

Tensions Between Copyright, Contract, Accessibility and Technology in Australia: A Case Study on Legal Information Access

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Abstract

Australian law permits the use of copyright material in certain circumstances to facilitate access by people with disabilities. These consumers are increasingly turning to accessibility software incorporating AI/ML systems for text simplification, semantic search and website navigation. Despite the remarkable growth of AI/ML use by people with disabilities, legal information providers may forbid or block these methods. We examine the position of AustLII on AI within the Australian legal-policy environment and its implications for inclusive access to justice. Comparable entities within the global Free Access to Law Movement face similar pressures: our analysis may provide insights beyond the Australian context. The case study is illustrative of a larger unresolved tension between copyright, contract and accessibility as AI technologies proliferate alongside counter-measures intended to restrict them. We argue emerging mechanisms to authenticate assistive technology agents, and scope their purposes, can begin to reconcile various conflicting legitimate interests.

1 Introduction

Functionally, access to legal information must serve both transparency in the justice system and the particular rights of people with disabilities. The principle of open justice is deeply embedded in common law, the traditional foundation of the Australian legal system (Bosland and Gill, 2014). More broadly, prior work has argued for universal access to legal information to be recognised as a fundamental human right (Mitee, 2017). Non-discrimination, with respect to people with disabilities, is an equally vital maxim as codified by the *Disability Discrimination Act 1992* (Cth) and the *Convention on the Rights of Persons with Disabilities*. These edicts intersect when applied to accessing government information, such as statutory law and judicial decisions.

International law, scholarship and Australian policy appreciate that meaningful access requires textual materials to be transformed or presented in ways that accommodate people with disabilities. Recent lawmaking¹, in combination with technology, has demonstrated encouraging progress in facilitating access to material of cultural and civil interest by disabled citizens (Harpur and Suzor, 2013). Collectively, we refer to enabling innovations as assistive technology (AT). Driven by generalist primitives like LLMs, artificial intelligence and machine learning (AI/ML) is rapidly advancing the frontier of AT.

However, the restrictive terms and technical measures imposed on AI/ML tools by legal information repositories pose an obstacle to realising public policy on copyright exceptions² for disabled users. To engage with a bounded legal-policy landscape, our analysis focuses on Australia and its primary legal information provider, AustLII. Nevertheless, analogous services around the world are facing similar debates. Legal data repositories, as vital quasi-public infrastructure, should ensure reasonable access to these tools for data inference, while maintaining safeguards against the abuse of their infrastructure. This specific case is illustrative of a broader unresolved tension between copyright, contract and technology in Australia. We take the position that a mechanism to identify AI/ML deployed for personal AT should be created and aligned with standards on information accessibility. These technologies benefit from ephemeral access, similar to a human user, and are distinct from durable, commercial uses of data mining to train a model or create a dataset.

¹See *Copyright Amendment (Disability Access and Other Measures) Act 2017* (Cth)

²Ibid.

2 Crown Copyright and Law Reporting

Access to Australian legal information is fragmented across many institutions, with case law being notoriously complex. Within the common law, judicial precedent interprets statutes and serves as an independent source of law in its own right (Rheinstein, 1952), adding layers of information needed to provide a clear understanding and predictable application. Australia has a federal system of government, resulting in devolved legislative and judicial powers. Therefore, the compilation of legislation and reporting of case law falls to a variety of different bodies.

Works created by federal or state governments are protected under Crown copyright (Fitzgerald, 2011). This encompasses Acts of Parliament and, possibly, judicial decisions (Quach, 2023). However, in the interest of transparency, government subdivisions have issued permissive licences for legislative materials. For example, the Federal Government has committed to releasing public sector information under a Creative Commons (CC BY) licence by default (Thampapillai, 2021); this includes legislation on the Federal Register of Legislation.³

In practice, the judicial system consists of a vast number of courts and tribunals operating under federal or state authority. Accessing their judgements is significantly more complex and nuanced than in the case of statutory law. They are considerably less uniform in their publication and reuse conditions.

Free law projects, often referred to as “Legal Information Institutes” (LIIs), offer an alternative method of access to government-maintained databases or paid subscription services (Greenleaf, 2010). They negotiate access to documents with individual government agencies, collating them into a single searchable repository (Greenleaf, 2000). In doing so, they alleviate the fragmentation of distributed systems operated by individual forums. Per a process of republication, there is either an implied right of distribution or a formal licence agreement between the LII and the data source.

