

Dear Sir/Madam,

I am a professional electrical engineer. I earn my living from a small business, designing communications equipment.

In theory, I should be one of the prime beneficiaries of the 'intellectual property' clauses of the Free Trade Agreement (FTA). The theory, being that I come up with a bright idea, patent it, then make a pile of money out of it, benefiting Australia in the process. Nothing could be further from the truth.

The 'intellectual property' clauses of the Free Trade Agreement will reduce innovation and creativity in Australia. Specifically extensions to copyright, extensions to patentability and access controls on copyrighted works are bad ideas. These parts of the Free Trade Agreement will beholden Australia to US interests. Australian innovators will require US permission to exploit ideas.

EXTENSION TO COPYRIGHT TERMS

Extension of copyright terms is a bad idea. The proposed extension will not encourage further creativity in Australia. The added economic incentive for authors will be negligible. Few Australian works make money 50 years after their author is dead. The only beneficiary will be large US copyright holders.

Extensions to copyright terms will impede the free flow of information through out Australia. Free flowing information is critical to Australia's future, as the vast distances involved often prevent a physical presence. Electronic libraries, software repositories and other Internet resources allow remote areas to be 'part of Australia', but will be more difficult to implement under the FTA.

Under the FTA, important books will be illegal to distribute, without permission from overseas. Technical and educational information will be barred from the Internet. Education will be impeded. Information needed for Australia's future will be missing. The free flow of information makes the world a smaller place and brings Australia closer to the rest of the world, both economically and culturally. The FTA will impede the flow of information into Australia and distance Australia from the world. The net cost to Australia will be huge and spread over generations.

There is a growing cottage industry in Australia in works derived from the public domain. This

industry is being developed by Australians, and answers to Australian interests. The FTA will impose a 'copyright tax' by US interests and eliminate this industry.

EXTENTIONS TO PATENTABILITY

The FTA extends the reach of patents to software and business methods. This will be a disaster for Australian business. The world's software market is dominated by US monopolies (eg. Microsoft). Australia is successfully chipping away at the US monopolies, producing software independently of US interests. In response, the US is proposing software patents, to preserve its monopoly. Thousands of small Australian software companies do not have the resources to write patents for their software, but rely on their faster rate of innovation to stay ahead of the US monopolies. These businesses will be destroyed by the Free Trade Agreement.

Patents are more insidious than copyright. Under the copyright regime, a work may be independently produced. Under the patent system, independent discovery is no defence. Given that Australia is a net importer of intellectual property, Australian inventions will invariably be challenged from outside Australia. Often the challenging patents have been granted despite prior art or the invention being obvious. The result is a small Australian company has a choice of a court case it would win but cannot afford to defend or to pay 'protection money', in the form of a needless license fee.

Software patents are a contradiction. The aim of the patent system is to encourage inventors to publish descriptions of their work, in return for a limited monopoly, thus inspiring further innovation by Australians. Software source code is primarily a description (of a logical process). Software patents will ban the very description that the patent system is supposed to encourage. This will be to the detriment of the Australian software industry and education.

ACCESS RESTRICTIONS

The Free Trade Agreement will impose a regime of access controls for copyrighted works. Fair use, for education and research, will be eliminated. Permission from US copyright holders will be required for Australian researchers and educators to read copyrighted works. Australian research and education will be subjugated to US interests. The FTA will deliver Australia's intellectual, research, and consequently economic, future into the hands of the US.

Copyright access controls are an anti-competitive measure. US experience has shown that companies embed a trivial copyrighted work in their products, whose only purpose is to prevent interoperation with competitor's products. When competitors produce compatible products, they must produce an independent (and so legal) version of the copyrighted aspect of the product. Competitors are then sued for merely inspecting the original copyrighted work, to ensure compatibility. The access controls proposed by the FTA will allow US companies to eliminate Australian competition.

Copyright access controls threaten Australia's democracy. Unlike the US, Australia has Crown copyright. The FTA will leave the way open for the Crown to implement 'access controls' on government information. In this way, journalists, the public and political opposition will be denied the ability to legally read the most basic information required for a working democracy. It will be a crime for the guardians of democracy to possess the ABILITY to read Crown copyrighted material, making whistleblowing obsolete.

In summary, the FTA is a short sighted document and is not in Australia's national interest. It is a disaster in the making, selling out Australia's economic, intellectual and cultural future in return for a few glass beads. The Intellectual Property clauses of the Free Trade Agreement are the equivalent of a blanket infected with smallpox.

Yours Faithfully
John Dalton