

# **Academic Integrity, Originality Detection and the 'Problem' of Plagiarism**

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The charge of plagiarism is possibly the most serious charge of academic misconduct that can be laid, penalties are severe and yet the practice continues. A number of high-profile cases have come to light in recent years that highlight the continued use of plagiarised work at universities and question institutions' commitment to the notions of original work and academic integrity.

This paper will discuss the 'problem' of plagiarism both in actuality and in media discourse around the issue, steps taken to address the problem including the use of 'originality detection' software such as Turnitin, whether current measures are the most appropriate responses for institutions and what negative effect these responses may have on students and their rights.

## **The definitional problem**

To begin, it is worth examining briefly how plagiarism is defined.

RMIT University defines plagiarism on the central plagiarism page of its website as "the presentation of the work, idea or creation of another person, without appropriate referencing, as though it is your own"<sup>1</sup>. This wording corresponds, minus the phrase "without appropriate referencing", to the RMIT Policy on Plagiarism<sup>2</sup>. Recently RMIT has repositioned its plagiarism policies under a framework of "Academic Integrity", defined as "honest presentation of your academic work [and] acknowledging the work of others while developing your own insights, knowledge and ideas."<sup>3</sup>

Beyond these basic definitions different parts of the University expand in various directions. For example, the Learning Skills Unit (LSU) introduces the concepts of "deliberate" and "accidental" plagiarism in its online tutorial<sup>4</sup>. In doing so the LSU makes a distinction between the outcome of plagiarism (the use of others work) from the intent of the plagiariser, a distinction not present in the formal university definition yet common in some areas of the university where the intent to cheat is considered the defining standard of punishable plagiarism.

Some departments of the University, such as the notorious Computer Science department, have even developed their own plagiarism definitions, policies and procedures that have at times differed markedly from the official university line and have resulted in a much stronger punitive focus.

The problem of wildly divergent definitions has been highlighted at a number of Australian universities most notably the University of Newcastle where, in the wake of a very public plagiarism scandal, the University contracted an external review of its plagiarism policies to the St James Ethics Centre. The review discovered a wide disparity in understanding of the term plagiarism, both in

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<sup>1</sup> RMIT University (2004a) *Academic Integrity @ RMIT*, Source:

<http://www.rmit.edu.au/teachingandlearning/links/academicintegrity>, Accessed: August 31, 2004.

<sup>2</sup> RMIT University (2003a) *Policy: Plagiarism*, Source: <http://mams.rmit.edu.au/1oavdg0bdd1.pdf>, Accessed: September 8, 2004.

<sup>3</sup> RMIT University (2004), *op. cit.*

<sup>4</sup> RMIT University Learning Skills Unit (2004), *Deliberate and Accidental Plagiarism*, Source: <http://aps.eu.rmit.edu.au/lisu/resources/projects/plagiarism/deliberate.html>, Accessed: September 8, 2004.

terms of official policy and in terms of 'custom and practice'. These differences were reflected across both staff and student cohorts. The St. James report highlights the major problem of definition that confronts any serious attempt to deal with plagiarism:

*Even if all policy documents were consistent and clear, it would still be the case that staff and students would apply variable standards of engagement with the issue – depending, in part, on their (often unstated) assumptions about the particular form of mischief that plagiarism entails.<sup>5</sup>*

These varied levels of understanding were found by the St James Ethics Centre team to translate into a similar variation in compliance with policies. At RMIT, Student Union Student Rights staff who deal with casework and advocacy report major variation across different schools when it comes to prosecution of plagiarism with some schools adopting a no-tolerance style approach that results in serious abuses of student rights and varies a long way from the official university line.

Plagiarism in large and diverse institutions such as universities should then be seen as a somewhat problematic term, even by definition. Before we begin to talk about what we can do with plagiarism, we need to define what it is. Failure by university administrations and teaching staff to explain exactly what they mean by plagiarism when coupled with widespread variation in interpretation of meaning and application of policies leads to student confusion as to expectations, inconsistencies in treatment of different student cohorts, high stress levels of students and increased work and stress for staff.

### **The conceptual problem**

Plagiarism is not simply problematic to define as a term. There are also huge disparities in people's understanding of the concept and in its historical application.

