

Copyright, Digitisation and Cultural Institutions Conference 2005

Friday 26 August
State Library of Victoria

A conference for staff of cultural institutions, examining key copyright issues relating to the digitisation of collection material, and launching *Copyright and Cultural Institutions: Guidelines for Digitisation* by Emily Hudson and Andrew Kenyon.

Presented by the University of Melbourne's Centre for Media and Communications Law (CMCL) and Intellectual Property Research Institute of Australia (IPRIA), and supported by Museums Australia and the Australian Research Council.

Program

8.15am Registration opens

9am Welcome and opening address

Anne-Marie Schwirtlich (CEO & State Librarian)
The Hon. Mary Delahunty (Minister for the Arts)

9.15am Cultural institutions in the digital age

The advent of digital technologies has changed the ways in which cultural institutions can fulfil their missions of access, preservation, research and education. These sessions look at cutting-edge digitisation projects being undertaken in two major Australian cultural institutions, and the related copyright issues.

CHAIR: Tim Hart (Museum Victoria)

Digitisation and copyright: Experiences of the Australian War Memorial

Institutions are increasingly using digitisation to promote access to their collections, including through electronic catalogues and databases and online exhibitions. Copyright can impact on these projects in a variety of ways. This presentation describes common copyright issues faced by the Australian War Memorial in relation to its digitisation projects and touches on responses to those problems.

SPEAKER: Mal Booth (Australian War Memorial)

Digital technologies: Changing the process of exhibition development and access

Digital technologies can facilitate processes in which the public can become actively involved in all stages of collection and exhibition development, from collecting to designing the exhibition. Users are no longer simply recipients of museum content: they can become involved as creators. This generates many logistical issues – including in relation to rights management. This presentation considers these issues in the context of the My Museum web services being launched by the National Museum of Australia.

SPEAKER: Andrew Remely
(National Museum of Australia)

10.15am Morning tea

10.45am Launch of the guidelines

These sessions will launch and introduce the *Copyright and Cultural Institutions: Guidelines for Digitisation*, look at aspects of the US-Australia Free Trade Agreement relevant to cultural institutions, and consider the special issues arising from digitisation of indigenous cultural materials.

CHAIR: Terry Cutler (Cutler & Company)

The background to the guidelines

This presentation discusses the background to the Copyright and Cultural Institutions project being conducted by the CMCL and IPRIA, and the development of the *Copyright and Cultural Institutions: Guidelines for Digitisation* by Emily Hudson and Andrew Kenyon. There are two versions of the *Guidelines*: the 'short form' version (a useful primer on copyright law for institution staff) and the 'long form' version (directed to those requiring a more detailed knowledge of copyright law).

SPEAKER: Andrew Kenyon (CMCL)

Using the guidelines: Copyright and cultural institutions

Copyright is a complex area of law, but it can be broken down into a series of concepts to help us understand the law and determine whether a particular activity raises a copyright issue. This presentation covers these concepts, drawing from materials in the short and long form *Guidelines for Digitisation*. Particular attention will be given to the 'libraries and archives' provisions, which allow cultural institutions to perform certain dealings with copyright works for free, and without obtaining permission from the copyright owner.

SPEAKER: Emily Hudson (CMCL and IPRIA)



Program

The Free Trade Agreement and cultural institutions

Recently, Australian copyright law was amended in accordance with the Free Trade Agreement with the United States. This presentation will discuss aspects of those amendments relevant to cultural institutions, particularly in relation to digitising cultural materials.

SPEAKER: Kim Weatherall (IPRIA)

Case study: Digitisation and indigenous cultural information

This presentation covers issues that arise in relation to the reproduction and communication of collection items that embody cultural information, drawing from a research project being jointly conducted by the Australian Institute of Aboriginal & Torres Strait Islander Studies (AIATSIS) and IPRIA.

SPEAKER: Jane Anderson (AIATSIS)

12.30pm Lunch

1.45pm Tips from the inside

These sessions will provide practical advice in relation to information management and licensing, consider digitisation from the perspective of creators, and offer tips on dealing with lawyers.

CHAIR: Shane Carmody (State Library of Victoria)

The 'how to' of licensing and information management

There is little point digitising material if the resultant digital files are not organised in a way that is accessible and amenable to searching. Indeed, many institutions are seeking to link digital files to their collections databases – and even allow the public to search these databases via the Internet. This presentation discusses strategies used by the Art Gallery of NSW to deal with information management and copyright issues.

