
Abstracts

The following are abstracts of the latest issues of journals of interest:

Law Technology Journal, Volume 2 Number 1, October 1992

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Using Artificial Intelligence in Legal Computer Assisted Instruction

R.P. Jones

In this article the author describes the way in which artificial intelligence concepts can inform the production of computer assisted instruction—particularly within law teaching.

Information Systems and Regulatory management

Jon Bing

The author, the director of the Norwegian Research Centre for Computers and Law, and a distinguished commentator on computers and law issues discusses the approach to information regulation taken by a range of countries. This paper

formed the keynote address at the 7th BILETA conference in 1991.

Justification and Criticism of Legal CAL

Max Young

The author looks at the criticisms which have been levelled at the use of computers in legal teaching. He gives reasoned justification why we should continue with developing computer assisted systems.

Building on The Paper Chase

Julian Killingley

This paper focusses on the innovative and remarkable videodisk programme 'The Paper Chase' developed to assist students in British Civil Procedure classes. He describes the technical details of the system and explains the way in which

the programme can be built upon.

The Defamation Tutor: Integrating CAL and Hypertext

T. Allen and W.F. Robinson

The authors describe the way in which they built a computer system to assist them in teaching defamation to students at the University of Durham. They give empirical evidence collated by way of questionnaire as to the effectiveness of their system.

Privacy and Telecommunications

Robert Bradgate

This paper explains in some detail the Directives in the EC which affect issues created by new technology. He talks of the position in Britain as well as in a number of EC member states.

The Computer Law and Security Report, November/December 1992, Volume 8 Issue 6

Editor: Mr Stephen Saxby

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The Implementation of the EC Directive on the Legal Protection of Computer Programs under UK Law

Robert J. Hart

The UK Department of Trade and Industry has circulated a Consulta-

tive Draft Statutory Instrument which is intended to amend the Copyright, Designs and Patents Act, 1988 (UK) to align it with the requirements of the EC Directive on the legal protection of computer programs. This article shows how the Instrument departs from the terms of the Directive.

Implementation of the Software Directive under UK Law

Astrid Arnold & Conor Ward

The authors summarise the main points of the Draft Statutory Instrument mentioned in the above comment.

Abstracts

Overview of the State of the World's Privacy: Interim Report of Privacy International

various authors

The state of privacy protection worldwide is a mixed picture. While privacy and data protection are being taken seriously by more and more countries, advances in technology increase the spectrum of privacy violations. In its first report on the subject Privacy International examines the problem.

Creating a Secondary market in Software and Databases?

John Worthy

The principle of exhaustion of intellectual property rights on sale of products within the EC is now well developed. Its extension to software and, under the latest proposals, to electronic databases potentially creates a secondary market in these products. The author analyses the position.

Protection of Personal Data: An International Business View—Comments of the International Chamber of Commerce

The International Chamber of Commerce

The ICC comments on the proposed EC Directive on Data Protection.

Benefits of Involving Law Enforcement in Trade Secret Theft Cases

William J. Cook

The author examines the issue of trade secret theft in the United States and the arguments for involving law enforcement agencies in the investigation. This, the first of a two part article, looks at the public importance of trade secret thefts, amongst other points.

EDI and Bills of Lading

Kit Burden

This article looks at the nature of bills of lading and the consequent demands which they place on EDI, both from the point of view of the technology and the law.

User Friendly Software and People as Security Risks

Bernard P. Zajac

This article examines the security risks which people present to organizations, and focuses on the security problems which employees create.

Product Liability and Information Products—Winter v G.P. Putnam's Sons

Reinoud J.J. Westerdijk

This note deals with the recent case of *Winter v G.P. Putnam's Sons*, 938 F.2d 1033 (9th Cir. 1991). In this case the question of whether software is a product was discussed for the first time. Although the case concerned a book, the importance of *Winter* lies in the decision that software can be regarded as a product for the purposes of strict product liability.

Canada Proposes Policy for Privacy Protection in the Telecommunications Industry

Mona Sabat

This comment discusses the Canadian Federal Department for Communication's recently released paper on 'Privacy Protection in Telecommunications.' It discusses the existing legislation and looks at the proposed policies.

Journal of Law and Information Science Volume 3 No 2

Editor: Mr Eugene Clark

Law Faculty

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There is More to Life than Logic

Robert N. Moles & Surendra Dayal

This article is written in response to the reactions provoked by Robert Mole's earlier article, entitled 'Logic Programming - an Assessment of its

Potential for Artificial Intelligence Applications in Law', which appeared in Volume 2 Number 2 of this Journal. In particular, the authors focus their attentions on points of agreement and disagreement contained in articles appearing in Volume 3 Number 1 of this Journal,

written by J Zeleznikow and D Hunter, ('Rationales For the Continued Development of Legal Expert Systems'), and Alan L Tyree, ('The Logic Programming Debate'). In doing so, they express the hope that unproductive conflicts can be

avoided in the communication and exchange of ideas.