Plagiarism, in a Western academic context<sup>6</sup>, stems from an idea that academic work can and should be original. This idea is relatively new and relatively culturally specific to European-dominant cultures. While this may seem a little peculiar to many, the notion that thought could be original and 'owned' only really developed in the 1700s, alongside the development of individual rights and private property. Origins can be found in the work of Locke and Hegel and essentially stems from the Lockean allocation of intellectual work as private property – that is intellectual property<sup>7</sup>. This perception has only accelerated in recent history with a stronger focus on individual property rights and the rigorous pursuit of associated profit.

This is something that has not always been mirrored in the same way in non-Western cultures. American academic C. Jan Swearingen, amongst others, has pointed out a disparity in cultural takes on appropriate forms of learning.

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<sup>5</sup> Longstaff, Simon, Suzanne L Ross and Kerrie Henderson (2003) *Independent enquiry: Plagiarism Policies, Procedures & Management Controls*, St James Ethic Centre, p. 17.

<sup>6</sup> It is worth noting that discussion of a Western or non-Western academic context, or culture more generally, is quite problematic. I do not pretend that there is uniformity in textual and literary practices across the diversity of these geographical and cultural categories. Instead these terms are used to delineate what Pennycook (1996) describes as the increasing promotion of a "global academic norm" (plagiarism) and to identify the specific cultural and historical practices which have created this norm.

<sup>7</sup> Hughes, Justin (1988) 'The Philosophy of Intellectual Property' in *The Georgetown Law Journal*, 77, pp.287-366.

*The traditional view of learning and knowledge as a collective accumulation shared by and even constitutive of culture is far more common among many of our student constituencies than concepts of capital, individual ownership, and profit inherent in copyright laws and in their academic classroom cousins, the notion of autonomous individual authorship and its corollary: plagiarism.<sup>8</sup>*

Much work has been done on developing a cross-cultural understanding of plagiarism, particularly in the area of students from a Confucian heritage background. I have some personal experience as both a student (high school and university level) and teacher (primary school through university level) in the Japanese education system, a system that is focussed heavily on the reproduction of learned opinions and rote fact learning. These educational traditions have been discussed as a possible reason why the Japanese have "no single Japanese word for plagiarism" and why "the need to distinguish one's views from those of received wisdom might carry little value"<sup>9</sup> in Japanese education. Similar variations in cultural traditions of learning can be found in many other areas of the world that our students originate from<sup>10</sup>.

Concepts of appropriate borrowing can be seen then as specifically located in a modern and Western context. At RMIT, roughly thirty per cent of students are overseas students and a significant number of these come from backgrounds where ideas of appropriate academic work differ markedly from that of Western educational institutions. This has led to ongoing problems in the area of plagiarism cases.

An example can be found in the case of a married couple from India who were enrolled in the same postgraduate computing course at RMIT. They presented at the Student Union after they received different marks (one High Distinction, one Distinction) for a work they considered to be of an equal standard. Investigation from Student Rights staff revealed that they expected the same grade as they had collaborated on the development of the code for this project and therefore believed that their work was worth equal marks. When this revelation ultimately developed into a plagiarism/collusion case, the students were confused as to what they had done wrong. To them it seemed only normal that they would discuss the problem and assist each other in formulating a solution. These students' cultural and education experiences valued collaborative problem solving over an individualised approach to study.

For universities that attract an increasing number of students from diverse backgrounds, the challenge then must be a greater emphasis on explaining and assisting students from different learning environments to understand expectations in an Australian academic context. Without a critical understanding that current ideas of academic originality are geographically and historically specific, the plagiarism problem for international students will not improve.

In addition to challenges on the basis of cultural difference, the solid foundation of originality that underpins plagiarism is being further shaken by the academic

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<sup>8</sup> Swearingen, C. Jan (1999) "Originality, Authenticity, Imitation and Plagiarism: Augustine's Chinese Cousins" in Buranen, Lise and Alice M. Roy (eds) *Perspectives on Plagiarism: and Intellectual Property in a Postmodern World*, Albany: State University of New York, pp. 19-30.

<sup>9</sup> Dryden, L. M. (1999) "A Distant Mirror or Through the Looking Glass? Plagiarism and Intellectual Property in Japanese Education" in Buranen, Lise and Alice M. Roy (eds) *Perspectives on Plagiarism: and Intellectual Property in a Postmodern World*, Albany: State University of New York, pp. 76-7.

