



Creative Freedom Foundation Newsletter, 25 April 2009

Hi folks,

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We Did It – S92A Scrapped!

It's been a while since our last newsletter, but hopefully by now you've heard that, on Monday 23 March, Prime Minister John Key announced that the government would throw out Section 92A of the Copyright Amendment Act and work towards a replacement.

This is fantastic news, and it's great that National has taken a stand on this important issue. This draconian and naïve law was originally championed by former-MP Labour's Judith Tizard. Now we need to help make some sensible copyright law that will protect artists and well as New Zealanders.

Help Fix Section 92



Throughout the process of pushing for S92's repeal we talked about copyright infringement online. S92 was not the way to fix this – and we spoke with many of you who have ideas about other ways to deal with the issue.

The internet has made copying so cheap that for copyright to be worth anything copyright enforcement needs to be equally cheap, but with an average 37% of copyright infringement claims being false we need experts to judge. We've worked these ideas into [a draft alternative](#) that we think could be a sensible way to deal with the issue, while retaining New Zealander's fundamental right to due process. This alternative is currently open for public submission.

At the core of the draft document is the idea of an additional branch to the existing Copyright Tribunal specifically for these disputes, an adoption of the internationally popular notice-and-notice model, and a variety of sanctions. This aims to be a resolution to copyright infringement in an online environment. You can read and comment on the document [here](#).

We will soon be presenting a document to government so have a read over it today and [send us](#) your comments and criticisms or post them in our [forum](#) **immediately** and contribute to finding a strong, workable alternative to S92A.

[An Update on ACTA](#)

More information regarding the ongoing [ACTA](#) negotiations has surfaced this month, with the [leaking](#) of US, Japan and EU drafts of the controversial international copyright and patent trade agreement, and the US releasing an [ACTA summary document](#). While much of these documents affirm earlier leaked information, there is some new information, which Michael Geist [summarises](#). CFF notes that New Zealand are not mentioned amongst the diplomatic entities who have commented in the wikileaks document.

ACTA certainly has the potential to be another nasty piece of *Guilt Upon Accusation* legislation, but this time on an international scale. Some of those involved in the trade negotiations - to which New Zealand is party - were originally hoping to have the Agreement signed and sealed by the end of 2008, but negotiations have continued this year - much to the relief of the Creative Freedom Foundation and others. More recently, the US requested a [delay](#) to the scheduled March 2009 round of negotiations, the EU have [proposed](#) to move the negotiations out from under the cover of secrecy, and the US has [denied](#) an Official Information-type request for access to some of their ACTA documents.

While some countries are supportive of greater transparency around the ACTA process, others are not. It is not entirely clear where New Zealand stands, although the MED's [response](#) to an official information request on ACTA last year indicates they're keen on being secret squirrels.

[France Passes, then Rejects a Guilt Upon Accusation Law](#)

An interesting turn of events took place at the start of this month as the French Parliament passed a *Guilt Upon Accusation* law on April 3, only to reject the law a few days later. *"While the vote was not expected until next week, the few members in the chamber at the end of the discussion on the Creation and Internet law were invited to proceed immediately to vote, contrary to custom."* At 10:45pm only 16 MPs out of 557 remained to vote on it (less than 3%): 12 voted in favour, 4 against.

In an unexpected turnabout from [the previous decision](#) France rejected their *Guilt Upon Accusation* law on April 9 - bringing them in line with European Union decisions to reject internet disconnection as a form of punishment. While the law passed last week it was subsequently rejected by the National Assembly by a vote of 21 to 15. The [EU had recently voted](#) 481 in favour of rejecting internet disconnection, with only 25 against.

[Radiohead to testify against RIAA](#)

[TF reports](#) that *"Last month, Radiohead expressed its growing discomfort with record labels that abuse copyrights for their own benefit. In an attempt to take a stand against the labels, the band and several other well known artists formed the Featured Artists Coalition, a lobby group that aims to end the extortion-like practices of record labels and allow artists to gain more control over their own work. In addition, the **artists are unhappy with the fact that the labels, represented by lobby groups such as the RIAA and IFPI, are pushing for anti-piracy legislation without consulting the artists they claim to represent.** Fans are unnecessarily portrayed as criminals according to some."* (emphasis mine).

[WALL-E Copyright Criminal?](#)

[SFF Audio reports on WALL-E, the copyright criminal](#): *"WALL-E records audio from his favorite movie, putting in onto his own digital recorder (bypassing the macrovision DRM on the tape). He archives the audio, he doesn't merely time-shift it. He listens repeatedly! WALL-E shares his DRM-broken music with his friend, another robot."* In New Zealand [DRM](#) is protected in law regardless of whether it removes rights you would typically have, and DRM is enforced even on public domain works. However, [a recent study](#) shows that New Zealand isn't the worst and that the UK make it *"illegal to rip CDs, doesn't protect parody and satire, and puts a copyright on government documents"*

Thanks from the Creative Freedom Foundation team
<http://creativecommons.org.nz>

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