

information from representations of sections.

This 'interpretative model' of legal expert systems is the only feasible one, based on the continuing interaction of the reasoning process alternating between

the two partners to the interaction. Seen from this perspective, the task of developing legal expert systems is feasible, useful and still just as challenging.

- *This paper is an edited version of the paper*

delivered by Graham Greenleaf, Senior Lecturer in Law, University of New South Wales, at the Australian Legal Convention in Sydney, August 1989.

LAPTOPS FOR LAWYERS

A four hour seminar to introduce lawyers to computers was held in Perth on each of three afternoons in mid-November 1989. The seminars were organised jointly by the Law Society of Western Australia and the Western Australian Society for Computers and the Law.

The formula was simple with:

- a maximum of ten participants seated at a round table;
- every participant having a Toshiba laptop computer; and
- the seminar leader displaying his screen using an overhead projector.

Many of the lawyers present had never used a

keyboard, let alone a computer. They were firstly introduced to basic word processing applications. Spreadsheet applications for crunching numbers and producing Scott Schedules were demonstrated. Tables of facts, or consolidated pleadings, to aid litigation management were then demonstrated. Finally, the participants were introduced to some document modelling applications.

The Western Australian Society would like to thank Toshiba for the use of the laptop computers, Imagineering for the Symphony software, to Legal Management Consultancy Services for the document modelling software and Deloitte Haskins & Sells for the use of their boardroom facilities.

It is likely that these seminars will become an annual event in Perth.

CASE NOTES

Injunctions Restraining Import

Lotus has obtained injunctions restraining a distributor from importing and distributing certain computer programs in Australia.

The respondent distributor did not present any serious grounds of defence to the allegations of infringement, conceding that the works were imported without licence and were identical with the works over which the applicants' copyright subsisted.

The Federal Court found that the evidence clearly indicated the goods were imported for distribution in the course of trade for a purpose that would seriously prejudice the owner of the copyright. The injunctions were applied until the determination of proceedings on copyright

infringement. On 15 December final orders were made in this matter and we hope to report further on this in the next issue.

(Lotus Development Corp & Ors v Vacolan Pty Ltd & Anor (1990) AIPC ¶90-629, Federal Court, Davies J, 20 November 1989).

Reverse Engineering and Computers

Two recent American cases highlight the difficulties in deciding whether certain new computer developments have been reverse engineered, and whether that process has involved or resulted in a breach of copyright.

In *NEC Corp & Anor v Intel Corp* (1989) 14 IPR 1, the use of reverse engineering in relation to the development of computer architecture was not, of itself, unlawful. Although NEC admitted that one of its engineers had reverse engineered Intel's microcode, the court held that the engineer was entitled to use his knowledge of the Intel microchips and his experience in studying them in the design of NEC's chips, provided no copying took place.

Brooktree Corporation v Advanced Micro Devices Inc (1989) 14 IPR 85 is the first reported case in the US to examine the *Semiconductor*

Chip Protection Act (the Act). Brooktree alleged that significant elements of two of its chips were copied by the defendant (AMD). It applied for interlocutory relief to restrain AMD from manufacturing and dealing in the chips. AMD conceded that its designer had examined the Brooktree chips under a microscope, but had done this in the course of reverse engineering permitted by the Act. Brooktree alleged that the resemblance was not the result of reverse engineering but of simple copying.

The Act specifically allows for reverse engineering by providing that it is not an infringement to reproduce the mask work solely for the purpose of teaching, analysing or evaluating the concepts or techniques embodied in the mask work or to incorporate the result of such conduct in an original mask work which is made or distributed.

If a defendant is unable to show a "paper trail" establishing that reverse engineering rather than copying has taken place, the standard to be applied in determining infringement should only be "substantial similarity". In this case the defendant could show a satisfactory paper trail, and "substantial identity" between the two works was required before infringement would be found. Brooktree could not

show whether the similarity between the chips arose from the functional requirements or the design. The injunctions it sought were denied.

The applicants wanted interlocutory relief only, and it is hoped that a deeper examination of the issues will emerge when a full hearing of this or another case under the Act is reported.

The *Circuit Layouts Act* 1989 (Cth) contains similar provisions to the Act on reverse engineering and copying. These provisions are yet to be tested in the Australian courts.

NEW TITLES

Guide to Computer Law

A two volume loose-leaf service entitled "Guide to Computer Law" has recently been released by Commerce Clearing House, the US parent of CCH Australia Limited.

This service deals with US Federal law, where major computer development, often of great influence on Australia and New Zealand, takes place.

The Guide covers more than 20 areas of "computer law", including the various forms of intellectual property, federal statutory sources, hybrid areas such as crime, sales and