In Australia, this is provided mainly by the Australasian Legal Information Institute (AustLII). The database contains legislation from all 9 jurisdictions and a considerable number of courts and tribunals. Additionally, the service provides free access to scholarly legal articles. It is important to

note the service has been sustained by a handful of contributors with financial support from external donations (Mowbray et al., 2025). Other projects have sought, with significant effort, permission from the courts to compile a database of Australian law (Butler, 2023). AustLII occupies an important role of providing broad public access to the law, as many courts and tribunals direct litigants to their website (Administrative Review Tribunal, 2026). Nevertheless, they remain subject to the upstream constraints of the providers.

3 Assistive Technology and Copyright

The international community has recognised the importance of exceptions to copyright for disabled users in the *Marrakesh VIP Treaty*. The Treaty introduces the language of human rights and non-discrimination into intellectual property law. It requires signatory states to create derogations for visually-impaired persons to access copyrighted work (Ayoubi, 2019). While this is a step in the right direction, the Treaty limits its effect to a select class of impairments and text or print-format materials.

Australia does not have a judicially flexible “fair use” provision in its copyright law, unlike the United States. Rather, exceptions are provided to the general regime under a related doctrine of “fair dealing” (Balganesh and Nimmer, 2018). This encompasses a set of enumerated actions, which includes a right of fair dealing to enable access to material by disabled consumers.⁴

However, unlike international commitments focusing on visually-impaired users, Australia’s domestic legislation is broader: it includes those with cognitive needs or other disabilities that require facilitated access to written materials. Through the *Copyright Amendment (Disability Access and Other Measures) Act 2017* (Cth) sch 1 pt 1 item 1, amending the *Copyright Act 1968*, the definition of a person with a disability includes those with challenges “comprehending” copyright material. This is notable as recent advances in natural language processing (NLP) have greatly expanded the capacity for technology to summarise highly complex information or present it in alternative formats (e.g., pictograms). Present capabilities now enable transformative use rather than mere format adaptation. The literature references NLP technologies as key to realising the aims of international and domestic

³<https://www.legislation.gov.au/terms-of-use>

⁴*Copyright Act 1968* (Cth) s 113E.

copyright exceptions (Ncube et al., 2020). The use of automated processes greatly reduces the cost of creating accessible formats of work through human labour; additionally, it may be done on demand and at scale.

4 Derivative Obligations: Contracting Out

While Australian law provides a fair dealing exception for copyright, this does not preclude website operators, such as legal information services, from placing restrictive terms of use on their materials or implementing technical measures to thwart accessibility tools. Hence, the ambitions of copyright policy can be substantially undermined in practice. It is unclear precisely what terms have been agreed between courts and LIIs; however, one must assume that the copyright holder has placed restrictions on downstream use.⁵ The Australian Law Reform Commission has recommended that the ability to “contract out” of fair dealing exceptions should be curtailed if a broader US-style doctrine of fair use is not adopted (Australian Law Reform Commission, 2013). Operationally, this modification would be similar to s 47H of the *Copyright Act*. The section functions as an anti-avoidance mechanism for non-infringing acts relating to computer software. The Commission’s report specifically recommends amending legislation to prohibit contracting out of fair dealing enabling access for people with disability (Australian Law Reform Commission, 2013, p. 454).

Service providers, including website operators, have obligations under the *Disability Discrimination Act 1992* (Cth). Per s 4 of the Act, a disability is defined broadly and includes physical, learning and cognitive impairments. Direct discrimination encompasses a failure to make reasonable adjustments for a person (s 4(1), s 5(2)). Alternatively, discrimination may be indirect, where a requirement or condition is imposed upon a person and compliance thereto is impacted by their disability or a lack of reasonable adjustments (s 6). In either case, the onus favours the complainant. The effect of the Act has been confirmed to extend to websites following *Maguire v SOCOG*.⁶ If a requirement, such as web traffic control, is reasonable in the circumstances, s 6 will not be contravened. A

determination may depend on the availability of measures to distinguish AT users from bulk data collection and communicate permissions to the assisting agent (Marro et al., 2026). Separately, an adjustment that is proven to impose an unjustifiable hardship will discharge the duty under s 5(2). In this context, a disability aid is treated the same as a disability, including adjustments necessary for the aid (s 8). A disability aid is defined as equipment that “provides assistance to alleviate the effect of the disability” (s 9(3)).

Despite the existence of a contract, courts may entertain a common law argument that its terms are against public policy. Disabled access to critical legal materials is a non-commercial purpose backed by the clear intention of Parliament, as evinced by the preceding discussion. Assent in light of “click-wrap” or “browserwrap” style agreements could also play a role, especially if these are not presented in an accessible manner or are themselves inaccessible as a result of technological protection measures.

