

COMPUTERLAW PUBLICATIONS

A BRIEF GUIDE TO NEW PUBLICATIONS ON COMPUTERS & THE LAW GRAHAM GREENLEAF



COMPUTER LAW NEWSLETTER

Published by Bigelow & Saltzberg, 100 Tower Office Park, Woburn, Massachusetts MA 01801 U.S.A.; 6 issues @ US\$300 per year; Vol.2 No.2 Nov-Dec 1984; approx. 8 pages per issue.

This is essentially an 'in-house' publication for clients of Bigelow & Saltzberg, but its availability to the public (at a rather steep price) indicates how American law firms can advertise their expertise in ways prohibited to their Australian equivalents. The newsletter focuses on computer law issues in the northeastern U.S.A., particularly Massachusetts.

It has a chatty style, but in the two issues reviewed provided substantial information on the following issues, among others:

- * Massachusetts sales tax already extends to custom software as well as to off-the shelf items. An article outlines how the local authorities are attempting to extend its coverage to software maintenance agreements that involve software modifications transferred to a customer on storage media (but not those transferred by telecommunications).

- * Securities & Exchange Commission guidelines for the use of home computers in securities trading are discussed.

- * A number of plaintiffs have sought to use Federal and State freedom of information laws in the U.S.A. to obtain copies of software and associated data used by government agencies. Cases discussed involve software used by the Commerce Department to perform calculations in a prosecution for violation of anti-dumping laws, software used by the Internal Revenue Service to determine which returns are more likely to contain errors, and software used to produce insurance statistics. In these cases, Courts held various exemptions under the Acts applied, but their theoretical applicability to software seems unquestioned.

- * A new Massachusetts Computer Crime Bill is analysed and accused of 'overkill'. It defines 'database' and 'computer' so widely that a newspaper or digital clock could be the subject matter of a 'computer crime'; most crimes proposed require no criminal intent, only an act that is 'un-authorized'.

- * An un-named Canadian decision granting an injunction to IBM against Chinese copies of programs in ROM is noted. The Court 'relied heavily' on the appellate decision in *Apple v. Computer Edge*.

These issues are all of relevance to Australia. If they haven't arisen already, they are probably just around the corner.



APPLIED COMPUTER AND COMMUNICATIONS LAW

Edited by Andrew Trew; Monitor Press, Rectory Road Great Waldingfield, Sudbury, Suffolk CO10 0TL U.K.; 10 issues @ £70 per year; 8 pages per issue; Vol. 2 Issue 2 April 1985.

Computer Law, the English newsletter reviewed in a previous issue, has been transformed, re-named and has a new Editor. Stephen Saxby, the previous editor, intends to produce a competing newsletter entitled Computer Law and Security Report. *Applied Computer and Communications Law* has a more professional appearance than its predecessor. A sampling of items from its first two issues includes the following:

- * A legal representative of Olivetti comments on the decision in *Mackenzie Patten v British Olivetti Limited*, in which a firm of Solicitors recovered damages for breach of warranty for the supply of a computer system "unsuitable for use by the Plaintiff's employees". He argues that the decision "depended on some special findings of fact" and that the Judge's broader dicta should be disregarded.

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* 'Checklists' on software maintenance agreements, compliance with the Data Protection Act, and safer VDU operation.

* An article by Colin Tapper on the effect of the Police and Criminal Evidence Act 1984 on the admissibility of computer produced evidence.

* Details of the Copyright (Computer Software) Amendment Bill which makes 'a computer program' a literary work for the purposes of copyright law, with retrospective effect.



THE LAWYER'S PC

Edited by Robert P. Wilkins; R.P.W. Publishing Corp., P.O. Box 1108, Lexington, South Carolina 29072 U.S.A.; 24 issues per year @ US\$94 for foreign orders; Vol.2 No.16 April 15 1985.

Subtitled 'A newsletter for lawyers using the IBM PC and compatibles', this twice-monthly newsletter has the strictly practical aim of assisting PC/compatible users to get more out of their computing dollar. The emphasis is on product reviews: hardware, software and peripherals.

Items reviewed over two issues include the IBM Portable PC, ASHER (data communications and computer-actuated telephone dialing), AMORT*ZIT (preparation of loan amortization tables), PC/TAXCUT (a tax return preparation program, with annual updates), and Dial-A-Dex (another telephone dialing and card file program). There are also articles discussing problems with 20M hard disks for the PC/AT and likely changes in IBM product lineup. 'Field reports' from subscribers on their uses of PCs and compatibles are also included.

There is an 'Advertising Supplement' in each issue.

Despite its understandable orientation toward American legal practice, this magazine would be worthwhile for any serious Australian legal users of PCs or clones.



COMPU LAW DIGEST

Edited and published by James Fitzsimons and Simon Lewis, 6 Carter St., Randwick, N.S.W. 2031 Australia (Tel. 02 398 8973); 12 issues @ \$85 per year; 12 -16 pages per issue; Vol. 1, Nos. 1 & 2, June & July 1985.

