

# MANAGING INTELLECTUAL PROPERTY IN A GLOBAL ENVIRONMENT



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## Summary

Carol has over 25 years involvement in the Australian VET sector, from TAFE teacher through various organizational consultant and change agent roles into managing electronic service delivery options and e-commerce solutions in a rapidly changing environment.

Carol has travelled widely over the last decade to keep current with new initiatives and innovations in the global marketplace.

She has given several papers at national conferences through Australia and was Keynote Speaker at New Zealand eFEST2003.

Her involvement with AShareNet commenced in 1998 and continued through its evolution until appointed as inaugural Board Member in 1999 and subsequently moving into the role of General Manager in January 2002.

Taking an established process from a paper-based world and moving it online into an e-business process is a journey filled with challenges and learning.

The Australian project, AShareNet, is moving Intellectual Property Management into an online environment and is an example of just such a project.

The system is now operational but the learning continues, as an increasing number of issues emerge in the education sector, around the need to collaborate and share across systems, networks, infrastructures and processes.

This is particularly true in a global environment where transnational borders no longer apply.

## Background

In 1995 the Ministers for Education and Training in Australia agreed to sponsor an Australia-wide initiative to manage intellectual property. The project began over coffee, between parties involved in overseeing around \$40 million worth of Commonwealth training resources and the Government Solicitor, who was finding that the arrangements to manage copyright were becoming very complex.

Discussions continued and eventuated in the formation of a National Project with funding of \$3 million over three years to advance the concept. All States and Territories were involved in the initiative and helped to shape the outcome. It was initially conceived that the system would be for paper-based resources and then a later stage would move into online, but with the accelerating take-up of the Internet, it was considered more appropriate to launch straight into an online environment. Seven years later, in February 2002, the system went live and in April 2003, the business operation went live.

The Australian vocational training sector now has in place a national mechanism that allows all types of training materials to be found and licences granted for re-use of the material in a way which meets the needs of users and protects the interests of copyright owners. That mechanism is called AShareNet (Australian Education Sharing Network) and consists of three parts:

- a legal framework that this is the embodiment and formalisation of several years of collaborative agreement building (sometimes called 'the AShareNet model');
- a website ([www.aesharenet.com.au](http://www.aesharenet.com.au)) which allows anyone with Internet access to search in a single location for training materials and take out a licence to use and adapt those materials often in a single online transaction. For organisations that have joined AShareNet it provides much more - members can take out a licence for a greater range of resources and can list their own resources on the database; and
- a company called AShareNet Limited, which is owned by the Ministers of Education and Training which manages the whole process.

## Appointment of a Board of Directors

Unlike repositories or databanks of resources, which have no IP management role, it was determined that a Company structure would be required to ensure the implementation of the legal framework for copyright management. A Board of Directors was appointed in August 2000 and the Directors have taken a strong driving role in moving the concept forward.

## The Early Years

The system went live in February 2002 with around 3000 listings on the website – much less than was anticipated. This was the first lesson in the journey.

AU\$500,000 was made available to States and Territories for a process known as *copyright clarification*. This allocation was seen as important in sorting out the complex history of development and acknowledging that ownership of the copyright in this material was often convoluted, layered and poorly documented. A moratorium was also instituted where ownership was less clear; however little use was made of this opportunity.

The copyright clarification money was allocated to States and Territories with an undertaking that they would each identify and describe at least 100 high quality materials for which copyright ownership had been clarified which they would offer for license at the commencement of AShareNet operation. This notional pool of 800 items was well exceeded at the time of the launch.

What the exercise did bring to light was the fundamental lack of knowledge about copyright in the sector, which inevitably results in infringement. In today's litigious society, intellectual property officers of many organizations are ensuring that their colleagues do not break the law and are working in a collaborative environment to encourage good copyright practice rather than taking a compliance approach.

The United States of America in particular, has taken a strong lead through the establishment of an organisation to help educate the community and society about copyright practice. It was discovered that there was a *woeful, even willful ignorance* about basic copyright issues which gave rise to the *NINCH Town Meetings*. These quickly became avenues for debate on copyright issues in the digital age, and the organisation has grown from a small awareness-raising concept to a major lobby group and adviser to government over the past few years.

The challenges faced by AShareNet mirror the American experience. During the Business Planning phase, a critical success factor was determined to be the need for awareness-raising about copyright management. Before take-up of licensing could be achieved, the educational community needed to understand the initiative.

