

Welcome to the March edition of *Computers & Law* - the first edition for the year and my debut edition as the new journal editor. I am looking forward to taking on this new role and would be interested to hear any feedback that you may have or interesting topics that you would like covered in the next edition of the journal.

I would like to take this opportunity to say thank you to Claire Elix and Laura Seeto, our previous journal editorial team for their help and support in transitioning over the role of journal editor. They have clearly done a fantastic job of editing the journal over the last 2 years and I hope to maintain the high standard that they have set.

I am pleased to continue the coverage of computer and law issues in this edition. The topic of choice for articles in this edition appears to be contracting with the government for the supply of information communication and technology (ICT) goods and services, with two articles being written on that topic.

Our first article is by Peter Mulligan and Robert Neely. Peter and Robert take a closer look at the legal issues relating to selling ICT to the Federal Government, including Federal procurement policy and legislative requirements, the Endorsed Supplier Arrangement, the Government Information Technology & Communications (GITC) framework and the Federal Government review of the GITC framework. The article also covers the Federal Government review of liability provisions in ICT contracts, the whole of government review of Federal Government IP management, the Commonwealth IT IP Guidelines and the Whole of Government Telecommunications Arrangements. This is a highly topical area at the moment, given all the changes occurring at the Federal level. It is also a timely reminder to ICT suppliers of the minefield of legal issues which need to be considered when supplying ICT to the Federal Government market.

The second article written by Catherine Bond looks at a completely different topic, the new and latest fad - the iPod. In her article, Bond discusses the problems of copyright infringement created by the Apple iPod and the various methods that have been proposed to combat this problem, including the introduction of the "iPod tax" - which has actually already been introduced in a number of countries. It is Bond's suggestion that, rather than introducing a levy on iPods and other technology the approach should be that a new "fair use" or "fair dealing" provision should be enacted into the legislation. This approach is currently being considered by the Attorney General's Department in its review of the *Copyright Act 1968* (Cth).

Next, Adam Louka provides a brief explanation and overview of the NSW Government's information technology procurement framework, 'Procure IT'. Procure IT attempts to simplify the contracting process, increase efficiency and subsequently decrease the costs involved for the contracting parties in negotiating with the NSW Government. ProcureIT replaces the 'Government Information Technology Condition'. This article also outlines the NSW Government's Code of Practice for Procurement and the consequences for breaching that Code.

The fourth article is written by me - it looks at the spyware phenomenon - what it is, how your PC can become infected, the consequences of spyware and the availability of legal recourse for individuals that are affected by spyware. Interestingly, the Minister for Communications, Information Technology and the Arts, Senator the Hon Helen Coonan released a media statement on 1 September 2005 indicating that existing legal protection is sufficient to cover malicious uses of spyware. Rather than spyware being a legal problem, the view has been taken that there is a great need to educate the public about the threat of spyware and practical ways to stop that threat. Perhaps after reading the article, you can draw your own conclusions as to whether this is

the correct approach. The article is based on a longer paper that was recently published in the *Journal of Information, Law and Technology* and co-authored by Yee Fen Lim, Associate Professor, Department of Law, Macquarie University: Howard and Lim, "I Spy with My Little Eye - Taking a Closer Look at Spyware" 2005 (2) *The Journal of Information, Law and Technology* (JILT).

Our final article is by Katherine Giles who has examined the recent Standing Committee of Attorneys-General discussion paper, *Unauthorised Photographs on the Internet and Ancillary Privacy Issues* (Discussion Paper), in light of the issues that it raises for artists and photographers in Australia. The article looks at the current restrictions on the taking of unauthorised photography and the legal developments in other jurisdictions. There is also an examination of the affect any changes to the current laws in Australia may have on photographers, particularly those that work in the genre of street photography, with reference to the submission made by the Arts Law Centre of Australia in response to the Discussion Paper. The article concludes with recognition of the balancing act that must take place between freedom of expression, privacy and intellectual property.

Please note that the article "Identity management and the application of biometric technology" by Anne Trimmer published in our December 2005 edition was written with the assistance of Li Yen Ng.

Finally, thank you to Lucinda Yeung for all her hard work in helping put together this edition of the journal and to my other colleagues at Mallesons for their support in assisting with getting this edition out to you! Until next time, enjoy.