<sup>10</sup> See for example, Swearingen (1999) and Pennycook (1996).

trend of postmodernism. Roland Barthes, a key figure in postmodern thought, announced the death of the author and the falsehood of original thought in 1977 with his statement that "a text is not a line of words releasing a single 'theological' meaning (the 'message' of the Author-God) but a multi-dimensional space in which a variety of writings, none of them original, blend and clash. The text is a tissue of quotations drawn from the innumerable centres of culture."<sup>11</sup> This problematisation of originality and the author can be found in the work of a variety of postmodern authors<sup>12</sup>.

So while our discussion may have begun with an attempt to formulate a concrete definition of what constitutes plagiarism, it seems apparent that cultural and philosophical challenges to the 'stable' categories of originality and plagiarism cause ongoing problems for both universities and students and render provisions to ensure integrity in academia near meaningless.

### **The 'Problem' of Plagiarism**

Regardless of any definitional and conceptual problems we may encounter in our discussion, however, knowledge is considered as owned in modern society and plagiarism, however defined, is generally perceived as a large and growing problem in education.

Most media and university reports mark their departure point for a discussion on plagiarism from this assumption. A 2003 conference paper by CAVAL Collaborative Solutions (a company wholly owned by a consortium of Victorian universities) staff member Steve O'Connor on cheating discusses "issues associated with the increasing levels of plagiarism"<sup>13</sup>. Similarly Margaret Burke's 2004 paper on the role of librarians in deterring plagiarism talks about an ill-defined and unsupported "proliferation of student plagiarism" and the "mushrooming problem of plagiarism"<sup>14</sup>. Anecdotally at RMIT academic staff also report an increase in cases where they "know" students have plagiarised but are unable to prove it.

It is worth noting however that there is no documented evidence of an increase in plagiarism at Australian (or international) universities. While this lack of evidence may relate to difficulties in developing empirical measures of the extent of plagiarism, textual borrowing and misrepresentation of work has a long history in Western societies. Accused literary plagiarists include "Laurence Sterne, Samuel Coleridge, Thomas DeQuincy, Edgar Allan Poe, Norman Mailer, Alex Hailey, Dee Brown, Martin Luther King, Gail Sheehy, Jacob Epstein, Helen Keller, and many more."<sup>15</sup> Academics too, are not immune from accusations of plagiarism with many documented cases of alleged academic and scientific plagiarism. Much of these discussions around plagiarism are centred around a moral reaction to the 'problem' and usually papers discuss the issue in highly emotive terms of stealing, cheating and moral decay<sup>16</sup>.

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<sup>11</sup> Barthes, Roland (1977) "The Death of the Author" in *Image, music, text*, Glasgow: Fontana/Collins, p. 146

<sup>12</sup> See for example, Laroche (1999) and Randall (1999)

<sup>13</sup> O'Connor, Steve (2003) "Cheating and electronic plagiarism – scope, consequences and detection", paper presented at the EDUCAUSE Conference, Adelaide, May. From: <http://www.caval.edu.au/about/staffpub/> (Accessed: August 31, 2004)

<sup>14</sup> Burke, Margaret (2004), "Deterring Plagiarism: A New Role for Librarians" in *Library Philosophy and Practice*, Volume 6, No. 2 (Spring). From: <http://www.webpages.uidaho.edu/~mbolin/burke.htm> (Accessed: August 31, 2004)

<sup>15</sup> Pennycook, Alastair (1996) "Borrowing Others' Words: Text, Ownership, Memory, and Plagiarism" in *TESOL Quarterly*, Vol. 30, No. 2, p 206-7.

<sup>16</sup> See, for example, Marcel C. LaFollette (1992) *Stealing into Print: Fraud, Plagiarism, and Misconduct in Scientific Publishing*, Berkeley: University of California Press and Thomas Mallon (1989) *Stolen Words: Forays into the Origins and Ravages of Plagiarism*, New York: Penguin Books.

Many see the prevalence of Internet usage amongst students, staff and the broader community as the major driver of the perceived growth in plagiarism. While the use of the Internet indicates that there may be a greater ability to access a diversity of sources for plagiarised (and unplagiarised) work, there is no evidence that the media beat-up of an Internet-driven rise in plagiarism is based on anything other than speculation.