SPEAKER: Jesmond Calleja (Art Gallery of NSW)

Cultural institutions are reliant on copyright licences for many digitisation projects, particularly where images are used online or in commercial products. This session provides practical advice in relation to negotiating licences with both individual creators and collecting societies.

SPEAKER: Donna Brett (Art Gallery of NSW)

Perspectives from creators

Cultural institutions rely on authors and artists for their content – so what issues do creators face when dealing with institutions? This presentation will consider digitisation from the creator's perspective, including discussion of issues such as respect for moral rights, access to collection items, and the impacts of unremunerated copying for creators.

SPEAKER: Robyn Ayres (Arts Law Centre of Australia)

Lawyers and litigation

Many cultural institutions do not have trained lawyers on staff, but occasionally will require external legal advice. This presentation provides some useful suggestions in relation to dealing with lawyers, and a brief overview of strategies for dispute resolution.

SPEAKER: Evan Stents (Hunt & Hunt Lawyers)

3.15pm Afternoon tea

3.45pm Law reform

This final session describes research undertaken as part of the Copyright and Cultural Institutions project and some of the key results of that research, and looks at possibilities for law reform.

CHAIR: Delia Browne (Ministerial Council on Employment, Education, Training & Youth Affairs)

Cultural institutions in the digital age: An empirical study of copyright, digitisation and cultural institutions

The Copyright and Cultural Institutions project has included interviews with staff at institutions in Australia and overseas in relation to the current and existing digitisation projects, copyright management strategies, and opinion on copyright law. This final session describes the key results of that research, and discusses possibilities for reform of both copyright law and cultural institution practice. Topics covered will include copyright exceptions and dealing with 'orphan works'.

SPEAKERS: Andrew Kenyon (CMCL), Emily Hudson (CMCL & IPRIA), Andrew Christie (IPRIA)

5.15pm Conference drinks

6.15pm Conference closes

Jane Anderson



Robyn Ayres



Mal Booth



Tim Hart



Emily Hudson



Andrew Kenyon



Andrew Remely



Participants

Jane Anderson

Dr Jane Anderson is a Research Fellow at the Australian Institute of Aboriginal & Torres Strait Islander Studies and a Rockefeller Fellow at the Smithsonian Institution in Washington DC. In collaboration with IPRIA, Jane is working on a project that explores contested ownership and control of historical and contemporarily recorded Indigenous cultural knowledge. The project is focused on the significant amounts of copyright material (in particular ethnographic photographs, sound recordings and films) that have been produced about Indigenous people in Australia. Jane is the author of the forthcoming book *Law/Knowledge/Culture: The Production of Indigenous Knowledge in Intellectual Property Law*.



Donna Brett



Jesmond Calleja



Shane Carmody



Andrew Christie



Terry Cutler



Evan Stents



Kim Weatherall

Robyn Ayres

Robyn Ayres is Executive Director of the Arts Law Centre of Australia and has spent most of her legal career working to achieve social justice for groups in the community. Working with the Aboriginal community in Australia as a human rights lawyer, Robyn saw the need to establish an Arts Law service for Indigenous artists, given the importance of the arts to Aboriginal peoples in establishing a firmer economic base. The Arts Law Centre has just celebrated the first anniversary of its Artists in the Black service. Robyn was on the board of the Artists Foundation of Western Australia for four years and has a law degree from the University of NSW.

Mal Booth

Mal Booth is head of the Research Centre at the Australian War Memorial. His focus has been to push ahead with the colour digitisation of fragile and high-use records of war and to seek wider promotion of the Research Centre and its collections. In a previous role at the Memorial, he was responsible for developments including the setting up of the Memorial's award-winning website. Prior to joining the Memorial, he was Director of Economics at the Defence Intelligence Organisation. He holds a degree in Economic History and is a graduate of RMC Duntroon.

Delia Browne

Delia is an intellectual property lawyer and is National Copyright Director of the Copyright Advisory Group at the Ministerial Council on Employment, Education, Training & Youth Affairs, as well as teaching in the Faculty of Law at the University of NSW. Previously she worked at Minter Ellison, providing copyright advice to the education sector. In her role as Executive Director of the Arts Law Centre of Australia (1996–2002), Delia advised the arts sector regarding legislative reforms and policy in intellectual property and taxation. She negotiated and drafted amendments to the *Copyright Amendment (Moral Rights) Act 2000* and negotiated and implemented the ATO Tax Ruling 2005/1 'Carrying on business as a professional arts practitioner'.

