Copyright and Innovation in the Digital Age: The United Arab Emirates (UAE)

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Introduction

Over the last ten years we have seen enormous change in the way we construct process and disseminate information for purposes such as education, research, business, governance and social dialogue. It is now possible to communicate a story, message or image in the blink of an eye to a worldwide audience at very little cost. This capacity has been extended in recent times by the development of **broadband** networks that allow rich text audio and visual material to be communicated at rapid speeds and third generation **mobile** technologies that allow communication from any location.

Along with this growth in capacity our social practices have also adapted to the new information environment. **Collaborative, peer and user generated** knowledge construction projects like *Wikipedia*,[1] an online encyclopaedia created by its thousands of users, **online social communities** like *Flickr*[2] a user generated online photo library containing millions of photos and **social networking** places like *MySpace*[3] and *Facebook*[4] are prominent examples. These new developments have been underpinned by the evolution of the **Semantic Web**[5] (making the Web a more dynamic information network through better management and processing of metadata) and **Web 2.0**[6] (covering in part the growth of rich user led applications).

However much of the digital content we access in the Internet world is subject to copyright and is owned by a particular person or company. We have learnt through the many lawsuits over the distribution of peer to peer

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[1] <http://www.wikipedia.org>

[2] <http://www.flickr.com>

[3] <http://www.myspace.com>

[4] <http://www.facebook.com>

[5] T Berners-Lee, J Hendler and O Lassila, "The Semantic Web" (2001) *Scientific American* http://www.sciam.com/article.cfm?articleID=00048144-10D2-1C70-84A9809EC588EF21

[6] See Tim O'Reilly *What is Web 2.0* <http://www.oreillynet.com/pub/a/oreilly/tim/news/2005/09/30/what-is-web-20.html>

(p2p) file sharing software for mp3 formatted music that while the technology can provide enormous scope for access unless the law supports such access it will be unauthorised and could lead to legal liability.

The UAE has been at the forefront when it comes to the use of digital technologies in the Middle East. It is amongst the most highly Internet connected countries in the Middle East with 2,300,000 Internet users as of March 2008. According to Emirates Internet Multimedia (EIM)[7] this amounts to 49.8% of the population.

The purpose of this paper is to consider how copyright law in its current form fits the challenges of the digital age and in particular how it might be improved to promote the possibilities for innovation especially in developing countries. We take the Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights* as our case study.

1) Background: Copyright Law Fundamentals

Every society has a history to tell about the way in which they have managed the creation and transmission of information and culture. In modern times this has been inextricably linked with the legal notion of copyright. Copyright is recognised by the World Trade Organisation's *Agreement on Trade Related Aspects of Intellectual Property* (known as the TRIPS agreement) as a category of intellectual property law.[8] Many consider the *Statute of Anne* of 1709 (UK) as the birthplace of modern copyright law.[9]

Economic or Financial Rights

Copyright law protects the expression of ideas[10] and provides **copyright owners** with (economic or financial) rights to amongst other things control the reproduction[11] and communication to the public[12] of copyright subject

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[7] <http://www.etisalat.ae/index.jsp?lang=en>

[8] The UAE became a member of *TRIPs* in 1996; WIPO in 1974; the *Berne Convention* in 2004; the *Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations* in 2005; the WIPO *Copyright Treaty* in 2004; the WIPO *Performance and Phonograms Treaty* in 2005

[9] See further: B. Fitzgerald, "Copyright 2010: The Future of Copyright" [2008] *European Intellectual Property Review* 43 <http://eprints.qut.edu.au/archive/00013305>

[10] Copyright law will not protect mere ideas. Copyright law is based on the idea – expression principle which provides that the expression not the idea will be protected: see Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Article 3.

[11] **Reproduction** means according to Article 1: "The making of one or more reproductions of a work, phonogram, broadcast or any performance in any manner or form, including permanent or temporal electronic loading or storage, and whatever the method or device used in reproduction."

[12] **Communication to the Public** means according to Article1: "Wire or wireless transmission of a work, a performance of phonogram or of a broadcast in a manner that enables receiving thereof, through transmission only, to persons other than the family members and close friends, and in any place other than the place of transmission; regardless of the time, place or manner of receiving."

matter (for example books, films and songs).[13] Copyright subject matter, reflecting the stages of development of copyright law, is often divided into two categories: copyright[14] and related or neighbouring rights. Neighbouring rights under the UAE copyright law include rights in relation to sound recordings, broadcasts and the rights of performers.[15]

Permission is needed to do acts that come within the exclusive rights of the copyright owner, unless permission is found elsewhere in the law for example through an exception or limitation such as fair dealing or through a statutory licence.[16] It is also important to note that while the *Statute of Anne 1709* may have been primarily concerned with the commercial publication of books copyright law today covers vast amounts of non commercial as well as commercial use of copyright material.

The sale of an item embodying copyright such as a book does not transfer economic or financial rights but it will transfer ownership of the physical item, namely the book.[17] Things are more complicated when dealing with intangible items such as software and this is why major software companies "licence" as opposed to "sell" software. A licence will determine user rights and in many cases will not allow any further selling of the particular software or copies of it.[18]

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[13] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Articles 1, 2, 7-15, 16.

[14] This category is described by Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights* Article 2 which lists the following 12 types of copyright material to be protected under UAE copyright law:

"1- Books, pamphlets, articles, and other written works.
2- Computer software and applications thereof; databases; and similar works as determined by the decision of the Minister.
3- Lectures, speeches, sermons, and any other works of similar nature.
4- Dramatic, dramatico- musical works and pantomime.
5- Musical compositions with or without words.
6- Audio, visual or audio-visual works.
7- Architectural works, and engineering drawings and layouts.
8- Works of drawing, painting, sculpture, engravings, lithography, printing on textiles, wood and metals, and any similar works of fine arts.
9- Photographic works and analogous works.
10- Works of applied arts and plastic arts.
11- Illustrations, geographical maps, sketches, and three- dimensional works relative to geography, topography or architecture and others.
12- Derivative works, without prejudice to the protection prescribed for the works from which it has been derived."

[15] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Article 16.

[16] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Articles 7-15, 21-24.

[17] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Article 13.

[18] B Fitzgerald, "Commodifying and Transacting Informational Products Through Contractual Licences: The Challenge for Informational Constitutionalism" in CEF Rickett and GW Austin (eds), *Intellectual Property and the Common Law World*, Oxford, Hart Pub, 2000, 35.