4.1 Position of AustLII on AI/ML

Several key members of the AustLII project published a position paper on the implications of AI (Greenleaf et al., 2024). Therein, the authors articulate reasons for restricting the use of their service for AI/ML applications, including commercial appropriation, obligations attached to source material, and the financial burden of sustaining a service that is free to the end user. The service receives over 700,000 requests per day. Hosting is funded primarily through private donations by interested parties: law firms, law schools and corporations; government funding is sporadic and relatively minimal. Greenleaf posits AustLII has been successful in attracting private funding because its services are unique and beneficial to funders. A commercial service that absorbs this content may lead to a diminution in perceived value provided by free legal resources. Given publishers’ substantial resources, they may use the expense of LLM development to reintroduce an effective monopoly over legal materials. Additionally, AustLII has built a reputation and brand that may be compromised if a 3rd party LLM hallucinates inaccurate information and cites the platform as a source.

The paper’s position is further solidified with the view that LIIs, including AustLII, are not obligated to be *repositories* of data — a term defined by the authors as a source open to bulk scraping.

⁵<https://www.austlii.edu.au/copyright.html>

⁶*Maguire v Sydney Organising Committee for the Olympic Games (No 2)* [2000] HREOCA 31.

However, this isn't a universally agreed position among similar providers.⁷ That said, the voraciousness of automated scraping has caused substantial difficulties, including service disruptions, for a variety of open access repositories (Shearer and Walk, 2025). Privacy expectations of litigants must be re-examined in light of new capabilities to link data. Beyond an ethical statement, AustLII may be constrained as a publisher by a similar view expressed by some Australian courts. For instance, the NSW Caselaw access policy uses the Robots Exclusion Protocol to address privacy concerns resulting from search indexing.⁸

More practically, the recommendations of Greenleaf et al. (2024) are being implemented as policy and technical measures at AustLII. The website uses bot mitigation, such as Cloudflare Turnstile, to prevent access by automated tools regardless of the purpose. As the arms race between agent detection and obfuscation accelerates, future interventions may result in even more aggressive countermeasures. Their terms of use prohibit not only training LLMs on the collated data, but also named applications like LLM inference and vector search.⁹ Rather confusingly, the service permits "any other uses permitted by copyright law"; this is then partially retracted through excluding AI/ML tools, which, as we argue, are inherent to the operation of modern assistive technologies. Other fair dealing uses of materials, such as for research or study, could involve evaluating AI systems, which is an excluded purpose. The terms go beyond a simple prohibition on automated access; they also attempt to preclude AI uses when materials are manually obtained. Even here, there may be legitimate reasons for a prohibition, such as the system incorporating potentially private information of parties into its training data.

4.2 Treatment of AI by Global LIIs

The more than 60 other LIIs affiliated to the Free Access to Law Movement (FALM) have taken various positions on AI/ML access to their services. CanLII has initiated legal action against a chatbot service they allege violated their terms of service (Kulkarni, 2024). SAFLII, a South African member

of FALM, has a policy very similar to AustLII.¹⁰ Cornell University's Legal Information Institute appears to take a more open stance towards use of their materials, acknowledging their incorporation into foundational large language models.¹¹ Additionally, they have an accessibility accommodation "hotline".¹² Notwithstanding international law, the specific national context of each service precludes a uniform analysis.

5 NLP and Accessibility

NLP fulfils a number of needs for disabled consumers of legal content. Increasingly, mainstream services are replicating capabilities that were previously only found in specialised applications. Purpose-built accessibility tools are integrating AI/ML-powered features for text summarisation/simplification, image generation, information retrieval and text to speech. Because most state-of-the-art models are either proprietary or beyond the capability of consumer hardware, they require transferring data to a remote endpoint or scraping internet content to provide the model context.

Under s 113E of the *Copyright Act*, a fair dealing may be undertaken by another person to assist the disabled consumer to access copyright material. Per the *Acts Interpretation Act 1901* (Cth) s 2C, a person includes a corporation. This would seemingly enable AI/ML inference providers, acting on the instructions of a disabled customer, to avail of fair dealing exceptions during that interaction. Depending on the system configuration, an assisting organisation may receive copyright data uploaded from a consumer's computer, with no privity of contract, or access it directly; in the latter case, it is debatable as to what extent the system is required to adhere to terms imposed by browserwrap or the Robots Exclusion Protocol (Chang and He, 2025).

5.1 Screen Readers

Visually impaired users depend on screen reader software to access computerised text. Text is read aloud for interpretation, in addition to providing navigation methods for the interface or content. Screen readers present constraints that engender unique search strategies. For example, it has been observed that users formulate more complex "one

⁷Provides copyright-free access to their database and embeddings: <https://wiki.free.law/c/courtlistener/help/api/bulk-data/bulk-legal-data>

⁸<https://www.caselaw.nsw.gov.au/policy>

⁹<https://www.austlii.edu.au/copyright.html>

¹⁰<https://www.saflii.org/content/terms.html>

¹¹<https://blog.law.cornell.edu/blog/2024/02/05/free-as-in-law/>

¹²<https://www.law.cornell.edu/lii/about/accessibility>

shot” queries than their sighted counterparts (Sahib et al., 2012). This difference lends greater value to semantic search using embedding representations over lengthy legal text.