The latter part of the article concentrates on a discussion of the work of Ronald Stamper.

The Datalex Legal Workstation - Integrating Tools for Lawyers

*Graham Greenleaf, Andrew Mowbray
& Alan Tyree*

Computerisation of law has developed from a number of originally unrelated technologies: the development of online free text retrieval systems from the 1960s; the revival of artificial intelligence research in the form of expert systems in the 1970s; the related development of automated document generators, and the 'rediscovery' of hypertext in the late 1980s. Lawyers are interested in the computerisation of a number of different aspects of legal practice, including the retrieval of documents relevant to decision-making, other forms of research, the decision-making itself, and the generation of legal documents.

Most commercial applications have concentrated on only one of these paradigms. This lack of integration is not peculiar to law, but has been observed to be a general feature of the computerisation of information. The current paradigms have prompted considerable theoretical legal research. There has been some analysis of the relationship between the different approaches, particularly in relation to the use of AI techniques in information retrieval and research on the development of integrated computerised workstations for public administration. However, there has been relatively little development of an integrated theory for all aspects of the computerisation of legal materials.

This paper describes the authors' approach, (the Datalex Workstation software), to the integration of the modes of computerising law - the 'legal workstation' - and its use in an application to privacy law (the 'Privacy Workstation'). Arguments concerning the practical and theoretical importance of integration are also advanced.

Constructing an International Watchdog for Privacy and Data Protection and the Evolution of Privacy International

Simon G Davies

Where instances of privacy violation throughout the world have increasingly developed common features that are international in nature, privacy advocacy has traditionally been pursued at a national level. The formation of Privacy International (PI) in Washington DC in March 1992 was the first successful attempt to create a global approach to privacy protection. This article explores the origins and structure of the organisation, and discusses some of the challenges recognised by its members.

Software Distribution in Germany Where East Has Met West

Dr Thomas Hoeren

This article discusses the impact which the reunification of East and West Germany had on the distribution of software. It considers the changes in the laws of the two countries made necessary by the reunification, including the completion of the unification contract and the effects of the application by EC laws and regulations of East Germany. Also analysed are the legal implications involved in the drafting of contracts relating to the dis-

tribution of software and the problems arising from the extension of industrial and intellectual property rights to a new unified Germany.

The study concludes that whilst some of the problems created as a result of reunification have been satisfactorily resolved by the introduction of appropriate legislation, there are a number of difficulties still remaining, not least of which is the need to completely restructure the economy of East Germany, making it market-orientated, by attracting foreign investment. In addition, there is a potential for future problems relating to copyright and anti-trust law which will also have to be faced and overcome.

The Future of Computer Assisted Learning in Law

Thomas Allen and William Robinson

The use of computers in higher education has grown as the use of computer-assisted learning packages, LEXIS, CD-ROM and word processing systems has become more widespread. This paper examines computer-assisted learning, or 'CAL'. In the legal field, teachers and researchers have developed a number of CAL programs, and most of their evaluations of the programs have reported encouraging results. CAL has been gaining acceptance steadily, although it has not yet fulfilled the prediction that it would revolutionise teaching. To date, few reservations of a general nature have been expressed concerning its role in legal education. Nevertheless, the writers feel that it is failing to remedy the need for legal education to develop the type of intellectual skills required of a lawyer. This paper explains why the present forms of CAL are proving disappointing, and the directions which future developments in CAL must take if it is to

play an important role in this aspect of legal education.

Artificial Intelligence and the Law - Innovation in a Laggard Market?

Vicky Harris

This paper focuses on the development of Artificial Intelligence and law. It looks at the processes of technical innovation with regard to the implications for the management of technology. Expert Systems, as a branch of Artificial Intelligence are closely examined with particular reference given to Computer Assisted Document Drafting (CADD) applications.

Categories of Expert Systems discussed include diagnostic systems, procedural guides, intelligent checklists and document drafting. Diagnostic systems in law incorporate both the Rule Based System and Case Based Reasoning System. Pro-

cedural Guides are used to lead lawyers through complex rules and regulations. Checklists and Document Drafting assist with drafting complex documents where a number of steps are involved, thus acting as a time saving device, and also serving as a guide for junior lawyers in checking what questions need to be answered.