Moral Rights

In many countries copyright law also provides authors with the moral rights of integrity and attribution (paternity) and in the UAE with the additional rights to decide to first publish the work (divulgation) and "to withdraw the work from circulation if serious reasons justifying such have occurred" (retraction).[19] Under UAE law moral rights "are not liable for prescription or assignment"[20] It should be noted that the UAE law does not expressly provide that there will be no infringement of the moral rights of attribution and integrity where the defendant acted in a reasonable manner in the circumstances.[21]

Term

The term or length of protection that copyright law provides will depend on the type of copyright subject matter that is in issue.[22] For example in the UAE copyright in a book or musical composition will last for the life of the author plus fifty years, a sound recording fifty years and a broadcast twenty years.[23] In some countries, like Australia, moral rights last for the duration of the copyright[24] while in other countries such as China moral rights are "unlimited" – they last forever. It is unclear from the Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights* what the position is in the UAE.[25]

Treatment of Foreign Copyright

Pursuant to the *Berne Convention for the Protection of Literary and Artistic Works 1886* (known as the *Berne Convention)* many countries will protect the copyright of a foreign national in their national courts as if the foreigner

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[19] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Article 5, 16. Under Article 5 the right to withdraw the work from circulation must be exercised through the relevant court of jurisdiction and compensation paid by the author to a party ascribed the financial exploitation rights. Under Article 16 which deals with moral rights of performers note the Ministry's rights on expiration of the financial rights.

[20] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Article 5

[21] Compare the Australian *Copyright Act* 1968 sections 195AR and 195AS

[22] A Fitzgerald and B Fitzgerald, Intellectual *Property in Principle* (2004) Law Book Co.

[23] See Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*, Article 20

[24] Australian *Copyright Act* 1968 section 195AM; *Copyright Law of the People's Republic of China* 1990 Article 20. On China and copyright law see: B. Fitzgerald, F Goa, D O'Brien and S Shi (eds.), *Copyright, Digital Content and the Internet in the Asia Pacific* (2008) Sydney University Press Sydney <http://eprints.qut.edu.au/view/person/Fitzgerald,_Brian.html>

[25] One Jordanian scholar suggests that perpetual protection of moral rights is a characteristic of the copyright laws that are based on the French continental model. UAE as other Arab countries has relied in drafting their law on the Egyptian *Copyright Law* of 1954 that was also based on French law: see Nowaf Kanan, *Copyright Law* (in Arabic), Dar haqafa 2004. at 45, 88- 90. AL Tamimi & Co "Copyright Law" at page 2 suggests moral rights under UAE law are "perpetual". <http://www.zu.ac.ae/library/html/UAEInfo/documents/UAECopyright.pdf >

were a national – this is called the principle of national treatment.[26] Article 44 of the Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights* explains that "without prejudice to .. International Conventions .. the law.. herein shall apply to the works, performances, phonograms and broadcasts made by foreigners provided that the principle of reciprocity is applied."[27]

Limitations and Exceptions

Under copyright laws throughout the world the exclusive economic or financial rights of the copyright owner are normally subject to limitations and exceptions.[28] These limitations will usually permit various uses of copyright material for no cost and without the permission of the copyright owner in defined circumstances. The US *Copyright Act* 1976 in s 107[29] provides that "fair use" of copyrighted work is not an infringement of copyright while in many other countries such as the UAE limitations or exceptions are enumerated in terms of specific categories of activity or purpose.[30]

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[26] See Articles 2-6.

[27] Article 56 of the Jordanian *Copyright Law* provides as follows:

B. Taking into consideration the provisions of the international agreements concerning copyright and in case of their non-applicability, the principle of reciprocity shall be applied. The provisions of this law shall apply to the works of foreign authors which are published or not published and which are expressed by any of the means stipulated in paragraph (B) of article 3 of this law outside the Kingdom.

C. For the purposes of the application of this law, the authors who have regular residence in one of member countries in the international agreements dealing with copyright which Jordan has acceded to, without being citizen of that country, shall be treated as citizen of the Kingdom. This article shall also apply to the holders of the rights stipulated in article 23 of this law.

[28] See generally Article 9 *Berne Convention* (1886). Article 13 of *TRIPs* provides: "Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder."

[29] S107: "**Limitations on Exclusive Rights: Fair Use.** Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors."

[30] Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*

Article 22 provides for eight exceptions to author's exclusive rights under Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights*. They can be summarised as follows:

> Without prejudice to moral rights the following acts if done after publication of the work (and this is extended to neighbouring rights under Article 24) will not be an infringement:
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> 1) Personal Use (not applicable on fine art, architecture works);
> 2) Making a single copy of an original computer software with the consent of the person lawfully in control of the software;
> 3) Quotation of articles in judicial procedure;
> 4) Archiving for non- profit (libraries or authentication offices);
> 5) Research and private study;
> 6) Performance of work in private meeting and public gatherings;
> 7) Public performance of certain works (fine applied, plastic or architectural works);
> 8) Reproduction of a work in the form of manuscripts or audio or visual recordings for the purpose of cultural and religious or vocational education;

Article 23 (which is extended to neighbouring rights through Art 24) provides that:

> "Without prejudice to the moral rights of the author pursuant to the provisions of the Law herein, the author shall not prevent reproduction through the newspapers, periodicals or broadcasting organizations, within the limits justified by the objective thereof, from publishing any of the following:
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> 1- Extracts of the works thereof that have been lawfully made available to the public. Such shall apply on communicating extracts of seen or heard works, during current incidents; or broadcasting or communicating same to the public in any other manner.
>
> 2- Published articles relating to discussions of issues, which have occupied public opinion at a certain time; so long as upon publication such articles are not prohibited.
> In all the cases provided for in items 1 and 2 of the present article, mention shall be made to the source from which the above have been reported and to the name of the author.
>
> 3- Speeches, lectures, and addresses delivered in the course of public sessions of parliament, judicial councils and public meetings; so long as such speeches, lectures and addresses are delivered to the public, and are reproduced within the framework of reporting current news. The author or his successor shall solely have the right to compile such works in collections attributed thereto."

2) Copyright and Innovation: The need for "informational flows"

The development of the internet and electronic commerce have made people more aware of the importance of copyright to innovation policy.

Modern theories of innovation stress the importance of "information flows".[31]

The problem we have is that in the digital environment every information flow is potentially a copyright infringement – a reproduction or a communication to the public.

