Following the interest in domain name issues generated by the *Computers & Law* articles on control of .org.au, emerging issues associated with the protection of domain names in China and cybersquatting (*Computers & Law* March 2002), as well as notes on the new domain name policy for open 2LDs and recent domain name litigation in Australia and the USA (*Computers & Law* June 2002), we are pleased to include in this issue of *Computers & Law* an excellent article by Rachel Garland and Lucy Davis of Corrs Chambers Westgarth titled *Resolving disputes in the .au domain space.* Rachel and Lucy discuss the recently implemented .au Dispute Resolution Policy or auDRP. As the authors point out, before auDRP was introduced, only the .com.au domain had any provision for an arbitration process in the .au domain space. Being voluntary, this arbitration process was largely ineffectual. The article discusses the old dispute resolution process for the .au domain, before turning to the new auDRP and highlighting their respective differences. This article makes an important contribution to the understanding of the new dispute resolution system in the .au domain space, a system that will have far-reaching consequences in legal and industry circles. Still on the domain theme, we have also included a very useful summary by Orana Catlin of Freehills on the new *Interim Transfers (Change of Registrant) Policy* released by au Domain Administration Ltd.

As subscribers will recall, the June 2002 issue of *Computers & Law* featured a detailed piece by Glen Sauer called *British Telecom lays claim to Hyperlinking* which outlined the background and arguments made in the hyperlinking patent case that was brought in the United States District Court in August 2002 by British Telecom against Prodigy Communications Corp. In this edition, Julian Lincoln of Freehills reports on the Prodigy's successful defence of that claim in his piece *BT loses in hyperlinking patent infringement action against Prodigy.*

The next article in this edition of *Computers & Law* is *Developments in privacy since 21 December 2001* by Catherine Rowe and Lisa Ritchie of Freehills. The article is based on the presentation *Privacy 6 Months On* given to the New South Wales Society for Computers and the Law on 11 June 2002. In the paper, Catherine and Lisa discuss developments in privacy regulation since the implementation of the private sector provisions in the Privacy Act 1988 (Cth) on 21 December 2001 and explore developments on the Australian and global privacy landscape, including the increasing public awareness of privacy, the importance of privacy to e-commerce, privacy in the post-September 11 environment and issues relating to the transborder transfer of personal information.

As we often hear, one of the continuing challenges for the law is to keep up with the rate of technological development - how can established legal doctrines operate in the new technological environment? In the next article in this issue, *'Consideration' and the open source agreement*, University of Sydney law student Ben Giles considers the difficulties raised by the traditional contract doctrine of consideration in the context of open source agreements, where software developers distribute their program to others and give each recipient a licence to copy, modify and re-distribute the program. Ben also discusses the operation of promissory estoppel as a potential way of avoiding the doctrine of consideration and concludes with a discussion on the status of, and implications for, open source agreements.

Katie Sutton, a graduate at Freehills, provides an interesting and topical article, *E-commerce and jurisdictional issues: an overview*, about the ways in which Australian law has adapted to facilitate e-commerce and the current uncertainty regarding questions of jurisdiction in that field. Katie considers the nature of e-commerce and its legitimate needs before turning to a general review of the "light-handed" approach taken by Australian governments in accommodating the two competing concerns of providing a comprehensive set of rules and not stifling innovation. Katie concludes that this light-handed approach, leaving room for the courts to develop precedent over time, does allow the necessary flexibility but needs to be coupled with a degree of international regulation to facilitate consistency. In considering issues of jurisdiction in e-commerce, Katie outlines the major streams of thought that have emerged before considering some of the legal and commercial responses. Katie concludes that we are moving towards a body of law that is both international and hybrid, combining elements of both private and public regulation.

Sandra Potter and Peter Moon's article *Guidelines for the use of technology in civil matters* provides a useful summary of the new guidelines issued by the Victorian Supreme Court under Practice Note 1 of 2002. The article compares the guidelines with the previous direction of the Court under Practice Note 3 of 1999. As the authors note, there have been a number of advances in the area of information technology and its use in legal practice, which have prompted the introduction of the new guidelines. In particular, the Court has established default standards to be used by parties if exchanging documents electronically. Full text copies of Practice Note 1 are available at the website of the Victorian Society for Computers and the Law.

In *Little guys in a big industry: independent artists and the copyright/ contract issue online*, Livia Fong Yan, a fifth year law student from the University of Sydney, examines the prevention of copyright infringement online with an unusual focus on the differing online copyright protection issues "big" or well known artists experience viz "small" or lesser known artists. Livia points out that discussion of online copyright protection and the balancing of copyright owners' rights with the public interest has long focussed on the big artists rather than the small artists, whose need is often to promote rather than to monopolise their work. Livia also looks at the differences between a legislative approach and a private ordering approach through contract law and

concludes that copyright lawmakers should take into account notions of contract in copyright legislation and, in order to preserve the interests of smaller artists and the public, also include provisions that limit the scope of freedom of contract so as to prevent monopolistic practices.

Finally, in this issue, we continue Daniel Sullivan's article on data retention. Part one of Daniel Sullivan's article *The EU Data Retention Debate* appeared in the June 2002 edition of *Computers & Law* and analysed the existing regime of data protection in the European Union and the groundwork for general, wide-scale data retention. The second and final part of Daniel's article discusses the campaign for data retention by European law enforcement agencies, arguments for and against data retention, the recently implemented European data protection directive and the balance between human rights and data retention.

We have been very impressed by the quality of submissions received and continue to encourage readers to submit articles and notes that may interest other subscribers. We would be happy to assist with suggested topics or comments on adapting presentations or other material. Please contact the editors in this regard. Members of the Victorian Society for Computers and the Law may also wish to get in touch with David Janson (David.Janson@vgso.vic.gov.au) for assistance.

Our thanks to the Computers & Law editorial assistant, Danet Khuth, and to the editorial team: Claire Elix, Rhys Grainger, Lisa Ritchie and Katie Sutton. Thank you also to David Janson for liaising with Victorian contributors.

We hope that you enjoy this issue of *Computers & Law*.