

AFTERWORD

The Hon Greg James, QC¹

The conference at which the papers which comprise this book were delivered was convened to mark the 40th anniversary of the commencement of Australia's *Copyright Act* in 1968. As can be seen from the papers, it sought to place the issues in copyright law in both their historical and their contemporary contexts. Those issues have increasingly attracted national and international scrutiny, as was pointed out to the attendees by Senator Lundy in her speech at the conference dinner.

In his foreword, the Hon Michael Kirby surveys the current debates on copyright law and intellectual property from an international and human rights law perspective. Those debates informed not only the conference papers, but also the robust discussions. The varied papers produced for the conference reflected those debates, as well as governmental and legislative views, and also the history of the legislation in Australia and internationally. The technological revolution has allowed the global public to access information through the internet, which, particularly recently, has dramatically changed the climate in relation to copyright and intellectual property law.

Since the conference, the release by Wikileaks of documentation of a broad-ranging kind relating to the affairs of various governments has fuelled the existing global debate as to what material might be retained confidentially, for what purposes, and what material should be disseminated or published or generated, so as to serve a public interest in being informed, and in rewarding creativity and providing access to knowledge. Those considerations have to be weighed in intensely political "democracy/free-speech" dialectic.

In that context, it is not surprising that the proceedings of the conference were vigorous. The papers covered a broad diversity of topics. The attendees plainly enjoyed, indeed even immersed themselves in, the more arcane history of copyright

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law, in particular in Australia, and in the more far-reaching development of international and global approaches to copyright, including the examination of different philosophical viewpoints which might underlie modern copyright and informed access, as discussed by Professor Lessig and Professor Fitzgerald.

It has become clear to those of us who have spent our lives, as Michael Kirby did, growing up without being almost symbiotically linked to computers, that our concepts both of the technology, and of the application of existing copyright law and philosophy to the dissemination of knowledge, are dramatically out of date. Those who have grown up and lived with the freedom the internet has given bring an entirely different perspective to the concepts of copyright, and to the incentive that the public interest, by recognising property in works and protecting them by copyright laws, affords to creators. The public domain and free access were matters of significance for all concerned with copyright legislation and enforcement, and hence the value of such concepts and how legislation might accommodate them were the focus of much attention.

The conference attempted to accommodate both older conservatism and legalism and more modern liberal attitudes. More modern developments as described in the paper made it plain to those of us not attuned to the freedom of dissemination now available, and not attuned to the degree of control over that freedom of dissemination that States and large corporations might wish to exercise, that we need, in the world's interest, to be well aware of all the issues for debate and their fullest ramifications.

The conference concluded with an examination of current issues raised by Professor Sterling relating to his experiences over 55 years of his work in international copyright law, and to his views for the future. The remarks made in his paper foreshadow the necessity for the principles and values of copyright to be examined continuously globally, rather than nationally, more national recognition, and for the secure protection of those works which, in the global public interest, contribute to international knowledge rights in works.

Professor Sterling set out a list of important current and future issues at Annexure 1 to his paper, and a proposal for global internet licensing in Annexure 2. He had debated during the conference those issues with the conference attendees, and they had been the subject of vigorous examination. They should be re-examined in the context of his proposals for reform to the Australian *Copyright Act* in respect of orphan works and other orphan material, for the formation of an Asian Pacific Copyright Association, and for the development eventually of a global association, which would meet the increasingly realised world needs to secure the original objects of copyright protection.

When one examines the influences that Professor Fitzgerald, who had convened the conference, refers to in his concluding remarks, in the context of the vigorous public debate, private argument and conscientious enquiry that attended the conference, one

is left with a high degree of admiration for the contributions made by the authors and the attendees.

I commend to all these papers, and particularly Professor Sterling's proposals, in the hope that, after this conference, the debate will continue, with focus on issues which may enable, at a future conference, a further fruitful discussion of a possible and effective global copyright system.

Greg James

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