Regardless of the foundations to these claims, however, several high profile instances of alleged academic plagiarism in recent years have forced the issue into the public arena. The most high-profile of these in Victoria brought about an end to the career of David Robinson, then Vice-Chancellor of Monash University, after he admitted to at least three cases of plagiarism in his published works<sup>17</sup>. Interstate, the University of Newcastle's Chancellor and Vice-Chancellor also lost their jobs earlier this year after the aforementioned St James report identified mishandling in the cases of alleged plagiarism by international students at an offshore facility<sup>18</sup>. At RMIT too, the problem of cheating and plagiarism have been highlighted in several media reports.

In a context of an increasing focus on plagiarism it is perhaps understandable that there has been an increased emphasis on detecting and punishing plagiarisers by university administrators and academics, usually positioned in a framework of institutional quality. The standard of qualifications and the prestige of the institutions that award them are compromised by a perception that an institution is not maintaining standards or is allowing unqualified students to graduate. Public charges of plagiarism, or a perception that an institution is soft on plagiarism, are key factors in this public perception of quality and, in a higher education landscape where competition for student dollars increasingly becomes the backbone of university administrator's budgets, these public perceptions matter a great deal.

The renewed focus on quality assurance can be seen in the growth of conferences and information sharing in the higher education sector that have a particular focus on plagiarism. Australasia's first conference on educational integrity late last year at the University of South Australia focussed on "the many issues of ethics and integrity that threaten the quality of education at all levels from primary school through to university" with the "major theme [of] Plagiarism"<sup>19</sup>. The Australian Universities' Quality Forum (AUQF) this year also focused heavily on issues related to plagiarism, with several papers presented and a number of workshops run<sup>20</sup>. These conferences have come at a time when a large number of Australian universities, one unconfirmed figure I have heard is 27, have implemented or are trialling plagiarism-detection software, Turnitin, and at least one other is trialling Turnitin competitor, MyDropBox. iParadigms, the parent company of Turnitin, was a major sponsor of both of the aforementioned conferences.

### **Dealing with the "Problem of Plagiarism":**

As stated above, the focus of much of these conference proceedings has been on how to deal with the problem of plagiarism. Session titles at AUQF 2004 included topics such as "Plagiarism and the Reputation of the University: How to Distribute

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<sup>17</sup> For further information about the David Robinson case, see Stanton Peele (2004).

<sup>18</sup> For further information on the Newcastle case, see Longstaff, Ross and Henderson (2003).

<sup>19</sup> Educational Integrity: Plagiarism and Other Perplexities (2003) "Conference Proceedings", <http://www.unisa.edu.au/educationalintegrity/>, Accessed: September 16, 2004

<sup>20</sup> Australian Universities Quality Forum (2004a) *Quality in a Time of Change Conference Proceedings*, Source: <http://www.auqa.edu.au/auqf/2004/index.shtml>, Accessed: September 16, 2004

Effort between Educating Students on Attribution and Rigorous Detection of Cheating?"<sup>21</sup>. The choice of words demonstrates the strength of institutional focus, a light 'educating students' counterposed with a heavy 'rigorous detection of cheating'.

On campuses too the focus has been largely on the punitive. At RMIT, large posters dot the campus with "PLAGIARISM" in large block letters above red and black block text extolling students "DON'T RISK PLAGIARISM AND ITS PENALTIES"<sup>22</sup>. These posters constitute the major educational tool the university has utilized in attempting to combat plagiarism on campus.

In addition to these university-wide campaigns, individual departments have sometimes taken an extremely hardline approach to plagiarism. Again the example of RMIT Computer Science is relevant. In a bid to address the fact that some students "take material from the web, pay for assignment solutions, steal floppy disks, copy over shoulders, transcribe passages of text from library books, barter essays or simply work too closely with their friends"<sup>23</sup>, Computer Science embarked on a rigorous program of detecting and punishing students. As part of this process, Computer Science introduced a new idea of 'academic judgment'<sup>24</sup>. Officially a means of addressing the perception that large numbers of cheating students were let off plagiarism charges on technicalities, this concept is essentially a means of subverting natural justice by creating a hierarchy of truths whereby the view of the expert witness (the academic) is more valuable and believable than the student. In practicality this means that if an academic says that a student has cheated, then the CS department takes this statement as fact and "such decisions would not be disputed with the student."<sup>25</sup>

In addition to redefining university policy and procedures, Computer Science also developed their own software to compare assignments and check for cheating. Student Rights Officers dealing with cases generated by these means report a high incidence of academics relying on the computer-generated report as sole evidence of plagiarism. This has resulted in a high level of plagiarism charges in the CS department with many students falsely accused and excessively punished.