This awareness-raising task should not be underestimated. Since going live, the Company is still taking a strong lead role in this area. It has also been important to join forces with other initiatives in the sector and there has subsequently been several major research projects funded at national level exploring the copyright issues in more detail. In particular, the flexible learning community funded a small booklet, complete with some case studies, aimed at demystifying the legal issues and complemented this with access to a copyright lawyer for a period of time.

### **Moving into Full Operational Mode**

The system was launched! I recall a saying *we built it, but nobody came* and in the first year of implementation there was only minimal take-up of the licensing facility. Part of this was deliberate, as the effort was directed into building a much larger pool of materials before moving into the marketplace. This took much longer than was anticipated, because big public bureaucracies had to upskill new staff and the copyright clarification for existing resources was very time consuming.

It was also discovered that the system catered very well for big public institutions but was not as useful for small organizations, and with the Internet the possibility of global clients was almost now a given. Much time was spent in adding new functionality which allowed clients to come and take out licences without being members. At the same time, a goods and services tax had been implemented in Australia and so all the accounting had to be redesigned to cater for this complexity. *Lesson number two* – system development takes much longer than anticipated, is far more costly than estimated and the need for thorough acceptance testing cannot be overstated.

The new facility was launched in April 2003, a year after the initial system went live. At the same time, a business development manager was appointed and an aggressive marketing campaign commenced to *bring the product to market*.

## **Take Up Began**

*Lesson number three* – time spent in redesigning the product to suit the market was well spent.

The take-up of online transactions commenced and in the first three months the numbers accelerated and may shortly exceed the anticipated yearly goal. Much of the take-up has required a concerted marketing campaign and relentless follow-up given that the product is now well understood in the marketplace.

*Lesson number four* – it's a bit like the Banks shift into Automatic Teller Machines. The clients in the sector had a range of existing practices in place, from buying single copies of a resource which was often illegally copied, through to paper based copyright contracts which took between 1-12 weeks to negotiate. The idea of online licensing in minutes without paper was totally foreign.

In the first weeks it was found that users were reluctant to *press the button*, which can only be seen as a fear of the unknown. The Help Desk needed to phone clients and walk them through the necessary steps until they felt comfortable. But once assured, users found the process was to be quick, easy and efficient.

Getting permission to legally use and adapt the material was also completely new. And of course, there were fees and charges associated with transactions. All in all, this was a totally different way of doing business in an e-world.

## **Issues now emerging**

Having one of the only operational systems of its type in the world, this has been an interesting journey. The concept has now been proven and is working. Clients who have used the system for all their licensing business have been pleasantly surprised with the efficiencies and have allowed them to close down other dual systems which were cumbersome and expensive.

Money is changing hands and the report mechanisms allow clients a solid audit trail of all the transactions.

The education sectors now need to consider efficiencies on even larger scales, and collaboration has become the new buzz word. Partnerships, alliances and joint ventures are emerging between and within countries as people explore new ways to manage online and blended delivery of education.

The challenges for the education sectors are accelerating. The following list skims over some of the emerging issues:

- digital rights management – open source or highly controlled models;
- need for International Standards so information is more freely discoverable and shared – these include Metadata Standards and Interoperability Standards;
- digital rights expression language trials;
- copyright manage for 3<sup>rd</sup> party digital resources;
- building repositories and then ensuring interoperability;
- how to digitize and manage digital content;
- emergence of *learning objects* (chunks rather than a whole)
- re-use or adaptation of resources and the issues around making this work;

- single sign-on across multiple products;
- electronic authentication and identity management; and
- integration across a variety of proprietary systems (learning management; customer relationships, student enrolments, content management, administrative and financial systems and IP management).

This list is not exhaustive, but demonstrates how the Internet has irrevocably changed the way education will be doing business.

## **Conclusion**

AEShareNet has been overcoming some intransigent issues:

- would anyone else have anything as good as I can do myself;
- would I let anyone else have my brilliant stuff; and
- can you get large bureaucracies to e-trade

All are works in progress but we have made enough progress to make it worthwhile to continue. The journey into e-business has been exciting and filled with challenges. AEShareNet is now live and operational and has demonstrated it has a place in the market for managing and protecting intellectual property without the need for high compliance.

The service can meet global IP trading demands for those wanting to acquire Australian resources and vice versa and the accounting functions are a strong value-add for clients. The next period will be interesting as the education sectors work through the vast range of integration issues and the AEShareNet system is well positioned to assist in the journey toward interoperability.