However, it is through the natural language interface of the computer keyboard that a user can compose and reply to questions in an understandable language. Hence, the interaction between people and the process engaged in the transfer of knowledge is crucial to the development of Expert Systems.

The diffusion process has been slow for Expert Systems in law. It is suggested that attitudinal and organisational changes are required in order for law firms to embrace further development of Expert Systems. An understanding of economic as-

pects such as costs, market restructure and return on investments are highlighted. Finally the need for additional research into the management of technology in Artificial Intelligence and the law is emphasised.

ASC Case Study

Karen Bubna-Litic

This case study is a critical evaluation of the ASC databases, ASCOT and DOCIMAGE, as marketed by Lawpoint. The databases contain on-line business name and company information previously available through the State CAC offices. The systems gives it uses quick and easy access to information which before now was difficult and time-consuming to access. This article looks at the purpose of the system, its strengths and weaknesses and its ability to meet the objectives of its users and concludes that although it has its good points, there is potential to improve the system.

Continued from page 20

¹² *S.W. Hart & Co. Pty. Ltd. v Edwards Hot Water Systems* (1985) 159 C.L.R. 466 at 472, per Gibbs C.J.

¹³ (1986) 161 C.L.R. 171.

¹⁴ In other words, computer programmes, as a new species of oeuvre, were unable to be pigeon-holed into an existing category of 'work' and were, therefore, unprotected by copyright.

¹⁵ McKeough and Stewart. *Op. cit.* 172.

¹⁶ Some authors have expressed an opinion that a separate copyright category, for computer technology, would be the optimal protection situation. For example, Borking J.J. *Third Party Protection of Software and Fireware* (Netherlands, 1985) 459.

¹⁷ Section 43A.

¹⁸ Section 10(1).

¹⁹ Section 132(5A).

²⁰ Section 133A.

²¹ Hughes G.L. 'Licensing, Developing and Protecting Software' *Queensland Law Society Journal* [1984] 272.

²² McKeough and Stewart. *Op. cit.* 173.

²³ This question was judicially considered in the case of *Express Newspapers plc v Liverpool Daily Post & Echo plc* [1985] F.S.R. 306. It was held

that the computer generated work was a literary work, because the computer used was merely a tool of the person devising the work.

²⁴ McKeough and Stewart. *Op. cit.* 173.

²⁵ *Ibid.* 174.

²⁶ [1992] C.L.R. 233.

²⁷ [1992] C.L.R. 233 at 234.

²⁸ [1992] C.L.R. 233 at 234.

²⁹ [1992] C.L.R. 233 at 234.

³⁰ Australian Patent Office. [but see Webber article *Computers & Law* No 19, p14 - Eds] *Guidelines for Considering the Patentability of Computer Program Related Inventions* 1986.

³¹ An Australian case giving an example of the operation of the Act is *Avel Pty. Ltd. and Ors v. Jonathan Wells* (1991) 22 I.P.R. 305.

³² McKeough and Stewart. *Op. cit.* 179.

³³ Davis M. *Intellectual Property* (U.S.A., 1990) 311.

³⁴ Commenting generally about the amendments in *Apple Computer Inc. v. Computer Edge Pty. Ltd* (1986) 161 C.L.R. 171.

³⁵ McKeough and Stewart. *Op. cit.* 180.

³⁶ Borking J.J. *Op. cit.* 82.

³⁷ While text writers, in this area, generally assume that the user has an implied licence to 'copy'

in this way, in order to give business efficacy to a contract for the sale of the programme, it is not a real problem, as even if such storage did constitute an infringement it is highly unlikely that copyright protection would be enforced.

³⁸ For example, U.K. legislation provides that it is illegal to run pirated software on a computer. Australian legislation on the other hand, provides no such infringement.

³⁹ For example, while the protection period in Australia is the author's life plus fifty years, the period in Germany is life plus seventy years. However, this is really a moot point, as computer programmes are usually obsolete within two years.

⁴⁰ McKeough and Stewart. *Op. cit.* 177.

⁴¹ See above.

⁴² McKeough and Stewart. *Op. cit.* 177.

⁴³ For example, the decision in the case of *Communications Associates Inc. v Sofiklone Distributing Corp.* (1987) 648 F. Supp. 1127. [see Hunter article *Computers & Law* No 16, p1 - Eds]

⁴⁴ *Arrhythmia Research Technology, Inc. v Corazonic Corporation* [1992] U.S. App. LEXIS 4202. This is the latest decided case on the issue and it strongly upholds the right to patent algorithms.

⁴⁵ Lane V.P. *Op. cit.* 11145.

⁴⁶ *Ibid.*



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