

Limitations of Australian Copyright Law in the Protection of Indigenous Music and Culture

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In Australia, the main body of law that provides protection to creators is the *Copyright Act 1968* (Cth) (the 'Copyright Act'). The Copyright Act has two rationales. One is to provide individual creators with specific economic rights to exploit their work without others being allowed to copy that creative output. The other is to create a public domain from which creators are free to draw ideas without the need to obtain anyone else's permission. So copyright law is a balancing of the interests of the individual author against those attributed to a universal public domain. These notions differ substantially from the rationale of Indigenous music and cultural expression. Traditionally, Indigenous Australian music and culture are not created for commercial sale but rather for their significance as forms of cultural and religious expression. Nor do they ever become free for all to use in the western sense of the public domain.¹

Copyright is a set of specific rights granted to the creators of literary, dramatic, musical or artistic works, or to the makers of what is called in the Act 'other subject matter' that comprises sound recordings, films, broadcasts and published editions. It exists as soon as the work is created or a recording is made, as long as certain criteria are met. The criteria are:

- the material to be protected must be a work of a literary, artistic, dramatic or musical nature;
- the work must be original and it must have been reduced to material form; and
- the work must have a definable author or authors (who is generally the owner of the copyright).

¹The recent, successful arts cases, such as *Milpurrurru v. Indofurn* (1992) and *Bulun Bulun & Milpurrurru v. R & T Textiles* (1998) apply only to visual arts. In these cases there were discernible owners and the subject matter, paintings, was in material form. Thus, it was easy for the court to manipulate the circumstances of the cases to adapt them to the copyright regime. See *Yangarrny Wunungmurru v. Peter Stripes Fabrics* (1983) Federal Court, unreported; *Bulun Bulun v. Nejlam Investments & Others* (1989) Federal Court, unreported; *Yumbulul v. Aboriginal Artists Agency Ltd* (1991) 21 Intellectual Property Reports [IPR] 481; *Bancroft v. Dolina Fashion Group Pty Ltd.* (1991) Federal Court, unreported; *Milpurrurru v. Indofurn Pty Ltd & Others* (1995) 30 IPR 209; *Bulun Bulun and Milpurrurru v. R. & T. Textiles Pty Ltd* (1998) 41 IPR 513.

The criteria for the subsistence of copyright law evolved over a period of some three hundred years and were influenced by western European eighteenth-, nineteenth- and twentieth-century ideas and practices. If these criteria are satisfied, and the author is an Australian citizen or resident, the author or maker has exclusive reproduction rights until the term of copyright expires. In Australia the copyright term for works is fifty years after the death of the author, and this also applies to other subject matter, except published editions, where it is twenty-five years.²

Originality

Section 22 of the Copyright Act provides that for copyright to subsist a work must be original in that it is not copied from another work. The creator of the work must impart some degree of skill, judgment and labour to produce the work that gives it some quality or character which the raw material did not possess.

In western society, originality is evaluated in terms of the relationship between the work and its creator. Such an evaluation reflects the psychology of creation and production that developed in the law during the eighteenth and nineteenth centuries, and the privileged status given to the individual. This view of creation is based on the idea of the artist not as a conduit or mirror of some external reality, but as the source or origin of the art itself, as the major element in the creative process. Thus, in order for a work to be protected by copyright law, the creator must be seen as exercising the requisite level of control over the production of the work, or, to put it another way, there must be something of the creator in the final product that can be said distinctly to belong to the author.

This account of originality is based on the idea of creation as break with tradition, which, in turn, sees the creative subject as someone isolated and independent. The problem with such an assumption is that it is based upon prejudices which are the product of the traditions in which the interpreters are situated, that is, Western Europe in the eighteenth and nineteenth centuries. This is a reminder that originality is a legally imposed standard, shaped by, and designed for use within the western legal system. It is culturally and historically determined. The meanings that are given to particular copyright works depend upon the cultural, historical and social prejudices with which contemporary society confronts these objects.

