a visual netscape based on internet references of virtual law and crime.

A micro-photo montage depicting the unhygienic intersection of data; where information becomes both viral and corruptible; virtual yet influential; where opposing theories, philosophies, social and political positions, extreme aspects of (sub) culture share a powerful communication outlet in an orgy of unbridled exhibitionism.