To allow space for innovation to occur we have to optimise the ability for information flows while still providing incentives for people to create.

We must realise that in shaping the copyright law we are shaping the way in which and the opportunities for innovation occur (and ultimately the ensuing productivity) at a social, cultural and economic level.

Therefore copyright law must promote information flows. In some respects this has been its goal all along – to promote information dissemination for the public good.[32] We must test the difficult questions in copyright law against this touchstone.

3) Open Innovation

One should also be mindful of a new approach to innovation that has been built on the back of the dynamic "network" that the internet provides to us. This new approach is called "open innovation". A prominent example of this model concerns a leading gold mining company Goldcorp Ltd. In the year 2000 Goldcorp issued a global challenge to help find new deposits of gold at their Red Lake Mine in northern Ontario in Canada. In doing so they took the unprecedented step of releasing 50 years of their "secret" mining data to the public. Nicholas Archibald and his company in Western Australia - Fractal Graphics now Geoinformatics Exploration Inc. - "used sophisticated software to create 3-D electronic models of underground rock

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[31] Stan Metcalfe, "The Broken Thread: Marshall, Schumpeter and Hayek on the Evolution of Capitalism, in Yuichi Shinoya (ed), *Marshall and Schumpeter on Evolution, Economic Sociology of Capitalist Development* (2009) at 116-144. See further J. Schumpeter, *Capitalism, Socialism and Democracy* (1943) Routledge London, Ch VII; T. Cutler "Innovation and Open Access to Public Sector Information" in B Fitzgerald (ed.) *Legal Framework for e-Research* (2008) Sydney University Press Sydney, 15-23; T Cutler, *Venturous Australia: Review of the National Innovation System* 2008; J Howkins, *Creative Economy* (2001).

[32] Note the long title of the *Statute of Anne* (1709) is *An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned.* See also British Library, "Digital is not Different – Maintaining the Balance" http://www.bl.uk/ip/pdf/digitalexceptions.pdf

formations, pinpointing five sites where they thought Goldcorp would find new veins of gold. The winner's take was peanuts -- just US$105,000 -- but for Archibald the real prize would be exposure. Almost needless to say, he won the contest."[33] Goldcorp pursued the leads given in the contest, their share price quadrupled and they went from being a 100 million dollar company to a 9 billion dollar company. As Tapscott and Williams explain:

> McEwen CEO of Goldcorp realized the uniquely qualified minds to make new discoveries were probably outside the boundaries of his organization, and by sharing some intellectual property he could harness a powerful new force—mass collaboration. In doing so, he stumbled, successfully, into the future of innovation, business, and how wealth and just about everything else will be created. Today, thanks largely to the Internet, the kind of creativity and innovation that used to take place primarily within corporate walls, increasingly takes place over large amorphous networks of peers. Millions of people already join forces in self-organized **collaborations** such as Linux and Wikipedia that produce dynamic new goods and services that rival those of the world's largest and best-financed enterprises. [34]

4) Access to Publicly Funded and Publicly Owned Copyright

We also need to be aware that over the last ten years there has been a worldwide movement to make publically funded and government copyright more accessible via the Internet.[35] The rationale being that the broader dissemination of publicly funded knowledge can provide a platform for innovation.[36] Much of the publicly funded copyright that exists (for example government or crown copyright) could be made more accessible through more dynamic web based licensing models (like Creative Commons) that provide permission in advance.

The Government Information Licensing Framework (GILF)[37] based in Queensland (a state of Australia) has started to deal with the legal issues facing "Government 2.0" and is now implementing the use of Creative

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[33] K. Macklem, *Pixels, not pickaxes,Deskbound computer jockeys are the hottest thing in modern mining exploration* (2005).

[34] *Innovation in the Age of Mass Collaboration* <http://www.businessweek.com/innovate/content/feb2007/id20070201_774736.htm>

[35] B. Fitzgerald et al *Creating a Legal Framework for Copyright Management of Open Access within the Australian Academic and Research Sectors* (2006) www.oaklaw.qut.edu.au; G. Vickery and S. Wunsch-Vincent, *Participative Web and User-Created Content: Web 2.0, Wikis and Social Networking* (2007) Organisation for Economic Co-operation and Development < http://www.oecd.org/dataoecd/57/14/38393115.pdf> ; OECD, *Access to Public Sector Information* Principles (2008); OECD, *Declaration on Access to Research Data from Public Funding* (2004) <http://www.oecd.org/dataoecd/9/61/38500813.pdf>

[36] Professor David Newbery, Professor Lionel Bently, and Rufus Pollock, *Models of Public Sector Information Provision via Trading Funds,* Cambridge University, February 26, 2008.

[37] See QSIC Website: <http://www.qsic.qld.gov.au/qsic/QSIC.nsf/CPByUNID/6C31063F945CD93B4A257096000CBA1A >

Commons (open content licences) in relation to government data. As the permission based nature of copyright fits awkwardly with the 'real time', fluid and serendipitous nature of modern information networks Creative Commons licences have arisen to provide a web enabled system for providing permission in advance. Through the use of labelling they inform the downstream user as to what rights the copyright owner is giving them in advance. The permissions are based on one or a combination of the four primary protocols or conditions that 1) you can reuse my material so long as you attribute me – BY; 2) you can use my material for non commercial purposes only – NC; 3) you must share improvements back to me – share alike SA or; 4) you cannot alter my material in any way – no derivatives ND. The licences are voluntary meaning they will only be used where the copyright owner wants to use them yet they have become an international standard for sharing or licensing copyright material in a lawful and open manner.