This requirement of originality does not take into account a different tradition. It has been suggested that where an Indigenous artist or musician simply reuses a traditional (or pre-existing) song or design, the requirement of originality may be lacking. This may be a very real problem in music. In the successful Indigenous arts cases in the 1980s and 1990s, the facts were able to be manipulated into the western copyright system easily because other *indicia* of copyright such as material form and individual creators were present. Despite this, Nina Stevenson, the lawyer representing the Indigenous plaintiffs in the Wunungmurra fabrics infringement case³ stressed the problems she had, as a western trained lawyer, with the requirement of originality:

²Copyright lasts longer than fifty years after the death of the author if the work is published posthumously; see *Copyright Law in Australia* (Canberra: Attorney-General's Department, Jan. 2000) 16. The copyright term in the European Community (including Great Britain) has been extended to seventy years after the death of the author.

³ *Yangarriny Wunungmurra v. Peter Stripes Fabrics* (1983) Federal Court, unreported.

Although the arrangement of the elements and the expressions of the figures may vary between the painter of the story, certain features—such as the cross-hatching and paneling and the way the figures are placed—will always be the same. The concept of original authorship is somewhat inappropriate in this context.⁴

Indigenous songs and designs are believed to belong within the category of the eternal rather than the temporal, and thus have an existence independent of their human performers. What western philosophers would refer to as the compositional process is one not of creation but of discovery.

In Material Form

The Australian Copyright Act requires that a work be in material form such as a writing or recorded medium before it will be protected.⁵ The fixation requirement is justified on the ground that unless a work takes a material form, it cannot be said to have passed the 'idea' phase. This requirement may pose difficulties for oral traditions where songs and ceremonies are passed on from generation to generation. In Indigenous Australian cultures, songs from the Dreaming were passed down through oral tradition. This mode of carrying on the culture continues today.

For music, this requirement poses the most obvious problems. Any Indigenous music that has been reduced to material form either by being written down in western notation, published or recorded on tape or film, will be owned by the person who reduced it to that medium, usually an anthropologist or ethnomusicologist.⁶ Thus the requirement of material form may cause difficulties even where it is satisfied. Suppose, for example, that an ethnomusicologist collects the songs of a community by making a recording and later by transcribing them and publishing them in book form. The problem is that unless the collector has been acting solely at the direction of the persons being recorded, or of the community, it is the collector who will own the copyright as the author or maker because the collector is the one responsible for putting the work into material form.

If the collector is an anthropologist, or some other kind of researcher, or indeed anyone who is not a member of the community, the result is that the right to publish or control the dissemination of the work, at least as expressed in that particular way, will have passed outside the control of the community. So unless a recording is done at the behest of the community and acknowledged as such, any copyright will go to the person or organisation responsible for making the recording.

The material form requirement raises a further problem with the giving of evidence in court. One of the most important legal concepts for the admissibility of oral testimony is known as the rule against the admission of 'hearsay' evidence. Importantly for Indigenous culture, this rule developed in a culture that holds material evidence of legal activities in the highest esteem. The hearsay rule holds that witnesses may generally only give evidence of matters within their direct experience. Thus, A may give evidence that he or she saw B doing something,

⁴ *Aboriginal Law Bulletin* 17 (1985): 3.

⁵ Copyright Act 1968: section 10(1), definition of 'material form'; section 32(1), 'qualified person.'

⁶ Copyright Act 1968, section 97(2)

in order to prove that B did that thing. But A may not give evidence of something B said to him or her, in order to prove that what B said was true.

In a culture where knowledge is transmitted orally rather than in written form, almost any information about tradition will contravene the hearsay rule. Hence the defendants in the Mabo⁷ case sought to exclude most of the Indigenous plaintiffs' evidence about traditional land ownership as hearsay. So, also in a copyright case, evidence such as 'My father told me this song belongs to our community' would contravene the hearsay rule, and thus be inadmissible.

Ownership

Generally the owner of a work under the Copyright Act is the person who has reduced the work to material form.⁸ In most cases, with Indigenous music collections, this will be ethnomusicologists or anthropologists.

The communal nature of traditional Indigenous culture does not appear to flow principally from property rights in physical items as those rights are understood in western legal regimes. Rather, it appears to flow from a custodianship on behalf of the community of the Dreaming that lies behind the production of the song or design or ceremony. There may be as few as two or three people with rights to certain songs or designs, or as many as six hundred. In this sense, the rights involved may not be property rights in the western sense so much as usage or management rights that are communal in nature. Such rights receive no protection under the copyright regime which is based on property notions.

