Summary

> The iiNet case – safe harbours, intermediaries
> The Telstra white pages case
> Kookaburra sits on the old gum tree
> Developments in schools
> CAL in the press
> What UA is up to – the Expert Reference Group
> Copyright and licensing issues for transnational education
Roadshow Films Pty Ltd vs iiNet Ltd

- Federal Court decision on 4 Feb 2010
- Justice Dennis Cowdroy
- Complainant involved 34 movie companies supported by AFACT
- iiNet was supported by the Internet Industry Association and others
The iiNet case – the issues

> Authorisation: Someone who authorises infringement is treated as if they had infringed.

> Intermediary liability: Should neutral intermediaries such as ISPs, social networks, search engines, email services be held legally liable for their users’ content

> Is internet access a human right? What is it?

> Does the safe harbour in the Act apply?

> Is the business model the problem?
The iiNet case – where to next

“It is unfortunate that the outcome of the Court’s finding is that the applicants will continue to have their copyright infringed”, he said. “However, the fault lies with the applicants for choosing the wrong respondent.” Justice Dennis Cowdroy

> Has been appealed

> There are other avenues for Hollywood too – the ACTA negotiations, and lobbying government
Safe harbours

> “Safe harbour” reduces or eliminates liability if certain things are done – e.g. Moorhouse outcome
> Current safe harbour only includes carriage service providers (ISPs)
> We want it widened to all internet content hosts
> They reduce business risk and foster innovation
> What should the safe harbour require of us in return?
> Other players might want the safe harbour to include much more onerous conditions
Intermediary liability

Why it is a bad thing

> Service providers have to police their customers in the interests of rightsholders
> It only applies to a narrow range of providers – e.g. not to electricity or water companies
> It limits freedom of speech – a “chilling effect”
> It removes rights to judicial oversight
> In the case of copyright it relates to private rights, not crimes
Telstra white and yellow pages

> Telstra Corporation Ltd vs Phone Directories Company Ltd – Federal Court, 8 February

> White pages and yellow pages not protected by copyright

> Follows IceTV (2009), departs from Desktop Marketing Systems Ltd vs Telstra Corporation Ltd (2002)

> The publications lack independent intellectual effort, and were not original works; copyright does not reward “work”.
Kookaburra sits in the old gum tree

> Federal Court 4 Feb 2010

> Larrikin Music Publishing bought the rights to a song written by Marion Sinclair for the 1934 Girl Guides jamboree

> Sued Sony BMG and EMI because Men At Work used 2 bars from the song in their hit Down Under

> This was held to be a “substantial part” of the original

> Represents an expansion of copyright
Developments in schools

> AEEYSOC has proposed an amendment to the Copyright Act to make educational use of open internet content a new exception

> Supported by education interests generally incl UA

> Creeping monetisation of internet content is the problem

> The statutory licence is a vehicle for extending the scope of copyright
The CAL (Part VB) licence expires on 31 December
Study being undertaken for UA
Survey by Nielson for CAL and UA which revisits the 2001 study & issue of central electronic copying
It might conclude
  – There is much more non-central copying now
  – Especially in learning management systems
  – Especially images
  – Additional surveys would be expensive and inconvenient
Theses

> Raised at Aust Libraries Copyright Committee
> Paper developed by Matt Dawes
> Fair dealing for research and study does not cover communication for theses – only copying
> Almost all universities require unpublished theses to be made available online
> We will seek to have legislation permitted to add communication to copying
Transnational Education

> Issues arise in relation to
  
  – Licences
  – Copyright

> Licences only apply in terms set out in the licence

> Australian copyright law only applies to acts done in Australia

> Issues arise when Australian curriculum and Australian content is taken into other environments
Transnational Education

Licences

> Distinction between distance students, students at other campuses

Copyright

> Part VB copies can only be made in Australia
> They can be made available online to your students anywhere
> You may need to be familiar with copyright in other countries
More issues

> Risk management – the chapter by Kenyon and Hudson is really good

> Section 200AB – we are moving into production mode with videos

> Parallel importation. The issue is closed . . . until next time! On average, this is every decade.