

*Strength Food Co.*  
[1978] 2 NZLR 515).

In the present example, Apple has provided the New Zealand software house with information. It could probably show, without too much difficulty, that this information, including the screen display drawings, is rarely released to non-Apple personnel or allowed off Apple premises. The drawings are probably also marked "Confidential". It is also likely that the context in which the New Zealand software house received this information is such as to impose an obligation of confidence on the New Zealand software house, namely the information was given as part of an

arrangement whereby Apple and the New Zealand software house were to jointly profit by the venture. This aim could be defeated if the information fell into the hands of competitors. Furthermore, once this arrangement was terminated, the continued use of the information by the New Zealand software house was unauthorised.

In New Zealand I believe that protection for "look and feel" would be available under the doctrine of misuse of confidential information, so long as the scenario was along the lines of the present example. In fact this is usually the case. Most of the US "look and feel" cases have involved access to confidential information, and

there has usually been some form of relationship between the plaintiffs and defendants which later broke down.

It can be concluded that "look and feel" protection for software is likely to be available in New Zealand where confidential information has been transferred to the infringer and there is a possibility that even where that is not the case, that protection is available by virtue of the copyright subsisting in the artistic works from which the user interface screen displays have been coded.

\* *Partner, A.J. Park & Son,*  
*Wellington*

## HIGHLIGHTS FROM

### THE PRESIDENT'S REPORT

NEW SOUTH WALES SOCIETY FOR COMPUTERS AND THE LAW

21 March 1989

Six years old and the Society is still going strong. Each year the Committee wonders whether there will be enough topics of interest to warrant holding a meeting every month. We usually find that there is insufficient time to schedule all the meetings we would like. 1988 held a full calendar of topics and in spite of not being able to arrange a speaker in time for the March

meeting, 1989 is already filled up. We have not managed to schedule an address by the new Privacy Commissioner which is something we aim to do.

#### Meetings

On 6 April the topic at an evening meeting was litigation support. Speakers included Mr. Justice Brian

Beaumont, Ms. Donna Rubenstein and Mr. Michael Ball. This meeting was very well attended which reflected the high quality of the speakers as well as the refreshments provided by Informatics.

The lunchtime meeting of 4 May had to be postponed to 24 August when Peter Bradshaw from Austraclear

addressed the Society on the great advances made by that organisation.

Unfortunately Colin Spinks from GE Information Services could not attend but through the miracle of fax his paper was provided and read by our Treasurer Les Lawrence.

On 13 May 1988, Brendan M. Haire from the United States who was visiting agreed to address a quickly convened meeting of the Society on the latest happenings in the world of computers and the law in the United States. The meeting was well attended particularly in view of the small amount of notice and the speaker was very interesting, also providing a very useful set of primary materials – including both judgments in a number of look and feel cases, the complaints in the Apple and Microsoft case and a copy of the Semiconductor Chip Protection Act.

On 1 June the Society was addressed on the topic of CD ROMS and Worm Drives by Don Vagolaar and Don Sullivan of Laser Information Systems Technology. As the age of optical disks dawns these important storage mediums will no doubt be put to use by many lawyers.

On 6 July an afternoon was organised by the College of Law and six members of the Society – Les Lawrence, Peter Leonard, Richard Davis, David Lewis, Phillip Argy and myself addressed over a hundred people on a variety of topics. In the half hour

allotted to each speaker it was not possible to go into any detail but according to the evaluation forms filled out by participants the seminar was well received. The Society received \$5 for each person who attended so the afternoon represented a very healthy return for us. A similar meeting is scheduled for this year.

On 3 August, Mr. Justice Michael Kirby, President of the Court of Appeal, addressed the Society on transborder data flows. Mr. Justice Kirby is the Patron of our Society and has been involved in computer law issues since well before many members of the Society, myself included, began their professional careers. Those who attended this meeting were fascinated by the depth of his knowledge and experience and the prescience of his vision.

Taxation issues in the computer industry was the topic on 7 September and Hayden Miller and Tony Grant from Coopers & Lybrand addressed the Society on this important issue.

In an evening meeting on 5 October, Bill Henty and David Standen spoke on the topic of tendering for government computer contracts and offsets. Both speakers had a depth of experience in the area and provided interesting addresses together with a detailed paper.

Our gala December meeting was on the topic of "Catching the Pirates with the Loot".

Professor James Lahore who has lectured and written extensively on copyright matters as well as being a member of the Copyright Law Review Committee discussed the recent findings of that Committee. Lynn McDonnough spoke on behalf of the Federation Against Software Theft after the head of that organisation was forced to pull out at the last minute due to illness. Lynn was able to provide the perspective of a importer of software and the Society is especially grateful to her for filling in on only an hour's notice. I also spoke at that meeting on the practicalities of chasing software pirates.

On 1 February this year Lauren Honcope from the Attorney General's Department addressed the Society on the new Circuit Layouts Act.