Enclosed with this issue of your newsletter is a free copy of the CompuLaw Digest, a new monthly publication containing abstracts of articles appearing in a wide variety of Australian and overseas magazines, newspapers and journals. Articles abstracted include those related to the computerisation of a legal practice as well as the law as it applies to the use of computers.

The Digest is divided into 'Office Automation', 'News', 'Legal Issues', 'Books, Articles, Papers' and 'Worth Reporting'. Its digests are usually one or two paragraphs in length, so they are quite informative.

For those who need to keep up to date with developments in computers and the law, but who can't afford a personal clipping service, the Digest may be the answer.

By special arrangement, members of the Society receive a discount of \$5.00 on the yearly subscription fee of \$85.00 if they subscribe before 31 October.



THE COMPUTER LAW AND SECURITY REPORT

Edited by Stephen Saxby, Solicitor and Lecturer in Law, Southampton University; Published by Solent Legal Exchange Ltd, 35 Guildhall Walk, Portsmouth PO1 2RY; 6 issues per year @ £48; all overseas orders US\$95; approx. 22 pages per issue; Vol.1 No.1 May/June 1985.

Stephen Saxby's new newsletter aims at providing legal and security information to the computer user who is neither a legal nor technical expert and claims to be "written exclusively with the non-expert in mind".

The first issue contains articles of 2 or 3 pages on 'Contract solutions in software protection', the security dangers of hacking, and computer insurance. There is a 'Data Protection Corner' containing advice on how to

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'Crime & Punishment' Reviewed

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I was given only five gavels, out of a possible ten, and the failure music, as well as a mediocre judicial IQ and an impertinant comment about kangaroo courts.

My first day at the bench was not a roaring success, but as the days progressed and I learnt what attitudes towards punishment were required, my gavels rose, my failure music turned into tunes of success on the bench of the Supreme Court and I was enthralled by the infinite number of ways people find to break the law.

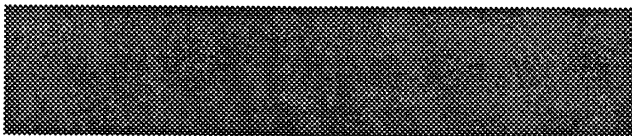
Crime and Punishment is a compelling game. It does not make any inroads or give any insights into the moral and philosophical implications of law and justice and reinforces a punitive stance towards those who get caught. In spite of this, it is good fun and sharpens my already well-developed appreciation of life's ironies.

Crime and Punishment from Imagic is available for the IBM PC, Apple (all versions except Mac) and Commodore.

Mr Schneidas comments, in a later letter to the Editor:

The thing that I found particularly interesting about the game "Crime and Punishment", which the article reviews, was how easily computerised sentencing on the scale that the writers of the game support, can turn the whole idea of justice into an objective form of revenge. Even though it can be argued that the law really only amounts to someone else taking your revenge for you, I believe that it is a little more than that; that the law, as an ideal, should incorporate the very illusive qualities of wisdom and insight into the motivations of man. In a completely detached form of computerised sentencing there is absolutely no room for the concepts of motivation and the press of circumstance.

I would be very interested to hear any comments which the article may elicit from your readers. I would hope that one day sentencing will, in fact, be the first step in a process of reclaiming social casualties. Anything less than this is a socially destructive act which, as in my case, simply leads to more people being hurt more severely.



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with the requirements of the Data Protection Act.

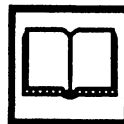
There is also a substantial amount of telecommunications news, a 'Consumer Report' on products available in the U.K., and digests of some very interesting recent cases.

In *Man Ltd v EMR Management Services*, a computer consultancy which had been sued by the client user for advising installation of an inadequate system was assigned the right to take over the user's action against the supplier as part of settlement of the action. The Court upheld the validity of the assignment on appeal, because both actions arose out of the same commercial transaction.

In *Express Newspapers v Liverpool Daily Post & Echo*, the second paper lived up to its name by copying a computer-produced sequence of winning lottery numbers from the first newspaper. Whitford J. rejected the argument that the numbers were not copyright because they had no human author, holding that the computer was merely a tool which the author uses.

As the Report points out, this is a decision of significance for all users of expert systems, not to mention CAD software and fourth generation languages.

On the strength of its first issue, the Report looks as though it will provide a very practical and interesting outlet for Stephen Saxby's energetic involvement in computers and the law.



PUBLICATIONS RECEIVED

EXPERTISES des systèmes d'information - le mensuel du droit de l'informatique, Nos. 71-74 April-July 1985 - to be reviewed next issue.

Computer Law Reporter - a bi-monthly journal of computer law and practice, Vol. 3 No.3 Nov. 1984 - to be reviewed next issue.