

# E-news on Copyright



Australian Government  
Attorney-General's Department

## WIPO Director General to visit Australia

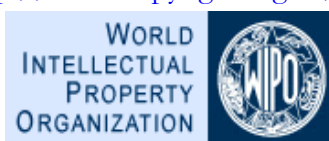
The Director General of the World Intellectual Property Organization (WIPO), Dr Francis Gurry, will be visiting Australia during 3-7 August 2009. During this visit, Dr Gurry will give a public lecture at the University of Melbourne Law School on 3 August and make an address to the National Press Club in Canberra on 4 August. The theme for Dr Gurry's address is "A global perspective on the challenges facing copyright in the digital age". For bookings at the National Press Club, please contact [www.npc.org.au](http://www.npc.org.au).

Dr Gurry is the most senior Aus-

tralian within the United Nations structure, and is only the third Australian to lead a United Nations agency.

Dr Gurry will also be addressing a copyright conference, *Reimagining copyright for the 21st century*, on 6 August organised by the Copyright Society of Australia at the National Gallery of Australia. Details are on the Copyright Society of Australia website:

<http://www.copyright.org.au/>



## Appointment of Justice Nye Perram to the Copyright Tribunal of Australia

On 5 June 2009, Attorney-General, the Hon Robert McClelland MP announced the appointment of Justice Nye Perram as a Deputy President of the Copyright Tribunal of Australia. The appointment commenced on 8 June 2009 for a period of three years.

Justice Perram was admitted to practice by the Supreme Court of New South Wales in 1992, admitted as a Barrister in 1993 and was appointed Senior Counsel in 2006. He has specialised principally in the areas of constitutional law, administrative law, commercial law and equity. Justice Perram has also practised in the areas of corporate

regulation, trade practices, telecommunications and industrial law. He was appointed to the Federal Court in 2008.

The Copyright Tribunal principally arbitrates disputes between copyright collecting societies and their licensees over copyright licence fees. It is an important feature of Australia's copyright system.

Generally, the most common forms of applications made to the Tribunal require it to:

- determine a rate of equitable remuneration payable under a statutory licence

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### Useful links

- IP Australia [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)
- FTAs [www.dfat.gov.au/trade/ftas.html](http://www.dfat.gov.au/trade/ftas.html)
- WIPO [www.wipo.org](http://www.wipo.org)

- confirm or vary a proposed or existing licence scheme, or
- review a failure or refusal to grant a licence or the offer of a licence on charges or conditions that were alleged to be unreasonable in the circumstances.

The Tribunal now consists of the President, the Hon Justice Arthur Emmett, two Deputy Presidents, the Hon Justice Perram and Federal Magistrate Rolf Driver, and three members, Professor Dennis Pearce, Dr Rhonda Smith and Dr Hugh Sibly.

### **The Attorney-General's Copyright Consultation Stakeholder Forum 2009**

On 18 May 2009, the Attorney-General, the Hon Robert McClelland MP, opened a Copyright Stakeholder Consultation Forum. The forum, held at the NSW State Library in Sydney, was attended by approximately 40 representatives from intellectual property industries, user groups, creators and government departments.

Key copyright stakeholders used this forum to raise and discuss copyright issues directly with the Attorney-General and government departments. Partici-

pants raised a broad range of contemporary copyright issues including the digital copyright piracy, access to justice, access to copyright material by educational institutions and people with disabilities, the establishment of new rights, and the role and responsibilities of copyright collecting societies.

The Attorney-General's Department is undertaking further analysis of the issues raised at the forum which will be used to inform the Government's copyright policy agenda.

### **Attorney-General opens *Copyright Future: Copyright Freedom* Conference**

The Attorney-General, the Hon Robert McClelland MP, opened the Copyright Future: Copyright Freedom conference at the Old Parliament House on 27 May 2009. The two day conference discussed the evolution of copyright law and touched on a broad range of contemporary copyright issues including digital copyright, limitations and exceptions, access, and crown copyright. A highlight of the conference

was the keynote address from the Professor Lawrence Lessig of Stanford University Law School titled, *The Culture Wars: Getting to Peace*.

