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## From the Editors

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Welcome to *Computers and Law* for September 2004. In this issue, we are pleased to present a range of interesting and topical material including articles on the recent changes to copyright legislation resulting from the Free Trade Agreement between Australia and the US (the FTA), developments in information technology aspects of defamation law, the current litigation risks associated with open source software and a US decision on the enforceability of browsewrap agreements. We also take a look at some of the more technical and business aspects of our profession with an overview of client relationship management software and a discussion of case-based reasoning retrieval information systems.

The FTA is an issue that has attracted considerable attention in recent months. The *US Free Trade Agreement Implementation Act 2004* (the Act) was introduced implementing a number of changes to Australian law required to give effect to the FTA. In our first article, Peter Knight, Paul Armarego and Francine Johnson provide us with a useful overview of the aspects of the FTA and the Act that relate to Australian copyright law. In particular, they discuss the provisions relating to the extension of copyright protection, intellectual property standards relevant to digital copyright material and conditional limitations on Internet Service Providers' (ISPs) liability for copyright infringement. They also set out provisions relating to encoded broadcasts and the changes made to strengthen enforcement of copyright infringement in Australia.

The issue of ISP liability arises in a number of contexts including, for example, in relation to copyright infringement as discussed in our first article. In our second article, Richard Potter takes a look at another area of law where ISPs are exposed to potential liability, namely, defamation. In particular, Potter sets out some of the newer means by which defamatory statements can be made such as "trolling", "flaming" and "blogging", and considers the potential for ISPs to be liable for these statements both under Australian law and in overseas jurisdictions. Potter also discusses the proposed changes to defamation law in

Australia that could address the issue of ISP liability, concluding that the proposed solution does little more than codify the existing state of the law.

In this issue we continue our look at all things open source with an article by Nick Abrahams and Alan Arnott. In their article, "How to Deploy Open Source in a Litigious Environment", Abrahams and Arnott consider the continuing trend among governments, both in Australia and abroad, to adopt open source software on a wide scale. They provide an outline of the current threat of litigation in the area of open source and set out some practical solutions for organisations seeking to minimise these threats.

Earlier this year, the US Court of Appeal for the Second Circuit upheld a preliminary injunction issued against an organisation for breach of browsewrap style terms and conditions. Leaellyn Rich provides an informative summary of this decision in her article "Good Rap for Browsewrap in USA". Rich explains that the Court in *Register.com Inc v Verio Inc* 356 F. 3d 393 (2d Cir. NY 2004) considered that Verio's repeated use of the Register.com website meant that it was fully aware of, and had accepted, the website's terms and conditions. The US Court of Appeal distinguished the case from earlier decisions in the US in which users were required to click an "I agree" icon for a contract to be formed. Rich also considers some of the implications of this decision for Australian law.

In the legal profession, our relationships with people play an important role in our work. In his article "The Business Case for CRM: Relationship Intelligence and its Benefits", John Lipsey considers the unique role that client relationship management (CRM) software plays in the legal environment and the benefits that it can have for a law firm. Lipsey considers how CRM assists law firms in understanding and managing their relationships with clients including in relation to cross-selling legal services, attracting new business and maintaining a law firm's reputation. Lipsey also considers how a CRM program can centralise a law firm's client relationship knowledge to avoid any gaps in knowledge associated with

lawyer turnover.

In our last article, "Legal Aid Case-Based Reasoning Retrieval Information Systems", Kevin Curran and Lee Higgins provide us with useful insight into the more technical aspects of legal research. Curran and Higgins explain that modern electronic legal research systems face two important but related challenges, namely, how to improve the efficiency of a lawyer's research tasks and how to make legal research systems widely and publicly available to lawyers. Curran and Higgins investigate some of the problems with electronic legal databases and argue that case-based reasoning principles can be used to tackle these problems. They argue that the efficiency and usefulness of legal research can be improved by indexing material according to the issues involved rather than on a keyword basis.

Our thanks this issue to our contributors for such a wide range of interesting and informative articles. Thanks also go to the *Computers & Law* editorial team, Melissa Lessi, Laura Seeto, Danet Khuth and, our editorial assistant, Margot Hunt.

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