It is expected that Creative Commons style open content licences will be adopted across the government sector to provide greater access to publicly funded resources as has happened in the research sector.[38] As Cutler's *Venturous Australia* report highlights there is a desperate need for clear and strategic national information policy to provide co-ordination and leadership in this area.[39] The Ministry of Justice in the Government of Catalonia in Spain has explained their adoption of CC in the following way:

> "Nowadays the Internet is about sharing, co-producing, transforming and personalizing to create new products and services. To create, it is necessary to be able to make use of knowledge that already exists, without limits, and to share it afterwards. This is the philosophy of innovation that is now all-pervasive thanks to the democratization of technology. Creative Commons (CC) licenses are legal texts that allow authors to hand over some rights of their work for the uses they deem appropriate. So, these licences are an alternative for managing the author's copyright in a more flexible way. As a public Administration, the Ministry of Justice has decided to use CC licenses with the idea of turning over the knowledge created by the organization to the public so that it can be re-used. In this regard, CC licenses have been essential for this opening-up of knowledge. Thus, for each item of material or work, the most suitable license is chosen and applied to both digital and paper formats. The Ministry of Justice played a leading role by publishing in June 2007 the Administration's first general-content work to be subject to a CC license. From the beginning, the Ministry has ensured that external authors of a work sign a cession of rights contract in favour of

[38] B Fitzgerald et al, *Internet and E-Commerce Law – Technology Law and Policy* (2007) LBC Information Sydney, Ch 4.; T. Cutler "Innovation and Open Access to Public Sector Information" in B Fitzgerald (ed.) *Legal Framework for e-Research* (2008) Sydney University Press Sydney, 15-23

[39] T Cutler, *Venturous Australia : Review of the National Innovation System* 2008, Recommendation 7.7

> the Ministry of Justice in order to allow the Ministry to manage the author's copyright of the work appropriately through CC licenses."[40]

Cutler's *Venturous Australia* report has likewise recommended that "material released for public information by Australian governments should be released under a creative commons licence" (Recommendation 7.8).

The Australian Minister for Finance Lindsay Tanner has also recently highlighted the changing role of citizens in the context of government. He has suggested that "the rise of internet-enabled peer production as a social force necessitates a rethink about how policy and politics is done in Australia" and that is not "an undesirable thing; there are significant opportunities for government to use peer production to consult, develop policy and make closer connections with the citizens." Minister Tanner explains that "as a huge creator and manager of information with an obligation to be open and transparent, we [government] have little choice."[41]

5) Issues to Consider

Having outlined the basic provisions of the UAE copyright law and the changing landscape of information flow in the modern economy it is now important to look at ways in which the UAE copyright law might be reformed or complemented in order to provide more opportunity for social, economic and cultural innovation.

Proposed Free Trade Agreement

If the UAE is contemplating entering a free trade agreement with the US they should consult with experts in other countries that have entered such agreements in the last five years such as Australia, Singapore and Chile. This is a vitally important process but 5 years on since the first generation of these agreements we have learnt a lot and with a new administration in Washington the approach to negotiating these agreements should not fall into some of the errors made in the conclusion of the first generation of these agreements.

A) Intermediary Liability and the Need for Safe Harbour Provisions

The UAE copyright law contains no provision dealing expressly with secondary (or what is called in other jurisdictions – contributory/vicarious/inducement or authorisation) liability. In a common law jurisdiction in the absence of a provision in the copyright act this issue would be dealt with under general tort law and principles of joint tortfeasor liability.[42]

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[40] http://communia-project.eu/node/111

[41] K Dearne, "Tanner eyes web 2.0 tools", *Australian IT*, 4 November 2008 http://www.australianit.news.com.au/story/0,27574,24601440-15306,00.html See also E. Mayo and T Steinberg, *The Power of Information* (2007) (and UK Government response) available at <http://www.cabinetoffice.gov.uk/reports/power_of_information.aspx>

[42] See U.A.E *Civil Transactions Law* No 5 of 1985 as amended.

Significantly the UAE copyright law contains no "safe harbour" provisions designed to immunise intermediaries from liability for copyright damages.[43] This type of protection first enacted in the US *Digital Millennium Copyright Act (DMCA)* 1998 is vital to ensuring a "free flowing" Internet as a platform for innovation. If intermediaries are held liable for every infringing article that passes through their services that will lead them to impose practices and policies that will chill communication over the Internet.

Starting with *A & M Records Inc v Napster Inc*[44] (Napster) through to *Universal Music Australia Pty Ltd v Sharman License Holdings Ltd*[45] (Kazaa) and *MGM Studios Inc v Grokster Ltd* [46] (*Grokster*) we have seen the recording industry successfully pursue intermediaries that developed and/or distributed p2p file sharing technology or software through the courts. The defendants in these cases for the large part were not knowingly or intentionally reproducing or communicating unauthorised copies of songs but rather providing the facilities and services for others to do so. In a user generated distributed Web 2.0 world the notion of intermediaries authorising end user infringement is problematic.[47] The whole idea of the model is to allow the end user to drive the system and the more we seek to control the network in the name of property rights the more we limit its potential.

If we conceptualise copyright law as not only being about making copyright owners wealthy in the name of the public good but also about enhancing wider economic, democratic and cultural goals then a doctrine of secondary liability that does not accommodate disruptive and innovative technologies - to some degree - is failing the innovation system more broadly.

It would be radical to argue that there should be complete immunity from liability, but at the very least we need to have the debate as part of legal argument as to where the boundaries should be drawn.

It seems inevitable that in future cases the assessment of secondary liability must take into account the need for, and ubiquity and value of, user driven distributed information sharing technologies in social discourse, creative innovation and the knowledge economy. The notion of secondary liability is an important regulatory point within any copyright regime. What falls within its boundaries in essence extends the reach of copyright ownership and what falls outside of it allows a greater number of unrestricted communicative activities. In this way the definition of secondary liability like that of other copyright fundamentals such as idea/expression, substantial part and fair dealing is critical to the free flow of ideas, innovation and democracy and

[43] Oman, Morocco, and Bahrain US-FTAs contain provisions and side letters on intermediary liability, safe harbours and notice and taken down: see Bahrain Article 14.10.29, Oman Article 15.10.29 and Morocco Article 15.11.28 and related side letters.
[44] 239 F. 3d 1004 (9th Cir. 2000) (*Napster)*
[45] (2005) 65 IPR 289; [2005] FCA 1242
[46] 545 US 913 (2005)
[47] *CBS Songs Ltd v Amstrad Consumer Electronics PLC* [1988] 1 AC 1013

determines what activity falls within or outside the public domain or copyright.[48]

The frightening aspect of the p2p litigation has been the ease with which the entertainment industry has made its case and the inability of the judges (with the exception of Justice Stephen Breyer in the US Supreme Court in *Grokster*[49] to see the big picture). More so, some have suggested that the litigation strategy of the recording industry has threatened the existence and adoption of new business models and new technologies.[50] This is a matter of real concern as what we are witnessing is truly unique and a monumental change in social interaction. Never before have we seen communication on this scale and with such informality; millions of people forming an instantaneous and worldwide network for sharing knowledge. This is the very engine of creativity that an innovation system would crave yet established industries are quick to try and limit its significance.