What is more important, even were copyright to confer protection on the works of individual Indigenous people, it might well do so at the expense of customary laws. To acknowledge full copyright of an individual Indigenous person could be to deny the contribution of continuing living tradition in a particular song or design. It would be granting rights to which the individual would not be entitled under traditional law. So the exclusive rights of copyright law and the non-exclusive rights of traditional Indigenous Australian law are in opposition. The difficulty of reconciling these two systems—group versus personal rights—is one of the main issues that arise when copyright is relied upon for the protection of Indigenous culture.

Fair Dealing

A further problem in the Copyright Act relating to the public interest is that certain statutory defences are available in relation to infringement of copyright, the most important of which is fair dealing.⁹ These exceptions are of obvious importance in that they seek to establish a proper balance between the legitimate interests of copyright owners and the legitimate desires of users of copyright material.

⁷ *Mabo & Others v. State of Queensland* (No.2) (1992) 175 Commonwealth Law Reports [CLR] 1.

⁸ *Copyright Act 1968*, section 35(2). The copyright owner is not always the person who owns the tangible piece of paper. For example the writer of a letter owns the contents of that letter, not the person to whom it was sent.

⁹ *Copyright Act 1968*, sections 40–43.

The Copyright Act permits fair dealing for four main purposes: private research or study, criticism or review, reporting news and judicial proceedings or professional advice.¹⁰ Whether a particular use has been 'fair' is for the courts to determine. Fair dealing provisions are quite opposed to ideas of secret or sacred material, no use of which would be fair except by the particular persons and community to which the material belonged.

Breach of confidence

As shown in the discussion concerning the Copyright Act, ideas are not protected by the Act. The right lies in the expression of the idea, not the idea itself. Traditionally there has been no protection for ideas under copyright but in recent times the law has recognised that obligations may be imposed to honour the confidence of those who impart original ideas in certain circumstances.

One case that addresses breach of confidence in an Indigenous context is *Foster v. Mountford*.¹¹ An action was brought by the Pitjantjatjara Council to prevent the publication of a book entitled *Nomads of the Australian Desert* written by the anthropologist Charles Mountford. Some of the information in the book was collected by Mountford on a 1940 field trip into the outback areas of the Northern Territory, during which he spoke to a number of the Indigenous inhabitants.

Almost thirty-five years after visiting the Northern Territory, Mountford published his book, which contained information that he himself recognised as having been communicated to him in confidence. The judge noted that Mountford had placed the following note in the front of his book:

Where Australian aboriginal people are concerned, and in areas where traditional aboriginal religion is still significant, this book should be used only after consultation with local male religious leaders. This restriction is important; it is imposed because the concept of what is secret or may not be revealed to the uninitiated in aboriginal religious belief and action, varies considerably throughout the Australian Continent and because the varying views of aborigines in this respect must, on all occasions, be observed.¹²

The judge found that this information was given and received in confidence and that there was a strong *prima facie* case for saying that its publication would breach Mountford's obligation not to use or disclose the information without consent.¹³ He accepted the plaintiffs' contention that revelation of the secrets to their women, children and uninitiated men could undermine the social and religious stability of the community, a serious loss which would not be reparable by an award of damages. Accordingly the Judge issued an interlocutory injunction to restrain publication of the book.

This case illustrates how breach of confidence laws may be applied to protect Indigenous arts and cultural expressions, yet there are many limitations. It must be shown that the necessary relationship of confidence existed at the time the information was relayed, but under Indigenous law it is not relevant whether such 'secrecy' is in existence. If sacred material has been

¹⁰ Copyright Act 1968, sections 40–43.

¹¹ *Foster & Others v. Mountford & Rigby Ltd* (1977) 14 Australian Law Reports [ALR] 71.

¹² *Foster v. Mountford* 14 ALR 73.

¹³ *Foster v. Mountford* 14 ALR 75.

disseminated amongst people not authorised to receive it, then it follows that a breach of Indigenous law has occurred. Furthermore in the original Mountford case, despite the granting of injunctions and subsequent suppression of the book, many of the Pitjantjatjara people felt that considerable damage had already been done because those books already sold could not be retrieved.

