

Welcome to the March edition of *Computers & Law*.

As anticipated, 2007 has so far seen a flurry of activity with many of our readers coming to terms with various industry and legislative developments including the practical application of the amendments recently made to the *Copyright Act 1968* (Cth).

In the December edition of the Journal, Catherine Bond's article "*More Convenient Copyright? The Copyright Amendment Act 2006*" provided insight into some of the broad ranging amendments to the *Copyright Act*. Catherine's article focused on two sections of the amendments of particular interest to the information technology sector, namely the "format-shifting" and "time-shifting" amendments.

Given that the amendments contained in the *Copyright Amendment Act 2006* (Cth) have continued to be the subject of great interest and discussion during early 2007, our first article in this edition considers one of the other keenly debated issues – the position taken with respect to caching of copyright material.

This first article is written by Prashant Khera of Minter Ellison. In general terms, caching is the process whereby a computer automatically reproduces copies of web pages in order to assist more efficient access by end users. The legality of caching has been the subject of ongoing debate for some time now. However, attention has again been drawn to this issue by the new section 200AAA which provides a specific exception to copyright infringement for certain caching by educational institutions.

Prashant charts the recent history of this debate as the *Copyright Act* has progressively been amended in this area by the *Copyright Amendment (Digital Agenda) Act 2000* (Cth) and the *US Free Trade Agreement Implementation Act (Cth) 2004*, and then goes on to consider what

conclusions can be drawn from the legislative position that now exists in 2007.

The author of our second article is Linh Tran, an Associate in the IT and Communications Group at Baker & McKenzie. Linh has investigated the intersection between VOIP and the Customer Service Guarantee. This has been the subject of some debate in early 2007 due to a proposal to remove certain VOIP services from the application of the Customer Service Guarantee. As Linh's article concludes, this raises interesting questions of what, if any, consumer protection safeguards are required in the rapidly expanding field of VOIP services.

Next is an article by Ben Fletcher considering a variety of approaches taken around the world, with respect to the question of reconciling traditional taxation touchstones such as place of residence with the "borderless" world of e-commerce. Ben considers a number of successful (and less successful) responses to this issue in a number of jurisdictions along with the role of cross-jurisdictional cooperation in making any regime effective.

Ryan Grant is our next author. Ryan's article takes the form of a case note on the decision in *eBay International AG v Creative Festival Entertainment Pty Limited* [2006] FCA 1768.

This case concerns efforts taken by the organisers of the annual music festival, the Big Day Out, to address problems with online ticket scalping.

As the Big Day Out tickets in question were sold through a number of different sales channels (both online and through face-to-face shop fronts), this case provides a useful comparison of the legal analysis used to determine the terms and conditions forming part of the relevant contract in each instance.

On a final note, I would like to thank Kim Glew for all of her assistance in putting together this edition.

Enjoy reading and all the best until next time.