We have to be vigilant in our goal to ensure this type of freedom to innovate. The law of copyright as suggested above needs to be interpreted in a way that accommodates such inspirational change. What is more we could look at how the copyright law might go further and impose obligations on copyright owners for the negative externalities they produce. A clear analogy exists in real property law. One hundred years ago real property or land owners had the right to use their property as they wished. The rise of environmental law over the last 60 years has seen this sovereign right of the landowner subjected to a series of obligations to ensure land use does not pollute the existing environment to the detriment of the general public.

Large entertainment companies holding intellectual property (particularly copyright) have steadfastly refused to promote new modes of exchange (for example peer to peer technologies) and instead pursued a line of suing intermediaries for distributing new technologies. They have asserted their sovereign right to exercise their property rights in any way they wish regardless of negative externalities. However the information environment like the natural environment is an ecosystem. As the argument would go, by trying to stifle the emergence of new communication structures established industries have polluted the stream of the information ecosystem.[51]

If the law is to sponsor creativity in the vast networks of the Internet we need to see a much more sensible approach to secondary liability as if the boundaries are drawn too widely the potential for innovating will be

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[48] B Fitzgerald et al, *Internet and E-Commerce Law – Technology Law and Policy* (2007) at 213-4.

[49] 545 US 913 at 949-966 (2005)

[50] Lawrence Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World* (2002).

[51] See generally: J. Boyle, "A Politics of Intellectual Property: Environmentalism For the Net?" (1997) 47 *Duke Law Journal* 87, http://www.law.duke.edu/boylesite/Intprop.htm; J. Boyle, *Shamans, Software and Spleens: Law and Construction of the Information Society* (1997).

dramatically restricted. There is no better example of this than in the multi billion dollar law suit Viacom (representing the interests of Hollywood) has taken against YouTube (owned by Google) for alleged copyright infringement.[52] Google, Inc who has suggested that this litigation will determine the future of the Internet[53], is the leader of a new breed of what I call "access corporations" that profit from greater access to knowledge – the more access there is the more money they make. YouTube is a classic example of this being built around freely accessible short user generated videos that are situated in a giant advertising scheme that earns Google enormous amounts of revenue. Should Google through YouTube be able to provide these services regardless of the fact that the user generators are appropriating material from Hollywood? This is a difficult dilemma for the law to resolve. However if as practice shows that we are moving from a control mode of distribution to an access model how much value can the law add by constantly denying this shift in the way we live and act. The remedy for the traditional copyright industries should be found in the market place not the artificial application of the law. A decision in favour of Google in this case would send the clear message to the traditional copyright industries to engage with the new distribution environment. To this end a more purpose driven (yet limited) notion of secondary liability for copyright infringement is critical to the emergence of new technologies in the digital environment.[54]

The UAE needs to consider legislating safe harbour provisions (including notice and takedown provisions) that will sensibly protect intermediaries especially if it wants to develop industries providing information services. Such provisions should also cover caching which is a key ingredient of provision of network services.[55] It is important to carefully and sensibly define who is protected by the safe harbours as in Australia for example there is uncertainty as to whether content hosts like YouTube are covered.

B) The Adequacy of Current Limitations and Exceptions

The UAE copyright law has a number of limitations and exceptions as outlined above.

These limitations are critical to a vibrant education, research and innovation system. Therefore they should be closely considered in this context. While

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[52] *Viacom International Inc., v YouTube, Inc.,* 2007, S.D. NY., filed 13/3/2007.
Viacom complaint available at <www.paidcontent.org/audio/viacomtubesuit.pdf>
YouTube and Google response available at http://news.com.com//pdf/ne/2007/070430_Google_Viacom.pdf

[53] N Weintsein, "Google says copyright suit threatens the Internet" http://www.zdnet.com.au/news/software/soa/Google-says-copyright-suit-threatens-the-Internet/0,130061733,339289364,00.htm

[54] See further: B. Fitzgerald, "Copyright 2010: The Future of Copyright" [2008] *European Intellectual Property Review* 43 <http://eprints.qut.edu.au/archive/00013305>

[55] B Fitzgerald et al, *Internet and E-Commerce Law – Technology Law and Policy* (2007) LBC Information Sydney, Ch 4.

free trade agreements provide many benefits too often countries who are net importers of IP (such as Australia) have struck deals that see a narrow limitations regime put in place. This serves to privilege US copyright interests but has the potential to slow down the development of education and research as the cost of accessing copyright material increases. Any free trade agreement with the US should require that the fair use principle be embodied in the local law of the UAE. Australia failed to do this and has been heavily criticised for doing so.

This can be done by simply adding a new provision to the copyright act that adopts the US fair use provision.

Fundamental reforms that would go a long way to making UAE a leader in terms of allowing reuse of copyright material - in order to sponsor creativity and innovation - would be the introduction of clear:

- rights to reuse copyright material for non commercial purposes in circumstances where there is no financial detriment to the copyright owner
- rights to engage in transformative and fair use
- rights to reuse government funded copyright for non commercial purposes
- rights to engage in format shifting e.g. changing material from analogue to digital format or changing material from one digital format (CD) to another (mp3)

The usefulness of these limitations is seriously undermined if they can be overridden through contractual licences or agreements. This is a practice that arises where books, journals or software are licensed rather than sold to the consumer and the licence provides that the freedoms like those provided under Articles 22, 23 and 24 are not permitted. Which is more powerful – the public interest of the copyright legislation or the private interest of the contractual agreement? There are cases in the US that uphold the contractual ouster of copyright exceptions yet in Australia our Copyright Law Review Committee recommended that copyright should trump contract and in relation to reverse engineering of software this is expressly provided. A suggestion is that in relation to education and research the UAE law should expressly provide for copyright limitations to override any attempt to oust them by contract.[56]

C) Term extension

[56] CLRC *Contract and Copyright* (2002) www.clrc.gov.au ; s 47 H Australian *Copyright Act* 1968 which provides: "An agreement, or a provision of an agreement, that excludes or limits, or has the effect of excluding or limiting, the operation of subsection 47B(3), or section 47C, 47D, 47E or 47F, has no effect."; *Bowers* v *Baystate* 320 F.3d 1317 (Fed Cir. 2003)see generally <http://www.eff.org/cases/bowers-v-baystate>; *Blizzard* v *BDNet* 422 F.3d 630 (8th Cir. 2005).