Considering the increased prominence of information technology solutions to many aspects of social life, it is perhaps unsurprising that solutions to educational concerns such as plagiarism have come to be dealt with by technological advances such as CS's program. When combined with the increased national focus on plagiarism and the major push that plagiarism software companies such as iParadigms have made into the Australian market, it is also unsurprising that so many universities have implemented these kinds of programs. The methods of introduction, however, have varied from university to university with some, such as the University of Newcastle, focussing heavily on punishment of offenders while others, such as the University of Wollongong have focussed more on the educative nature of such tools. Regardless of the rationale behind the implementation, these kinds of tools, and in particular market leader Turnitin, have potentially serious ramifications for students' rights. To understand what these implications may be, we must first understand how these programs, and particularly Turnitin, work.

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<sup>21</sup> Australian Universities Quality Forum (2004b) "Program Day 2", Source: <http://www.auqa.edu.au/auqf/2004/program/day2.htm>, Accessed: September 16, 2004.

<sup>22</sup> RMIT University (2003b) *Plagiarism*, Poster Campaign, Melbourne: RMIT.

<sup>23</sup> Zobel, Justin and Margaret Hamilton (2002) "Managing Student Plagiarism in Large Academic Departments", *Australian Universities Review*, Vol. 45, No. 2: p23

<sup>24</sup> *Ibid.*, p. 28.

<sup>25</sup> *Ibid.*

## What is Turnitin?

Turnitin is the market leader in the plagiarism detection market. Originally developed as a peer-to-peer tool for graduate sharing of work at the University of California at Berkeley, its developers discovered in the course of using the tool its potential for cross-referencing work for evidence of collusion and other forms of unacceptable sharing of work. Identifying a market gap, the developers began to aggressively expand the capabilities of the tool while marketing heavily to North American colleges. Turnitin is now used in a large number of universities in the US, Canada and Australia as well as every British university and a significant and growing number of high schools and other educational institutions.

Turnitin works by mapping a so-called digital fingerprint of students' work using "Document Source Analysis". This works in the following ways:

1. First, we make a digital fingerprint of any submitted document using a specially developed set of algorithms.
2. The document's fingerprint is cross-referenced against our local database containing hundreds of thousands of papers.
3. At the same time, we release automated web crawlers to scour the rest of the Internet for possible matches.
4. Finally, we create a custom, color-coded originality report, complete with source links, for each paper."<sup>26</sup>

The submitted document is then retained on Turnitin's database for checking against future submissions.

The system is not fooled by word substitution that retains the structure of the original passage, nor by the addition of sentences. Wholesale paraphrasing appears to be the only method of getting around Turnitin's detection tools. It is worth commenting however that Turnitin is not a plagiarism detection tool per se. Turnitin checks for text similarity and the final call on appropriateness of textual borrowing will lie with academic and teaching staff.

Turnitin has advantages over its competitors simply in the sheer size of its database, due largely to it maintaining control of all submitted assignments. No other tool can claim to access such a large and growing body of published and unpublished work. It also has some of the most effective tools for detecting copied work and for checking for collusion between students. The tool also contains capabilities to allow students to self-upload draft assignments to check whether their work would pass a Turnitin screen, although this function is not available for RMIT students and appears not to have been implemented at all Australian universities where Turnitin is in operation.

Turnitin is also expanding its internal database through developing relationships with publishing houses and other databases. The ProQuest academic database is already included in the Turnitin sweep with others likely to follow. Commercial entities too are increasingly using Turnitin's commercial arm iThenticate, the World Bank being the most recent addition. It is expected that this will expand to include other governmental, corporate and media outlets over the coming years. Turnitin is also aiming to incorporate its tool into software packages with ongoing

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<sup>26</sup> Plagiarism.org (2004) "Technology", <http://www.plagiarism.org/technology.html>, Accessed: September 22, 2004.

negotiations with the Blackboard suite of software progressing and a belief by some that originality detection tools will eventually be as accepted and commonplace as spell and grammar checkers.

