Paul Pedley is a name that needs no introduction to aficionados of copyright textbooks, being the author of several such books published by Facet Publishing in the past (and reviewed by Ariadne [1][2][3][4][5]). His latest effort, The E-copyright Handbook, attempts to cover the fast-moving and complex world of electronic copyright, using an interesting approach. Rather than the traditional way of such books, describing the media and describing the rights granted to copyright owners, the way the law applies to each media type, exceptions to copyright and so on, his approach is a mixture but with some emphasis on activities, as a glance at the chapter titles shows: Introduction, Content Types, Activities, Copyright Exceptions, Licences, the Digital Economy Act, Enforcement and The Hargreaves Review.

It is a complex approach, which requires careful cross-referencing and also checking that material is neither duplicated, nor that anything is overlooked. It is not clear to me whether the book is meant for reading through, or whether it should be just dipped into when a particular issue causes someone to check the law; but I found the approach confusing.

The book also suffers from being in a fast-moving area, where the law, and technology, change fast and although it is clear that Facet got the book published in record time, as there are numerous references to 2012 developments in the text, the work is already out of date in several places, and will no doubt get more out of date as the months go on. Another problem is that the book cannot make up its mind whether it is written for UK readers, or readers in the EU, or in the USA. All too often, different countries' court cases are mentioned together; one is (say) a UK case and another is a US case. Without the understanding that US law and UK law in this field are very different, people will come to incorrect conclusions about the significance of the cases to them in their day to day work. Moreover, all too often the cases are described without any court decisions relating to them being provided; so one is left with the worry 'why did the author mention this case at all?'

The book is supported by a list of abbreviations, an index of court cases and of legislation, a fairly basic general subject index and a bibliography. Notes and references, and useful practice points and advice support the chapters. The abbreviations list is helpful, but unfortunately the abbreviations ALCS, CC, HMRC, PLS and UCLA are in the text but are not explained in the list of abbreviations; in addition, the term â€™sui generisâ€™ is mentioned several times in the text without explanation.

The difference between webcasts and streaming (if there is indeed a difference) is not explained. Sometimes, the advice given is unhelpful; for example, bloggers are advised that if they are going to copy a third-party item, they should only copy an insubstantial part â€“ without any explanation of how they can achieve that and what the term â€˜insubstantialâ€™ means. The Berne Convention is mentioned in passing in the book, but is not explained.

There are a few factual errors: on page 55, an image is referred to as a â€œliterary workâ€, when in copyright law it is an â€œartistic workâ€. On page 57, it is incorrectly implied that a single deep link could infringe database right when in fact it would require copying a large number of links from a database of URLs to infringe any database right in that collection of links. On page 61, it is stated â€“ In the UK, people often refer back to the 19th century case Hird v Woodâ€¦,â€™ when I suspect the vast majority of people have never heard of it, and indeed the standard legal textbook on copyright, Copinger and Skone James on Copyright does not make a single mention of it. On page 62, the author says an action might infringe database right because it prejudices the substantial investment made by the database owner in the selection and arrangement of the contents of the database â€” but database right does not protect such things. It protects the investment made by the database owner in obtaining, verifying and presenting the data â€” something very different. In a number of places, the author claims that multiple copies can never be fair dealing, when there is nothing in the law which says multiple copies cannot be fair dealing. Indeed, the reproduction of extracts from works on TV and in print for film and book criticism and review purposes demonstrates that multiple copies can be made and still be fair dealing. It is true that it is much less likely to be fair dealing if multiple copies are made, but thatâ€™s a quite different legal position than that which the author asserts. The claim on page 121 that Open Access journals are subject to thorough quality controls will bring a hollow laugh from those many academics who are plagued by invitations to contribute to thoroughly disreputable Open Access journals with no quality controls in place at all.
Disappointingly, the author says nothing at all about the controversial status of librarians under the Digital Economy Act of 2010.

The book is already out of date in its discussion of so-called orphan works, minimum standards for collective licensing organisations, the implementation of the Digital Economy Act, the Google Books case [6] and the Georgia State University case [7]. In the coming weeks I predict it will become out of date on the Hargreaves Review of UK copyright law as well. This is not the authorâ€™s fault, of course, but an occupational hazard of writing such a book in the first place!

However, these are just minor niggles; my most fundamental criticism of the book is that it seems to have been thrown together in haste. In any given chapter, subheadings are provided almost as if this was the next thing that the author decided should be included, rather than putting the chapters together in a coherent fashion. Too often there is duplication of materials between chapters as well. This is inevitable in such a book, but appropriate cross-referencing is often lacking.

I regard this book as a lost opportunity. There is a need for a book that looks at the actions that one might take with electronic works and to assess the risks involved in terms of copyright law in taking those actions. But this book doesnâ€™t provide them. The jumbling together of topics, and of UK, European and US cases leads to confusion. There is some material on risk management scattered about, but the book really needed a chapter in its own right on the topic. The book also needs a rounding-up chapter where the author draws conclusions about the state of play, what is unsatisfactory, and makes predictions for likely changes in the future. The book has excellent tips and guides to useful resources; this is one of its strengths. What a pity the author did not strengthen the main text as well.

References


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Charles Oppenheim was, until he retired in 2009, Professor of Information Science at Loughborough University, and is currently a Visiting Professor at Queensland University. In his past life, he has held a variety of posts in academia (Plymouth University, City University, University of Strathclyde, de Montfort University and Loughborough University) and in the electronic publishing industry, working for International Thomson, Pergamon and Reuters at various times. He has carried out research in, given talks on, consulted on, and published widely on the legal issues (especially, but not only copyright) involved in the creation, dissemination and consumption of information. He has also carried out research, and remains actively interested in, research assessment, bibliometrics, open access, cloud computing, and the scholarly publishing industry. He is the author of the recently published The No-Nonsense Guide to Legal Issues in Web 2.0 and Cloud Computing (Facet, 2012). He is a copyright consultant to JISC and to other organisations.

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