The Attorney-General's opening address is available at:

[http://www.attorneygeneral.gov.au/www/ministers/robertmc.nsf/Page/Speeches\\_2009\\_27May22009-CopyrightFuture-CopyrightFreedomConference](http://www.attorneygeneral.gov.au/www/ministers/robertmc.nsf/Page/Speeches_2009_27May22009-CopyrightFuture-CopyrightFreedomConference)

### **WIPO Meeting of Standing Committee on Copyright and Related Rights**

The 18th session of the WIPO Standing Committee on Copyright and Related Rights (SCCRR) met in Geneva from 25 to 29 May 2009. The meeting discussed progressing work on limitations and exceptions, the protection of audiovisual performances and the protection of broadcasting organizations.

The Committee affirmed its commitment to continue work to address the issues affecting access to

copyright materials for blind and visually impaired people. Following consultations at the national level and consideration of various proposals, this work should advance at the next meeting.

The Committee also reaffirmed its commitment to work on developing the international protection of performances in audio visual media.

## **Parallel Importation of Books Review - Release of draft report by the Productivity Commission**

On 20 March 2009, the Productivity Commission released its draft report on the provisions in the Copyright Act 1968 which restrict the parallel importation of books.

The report recommends that the restrictions against parallel importation be modified to apply for 12 months from first publication of a book in Australia provided it remains available (as opposed to the present arrangements where restrictions can apply

for the full term of copyright). The draft report and full recommendations can be accessed on the Productivity Commission website via the following link: <http://www.pc.gov.au/projects/study/books>

In April, the Productivity Commission held public forums and accepted supplementary submissions on the draft report. The Commission's final report to Government is expected to be publicly released on 14 July 2009.

## **Singapore to host APEC *Trading Ideas* 2009**

On 30 and 31 July 2009, the Intellectual Property Office of Singapore will host APEC *Trading Ideas* 2009. Like the inaugural *Trading Ideas* symposium, hosted in Sydney by IP Australia in 2007, the 2009 symposium will bring together influential intellectual property professionals, government policy makers and industry leaders from throughout the region.

The focus of the 2009 symposium will be intellectual property commercialization for businesses in the APEC region. Further information is available on the dedicated website at:

<http://www.tradingideas2009sg.com>

## **APEC Workshop on Conducting Effective Intellectual Property Public Education and Awareness for Small and Medium Enterprises**

On 1-3 April 2009, Australia hosted an APEC workshop on *Conducting Effective IP Rights Public Education and Awareness Campaigns for Small and Medium Enterprises* in Melbourne.

The workshop featured a range of presenters from industry leaders, communications professionals and government officials who provided insights on successful public education and awareness campaigns in the region and advice on how to design, implement and deliver such campaigns.

The workshop was well attended with representative from intellectual property rights offices throughout the APEC region, APEC Small and Medium Enterprise working group members, innova-

tors and intellectual property related organizations, private sector representatives and small and medium enterprises.

Information about the workshop including presentations can be accessed at:

<http://www.ipaustralia.gov.au/apec09.shtml>

The APEC Intellectual Property Experts Group has also created a public education and awareness website which provides links to activities and material from across the region. The website can be accessed at: <http://www.apecipeg-pear.org/filter.asp>, and is a useful resource for both intellectual property rights holders and government agencies.

## IP Australia Public Consultations on Intellectual Property Rights Reforms

Senator the Hon Kim Carr, Minister for Innovation, Industry, Science and Research, is considering proposed reforms to Australia's intellectual property system. The reforms aim to reduce barriers in the innovation landscape for researchers and inventors; improve certainty about the validity of granted patents; and allow patent claims to be resolved faster.

Information on the proposed reforms will be contained in a series of papers. These first two of these, *Getting the Balance Right* and *Exemptions to Pat-*

*ent Infringements*, are now available on the IP Australia website at: <http://www.ipaustralia.gov.au>

Senator Carr's media release is available at: <http://minister.innovation.gov.au/Carr/Pages/GOVERNMENTCALLSFORINPUTINTOPROPOSEDIPREFORMS.aspx>

The Department anticipates that the CAL annual report will be tabled in both Houses of Parliament in early 2009.

### The Copyright Advisory Group *Smartcopying* website

The Copyright Advisory Group to the Schools Resourcing Taskforce of the Ministerial Council on Education, Employment, Training and Youth Affairs Taskforce on Copyright (CAG) has launched a new website called *Smartcopying*. The website will assist Australian Schools and TAFEs in understanding copyright issues which affect them and includes

a guide to copyright, frequently asked questions, fact sheets, resource material and news updates on copyright issues affecting the education sector.