Without a doubt Turnitin is the most effective mechanical tool for identifying plagiarised work or collusion between students and will continue to be so as it expands. However, there are those that remain unconvinced as to how effective it can really be.

In 2002 a working party at the University of Queensland Library became the only Australian report to recommend a rejection of Turnitin implementation. This decision was made largely on the basis of it not being a "magic bullet"<sup>27</sup> to solve plagiarism. Their report identified a number of key problems with Turnitin, including that:

- Turnitin does not check the vast majority of material on the internet, including material behind passwords, that is most commercial databases and most full text e-journals and e-books. For example, the UQ team uploaded a full article from *Nature* magazine which was cleared by a Turnitin search.
- Turnitin highlights any copied material, including correctly cited passages.
- Turnitin does not identify passages copied from material that is not electronically available, such as most books, journals and other conventional research resources.
- Turnitin does not check for paraphrased passages.
- Turnitin will not identify software or code plagiarism.
- Turnitin has a maximum limit of approximately 15,000 words which restricts the use of the tool for research assignments of honours level or higher.<sup>28</sup>

While Turnitin may be the most effective means of detecting plagiarised texts, then, it is certainly not error proof. Its promoters argue that it is not designed as a sole solution to the problem of plagiarism but the experience at RMIT with Computer Science's plagiarism detection tools when combined with the realities of overworked and under-resourced teaching staff across Australian universities, indicate that there may be a number of unintended negative consequences. These may include a false sense of security when papers are cleared by Turnitin and a reliance of staff on these kinds of detection tools as a remedy for overwork and a lack of adequate time to mark papers.

Not only are there questions over the effectiveness of Turnitin but these kinds of detection tools also raise a whole raft of questions around student rights, not the least being the right of students to control the use of their original work.

### **Intellectual Property, Copyright and Coerced Consent:**

The strongest objection to the use of Turnitin and other similar resources is the potential for compromising of a student's intellectual property rights. While the concept of intellectual property and copyright has been problematised above, the fact remains that in a society where ideas are perceived of as property, students deserve as much protection of their rights in these areas as other authors and creators of work.

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<sup>27</sup> University of Queensland Library (2002) *Report of the Working Party on "Turnitin" Plagiarism Software*, unpublished report received from UQ Union, p. 1.

<sup>28</sup> *Ibid.*, p.2.

Any work that is submitted to Turnitin automatically becomes a part of Turnitin's database, which adds "thousands of new papers every day"<sup>29</sup>. This database constitutes Turnitin's main selling point and the constantly updated and improved database differentiates Turnitin from its major competitors and confers on them a significant commercial advantage. Turnitin's parent company iParadigm's own legal advice from Australian intellectual property law experts Blake Dawson Waldren (BDW) positions this as "purely deriving a commercial benefit by using the student's work."<sup>30</sup>

The BDW advice goes on to discuss, in the context of this company's concern about liability under Australian law, whether or not the transmission of a student's work to Turnitin and the retention of a student's work on Turnitin's database in Oakland (USA) constitutes an infringement of the student's copyright or intellectual property in Australia.

BDW expresses "reservations as to whether any implied license [between the student and Turnitin] would extend to permit Turnitin to retain research paper [sic] for this purpose"<sup>31</sup> and suggests that these doubts could "easily be resolved by having students sign an express license before submitting work acknowledging that their work might be subjected to the plagiarism detection process and that it may be retained by the Turnitin database for the purposes of future plagiarism checks."<sup>32</sup>

Without this express license, however, the advice is silent with the only suggestion being that there would be no copyright infringement in Australia, because "there is no direct infringement in Australia."<sup>33</sup> Rather any potential infringement of Australian copyright law occurs outside the jurisdiction of Australian courts, at the site of the Turnitin database in Oakland, California. This tells us nothing about whether the use of students' work is ethically acceptable or even meets Australian legal standards, simply that there is no recourse under Australian law for students.