Donna Brett

Donna Brett is Project Officer for Curatorial Services at the Art Gallery of NSW, and is an arts writer. Since graduating from the South Australian School of Art, she has worked in the arts, including at Viscopy and the National Indigenous Arts Advocacy Association. She is an active contributor to the Art Association of Australia and New Zealand, and is a member of the Museums and Galleries NSW Visual Arts Reference Committee. Donna is currently completing an MA in art history and theory at the University of Sydney.

Jesmond Calleja

Jesmond Calleja is Senior Registrar, Collection Systems Integration, at the Art Gallery of NSW. Previously he has worked at the Australian National Maritime Museum, the Powerhouse Museum and the Earth Exchange. He holds a degree in archaeology and paleoanthropology. While continuing to manage the cataloguing and documentation portfolio of the Registration department, Jesmond provides a vital role in the management of the collection and continually seeks to make the collection more accessible to the public. His main focus recently has been to develop a complex interactivity between the Gallery's digital image database, collection management system and website.

Shane Carmody

Shane Carmody is Director, Collections and Access, at the State Library of Victoria. He is responsible for acquisition of collection materials, cataloguing, storage and conservation, and for all access services including exhibitions and public programs. Previously Shane was Director of the Melbourne Office of the National Archives of Australia. He studied history and fine arts at the University of Melbourne, and completed an MA in history and historical urban geography at the University of Toronto, as a Rotary Foundation Graduate Scholar.

Andrew Christie

Professor Andrew Christie was appointed as the first Davies Collison Cave Professor of Intellectual Property in 2002. He is the founding Director of the Intellectual Property Research Institute of Australia, a national centre for multi-disciplinary research on the law, economics and management of intellectual property, at the University of Melbourne. Andrew is admitted to legal practice in Australia and the UK, and worked for many years in the intellectual property departments of law firms in Melbourne and London. He has particular expertise in the application of copyright, patent and trade mark law to the digital environment.

Terry Cutler

Dr Terry Cutler, Managing Director of Cutler & Company, is an industry consultant and strategy advisor in the communications technology arena, and has been widely involved in government industry policy and regulation both here and overseas. He is currently Chairman of the CRC for Interaction Design (ACID), President of the Australian Centre for the Moving Image, and Director of the Multimedia University, Malaysia. As Chairman of the Industry Research and Development Board in 1996–98, Terry spearheaded key initiatives in promoting venture capital and industry innovation and oversaw the licensing of the initial Innovation Investment Funds.

Participants

Tim Hart

Tim Hart has worked in museums for 18 years, in collection management, policy development, project management, information technology and new media. He studied architecture and archaeology at Sydney University. In 1997 he was appointed National Project Manager of Australian Museums On Line. In 1999 he became Chief Information Officer at the Powerhouse Museum, and in 2001 he was appointed Director of Information, Multimedia and Technology at Museum Victoria. Tim is dedicated to increasing the integration of new media into museum exhibitions both physical and virtual, in order to enhance the visitor experience.

Emily Hudson

Emily Hudson is a Research Fellow at the University of Melbourne's Intellectual Property Research Institute of Australia and the Centre for Media and Communications Law. Previously she was employed for three years at national law firm Minter Ellison, with a particular interest in intellectual property litigation. Much of Emily's research relates to the law and cultural institutions, including digitisation and copyright, and intellectual property and Indigenous knowledge. Emily holds degrees in science and law, and is due to complete a Masters of Law at the University of Melbourne this year.

Andrew Kenyon

Dr Andrew Kenyon is Director of the Centre for Media and Communications Law at the University of Melbourne. He researches in comparative media law, especially defamation, free speech and electronic media regulation. He also researches in art and law, particularly in copyright and the visual arts. Andrew is editor of the refereed journal *Media & Arts Law Review*, a Network Participant in the Australian Research Council Cultural Research Network, a Board Director of the Arts Law Centre of Australia, and a National Council Member of Museums Australia. He has law degrees from the universities of Melbourne and London.