The Smartcopying website is at: <http://smartcopying.edu.au>

### IP Australia factsheet on the Crown Use of Intellectual Property

IP Australia has published a factsheet on Crown use of patents, designs and copyright. The factsheet provides rights owners with useful information on the rights and obligations of parties in respect of government authorised use of intellectual property without the authorisation of the rights owner.

The factsheet can be downloaded from the IP Australia website at:

[http://www.ipaustralia.gov.au/pdfs/general/crown\\_use\\_of\\_ip.pdf](http://www.ipaustralia.gov.au/pdfs/general/crown_use_of_ip.pdf)

### Update on Australian Trade Agreement Negotiations

The Attorney-General's Department continues to work closely with the Department of Foreign Affairs and Trade, IP Australia, and other agencies on the intellectual property issues in relation to Australia's current Free Trade Agreements (FTAs), negotiations for new FTAs and the Anti-Counterfeiting Trade Agreement.

#### *Australia-Chile FTA Enters into Force*



The Australia-Chile FTA entered into force on 6 March 2009. The Minister for Trade, the Hon Simon Crean MP's media release is available at:

[http://www.trademinister.gov.au/releases/2009/sc\\_021.html](http://www.trademinister.gov.au/releases/2009/sc_021.html)

The intellectual property chapter is quite detailed.

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It is largely modelled on each country's equivalent chapter in their FTAs with the United States and provides transparent, high-standard protection for intellectual property rights, including copyright.

The text of the IP chapter is available at: <http://www.austlii.edu.au/au/other/dfat/treaties/2009/6/17.html> and the text of the e-commerce chapter is available at: <http://www.austlii.edu.au/au/other/dfat/treaties/2009/6/16.html>.

### ***Australia, New Zealand and the Association of Southeast Asian Nations FTA***



On 27 February 2009, the Minister for Trade, the Hon Simon Crean MP, signed the Australia, New Zealand, and ASEAN Free Trade Agreement with his ASEAN and New Zealand counterparts. The joint media statement is available at: [http://www.dfat.gov.au/trade/fta/asean/aanzfta/aanzfta\\_jms\\_090227.pdf](http://www.dfat.gov.au/trade/fta/asean/aanzfta/aanzfta_jms_090227.pdf)

It is expected that Agreement will enter into force in the second half of 2009 and, in any event, no later than 1 January 2010. A copy of the full text of the Agreement is available at: <http://www.dfat.gov.au/trade/fta/asean/aanzfta/contents.html>

The intellectual property chapter of the Agreement reinforces the Parties' existing rights and obligations under the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights, and builds on them in a number of areas. The chapter contains a number of specific obligations on protection of intellectual property rights, government use of software and transparency. The Chapter also includes detailed provisions for cooperation between the Parties on intellectual property issues.

### ***Anti-Counterfeiting Trade Agreement (ACTA)***

Since the formal announcement of Australia's participation in negotiations for an ACTA by the Minister for Trade on 1 February 2008, Australia has participated in four formal rounds of negotiations. In ongoing negotiations, Australia is pursuing an agreement that has the potential to set an enhanced, practical standard for intellectual property enforce-

ment, which complements the existing international intellectual property architecture and is capable of attracting broad international support.

DFAT's website has recently been updated to include a detailed summary of all elements under discussion in ACTA negotiations. To view the update, as well as other information about the ongoing negotiations please visit: <http://www.dfat.gov.au/trade/acta>

The summary document has been jointly drafted by all ACTA negotiation participants, and is intended to provide greater information to the public on matters being negotiated. This summary should also guide stakeholders seeking to make submissions on ACTA negotiations. This paper is not intended to prejudge the outcomes of negotiations, or the contents of any final agreement.

### ***Other Free Trade Agreements***

Australia is also currently negotiating FTAs with China, the Gulf Cooperation Council, Japan, the Republic of Korea and Malaysia. In addition, feasibility studies have been undertaken or are currently underway on the benefits of FTAs with Indonesia and India.

Information in relation to Australia's existing FTAs and the negotiations currently underway is available at: <http://www.dfat.gov.au/trade/ftas.html>. Interested persons can also subscribe to DFAT's free email newsletters.