### Proceedings

Last year I was able to report that the 1984/5 proceedings had finally been published. This year the 1986 proceedings have gone out. Both the 1987 and 1988 editions are currently in train and both should be published during this year.

Those of you who have looked inside the front cover of the 1986 edition will note that we did in fact manage to attract a number of sponsors to proceedings which has helped in defraying the costs of that production. A number of sponsors have been willing to sponsor for two years and so there is already commitment, and in most

cases money, for sponsorship of the 1987 proceedings. Details of these sponsorships are contained in the Treasurer's Report. There are still positions open for sponsors in both the 1987 and 1988 proceedings and any applications will be treated with glee.

### Newsletter

The newsletter seems to have finally found a rhythm under the Editorship of Elizabeth Broderick and Robert Johnston and is now a regular (four times a year) publication. Articles are always welcome and there is no reason why our newsletter cannot become a primary forum for computer and law topics in Australasia.

The New Zealand Society for Computers and the Law which seems to be quite a strong Society has asked us to provide copies for distribution to their members at their expense. This of course we are only too willing to do and hope that we can also attract contributions from their membership.

### Interstate Societies

We are hopeful that the continuing strength of our Society and the New Zealand Society will stimulate interstate Societies. Our Society should form a focus for computer law issues in Australia.

### International Federation of Computer Law Association

The Society has recently joined this body. No fees are payable at this stage, though this may

change in the future. Our membership ensures that we will be in touch with the bulk of similar societies around the world.

### Membership

Overall membership has stayed relatively stable with corporate members increasing and personal members decreasing. Our increase in membership fees which was necessary to cover the costs of arranging seminars and providing the proceedings and the newsletter at no extra charge to members may have deterred one or two members who left the Society but those who left have been replaced by new members. It is inevitable that in any Society such as this, there will be turnover in membership.

### Committee

Membership of the Committee has remained relatively stable but inevitably, the bulk of the work falls to a few members.

Richard Davis again ably filled the role of Secretary in both keeping members of the Society as a whole supplied with information and Committee members with minutes and notices of meeting. Richard has now filled this demanding role for over 2 years.

Les Lawrence has done an outstanding job in keeping track of the cash. Every month the Committee has received a concise statement of the state of the Society's finances and details of any unusual transactions during the previous month. Les has also taken on

himself the burden of sifting through membership applications to ensure that cheques are banked as soon as possible and no interest is lost therefore.

Phillip Argy has continued as Vice President in chairing meetings in my absence, providing his advice to the Committee and publicising the role and existence of the Society.

Unfortunately we lost our experienced and efficient meetings officer in Katrina Henty during the year when she took the opportunity of working in Boston. However, we did have the benefit of Katrina's hard work while she was still here and the legacy of the organised venues and speakers after she left. Katrina was more than ably replaced by Connie Carnabucci and Gigi Cheah who jointly assumed the role of meetings officers with no noticeable drop in the services provided. Between them these two have already organised the venues and some speakers for the coming year. Connie and Gigi have also filled the role of media officers.

Louise Herron deserves special thanks for her efforts in producing the 1986 proceedings. However much a task appears relatively straight forward, when it involves co-ordination with printers it seems that a factor of three can always be applied to the time needed. Louise had to work very hard liaising with our layout artist and with the printers ensuring that the artwork was correct, and that we applied for the book bounty. Thanks to her in

producing what is, after all, the Society's most important annual document.

I have already mentioned the efforts of Elizabeth Broderick and Robert Johnston in producing the newsletter with great regularity and I regard this as a major achievement and a first for the Society.

Andrew McBurnie has continued in his role of subscriptions co-ordinator and this has helped ease the burden on other members. Jeff Burgman continues as our honorary auditor a role he had filled since inception of the Society and we thank him

for his assistance over all those years. Peter Leonard, David Lewis, Simon Lewis, and Mary-Jane Salier are the other members of the Committee who have helped in various ways to make last year the success that it was. Thanks to all of them.

### The Future

As already mentioned our monthly meetings for this year have been planned as has a conference with IIR. You will notice that membership fees have not been increased and I feel the Society is in a healthy financial position.

This year should see the release of both the 1987 and 1988 proceedings bringing these Volumes completely up to date by next year.

I have enjoyed my 2 years as President of the Society. It has given me a chance to work with a variety of people and to swap ideas with my peers in this country and internationally. After 2 years, however, it is time for some fresh blood and I wish my successor whoever he or she may be, well. Thank you for your support.

*Jim Fitzsimmons*

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## 1989 MEMBERSHIP

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. Join now for 1989. Subscription entitles you to our planned four Newsletters, a copy of the Proceedings plus attendance at our monthly meetings.

Annual Subscriptions are:

\$120 for corporate members;  
\$35 for individuals; and  
\$20 for students.

Please send your cheques made payable to :

**The Secretary**  
**The NSW Society for Computers and the Law**  
**C/ Malleson Stephen Jaques**  
**50 Bridge Street**  
**SYDNEY 2000**

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