The next generation of screen reader software uses AI/ML to bring interaction speeds closer to parity with sighted users. For example, a contemporary project allows conversational navigation of webpages. The software uses a server-based headless browser to retrieve content, build a navigation tree and interact with an LLM through the user’s intents (Esposito et al., 2026). Mainstream “agentic browsers” also provide utility to visually impaired users (Colazzo and Anzillotti, 2026; Hilliker, 2026). This is a clear example of how AT systems can appear identical to other web agents in form and function.

5.2 Cognitive Accessibility

Legal text is highly complex despite attempts at simplification (Martinez et al., 2022). LLMs have proven adept at generating cognitively accessible derivatives of source text (Färber et al., 2025; Zhao et al., 2025). The meaning of what is cognitively accessible can vary between individuals; however, there are frequent patterns of accommodation that are efficacious (Yalon-Chamovitz, 2009). Some tools, like the website in Färber et al. (2025), are apparently blocked by Cloudflare Turnstile (used by AustLII). Additional uses of LLMs could include turning law into stories (Jiang et al., 2024) or pictograms (Bautista et al., 2017).

6 Conclusion and Recommendations

Access to legal information is critical to civil and political rights. LIIs exist to further this goal. It is a sign of mission success that AustLII, in particular, is so frequently visited by the public and referenced as a publisher by courts and tribunals.¹³ It is further acknowledged there are justifiable grounds to limit scraping, training and general access by LLMs and other AI technologies. However, we argue LIIs should consider, in greater detail, the impact their terms of service and technical measures have on ever-evolving assistive technologies. These represent specialised models and mechanisms that are outside the scope of an LII to develop; therefore, data must be available to external AI services. Additionally, we would encourage LIIs, as some have

done, to offer bulk data access for non-commercial or academic projects.

Future reforms must reconcile access to copyright material by disabled people with the burgeoning role of AI/ML as a key enabling technology. Legal information access is a narrow but edifying instance of this clash. Restricting the ability to contract out of fair dealing exceptions would give legal certainty to users and developers of accessibility software processing data on their behalf.

Establishing a web standard for identifying AT providers and controlling their access could reduce the unintended accessibility impacts of anti-abuse measures. First, Google is testing Web Bot Auth with some AI agents, enabling websites to authenticate signed requests through cryptographic verification (Google, 2026). An accessibility-specific adaptation could allow registered AT providers to sign requests that repositories evaluate under dedicated access policies. Second, the Model Context Protocol’s HTTP authorization specification uses OAuth 2.1, recommends requesting only the permissions necessary for intended operations, and requires servers to reject expired access tokens (Model Context Protocol, 2026). Repositories could adopt this pattern to issue short-lived tokens limited to selected documents or repository-hosted accessibility services. These proposed adaptations would require additional safeguards, since authenticating a provider does not establish a request’s accessibility purpose, and token expiry cannot prevent retention of content already retrieved. While these technical measures alone cannot definitively validate an accessibility purpose, and token expiration cannot prevent retention of content once downloaded, when coupled with thoughtful eligibility criteria and accountability mechanisms, they offer a pathway toward resolving this tension from a technical perspective.

7 Limitations

This position paper is not intended as legal advice or to speculate about the practical outcome of any specific course of action. Its focus is on the abstract interplay between restrictive measures applied to legal information access and accessibility technology. There are a large number of courts and tribunals in Australia that may offer direct access to case law with their own proprietary forms of access. We did not conduct a comprehensive review of the conditions surrounding these arrangements.

¹³<https://www.courts.sa.gov.au/court-decisions/policy/>

Some applications of assistive technology present challenges when applied to the law. For example, automated text summarisation for cognitive accessibility can struggle to create an accurate representation of the law given its subjective nature (Mor, 2017). Generalist AI systems that can perform text simplification have not been calibrated for this specific domain and may not meet the needs of users in terms of depth or in-context analysis. While there has been research on manual translation into easy read formats (Maaß and Rink, 2021), the user study literature on automated methods is sparse. Semantic search on legal text, particularly with foundation models, may suffer from low recall, potentially leaving screen reader users disadvantaged as they skim over text using verbose query strategies (Mori et al., 2025).

We have left the design of a framework to identify assistive technology agents as a future direction. The ability to realise our position will largely depend on the standardisation of these norms. While discrimination law makes reference to reasonable adjustments, this is a moving target that is highly contextual.

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