Thus the drawback of the action for breach of confidence is that it only protects information that has not already reached the public domain. Accordingly, where members of a community have not taken sufficient care in the past to restrict access to certain knowledge, an attempt to enforce the obligations of confidentiality may be met with the defence that the information is no longer secret. No matter how damaging it may be to the community for outsiders (or uninitiated insiders) to learn of matters that under customary law should be restricted to certain members, Anglo-Australian law will not intervene if confidentiality has been lost. In *Foster v. Mountford* the case might well have been lost on this point had it not been that Mountford's subsequent conduct made it clear that he believed the information to be confidential, as indicated in his note.

There is also a problem assessing when Indigenous information has passed into the public domain. In some cases Indigenous communities are prepared to put designs on public display, trusting that most of those who see them will not appreciate their full significance. In such a case the secret part of the work ought not to be regarded as having reached the public domain, even though the work is readily accessible.

Yet there remain areas, such as music and design, where the issues may not be so clear cut. In the Yumbulul case, the applicant, Terry Yumbulul, was one of a small number of people permitted under his community's law to make ceremonial Morning Star poles.¹⁴ He authorised one of his poles to go on display at the Australian Museum and the Reserve Bank in turn reproduced the pole on the bicentennial ten-dollar note. The judge found that the pole lost any quality of confidentiality it may have had once it appeared in the public domain by virtue of its sale to the Australian Museum. This may equally be applied to music that has been published or recorded.

The controversial Hindmarsh Island affair, which concerned the building of a bridge to Hindmarsh Island, South Australia, on land claimed by some female members of that community to be sacred, was another case that raised grave concerns about the possible repercussions of revealing restricted knowledge in the pursuit of legal rights. In a successful appeal by the Hindmarsh developers against the decision by the Minister for Aboriginal Affairs to protect the site under sections 9 and 10 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth), the Federal Court criticised the strategy employed by the Minister to avoid reading the women-only material by delegating this task to a female staff member, who then reported to him on the effect of the information. The Full Court of the Federal Court found that he should personally have read the material.

Given the way the doctrine of confidentiality works, with its insistence upon total secrecy and non-publication, Indigenous people would be well advised never to reveal anything, but in so doing, they will be exposing themselves to the problems that arose in the Hindmarsh case.

¹⁴ *Yumbulul v. Reserve Bank of Australia* (1991) 21 IPR 481.

International Human Rights Conventions

While the Australian legal and political arenas have been unreceptive to Indigenous demands for protection of their culture, except in the very narrow case of artworks, some commentators believe that international legal forums may be used to bring pressure on the Australian Government to do something about the situation. They regard international human rights law as a key component of any realistic strategy to use international law to protect the rights of indigenous peoples to their intellectual property.¹⁵

Indigenous peoples might be able to make use of the international human rights mechanisms available to all citizens of those states which adhere to international rights treaties. Australia has accepted some procedures by which individuals can make direct approach to United Nations monitoring bodies. The two main treaties which can be used as the basis of such claims are the Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR)¹⁶ and the Convention on the Elimination of All Forms of Racial Discrimination (CERD).¹⁷ However these are based on individual claims and would be hard to relate to communal intellectual property.

For example, under the First Optional Protocol to the ICCPR, complaints are dealt with in two stages, admissibility and merits.¹⁸ Admissibility requirements which would pose real problems for Indigenous groups are that the complaint must be made by the victim of an alleged violation; the victim must be an individual, not a group; the complaint must be in writing; and there is no possibility of oral presentation of evidence. Furthermore, the complaint must concern a breach of a right under the ICCPR. It would be difficult to bring intellectual property under the ICCPR since there is no power to deal with complaints about property rights or other rights not covered by the Covenant.

Furthermore, complainants must have exhausted all domestic remedies. In Australia this means that a case would have to be taken through all stages of either Federal or State laws, including all appeal mechanisms. This is a fairly demanding, costly and time-consuming requirement.

International laws to protect culture have been successful in protecting tangible movable and immovable things and have legitimised Aboriginal peoples' claims for repatriation, but have not addressed the taking of intangible cultural expressions. However, a new body of law on the rights of indigenous peoples has begun to emerge. Over the last decade, the United Nations has become the primary forum in which indigenous peoples have sought to gain international recognition and protection of their collective human rights. The focal point of

¹⁵ See Fleur Johns, 'Portrait of the Artist as a White Man: The International Law of Human Rights and Aboriginal Culture,' *Australian Yearbook of International Law* 16 (1995): 173.

