# COPYRIGHT or WRONG – Senate Submission, August 2013.

# WHO will control OUR information and knowledge ?

**Problem 1** - Most people are confused by our Copyright Laws.

**Problem 2** - Our Laws seem to benefit overseas commercial interests.

**Problem 3** – Some overseas countries do not recognize our Copyrights and Patents.

**Problem 4** – Confusion between what is PATENT-able and what is COPYRIGHT-able.

*Example 1* – It took over TEN years for the US Courts and Industry to recognize the CSIRO Australian Wi-Fi Patents.

If this had not been such an important technological break-through for digital communications and computers, it would have been superceded long before the Courts even got to consider the case.

*Example 2* – Most authors and publishers KNOW that any book printed in Australia should have a copy lodged with the National Library for posterity.

I recently asked the National Library how they handled lodgments for computer software – the answer was they '**do not accept software'**.

**In this 21st century Australia does not yet have a National Computer Heritage Centre that would house a 'SOFTWARE REPOSITORY' for Australian Software/Firmware developers.**

**Problem 5** – I have heard that there are overseas (and possibly local) organizations pushing to have copyright terms extended by many years.

**Problem 6** – In many cases commercial vendors of Computer Software refuse to support their 'intellectual property' after a very short period of time.
[Actually the term 'intellectual property' is often not the best description for many items of computer software – as indicated by the numbers of bug-fixes regularly distributed (or not) by the vendors.]

**Logical Solution** - the Copyright Laws should be updated to allow for more flexible conditions for different types/classes/categories of 'intellectual property'.

Example A – Computer Software copyright should cease 5 years after the last commercial sale in Australia, OR after two major update releases. Technically, there is no logical reason for any copyright to remain on any software designed to run on DOS-based Personal Computer systems.

Example B - Audio and/or video product copyright should expire when various recording formats are no longer being sold commercially. [eg: when Cassette Tapes are no longer readily sold commercially or used – end users should be free to copy their legally purchased items to more modern formats].

Example C – Film Archives, Film Societies and Collectors should be able to show films that are no longer being shown in city or suburban cinemas (after a notional delay time) without the fear of prosecution. There is really no logical or financial reason why copyright of a film should extend beyond an initial 3 or 5 year period. If it has not made a commercial return within that period then it should be classified as having further commercial prospects, and copyright should lapse.

**Proposal 1** - The Australian Copyright Laws should include more flexible acquisition and free usage rights for Museums, Archives, Educational Organisations, etc, so that significant private and public collections can be seen and appreciated by all Australians.

Example D – I have been told that our Copyright Laws allow researchers and museums to 'use' portions or extracts of copyright material - but that there is no set percentage. The problem for a National Computer Heritage Centre is that trying to only use a 'small portion' of a piece of software would make any display exercise totally useless.

Example E – I have been told that it is 'extremely unlikely' that small infringements of the copyright laws would result in a prosecution – BUT for a National Computer Heritage Centre that is to be funded by the Government, there would be a REAL obligation to comply with all laws.

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# **Digital COPYRIGHT** -- Submission to Senate Committee, Aug-2013

# WHO will own the BITS and BYTES ?

**Quick Example 1** - Most people with an English background will know of the old nursery rhyme 'Jack and Jill went up a hill …'.

What IF it became 'Tina and Terry went on a ferry …' ?

Very easy to do with a very basic text editor.
Has there been enough 'intellectual' input to justify new copyright on the text editor output ?

If 'yes' should that copyright belong to the programmer who wrote the text editor or the person or machine who actually made the minor text changes ?

**A more serious Problem** – a century ago a Photographer was a technical master of the lighting and chemical processes involved, as well as being an artist capable of composing images that would be attractive to clients.

It is understandable that a century ago photographic copyright was vested only with the photographer.

**Current Privacy Problem** – a century ago a photograph cost money to produce – hence random photographs were not taken of people without permission and without some prospect of a potential sale of a print in the immediate future.

Current digital photographic technology allows 'almost instant' photographs to be taken almost anywhere and at anytime. And in most instances a person who is legally in a public place may not be aware that a photograph is being 'taken'.

The word '**taken**' has implications of stealing as most people could logically assume that they 'own' images of themselves. A real PRIVACY problem !

**Logical Solution** - the Copyright Laws could be updated to allow for both the photographer and the subjects to share the copyright of any photograph (or film/video material).

Implementation suggestion – re 'identifiable' subjects.

| *No of subjects* | *% photographer* | *% each subject* |
|---|---|---|
| One | 50 | 50 |
| Two | 40 | 30 |
| Three | 25 | 25 |
| Four | 20 | 20 |
| Five | 20 | 16 |
| > five | 15 | Shared as the group |

A similar implementation could be made for domestic animals that have registered owners.

Also a similar implementation could be made for man-made objects, such as places of interest, vehicles, inventions, etc. But with a limited time period for different types of objects.

*Object example* – a new church may have its photographic copyright shared between the architect, the builders, the owners and the photographer for a period of ten years, after which it may lapse OR become classified as 'nationally significant' and have copyright vested in the state.

**Internet Images Problem 1** – some social media internet sites have a 'condition' that they 'own' all images uploaded to their site.

I suspect that many users who upload digital images would be totally unaware of any photographic copyright rules. This would be especially true of images that have already been 'shared' privately.

**Internet Images Problem 2** – with 'digital' photography now as the norm, and with computer software packages that allow for simple or complicated changes to be made to a digital image – who will 'own' the resultant image or 'photograph' ?

There may be significant 'artistic' effort used to create the new 'improved' image OR maybe just a few mouse clicks used to create a vastly different image. Even more reason to have 'recognizable subjects' included in the copyright.

Before the end of the 20th century, I saw a demonstration of software that could be used to 'EDIT' whole video sequences in such a way as to alter apparently historic records. **Very worrying !**

**EXEMPTION POSSIBILITY: The public expect to hear about 'public people'.**
The legislation may need to define different classes of 'privacy' as it relates to how readily identifiable people such as politicians, sports stars, actors, business tycoons, etc may expect less 'privacy' than normal law-abiding Australians.