

that the applicant expressly refused permission to OzEmail to use the unrevised version of Trumpet Winsock, and in so doing revoked any licence which OzEmail may have had in its defence. The court discussed the revocation of contractual licences and of bare licences, considering the possible requirement of "reasonable notice" in such cases, but went on to find that the licence in issue could be revoked at any time by Trumpet Software, and was in fact effectively revoked. In any event no question of reasonable notice could arise in the circumstances of this case because OzEmail was seeking permission for future use.

Terms of licence (if not revoked)

The court then considered the alternative issue of whether the terms of an implied licence (if not revoked), had been breached. It began by applying the analogous doctrine of implied contractual terms propounded by the Privy Council in

B.P. Refinery (Westernport) Pty Ltd v Shire of Hastings:

Such doctrine applies by analogy rather than directly because the licence under consideration was not a contractual one. But it must have some terms and conditions. In my mind the most rational approach is to apply the BP Westernport criteria. And the contractual analogy is a close one because the shareware licence would mature into a contract if a user were to effect registration. The evidence of computer experts I find of assistance, not as direct evidence of trade custom in the legal sense but as indicating how this particular trade operates and providing an informed background against which the BP Westernport criteria can be applied.

The court used expert evidence as to the nature of shareware together with the BP Westernport criteria to arrive at two particularly apposite criteria for the implication of a condition into an implied licence to deal with a

computer program which has been made available as shareware:

whether the supposed condition is necessary to give business efficiency, in the light of the fundamental purpose of shareware, which is that of evaluation, and whether it is so obvious that it "goes without saying". (Emphasis added)

Applying these criteria the court found it a condition of licence in the case of a distributor dealing with shareware, that the software be distributed in its entirety and without modification, addition or deletion:

The whole purpose of evaluation is to enable the end user to evaluate the product as produced by the author.

The court did not find it necessary for business efficiency however, and therefore not a condition of the licence, that the software be distributed separately from other software; nor that the distributor be denied a commercial gain.

Press Release

Green multi-functional fax doesn't compromise on features

Stuart Marks

The release of Pitney Bowes' latest Multi-Function Device (MFD), the model 9820, has combined the latest technology in fax with key environmental considerations.

It has answered the growing marketplace demand for a fully-features, business class fax machine with an array of multi-functional options.

The 9820 has also complimented the feature-rich product with a "green" theme. Being one of the few MFDs to be awarded Energy-Star status by the strict Environmental Protection Agency in the USA., it provides several benefits to the environment.

"Many corporate and government customers want modular, expandable office systems with the capability of performing a combination of tasks, including faxing, printing, scanning and copying," explains Sam Portolese, General Manager of Pitney Bowes Facsimile Division. "Customers are gravitating toward fax-based multi-functionality because fax is viewed as one of the most reliable methods to send urgent documents. Additionally, in both technology and price, fax systems are better suited for multi-functional capabilities over other single function products."

According to BIS Strategic Decisions, multi-function products will leap in

sales from 311,000 in 1994 to an estimated 7.2 million by 1999.

"Multi-functionality is the latest addition to the information management jungle," says Portolese. "A consultative, direct sales force is needed to advise companies on how to increase productivity by effectively integrating multi-functional fax units with existing fax and PC networks. Our sales force can help identify key areas, such as branch and satellite offices, that will create the greatest return on investment."

Pitney Bowes is embracing multi-functional technology because the highest quality capabilities are available at a cost effective price point.

Press Release

The model 9720, launched in November 1994, was the Company's first multi-functional fax unit. Now, the model 9820 offers multi-functionality combined with one of the industry's most productive fax machines, including 3 seconds per page scanning, multitasking, a 14.4kpbs modem, and proprietary protocols. It also offers unique efficiency and money-saving features designed to meet customers requests, such as the capability to retrieve documents automatically received in memory from any remote facsimile device.

The model 9820, however, is more than a superior fax machine - it's a printer, scanner, convenience copier and powerful PC-fax or LAN-fax solution.

Expanding on the environmental aspects of the product, Portolese pointed out that because of the nature of the beast, faxes of course have to be left on 24 hours a day. The 9820 incorporates a power-save feature to save energy between jobs, and can reduce up to 70% of annual electricity use. This translates to considerable savings for both small offices, and large ones with fax fleets.

The 9820 continues Pitney Bowes' *plain paper* fax strategy, and of course readily accepts recycled paper. Often thermal fax paper needs to be photocopied prior to filing. A plain paper fax preserves paper and copier toner by eliminating this process.

Finally, with respect to the environment, the optional Laserfax

software supports the 9820 two ways. It decreases the need to produce a hard-copy document to fax (it's estimated that 20% of all documents which are faxed have been created and produced to fax immediately). Portolese said it was important to note that "Companies which use Laserfax software in conjunction with the fast 9820 fax as a "front-end", get the best of both worlds. The software uses the intelligent hand-shaking protocol, fast transmission speed, and complex compression algorithms of the fax machine, rather than relying on a fax card in the PC. This, in turn, offers significant speed and cost savings."

The model 9820 also helps companies reduce fax associated telephone expenses with a 14.4kpbs fax modem. A 1995 US Gallup/Pitney Bowes study of Fortune 500 telecommunications managers revealed that the average annual fax-related telephone bill is \$US13.6 million. "The message behind these figures applies in Australia, and companies clearly need aggressive and effective fax management," says Portolese. "Companies can save as much as much as 50 per cent on their annual fax phone bill by upgrading fax networks and using faster machines, such as the model 9820. In addition to this, the strategic implementation of multi-functional fax units in key areas can double electricity savings by eliminating the need for a separate laser printer."

All Pitney Bowes facsimile products are backed by the Pitney Bowes five year service guarantee, and supported

by an extensive network of direct service representatives around Australia.

Pitney Bowes Fax Diagnostics Centre services the Asia-Pacific region from the North Ryde Head Office. Using sophisticated technology, the centre can remotely replicate fax problems over the telephone, and fix them in over 80% of cases. Most calls are resolved within 15 minutes of the initial call, and eliminate the need to send out a local technician on site.

Pitney Bowes is a multi-national Company with annual revenue of \$AUS4.5 billion. Pitney Bowes Australia employs 260 people in direct sales and service around the country, and provides a wide range of office equipment solutions. These solutions include SmartImage™ photocopier technology, and leading mailroom systems, as well as a variety of service and financial options. Pitney Bowes is also an Endorsed Supplier and has entered into a Fixed Term Agreement with the Australian Federal Government to create export opportunities. They are also a Quality Accredited Company.

For further enquiries contact

Glenn Gibson

Pitney Bowes

Ph: (02) 9934 3209

Fax: (02) 9934 3307