

Lawyer shaped copyright protection for performers

COLIN MARKS 1925-2013

Colin Marks was a pioneering intellectual property lawyer who made decisive contributions to the development of Australian copyright law.

He was one of a few lawyers of his time who not only acquired a profound technical knowledge of intellectual property law but saw its enormous importance.

In 1974, when the Whitlam government recognised the need for copyright law reform, then attorney-general senator Lionel Murphy, QC, established the Copyright Law Committee on Reprographic Reproduction and appointed Marks as a member.

This was the first substantial review of the Copyright Act 1968, and the committee's report was an important step in shaping copyright law.

Marks was the founding president of the Copyright Society of Australia, and was its president for many years. For about 30 years he was the Australian Performing Rights Association's (APRA) legal adviser.

Colin Marks was born in Rose Bay on May 3, 1925, the middle of three children to Benjamin Marks, a Polish immigrant tailor, and his wife, Mildred. Colin was educated at Scots College, trained as a pilot in the RAAF and studied law at the University of Sydney. After some years in practice, Marks opened his own practice as Colin Marks & Co. In the 1980s he merged this with Michell Sillar and Brown.

At a time when Australian copyright law was in a relatively early stage of development, Marks ran a number of cases that clarified and settled important aspects of the legislation.

Two of his early landmark cases were APRA v Miles (representing the Dee Why RSL club) and APRA v Canterbury-Bankstown League Club, about the liability of clubs for the unlicensed performance, by orchestras, of copyright works. APRA's success in these cases was critical to its ability to protect copyright holders' interests.

Another important matter Marks ran for APRA was before the Copyright Tribunal of Australia, concerning increases in royalty rates. It, too, was a resounding victory and had important immediate and long-term consequences for copyright holders.

Marks was also in demand as a corporate legal adviser. In 1962, he went to Bombay to help the Italian airline Alitalia after a crash in India in which all 94 crew and passengers died.

Pharmaceutical company Johnson & Johnson was a long-term client. He was instrumental in establishing its various companies in Australia, was its principal legal adviser for decades and, uniquely for the company anywhere in the world, sat on all its local boards.

Marks had a lifelong interest in public affairs. He was a founder of the NSW Council for Civil Liberties, and belonged to the Humanist Society of NSW and the Australian Republican Movement.

He was a widely appreciated mentor and a consistent opponent of gender discrimination in law. Jennifer Boland AM, who worked for Marks as a mature-age solicitor, became a partner in his firm and went on to serve as a justice of the appeal division of the Family Court of Australia, has said: "I owe my judicial appointments in no small measure to Colin's early guidance and encouragement of my career."

Marks's love of intellectual property law was perhaps equalled by his passion for technology. As a 12-year-old he built his first crystal radios. He acquired an amateur radio licence in the 1970s and he was an ardent radio ham until well into his later years. He bought his first computer as soon as he retired in 1995 and quickly took to the internet, became a devotee of Wikipedia and was an avid reader of newspapers worldwide.

Colin Marks married Sonia Green in 1954. He took immense pride and pleasure in her career as a university lecturer in French, and was devastated when she died in 1985. For the past 16 years, Marks shared a rich life with his partner Golda Prince. He is survived by Golda, his children Guy and Susan, daughter-in-law Maria and grandchildren Eliza, Lucy and Beatrice.

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