At RMIT, the administration has sought to address the problem of student license through the introduction of a new mandatory statement on the cover sheet for submission of assignments. This statement reads, "This work may be reproduced, communicated, compared and archived for the purpose of detecting plagiarism."<sup>34</sup> This statement must be on every cover sheet and must be signed by each student submitting work. For students at RMIT (and presumably other Australian universities) to have their work assessed, they must give their work at no cost to a company that will derive substantial commercial benefit from it and, in signing their consent, give up the right to pursue legal proceedings.

The drafters of the BDW advice also express some concern about this potential breach of the rights of students, albeit in the context of a carefully worded legal analysis, and suggest a solution. "[A] university could require Turnitin to delete assignments from its database after the current originality check...This would avoid inadvertent communication of assignments by Turnitin."<sup>35</sup> It appears that no Australian university has to date pursued this advice.

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<sup>29</sup> iParadigms (2004) *Technology*, Source:

[http://www.turnitin.com/static/products\\_services/technology.html](http://www.turnitin.com/static/products_services/technology.html), Accessed: September 14, 2004

<sup>30</sup> Blake, Dawson, Waldren (2004) *Australian Legal Document*, From:

[http://www.turnitin.com/static/legal/australian\\_legal.html](http://www.turnitin.com/static/legal/australian_legal.html) (Accessed: September 14, 2004), p. 4.

<sup>31</sup> *ibid.*, p. 9-10.

<sup>32</sup> *Ibid.*, p. 10.

<sup>33</sup> *ibid.*, p. 5.

<sup>34</sup> RMIT University (2004b), *RMIT Assessment Cover Sheet*, Source:

<http://www.rmit.edu.au/browse;ID=0118ek11au1w>, Accessed: September 15, 2004

<sup>35</sup> Blake, Dawson, Waldren, *op. cit.*, p. 6.

The use of students' work in this way is, at the very least, legally questionable. While the use of signed cover sheets may cover a university's legal position, the question remains, at what cost to the rights of students? The coercion of consent by Australian universities provides a potential for an interesting legal challenge should a student refuse to sign off on the required consent forms. There may also be opportunity for an on-campus campaign in this regard as occurred in Montreal's McGill University, to be discussed later in this paper.

## **Privacy**

Not only are students' IP rights potentially compromised, but the use Turnitin raises questions about university responsibilities under federal and state Privacy legislation. While I am certainly not qualified to give legal advice, there appears to be a potential breach of at least one of the ten Victorian Information Privacy Principles (IPPs).

IPP 9 requires public sector organisations to protect the privacy of information communicated across borders. Specifically this requires that the receiver of any information transmitted must comply with "a law, or other binding obligation, which imposes restrictions on the use of that information which are substantially similar to the Information Privacy Principles"<sup>36</sup> in order for the information to be transmitted.

Various elements of Turnitin's operations, not least the potential for transmission of personal details of users to subsequent users uploading the same material, could potentially be in breach of Victorian privacy legislation and could be a potential area of legal challenge or complaint. While Turnitin provides a 'Privacy Pledge' on its website, there appears to be no legal requirement that it comply with any restrictions consistent with the Victorian legislation.

The issue of privacy of student records also has potential ramifications in other areas. RMIT recently conducted an incoming students survey, asking first year students a range of questions about their purchasing and other habits with the view to developing commercial relationships. When coupled with a willingness to be less than secure about students' personal records in other areas, there is a danger that over time universities' commitments to student privacy may be whittled down in the interests of maintaining commercial relationships such as are being cultivated with iParadigm.

## **Other ramifications of Turnitin Implementation**

The potential breaches of student rights don't stop at the legal level. The experience of RMITSU Student Rights staff in dealing with cases from Computer Science, leads us to believe that Turnitin will be used to victimise students, particularly international students, and will have a direct impact not only on individual students but also on RESSO casework levels.

Staff in charge of the Turnitin Implementation Project at RMIT highlight the educative nature of their implementation plan. Staff who sign on to the Turnitin Project must agree to a set of guidelines outlining that Turnitin output should be used for education, that students should be given opportunities to resubmit and that Turnitin output cannot be used as the sole evidence in a plagiarism hearing.

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<sup>36</sup> Privacy Victoria (2002), *Explanatory Memorandum*, from <http://www.privacy.vic.gov.au/dir100/priweb.nsf/content/F857EB408B0E1716CA256C4D000E42F5?OpenDocument>, Accessed: September 23, 2004.