Andrew Remely

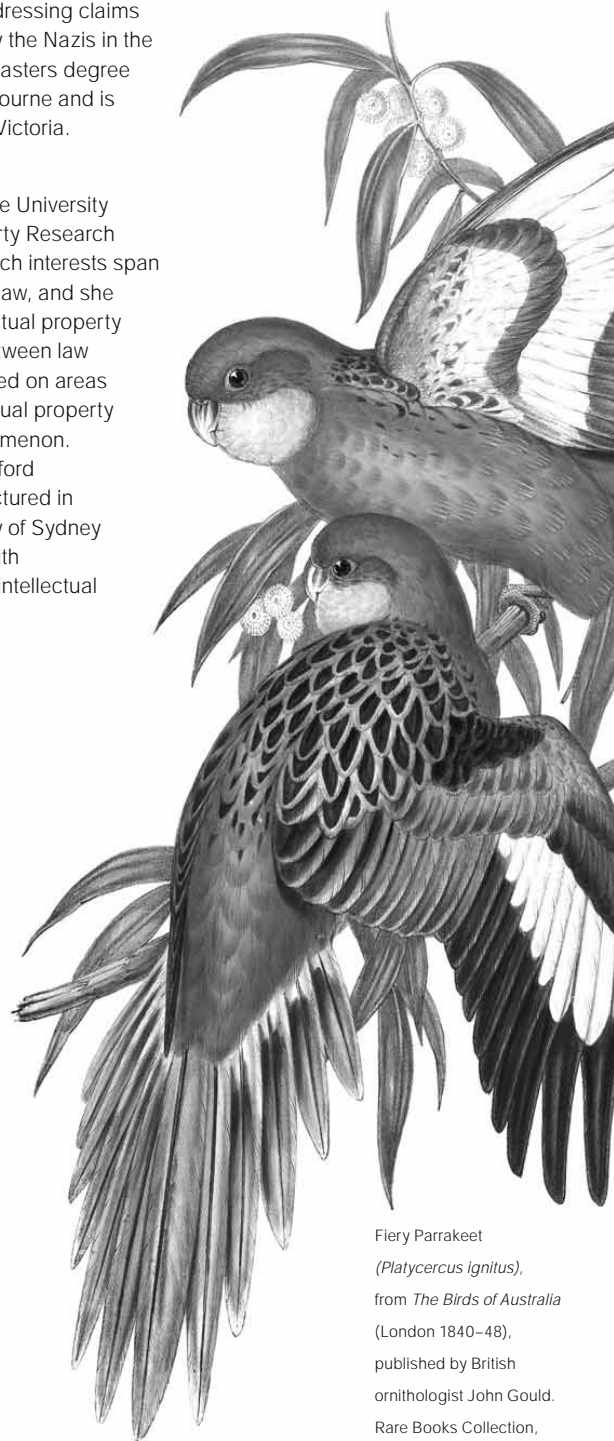
Andrew Remely's professional experiences have been linked by a common theme: strategies for using technology to improve learning, and knowledge sharing. Currently, he is the Manager, Technology Initiatives, for the National Museum of Australia. He has taken a lead role in the redevelopment of the Museum's website and supporting technical infrastructure, and has worked with curatorial and public programs teams to develop strategies and technology solutions for community collecting projects. In 2003 Andrew was awarded an NMA travelling scholarship to Scotland and Canada to research the digital heritage networks CHIN and SCRAN.

Evan Stents

Evan is a partner at Hunt & Hunt Lawyers in Melbourne. He has had considerable experience in protecting intellectual property rights and has conducted legal proceedings in both the Supreme and Federal Courts with respect to such matters. Evan is an authority on protecting the rights of owners of artworks stolen in military conflicts, and has advised the National Gallery of Victoria on its protocols for addressing claims with respect to artworks stolen by the Nazis in the Second World War. Evan has a Masters degree in law from the University of Melbourne and is a member of the Law Institute of Victoria.

Kim Weatherall

Kim is an Associate Director of the University of Melbourne's Intellectual Property Research Institute of Australia. Kim's research interests span copyright, trademark and patent law, and she has a particular interest in intellectual property theory, and in the intersection between law and technology. She has published on areas as diverse as indigenous intellectual property rights, and the file-sharing phenomenon. Previously Kim has studied at Oxford University and Yale University, lectured in Commercial Law at the University of Sydney Law School, and practiced law with Mallesons Stephen Jaques in its intellectual property group in Sydney.



Fiery Parrakeet
(*Platycercus ignitus*),
from *The Birds of Australia*
(London 1840–48),
published by British
ornithologist John Gould.
Rare Books Collection,
State Library of Victoria



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