

## CANADIAN DEVELOPMENTS

*Court distinguishes the Australian decision Computer Edge v. Apple Computer (1986)*

The Canadian Federal Court of Appeal recently considered whether the Copyright Act extended to computer programs embodied in semiconductor chips. In *Mackintosh Computer Limited v. Apple Computer Inc.* (13 October 1987) the copyright owner obtained registration for two programs written in assembly language. These

programs were later converted by the owner to machine language and embodied in ROM chips.

The court held that reproduction of the chips by the defendant amounted to a breach of the copyright. The copyright owner's conversion from assembly language to machine language was held to be a 'reproduction' of the original and hence the copyright protection was extended to the new form.

In the Australian decision, the court held that copyright did not attach to a chip, as the chip was part of a dynamic process not seen or read by the human eye. However the Canadian court found that a ROM contained a 'burned in' memory and therefore was a 'work at rest'. One can read a chip via an electron microscope so the argument concerning the human eye was disregarded. The Canadian court also noted that in the Australian decision, copyright was claimed in the chip alone and not in the written version of the program.

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## The Society's Aims

The Society was formed for the mutual education of lawyers and others concerned with the unique legal considerations arising from computer and communications technology. The Society brings together, for informal and formal discussions, lawyers and others actively working in the information technology field in private practice, corporations and in Government. The Society was formed in 1982 and has met regularly since then.

The Society has sponsored a wide variety of programs covering the many legal implications of computer and communications technology. You will find a copy of our program on the back page of this newsletter which covers an interesting range of topics. Further programs are included as the opportunity arises: for example, when overseas computer experts visit Australia. Printed proceedings from meetings are available in due course. Members may obtain these at a discount.

The Society provides lawyers and others concerned with the legal and practical aspects of computers and computer communications, a forum for exchange of ideas and examination of the problems we face. Our meetings are open to non-members (at a fee), leading to many useful interdisciplinary dialogues.

If you wish to discuss any aspect of the Society's activities please contact any member of the Committee.

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