

Copyrighting wrongs

Suzanne Spinner reports the issues raised by the *Copyrites* exhibition

At the opening of *Copyrites* in Darwin at the Museum and Art Gallery of the NT, Marcia Langton, Ranger Professor of Aboriginal Studies at the Northern Territory University spoke about the way that unauthorised reproductions "reduce the cultural power of Aboriginal art (which) provides for all Australians a set of icons and a set of meanings about the landscape and the people in the landscape on which they can rely for their humanity".

The concept of Terra Nullius erased the Aboriginal people from the land so that it could be occupied without treaty or reparation, and a similarly convenient fiction postulated that Aboriginal art was a body of non-specific ancient designs owned by an amorphous extinct collective. Moreover, the art itself couldn't be worth much as it was so simple and, in any case, Aboriginal people weren't interested in money. Versions of this attitude licensed a laissez faire approach to the use of Aboriginal imagery as if it were part of some clip art repository of Orthentic Orstraylian imagery available to all genuine Australians.

It assumed that there were no living, practising Aboriginal artists or if there were, they were so traditional and living in such remote places that they would never come across the tea towel or T-shirt and what they didn't know couldn't hurt anyone. It assumed the art lacked any of the intrinsic qualities of western art which make it valuable, respected, revered. In short, wholesale appropriation was predicated on the art not being real art. Regarding the land and the art as empty of people and devoid of meaning made it easy to appropriate them.

The existence of Aboriginal copyright has been actively asserted by Aboriginal people in public for over twenty years. The great Yirrkala artist, Wandjuk Marika, the first chairman of the Aboriginal Arts Board, put the issue on

the arts agenda in 1974 after he saw a tea towel on sale in a souvenir shop in Cairns. The tea towel had his, his father's and his tribe's paintings on it.

"They thought they are just pleasure paintings...I was shocked and I lose my power to paint, lose my power for a number of years." For the loss was not economic but spiritual, and he asked, "Who's going to help stop this copyright stealing?" The first remedy sought was protection of authenticity as Aboriginal "folklore". It was only in the 1980s that it was successfully argued that Aboriginal art was art per se and therefore automatically protected by copyright.

Copyrites opened in February, appropriately in Cairns, the epicentre of international in-bound tourism whose souvenir industry has garnered a reputation as the Black Spot. It was the Cairns based company Flash Screen printers who were taken to court by Maningrida artist Johnny Bulun Bulun for the unauthorised reproduction of a number of his bark paintings on T-shirts. In the Federal Court in Darwin, Bulun Bulun won an injunction and an out of court settlement in 1989, and established the precedent that even the most traditional of Aboriginal artists would satisfy the legal requirements of originality. This test case involved thirteen other plaintiffs from seven Territory communities, all of whom had painted their own Dreamings.

The avowed intention of *Copyrites* is educational—it teaches and warns of the consequences of copyright infringement by detailing all the major cases. Its method is to exhibit the original art (or, ironically, an excellent copy) alongside its unauthorised application. In the case of the T-shirts the artistic gap between the art and the object is invariably blatant—there's something pathetic about seeing T-shirts and cheap printed sarongs hung on the wall.

The contrast between the paintings and



The House of Aboriginality from *Copyrites* catalogue

the carpets is much more powerful and more subtle. The carpets are large and lushly made, and the similarity in scale and weight blurs the issue at first. To have gone to so much expense and trouble to produce the carpet, it seems inconceivable that permissions weren't sought. How did they ever imagine such an oversight would go unnoticed? The 1994 Carpet Case which involved eight Territory artists became known as the Mabo of Aboriginal Culture because the judge awarded the artists additional damages to reflect the cultural hurt and harm that had been done.

Copyrites also details other cases where good intentions went astray as in the notorious and embarrassing examples involving the Reserve Bank's apparent inability to learn from its mistake in the case of David Malangi and the one dollar note in 1966; in 1989 Terry Yumbulul, another NE Arnhemland artist took them to court over the depiction of his Morning Star Pole on the ten dollar note!

The formation and activities of NIAA (National Indigenous Arts Advocacy Association) which include the development of an Authenticity mark should prevent transgressions in the future but it is equally

important that copyright becomes a positive and enabling tool which disseminates appropriate Aboriginal-informed product and returns financial dividends to its owners and guides and educates consumers. An immediate response to *Copyrites* was the instigation in Central Australia of the first Copyright Forum which was held this month in conjunction with the exhibition in Alice Springs. The forum was organised by Desarts and the NT Office of the Arts and funded by ATSIIC and brought together speakers from NIAA, the Arts Law Centre and VISCOPY to meet Centralian artists and art advisers.

Copyrites, Aboriginal Art in the Age of Reproductive Technologies, curated by Vivien Johnson and undertaken by NIAA currently touring through the Visions of Australia program. Following Cairns, Darwin and Alice Springs, it appears at Tandanya, Adelaide June 7-July 7; Broken Hill City Art Gallery, July 16-August 11; Art Gallery of New South Wales, August 21-October 21.

NIAA has published a detailed catalogue to accompany the Copyrites exhibition. For information phone 02 281 2144