There is no sensible economic reason for extending the term of copyright in any country and UAE should be wary of extending copyright term.[57] Term extension has occurred in a number of Arab countries that have signed an FTA with the US including Bahrain[58], Morocco[59] and Oman[60]

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[57] See generally: The *Gowers Review of Intellectual Property* in the UK which recommended the EU Commission should retain the length of protection on sound recordings and performers' right at 50 years, November 2006, available at <http://www.hm-treasury.gov.uk/d/pbr06_gowers_report_755.pdf> ; "Copyright extension is the enemy of innovation" *Timesonline*, available at <http://www.timesonline.co.uk/tol/comment/letters/article4374115.ece> ;
Max Planck Institute for Intellectual Property, *Competition and Tax Law: Comment by Max Planck Institute on the Commission's proposal for a Directive to amend Directive 2006/116 EC of the European Parliament and Council concerning the Term of Protection for Copyrights and Related Rights*, September 10th, 2008: <http://www.ip.mpg.de/en/data/pdf/stellungnahme-bmj-2008-09-10-def_eng.pdf>;
Institute for Information Law of the University of Amsterdam, *The Recasting of Copyright & Related Rights for the Knowledge Economy*, 2006: <http://www.ivir.nl/publications/other/IViR_Recast_Final_Report_2006.pdf>;
Letter of Prof. P. Bernt Hugenholtz to Mr. Barroso opposing the EU proposal: <http://www.ivir.nl/news/Open_Letter_EC.pdf>; See also *Eldred v Ashcroft* 537 US 186 (2003).

[58] Article 14.4 (section 4) of the *Bahrain US FTA* (2005) provides that:
"Each Party shall provide that, where the term of protection of a work (including a photographic work), performance, or phonogram is to be calculated:
(a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death; and
(b) on a basis other than the life of a natural person, the term shall be
(i) not less than 70 years from the end of the calendar year of the first authorized publication of the work, performance, or phonogram, or failing such authorized publication within 50 years from the creation of the work, performance or phonogram, not less than 70 years from the end of the calendar year of the creation of the work, performance, or phonogram." Available at <http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/final_texts/Section_Index.html>

[59] Article 15.5 (section 5) of the *Morocco US FTA* (2006) provides that:
"Each Party shall provide that, where the term of protection of a work
(including a photographic work), performance, or phonogram is to be calculated:
(a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death; and
(b) on a basis other than the life of a natural person, the term shall be
(i) not less than 70 years from the end of the calendar year of the first authorized publication of the work, performance, or phonogram, or
(ii) failing such authorized publication within 50 years from the
creation of the work, performance, or phonogram, not less than 70 years from the end of the calendar year of the creation of the work, performance, or phonogram." Available at <http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Morocco_FTA/FInal_Text/asset_upload_file797_3849.pdf >

[60] Article 15.4 (section 4) of the Oman US FTA (2006) provides that:
"4. Each Party shall provide that, where the term of protection of a work (including a photographic work), performance, or phonogram is to be calculated:
(a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death; and
(b) on a basis other than the life of a natural person, the term shall be
(i) not less than 95 years from the end of the calendar year of the first authorized publication of the work, performance, or phonogram, or
(ii) failing such authorized publication within 25 years from the creation of the work, performance, or phonogram, not less than 120 years from the end of the calendar year of the creation of the work, performance, or phonogram." Available at

D) Anti-Circumvention Law

Currently the UAE law does not include provisions that regulate the sale and distribution of devices that circumvent technological protection measures or dealing with the act of circumventing such measures. These provisions are common around the world (see the *DMCA*) and were considered at the highest level in the Sony PlayStation case in the High Court of Australia.[61]

Digital Rights Management enforced through self executing technology is seen by many as an inefficient way to manage rights. If anti-circumvention provisions have to be introduced then they should be strictly limited to preventing copyright infringement and not allow a broad range of consumer issues to be protected through such copyright law as seems to have happened in Australia.[62] The US courts appear to have interpreted the *DMCA* in line with the narrow approach that TPMs will only be reinforced where they are preventing or inhibiting copyright infringement.[63]

It is critically important for the UAE to include appropriate exceptions in any proposed anti-circumvention provisions. Jordan has failed to include any such exceptions in the copyright law and this will have the very real potential to negatively impact upon the development of education, research and the IT sector in Jordan.[64]

E) The Promotion of Voluntary Mechanisms like Creative Commons

The task of making copyright law more suitable for the digital age will - as outlined above - involve looking at and reforming the provisions of the copyright law. However many people have realised that a more immediate route is to try and use the copyright system as it currently exists along with voluntary mechanisms to improve the situation. The Creative Commons and Free and Open Source Software projects are key examples of this.

Creative Commons (CC) is a world wide project that aims to build a distributed information commons by encouraging copyright owners to licence use of their material through open content licensing protocols and thereby promote better identification, negotiation and reutilization of content

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<http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Oman_FTA/Final_Text/asset_upload_file715_8809.pdf >

[61] *Stevens v Kabushiki Kaisha Sony Computer Entertainment* [2005] HCA 58; (2005) 221 ALR 448; (2005) 79 ALJR 1850 http://www.austlii.edu.au/au/cases/cth/HCA/2005/58.html; B Fitzgerald et al, *Internet and E-Commerce Law – Technology Law and Policy* (2007) LBC Information Sydney, Ch 4.

[62] B Fitzgerald et al, *Internet and E-Commerce Law – Technology Law and Policy* (2007) LBC Information Sydney, Ch 4.

[63] B Fitzgerald et al, *Internet and E-Commerce Law – Technology Law and Policy* (2007) LBC Information Sydney, Ch 4. See further *Storage Tech Corp v Custom Hardware Engineering & Consulting Inc* 421 F. 3d. 1307 (Fed. Cir. 2005)

[64] See Article 54 and 55 of the Jordanian *Copyright Law* of 1992 as amended. The Law is available in Arabic at <http://www.nl.gov.jo/arabic/office_a.html>

for the purposes of creativity and innovation.[65] It aims to make copyright content more "active" by ensuring that content can be reutilized with a minimum of transactional effort.[66]

Free and open source software, (**FOSS**) is software which is liberally licensed to grant to users the right to study, change, and improve its design through the availability of its source code.[67] This approach has gained both momentum and acceptance as the potential benefits have been increasingly recognized by individuals, government and corporate players.[68]

Jordan is the first country in the Middle East to start a Creative Commons (CC) project. Creative Commons (CC) has been working with Abu-Ghazaleh Intellectual Property (AGIP)[69], a law firm specializing in IP issues since March 2004 to port the CC license into the Jordanian civil legal system and Copyright Law. Version 01 of the CC license was translated into Arabic and posted over the internet on 30 March 2004 and Version 03 was finalized in October 2008[70]. There is currently no CC initiative in the U.A.E. The possibility that the UAE will open its own chapter on CC was discussed in the meeting of "CC Arab region" that took place in Doha, Qatar on 14 March 2009 with the support of Al Jazeera[71].

