
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

- Using Newspapers for Research

Each issue of *eLaw-On-Line* is over 1000 words, packed with information; WebSite addresses and tips about getting the best out of the World Wide Web in your legal practice. *eLaw-On-Line* is written without jargon and in a non-technical user-friendly language.

SANDZ Partners who have specialised in providing Strategic Information Services to the Law for over 12 years publish it. For the past 18 months they have also distributed to Barristers a highly specialised journal called *Law-On-Line*. The contents of *eLaw-On-Line* are an enhanced version of that journal, based on the experience of

personalised Internet training to the Law, including the Victorian Bar, the Department of Justice and many small to medium sized law firms.

eLaw-On-Line is available only by e-mail from Sandz Partners at sandz@labyrinth.net.au

Victorian Society for Computers & the Law—President's Report 1997–98

www.vscl.org.au

Delivered at Annual General Meeting Tuesday 15 September 1998

I thank you members of our Society for entrusting the presidency of the Society to me following the excellent work of my immediate predecessors Phillip Catania and before him, Gordon Hughes. I believe that we have together, with the hard work of a number of members I will mention later in this report, continued the development and enhanced the status of our Society.

On a subjective level I gain the impression that we are poised on the edge of providing clear leadership to the members of the legal profession in Victoria in this area of the law. When you review the activities of the Society I feel sure you will form the same judgement. On an objective note I report that we have close to 100 members but no significant increase on 1997.

Activities for 1997–98:

The main benefit for members is our series of monthly meetings. This year we have increased the number of meetings and well and truly maintained the quality of the presenters and the intellectual depth of our topics. By way of example our

topics ranged from new developments in copyright law (two seminars), Internet related topics such as taxation, encryption and security, and email (to-day). In addition Peter Searle with his lucid analysis of the use of Internet sites gave us access to a wide range of inexpensive sources of law. The challenging issue of liability of telecommunication providers was dealt with by another committee member, Kent Davey, and our last seminar concerned the issues of trademarks and the Internet.

All these meetings were fully attended and we often had the pleasant embarrassment of a shortage of chairs, numbers reaching some 80 odd on at least one occasion.

VSCL and University of Melbourne prize in computerised legal research.

The Committee co-operated with University of Melbourne Law School to award a prize in computerised legal research. Ron Huttner, lecturer in this subject, was pleased to announce the winner is Lin Kalanon who secured an outstanding 99% in the subject.

Other developments this year included revising our logo to a style which does not apologise for lawyers being involved in information technology matters and which your

committee believes represents a modern image while retaining the obvious visual association of law with computers.

Strategy meeting

Jon Kenfield our former treasurer and a consultant mediator, led the committee in a major session of analysis of the Society's goals and what should be done to achieve them. As one outcome we jointly arranged a recent successfully attended seminar with the Law Institute of Victoria on "E-commerce and the law".

Your committee considers we should work with other organisations to arrange seminars and generally build our profile. (We do need a person dedicated to the publicity of our activities among other similar bodies and the wider law and computer groups.).

VSCL future developments and tasks

Internet activities:

Obviously the Internet will be a major influence on the development of the practice of law and also on the development of your Society. We have been very fortunate through the assistance of Netjustice and Tony Beal our webmaster to significantly