¹⁶ International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 Dec. 1966. Australia signed the Covenant on 18 Dec. 1972 and ratified it in 1980.

¹⁷ International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature and ratification by General Assembly resolution 2106 A (XX) of 21 Dec. 1965. Australia signed the Convention on 31 Oct. 1966 and ratified it in 1975.

¹⁸ The Protocol is a separate treaty, connected to particular conventions. It is 'optional' in the sense that States who ratify the Convention can elect whether or not to ratify the Protocol and thereby recognise the competence of the UN Human Rights Committee to deal with claims by individuals. Australia acceded to the First Optional Protocol of the ICCPR in 1991.

these efforts has been the United Nations Working Group on Indigenous Populations, which has fashioned a draft universal declaration on the rights of indigenous peoples.

The declaration will be for adoption by the General Assembly. Such General Assembly declarations do not necessarily have the force of international law but rather they more commonly are adopted as a step in the development of positive international law. When the principles expressed in a General Assembly declaration are written into a multilateral treaty, they become binding on states that become parties to that treaty. The Declaration on the rights of Indigenous Peoples, when adopted, should carry significant weight in international law because it will interpret existing norms of positive and customary international law which are enshrined in the two International Covenants (ICCPR and CERD) and other international human rights instruments.

The principles expressed in the Draft Declaration reflect the aspirations of indigenous peoples as tempered by the demands of states. They include the full enjoyment of all human rights under existing human rights instruments, the preservation of cultural identities, the use of lands and waters on which the cultures depend, and autonomy and self-government within their traditional territories.

In 1984, the World Intellectual Property Organisation (WIPO) together with UNESCO developed 'Model Provisions for National Laws on the Protection of Expression of Folklore Against Illicit Exploitation and Other Prejudicial Actions.'¹⁹ The Model provisions were stimulated by the 'abuses,' 'distortions' and 'mutilations' of folklore traditions being provoked by the development of audio-visual productions and other multi-media technologies. The Model provisions specifically refer to the problem that no share of the returns from exploitation is conceded to the communities who have developed and maintained their folklore.

Both individual and collective folklore traditions are recognised. The words 'expression' and 'productions' are used instead of 'work' to emphasise that the provisions are to stand on their own and that copyright laws have not proven effective in the protection of folk traditions. Under the Model Provisions, folklore need not be reduced to material form to be protected. The Model provisions also avoid dealing with the notion of 'ownership.' Emphasis is given to authorisation of use by the 'competent authority' or 'community concerned.'

The Model Provisions are grounded in the philosophy that a community's folklife forms an integral part of its cultural heritage. In summary, the Model Provisions require an authority to be designated to represent the relevant community's interests, make commercial uses of folklife (outside traditional or customary contexts) subject to authorisation and supervision, prohibit unauthorised utilisation of expressions of folklore, prohibit misrepresentation of the source of expressions of folklore, prohibit willful distortion of folklore in a way prejudicial to the interests of the relevant community and provide for international extension of protection, based upon reciprocity.

The most important contribution of the Model Provisions is the application of 'neighbouring rights' to protect indigenous performers, allowing folklore expressions to be considered the

¹⁹ UNESCO/WIPO Model Provisions for National Laws on the Protection of Expression of Folklore Against Illicit Exploitation and Other Prejudicial Actions. See '1967, 1982, 1984: Attempts to Provide International Protection for Folklore by Intellectual Property Rights,' document prepared by International Bureau of WIPO, paper presented at the UNESCO/WIPO World Forum on the Protection of Folklore, Apr. 1997.

same as the 'performance of a work' and therefore protected under international copyright agreement as set out in the 1961 Rome Convention for the Protection of Performers.

Nevertheless, the Model Provisions have a number of problems. While they do not expressly define 'folklore,' they do use the term 'expressions of folklore' (section 2) with all its connotations. In addition, the Model Provisions, like copyright, allow for fair use of a work. There is no need to seek authorisation from a community to use expressions of folklore if the purpose relates to research, conservation and archiving. More importantly for music, there is no need for authorisation when an expression of folklore is used for creating an original new work.

