

**Review of *Copyright Law in the Digital Society: The Challenges of Multimedia***

**by Tanya Aplin**

**(Hart Publishing, 2005)**

It seems slightly old-fashioned these days to discuss multimedia as if it were capable of being analysed as a unified type of material. Different forms of multimedia, such as computer games, websites and publications on CD-ROM, have developed their own jurisprudence and specialists. This book, which is based on the author's doctoral research, seems largely to have been written in the days when multimedia was still a buzz word of uncertain definition. The long gestation period of a doctoral thesis is unkind to writers setting out to work on new technological issues.

The book bears the hallmarks of its academic origins. The definitions and legal analysis are extremely thorough, and would be useful to a practitioner or academic researching a detailed legal argument. However, the discussion lacks obvious focus or a sustained argument. This is partly due to the structure of the book: the author's approach is to discuss copyright issues such as subsistence, scope of protection and authorship in relation to the full range of possible multimedia products, rather than clearly identifying major types of multimedia product and analysing applicable laws.

The book works methodically through the issues without any sense that any is more relevant or applicable in some cases than another. For example, when discussing possible types of protection for one or other form of multimedia, the author explores one by one the protections afforded to computer programs, databases, films, dramatic works and broadcasts. As a result, the book reads as an exercise in the exhaustion of possibilities rather than the development of an idea or argument.

In discussing the possible application of protection of databases, compilations and cinematograph films in multimedia works, the author's analysis fails to come to terms with the notion of the underlying work. As a result, she uses expressions such as "multimedia works protected as databases" (or as cinematograph films) rather than envisaging the likelihood that a single multimedia product (even if protected as a database under EU laws) may incorporate a number of different types of underlying copyright material. This is a serious weakness in a book of this nature.

In the final chapter, Aplin discusses proposed or possible reforms to copyright law to enable it to deal more effectively with multimedia works. Again, the analysis suffers from a lack of attention to the characteristics of particular types of multimedia works and to the layered nature of copyright protection. I would take issue with Aplin's main recommendation, to replace the category of films with a category of audiovisual works, on this basis. She argues that the development of a new category of this nature would "embrace non-exact reproduction", "so that a substantial similarity between audiovisual works [would amount] to infringement". However, at least under current Australian law (and, I understand, under UK law), in almost any case where a significant similarity exists, it would result from reproduction of a substantial part of one or more underlying works.

In places, the analysis suffers from the speed at which copyright law develops in these areas. In particular, the sections dealing with liability of internet service providers and with hyperlinking

fail to mention important developments such as the development of “safe harbour” doctrines and the linking and peer-to-peer cases concerning Napster, Grokster and Kazaa. Admittedly, some of these developments would have occurred too late for inclusion in the book, but many were the subject of wide discussion for some years before their conclusion.

Despite its weaknesses, this book provides a useful and detailed summary of relevant UK and EU law, and of research and commentaries on the issue of copyright and multimedia. It would be a useful book for researchers and policy developers in this area.

*Helen Dakin*