In August 2008 one of, if not the most, influential intellectual property courts in the USA known as the Court of Appeals for Federal Circuit upheld the validity of a free and open source software licence known as the Artistic Licence.

The case is significant because up until this point there has been little judicial discussion of the legal operation of this new type of copyright licensing that is sweeping across the world fuelled by the ubiquity of the Internet.

The decision in *Robert Jacobsen v. Matthew Katzer and Kamind Associates, Inc.*[72] issued on 13 August 2008 provides a unique and welcomed insight

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[65] See generally B Fitzgerald et. al. (eds.) *Open Content Licensing: Cultivating the Creative Commons* (2007) Sydney University Press, Sydney, Australia.

[66] B. Fitzgerald, *Open Content Licensing for Open Educational Resources*, available at <http://learn.creativecommons.org/wp-content/uploads/2008/07/oecd-open-licensing-review.pdf>

[67] See generally: B Fitzgerald and G. Bassett *Legal Issues Relating to Free and Open Source Software* (2004) Essays in Technology Policy and Law - Volume 1, QUT, Brisbane; B. Fitzgerald and N. Suzor *Legal Issues for the Use of Free and Open Source Software in Government.* (2005) 29 *Melbourne University Law Review* 412 <http://eprints.qut.edu.au/view/person/Fitzgerald,_Brian.html>

[68] "Free and Open Source Software" <http://en.wikipedia.org/wiki/Free_and_open_source_software>

[69] <http://www.agip.com>

[70] See Jordan's CC project page at <http://creativecommons.org/international/jo>

[71] <http://english.aljazeera.net/>

[72] 2008 U.S. App. LEXIS 17161 (Fed. Cir. 2008)

into the legal operation of free and open source software licences and by analogy Creative Commons styled open content licences.[73]

F) The needs of education and research

The education and research sector is vital to the development of all countries. Many countries are developing national policies on access to and reuse of publicly funded knowledge. Copyright can be an impediment to achieving these gaols and needs to be managed strategically from its creation.

UAE will need sensible policies on the development of Internet based resources that its researchers can build and access in order to stimulate innovation.

It will need to look at and promote:

- the development of university and government repositories for research data and publications
- incentives for researchers to share their research on the Internet and publishing agreements that permit this to happen
- data management plans
- conditions on research funding that promote open access to research and
- education on how to create open licensed materials and how to find and utilise such materials[74]

Robust copyright provisions on:

- orphan works
- digital preservation
- library access, management and lending
- educational use[75]
- and reuse more generally

are also vitally important.

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[73] B. Fitzgerald and R. Olwan, "The legality of free and open source software licences: the case of *Jacobsen v. Katzer*", in Perry, Mark and Fitzgerald, Brian F., Eds. *Knowledge Policy for the 21st Century* Irwin Law (2009 forthcoming). Available at <http://eprints.qut.edu.au/archive/00015148/01/15148.pdf>

[74] On all of these issues see generally: B Fitzgerald (ed.) *Legal Framework for e-Research* (2008) Sydney University Press Sydney available at <http://eprints.qut.edu.au/view/person/Fitzgerald,_Brian.html> ; A Fitzgerald et al *Building the infrastructure for data access and reuse in collaborative research: An analysis of the legal context* (2007) <http://eprints.qut.edu.au/view/person/Fitzgerald,_Brian.html> ; B. Fitzgerald et al *Creating a Legal Framework for Copyright Management of Open Access within the Australian Academic and Research Sectors* (2006) <http://www.oaklaw.qut.edu.au>

[75] There is provision to request a compulsory licence regime under Article 21. See generally Ali Dualeh Abdulla, "Copyright and Knowledge Advancement: A Case Study on UAE Copyright Law" (2007)

The Australian Innovation Minister Kim Carr has explained:

> We want the research conducted in universities and public research agencies to inspire and inform fresh thinking across the community. The more collaboration and interaction there is between researchers and the society around them, the better. It follows that research and research data should be widely disseminated and readily discoverable. .. The results of publicly funded research should be publicly available. … More accessible information equals more robust debate equals a stronger national innovation system.[76]

Minister Kim Carr in his speech launching the Review of the National Innovation System Report – *Venturous Australia* - further stated:

> **Creative commons**
>
> The last big idea in the report I want to touch on is open access. It is embodied in a series of recommendations aimed at unlocking public information and content, including the results of publicly funded research.
>
> The review panel recommends making this material available under a creative commons licence through machine searchable repositories, especially for scientific papers and data cultural agencies, collections and institutions, which would be funded to reflect their role in innovation and the internet, where it would be freely available to the world….
>
> …Australia takes justifiable pride in the fact that it produces 3 per cent of the world's research papers with just 0.3 per cent of the world's population, but that still means 97 per cent of research papers are produced elsewhere.
>
> We are and will remain a net importer of knowledge, so it is in our interest to promote the freest possible flow of information domestically and globally.
>
> The arguments for stepping out first on open access are the same as the arguments for stepping out first on emissions trading – the more willing we are to show leadership on this, we more chance we have of persuading other countries to reciprocate.

[76] "There is More than One Way to Innovate" 7 Feb 2008 <http://minister.industry.gov.au/SenatortheHonKimCarr/Pages>

> And if we want the rest of the world to act, we have to do our bit at home.[77]

To this end the *Venturous Australia* Report provides:

> Recommendation 7.14
>
> To the maximum extent practicable, information, research and content funded by Australian governments – including national collections – should be made freely available over the internet as part of the global public commons. This should be done whilst the Australian Government encourages other countries to reciprocate by making their own contributions to the global digital public commons.

