
Recent USA legislation may pose a danger for Australian Internet Service Providers

Stephen Lance, Summer Clerk & Brendan Scott, Senior Lawyer, Gilbert & Tobin

On October 28, 1998 President Clinton signed into law the *Digital Millennium Copyright Act*. The Act introduces new and specific categories of copyright infringement. In doing so, the Act purports to protect the normal operations of an ISP by giving them a set of regulatory requirements to fulfill. It provides that if an ISP implements an infringement management regime and complies with specific registration requirements with the USA Copyright Office, they will be protected against legal liability for certain types of copyright infringement specified in the Act. For example, under the Act, unauthorised transmission, routing or storage of material on line are now copyright

infringements. In the case of storage, a service provider will not be liable for material that resides in the system if they do not have actual knowledge or are aware of facts or circumstances from which infringing activity can be inferred.

Under the Act, ISPs must appoint a designated agent as a representative to receive notifications of claimed infringements. This means not only having the representative, but also making sure that the name, address, phone number, electronic mail address of that agent, and other information deemed appropriate by the Registrar of Copyrights, is available on line. ISPs must then send that information to the Copyright Office along with a \$20 filing fee. The

US Government's intention is to preserve the integrity of copyright management information on the Internet and protect the ISPs against prosecution. There is an extra obligation on the ISP to remove or disable infringing material if they receive a complaint in a specified form.

So what does this mean for Australian ISPs? There is no reason why a foreign ISP could not both be within the ambit of the Act and also take advantage of the exclusions offered under it, especially if they have infrastructure in the United States. Australian entities with infrastructure in the United States (even so much as a point of presence/interconnection) should seek advice on the Act.

Law On line—Electronic Journal Review

Suzanne Zyngier, Law Librarian, ALIA

In a world where we are inundated with information, at a time when knowledge is power, it is gratifying to see the emergence of electronic journals that cater for professionals who rely so heavily on accurate, current and authoritative information.

e-Law-On-Line is a new specialised e-mail bulletin for legal professionals, available only via the Internet by subscription. It is a monthly newsletter devoted to an exploration of the very best legal and related information on the Internet.

Although aimed at those who are new to using the Internet for Legal Research, even "old hands" will find many useful tips and hints in each issue.

The first four issues have covered the following topics:

- An exhaustive yet readable Internet Glossary
- Using AustLII without headaches
- Law Review Project – Searching Legal Journals on the Internet
- How Search Engines work and how to use them

Future issues plan to cover:

- Search Engines on the Internet, WebSite Finders
- Advanced Searching using Alta Vista

- Choosing an Internet Service Provider
- Mailing Lists and Newsgroups, Internet Conferencing and ICQ
- Corporate Law Electronic Network
- English Case Law on the Net
- Victorian Legislation on the Internet
- Advanced Searching using AustLII
- ScalePlus Legislation and Caselaw
- Osiris – Industrial Relations Database