The RMIT Student Union believes that these restrictions are at best ineffective and at worst highly dangerous. The focus on informal uses of evidence of plagiarism could easily lead to individual targeting of students and even potential victimisation. In addition, the Turnitin tool does not just tell the assessor that a text is copied but also provides the source of the borrowed text. Should the assessor wish to use this in plagiarism hearings or to punish students, they would only have to argue that they found the source without using Turnitin, allowing it to form the basis of a plagiarism case.

There are also no mechanisms for staff to be held to these guidelines as they sit outside any University policy and procedures. The whole structure is based on a large amount of goodwill, goodwill that has been compromised by many years of problems in plagiarism hearings and goodwill that does not take into account the massive levels of overwork of academic staff who, while possibly wanting to spend time dealing with individual students' problems, are unable to. It is also not hard to imagine a situation where a staff member does not have the resources to individually check work for plagiarism and simply runs the whole class through Turnitin, taking suspicious pieces through official plagiarism procedures.

Students are also unable to use the Turnitin tool to check their own work, belying the educative focus of the Implementation Project.

### **Reaction and response**

Despite the ongoing discussions at the university level and the large numbers of potential student rights ramifications, student organisations in Australia have been relatively quiet on the question of plagiarism and on the implementation of plagiarism detection tools.

This stands in contrast to overseas student organisations, who have taken up these issues in the media and on campuses. The largest of these campaigns has been in Canada, where the Canadian Federation of Students (CFS) has been active in opposing plagiarism detection software implementation across Canada.

The Canadian campaign was most prominent in the case of Jesse Rosenfeld, a student at Montreal's McGill University who refused to allow his assignments to be submitted to Turnitin. Rosenfeld was initially given a mark of zero but after widespread media interest and a campaign supported by his on-campus student association, the Student Society of McGill University (SSMU) and the CFS, his work was marked, receiving passing grades. Subsequently other students have refused to allow their work to be submitted to Turnitin, prompting a University review of implementation.

The SSMU/CFS campaign focussed on a number of concerns that the implementation of Turnitin highlighted. These included:

- the implied presumption of student guilt;
- the potential impact for students' copyright and intellectual property rights;
- the compulsory acquisition of students' work for private profit; and
- the use of Turnitin as a substitute for providing adequate time for staff to check and mark assignments.<sup>37</sup>

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<sup>37</sup> Canadian Federation of Students (2004), "Student Wins Challenge Against Profit-driven Plagiarism Detection Website" from [http://action.web.ca/home/cfs/en\\_alerts.shtml?x=50514](http://action.web.ca/home/cfs/en_alerts.shtml?x=50514), Accessed: September 21, 2004.

Some universities have also responded to the problems identified by students by not implementing Turnitin. The most prominent of these is the University of California at Berkeley, where Turnitin was originally developed. The assistant chancellor for legal affairs, Mike R. Smith, has commented, "We take student intellectual-property rights seriously, and that became one of the trouble spots for us in moving ahead with this proposal."<sup>38</sup>

The US Department of Education also has expressed reservations with it's Family Policy Compliance Officer LeRoy S. Rooker commenting, "You can hire a vendor to check for plagiarism...But once they do that, they can't then kept that personally identifiable document and use it for any other purpose."<sup>39</sup>

For RESSOs then, the implementation of Turnitin causes a number of concerns. While there is clearly the possibility of an increased number of student plagiarism cases at universities where Turnitin has been implemented, the greater concern may be the trend towards finding easy solutions to complex problems and in so doing completely disregarding any semblance of respect for students' rights. The implementation of Turnitin also provides a space for greater examination of issues surrounding intellectual property, plagiarism, the use of student data collected by universities and the impact of funding cuts on staff-student ratios and the subsequent impact on the quality of education in Australia.

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<sup>38</sup> Quoted in Andrea L. Foster (2002) "Plagiarism-Detection Tool Creates Legal Quandary: When professors send students' papers to a database, are copyrights violated?" in *The Chronicle of Higher Education*, May 17, <http://chronicle.com/free/v48/i36/36a03701.htm>, Accessed: September 21, 2004.

<sup>39</sup> Ibid.

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