Although the Model Provisions have never been adopted, they are at least evidence of renewed interest in the basic issues, especially in the recognition of collective and individual 'expressions' and 'productions' that remove folk expressions from the necessity of having the 'personality' of a creator as required by copyright law. Establishment of the principle that unwritten or oral expressions can be protected and that fees for such expressions should be paid, with criminal penalties for those who disrespect the necessity of authorisation, are critical elements.²⁰

International Conventions and the UNESCO/WIPO Model Provisions for the Protection of Folklore, like copyright and other domestic legal regimes, offer only a partial solution to the problem of protection of Indigenous intellectual property. Michael Dodson has pointed out that it is a myth that international law is the panacea for all Indigenous problems. He goes on to add:

One need look no further than to the limited powers which the international community actually has to enforce its findings. Or look who it is that makes up the UN: it is nation States. And that means that its operations are, in the main, guided by the interests of nation States and their interpretation of correct and proper action or intervention. It takes little imagination to realise that few States are going to initiate criticisms of other States which may well be reflected back at their own practices. There is no better or more tragic illustration of these limitations than the UN's 50-year failure to adequately address the specific concerns of the world's Indigenous peoples or the violations of our rights. If there exists a magic wand which could be waved over domestic governments to cure all evils and make them good, it is certainly not international law.²¹

Nevertheless, Australia does have certain obligations under international law. The United Nations Draft Declaration on the Rights of the World's Indigenous Peoples and other similar international instruments put the onus on the Australian Government to implement legislative reforms and adopt culturally appropriate strategies to empower Indigenous Australians with the means of controlling and protecting their own forms of music and cultural expression.²²

²⁰ The latest round of international discussions through the World Intellectual Property Organisation took place in July and November 1999.

²¹ Michael Dodson, 'Linking International Standards with Contemporary Concerns of Aboriginal and Torres Strait Islander Peoples,' *Indigenous Peoples, the United Nations and Human Rights*, ed. Sarah Pritchard (Sydney: Federation Press, 1998) 20.

²² The introduction of moral rights legislation, currently in Committee in the Federal Parliament, will not be helpful in the protection of Indigenous culture. It will be brought in under the auspices of the Copyright Act which means that Indigenous music and culture will have to possess the same elements that are required to bring an action for breach of copyright, that is, it must be in material form, must be original and must have a discernible owner. Moreover, moral rights in Australia, if they are ever introduced, will only last for fifty years after the death of the author; they will not be perpetual as they are in France and other Continental legal systems.

In 1981 the *Report of the Working Party on the Protection of Aboriginal Folklore*, prepared by the Commonwealth Department of Home Affairs and Environment was released but none of its recommendations was implemented. Since 1981 there have been various committees, reports, working papers, learned articles and charters, including the formation of an Indigenous Reference Group on Cultural and Intellectual Property and a recent publication prepared by Indigenous lawyer Terri Janke under the auspices of ATSIC and AIATSIS, *Our Culture: Our Future*.²³ Like the 1981 Report, this report recommends the enactment of special legislation.

Notwithstanding the plethora of recommendations emanating from these reports,²⁴ no amending or special legislation has ever been forthcoming and the courts are left to manipulate Indigenous culture to conform to the existing legislation. It would be almost impossible for the courts to manipulate the legislation to apply it to appropriation of songs and other Indigenous culture by art music composers. The framing of such legislation would be difficult and would require wide consultation with Indigenous communities. Nor should it stand alone but should be part of a package which includes education, awareness, marketing programs and reconciliation.

²³ T. Janke, *Our Culture: Our Future* (Sydney: Michael Frankel & Co., 1998). This gives a comprehensive outline of the problems discussed here. Unfortunately, it is not a Government report and thus does not require a response from the Federal Government.

²⁴ The matter has also been further addressed in various studies: Australian Law Reform Commission, *The Recognition of Aboriginal Customary Law* (Canberra: AGPS, 1986) Vols. 1 & 2; [Commonwealth] Department of Aboriginal Affairs, *The Aboriginal Arts and Crafts Industry*, Report of the Review Committee (Canberra: AGPS, 1989); Council for Aboriginal Reconciliation, *Addressing the Key Issues for Reconciliation* (Canberra: AGPS, 1993); [Commonwealth] Attorney-General's Department, *Stopping the Rip Offs—Intellectual Property Protection for Aboriginal and Torres Strait Islanders* (Canberra: AGPS, 1994); Australian Copyright Council, *Protecting Indigenous Property* (Sydney: ACC, 1997).