G) Access to Government Material

Article 3 of the Federal Law No. (7) of 2002 (UAE) *Pertaining to Copyrights and Neighbouring Rights* provides that "official documents" are not protected however the selection and arrangement of such materials if it involves innovation[78] may be protected. It is not clear whether official documents include government reports or research generally and this should be clarified.

If copyright is held by government in any publicly funded material the presumption is that it should be available for access on the Internet under an open licence like Creative Commons. This should also apply to any copyright (database or compilation right) held by government in the selection and arrangement of official documents. The creation of such copyright will depend on the threshold for originality in compiling databases and specifically whether there is a low threshold of originality like in Australia[79] and or a higher level like that in the USA.[80]

Conclusion

The rise of digital networked technologies has meant that copyright is now central to most everything we do from recreation to research. Every time we use digital technology – which needs to reproduce and communicate to operate - we automate the possibility of copyright infringement.

In every country copyright law and not just patent law should be seen as a key ingredient of the innovation system. It is fundamental to the generation and transfer of knowledge.

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[77] <http://www.melbourne.org.au/media-centre/in-the-news/post/speech-by-senator-the-hon-kim-carr-review-of-the-national-innovation-system-report-venturous-australia>

[78] This is linked to the definition of "creativity" in Article 1. Creativity is defined as: "The element of innovation that bestows authenticity and distinctiveness upon the work."

[79] See B. Atkinson and B. Fitzgerald, "Copyright as an Instrument of Information Flow and Dissemination: the case of ICE TV Pty Ltd v Nine Network Australia Pty Ltd" (2008) <http://eprints.qut.edu.au/view/person/Fitzgerald,_Brian.html>

[80] *Feist Publications, Inc., v. Rural Telephone Service Co.*, 499 U.S. 340 (1991)

In further developing its copyright law and practice UAE needs to be mindful of the importance of "information flow" in the modern economy. It needs to be alert to the fact that overly restrictive copyright law will slow down development and innovation whereas copyright law that can harness the power of the technology will provide a competitive advantage.

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باحث متخصص في الملكية الفكرية و قانون الفضاء الالكتروني. وهو حاصل على شهادات عليا في القانون من جامعة أكسفورد وجامعة هارفارد. ولديه العديد من الإبحاث و المنشورات في قانون الفضاء الالكتروني :الملكية الفكرية والتجارة الإلكترونية (2002) ؛ الاختصاص والإنترنت (2004) ؛ مبادئ الملكية الفكرية (2004) قانون الإنترنت (والتجارة الإلكترونية (2007).

على مدى السنوات العشر الماضية ، قدم بريان العديد من الندوات حول تكنولوجيا المعلومات والإنترنت ، وقوانين الملكية الفكرية في أستراليا ، كندا ، الصين ، البرازيل ، نيوزيلندا ، الولايات المتحدة الأمريكية ، نيبال ، الهند ، اليابان ، ماليزيا ، سنغافورة ، والنرويج ، وكرواتيا ، فرنسا ، وتايلند ، سلوفاكيا وهولندا.

براين هو رئيس برنامج القانون في مركز التميز للصناعات الإبداعية والابتكار ومشروع الحكومة الاسترالية للدخول للمعرفه (قانون اوك) ، والممولة من الحكومة الاسترالية . وهو أيضا رئيس برنامج المعلومات المكانية .

وتشمل الموضوعات الحاليه التى يبحث فيها الآن ، قضايا الملكية الفكرية وحق التأليف ، المحتوى الرقمي والإنترنت ، وحقوق الطبع والنشر والصناعات الإبداعية في الصين ، التراخيص المفتوحة الإبداعية ، البرمجيات الحرة ومفتوحة المصدر ، استخدام براءات الاختراع والشفافية ، أبحاث العلم المفتوحة ، وإصدار التراخيص للتسلية الرقمية وقانون مكافحة التحايل.

كان براين في الفترة من عام 1998 -2002 رئيس Southern Cross University، نيو ساوث ويلز، إستراليا كلية القانون في

كان براين من كانون الثاني / يناير 2002 -- كانون الثاني / يناير 2007 رئيس كلية QUT في بريسبان ،إستراليا القانون في جامعة

وهو حاليا أستاذ باحث متخصص في الملكية الفكرية (QUT)وهو أيضا محام من المحكمة العليا في إستراليا والابتكار في.

Rami M Olwan

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Prior to joining QUT, Mr. Olwan was working as a legal consultant in e-commerce law in Jordan, United Arab Emirates and the Sultanate of Oman from 2000 to 2005. He specializes in domain names and digital copyright issues. Mr. Olwan interned with the World Intellectual Property Organization in New York in 2007. Mr Olwan has published articles in various journals, including the *Kuwait Law Journal* and *the United Arab Emirates University Law Journal*. He has been a member of the Jordanian Bar since 2001 and he is fluent in Arabic and English.

الأستاذ رامي علوان باحث قانوني لدى جامعة QUT Queensland University of Technology منذ 2008.
حصل على البكالوريوس في القانون من كلية الحقوق في جامعة اليرموك في المملكة الأردنية الهاشمية عام 1997، ثم أكمل دراسته العليا في القانون حيث حصل على درجة الماجستير من جامعة Buckingham University Law School في المملكة المتحدة عام 2000.
وقد شارك في برنامج Berkman Center for Internet and Society من كلية الحقوق في جامعة Harvard - برنامج قانون الانترنت في ريو ديجانيرو في البرازيل وذلك في شهر آذار عام 2003.
كما أنه حصل على ماجستير في القانون من جامعة Columbia University Law School عام 2007 وذلك.
عمل الأستاذ رامي علوان قبل الانضمام إلى جامعة QUT في استراليا كمستشار قانوني في التجارة الالكترونية في كل من الأردن ، دولة الإمارات العربية المتحدة وسلطنة عُمان وذلك من سنة 2000 ولغاية 2005 وتخصص بمواضيع الملكية الفكرية و شبكة الانترنت ، كما أنه عمل في المنظمة العالمية لحقوق الملكية الفكرية WIPO والكائنة في نيويورك وذلك عام 2007.
كما قام بنشر عدة أبحاث في مجلات قانونية مختلفة من ضمنها مجلة الشريعة و القانون- جامعة الكويت و مجلة جامعة دولة الإمارات العربية المتحدة للقانون.

عضو في نقابة المحاميين الأردنيين منذ عام 2001, بالإضافة إلى رئيس مشروع المشاع الإبداعي في الأردن.