COPYRIGHT DEVELOPMENTS AROUND THE WORLD

Copyright, its liberalisation and ease of enforcement, continues to be a hot topic discussed and debated around the world. As a start to the new year, here is a round-up of interesting and informative stories covering copyright issues, copyright reforms and copyright developments around the world.

INTERNATIONAL NEWS

Association of South East Asian Nations (ASEAN)
ASEAN has published its IP strategy for the next five years. This covers a number of areas of IP, with plans for copyright including “effective use of the copyright system by 2025”. Under this plan, various ASEAN countries are spearheading key initiatives which include creating a copyright notifications framework and making copyright databases available to the public, including in partner countries.

Australia
The Australian Productivity Commission recently released a report on Australia’s intellectual property arrangements, including copyright. This report, which calls for an open book market and the abolition of certain copyright protections, has received strong criticism from Australian rightholders although libraries and various cultural institutions had encouraged the government to favour flexibility.

Canada
In the light of the upcoming reforms in 2017, the Copyright Board of Canada has taken a decision which is unpopular with publishers, to fix lower fees for copies of works carried out for educational purposes. Meanwhile, Access Copyright, which manages revenues from reprographic rights, has already warned that they will be distributing much less money in 2017, due to an extension of the fair dealing provisions in Canada.

India
In a case involving a lawsuit brought by Oxford University Press, Cambridge University Press and Taylor & Francis — against a vendor on the Delhi University campus who was providing copying services for students’ “course packs”, the courts ruled against the publishers, citing the broad exception in the copyright law, for copying of literary works by teachers and students. The judgement is discussed here.
Germany
Germany is also reviewing its copyright laws and have drafted a proposal for copyright reform. Some key points raised in the proposal are as follows:
- The possibility to use up to 25% of a work for the purpose of education.
- For non-commercial scientific research purposes, up to 75% should be allowed to be copied for individual research use.
- To permit taking copies of a work in order to undertake Text & Data Mining (or to automate scientific research), including both copying and sharing within a closed group for non-commercial uses.
- To allow for a general contract override provision for major exceptions.

Ireland
The Irish government has announced the key areas of focus of a new copyright bill. This includes the ratification to the Treaty of Marrakesh, allowing libraries to make preservation copies, further facilitating educational uses, and including a text and data mining exception.

Singapore
Singapore is currently reviewing its own copyright laws as well, which includes proposals for a fuller Text and Data Mining exception, as well as easier use of orphan works.

COPYRIGHT RESOURCES
In the US, the Journal of Copyright in Education and Librarianship, has been launched. The journal will be published twice a year, and in its first edition, readers can expect articles on copyright education and digitisation of documents, among other topics.
The Australian Library and Information Association has also prepared an informative resource in the form of copyright factsheet for librarians.

LEARNING POINTS…

Assessing Copyright
A Finnish team presented a methodology for assessing copyright systems recently, which aims to inform policymakers on the factors they should be considering in creating a balanced copyright policy. In his piece about this project, the writer Jonathan Band notes that higher protection is not necessarily the best way forward.

Secondary Liability
The SMU Applied Research Centre for Intellectual Assets and the Law in Asia held a talk on Secondary Liability for Online Copyright Infringement recently and provided some interesting information and food for thought on the concept of secondary liability.
Secondary liability, or indirect infringement, arises when a party (typically a service provider of online content) contributes to, facilitates, or is seen as being responsible for the infringing acts carried out by another party (typically the customers or end users). It was shared that service providers, typically ISPs, have an “acceptable use
policy” as an attempt to limit their liability. This policy, which may form part of the Terms and Conditions of a contract, prohibits subscribers and account holders from using the service provided to “post, copy, transmit or disseminate any content that infringes the patents, copyright, trade secrets and moral rights of the authors and creators”. ISPs and online content service providers are increasingly being seen to have a larger role to play besides being mere conduits to online content, as there is an expectation for them to police deliberate infringement activities and discipline their customers by terminating their accounts. Some courts however, are of the opinion that by solely providing a facility for someone to carry out an act of infringement, does not make the service provider liable for authorizing infringement, especially if the service provider had not sanctioned or approved the primary infringer’s infringement. So the jury is still out on this one…

Questions on Copyright

Q1:
Can a teaching staff make copies of various pages and chapters amounting to 10% from a resource or do the pages copied need to be consecutive?
As long as the total amount of material copied amounts to or is within 10% of the number of pages in a published work, the copying is considered to be a fair dealing.

Q 2:
When a library receives a request from 2 different researchers to copy 2 different articles from the same periodical – will the library be in infringement of the law if it carries out the copying requests?
At any one time, the fair dealing provision allows the copying of one article in a periodical or two or more articles relating to the same subject matter in the same periodical for a user request. The requested for article is to be used for his/her personal study or research. In this instance, each user is requesting for only one article. This is within the provisions of the law and does not constitute an infringement.