### ***Intellectual Property Consultative Group***

DFAT hosts an Intellectual Property Consultative Group attended by relevant Government agencies and a broad range of intellectual property industry representatives. These meetings are an important opportunity to update industry on the progress of FTA negotiations and to ensure ongoing industry consultation. The last meeting of the Intellectual Property Consultative Group was held on 20 April 2009.

Stakeholders are also encouraged to raise FTA related copyright issues directly with either DFAT or the Copyright and Classification Policy Branch of the Attorney-General's Department.

## Who do I contact in the Copyright Law Branch?

### Digital Economy Section

- Internet service providers
- Anti-Counterfeiting Trade Agreement
- Japan FTA
- Korea FTA
- Technological protection measure
- E-commerce issues (including UNCITRAL)
- *Electronic Transactions Act 1999*
- Public lending right scheme
- Copyright Tribunal (appointments, jurisdiction, procedures)
- Collecting societies (administration and supervision)
- Computer software and databases
- Rights management information
- AUSFTA
- *Circuit Layouts Act 1989*

Contact: Peter Treyde, tel: (02) 6141 3450; e-mail: peter.treyde@ag.gov.au.

### New Rights and Exceptions Section

- Competition policy issues (including parallel importation of books)
- Exceptions for consumers
- Exceptions for libraries and other cultural institutions
- Statutory licences for broadcasters; educational institutions; persons with a disability; and governments
- Collecting societies - Commonwealth agency agreements for government copying
- Indigenous traditional cultural expressions (including international developments)
- Expressions of cultural heritage (including international developments)
- Legal deposit
- Resale royalty for artists (copyright issues)
- Icons, national symbols and other IP and indicia protection
- Security rights in intellectual property (copyright issues)
- Hague Convention intellectual property work
- Moral rights of authors
- Performers' protection

Contact: Norman Bowman, tel: (02) 6141 3440, e-mail: norman.bowman@ag.gov.au.

### Trade, Enforcement and Public Awareness Section

- Bilateral and regional issues (including APEC, WTO, OECD and Commonwealth Law Ministers)
- China, Malaysia, GCC, Indonesia and ANZ-ASEAN FTAs
- Copyright and trade
- Enforcement issues
- Criminal offence provisions
- Public awareness education
- Infringement notice scheme
- Liaison with law enforcement agencies

Contact: Sam Ahlin, tel: (02) 6141 3479, e-mail: Sam.Ahlin@ag.gov.au.

### Commonwealth Copyright Section

- Commonwealth Copyright Administration
- Australian Government practice in management of copyright materials
- Whole of Government approach to intellectual property management by agencies—Statement of IP Principles
- Copyright Law Review Committee report on Crown copyright
- Innovation review
- Copyright and Designs interaction
- Copyright and International Protection Regulations
- Chile, Singapore FTAs

Contact: Justine Clarke, tel: (02) 6141 3442, e-mail: Justine.Clarke@ag.gov.au.

The head of the Copyright and Classification Policy Branch is Helen Daniels PSM, Assistant Secretary. Ms Daniels can be contacted on (02) 6141 3416, e-mail: Helen.Daniels@ag.gov.au.

Adele Langton is responsible for copyright matters in the office of the Attorney-General, the Hon Robert McClelland MP, and can be contacted on (02) 6277 7300.

For general enquiries telephone (02) 6141 3416; fax (02) 141 3488; e-mail: [copyrightlawbranch@ag.gov.au](mailto:copyrightlawbranch@ag.gov.au).

## Where can I get more information about copyright?

Information on copyright is available on the Attorney-General's Department website at:

<http://www.ag.gov.au/copyright>.

The Copyright and Classification Policy Branch does not give legal advice to members of the public. The Copyright and Classification Policy Branch can provide federal government departments and agencies with legal advice on copyright law matters.

Individual creators with a specific copyright inquiry may be able to obtain advice from the Australian Copyright Council, tel: (02) 9318 1788. See also the Copyright Council website at <http://www.copyright.org.au/>.

For information on patents, trade marks and designs, contact IP Australia by telephoning 1300 651 010 or access information online at <http://www.ipaustralia.gov.au/>.

Reports of the Copyright Law Review Committee are available at <http://www.ag.gov.au/clrc>.

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## Feedback or comments?

We would also like to hear from you if you have any feedback or comments on this newsletter. Send an e-mail to [copyrightlawbranch@ag.gov.au](mailto:copyrightlawbranch@ag.gov.au).