Welcome to the June issue of *Computers & Law*. In this issue, we have been able to include articles and notes on a range of interesting topics but with a particular focus on software issues – including the protection of software invented by university faculty, protection of software against copyright infringement and open source GPL software licences. Readers may also have noticed that we are including contact details for the various state and New Zealand computers and law societies to encourage readers to join their local society and be involved in society activities.

Gordon Hughes (former president of the Victorian Society for Computers and the Law) provides a very useful summary of some of the key recommendations of the Commonwealth Parliamentary Committee report on the management and integrity of electronic information. The recommendations Hughes discusses focus on IT outsourcing contracts and the Commonwealth government's "Gatekeeper" strategy regarding the use of public key technology and the security of electronic transactions between Commonwealth agencies and users and open source software. The IT outsourcing recommendations relate to the inclusion of certain provisions in outsourcing contracts to ensure the protection of Commonwealth data – although the recommendations raise issues for private-sector IT outsourcing as well. Hughes' discussion of "Gatekeeper" and PKI and his commentary on the recommendations will also be of great interest to IT lawyers with public and private-sector focuses.

Protecting copyright in software is an issue that attracts much attention. While much is made of the fact that an effective protection strategy needs to be both legal and technical, legal commentators frequently gloss over the detail of available technical protection strategies and technical commentators assume a level of programming familiarity which a general audience may not possess. *Enhancing Software Protection with Poly-Metamorphic Code* by Stephen Yip and Qing Zhao is written from a computer science / infomatics perspective but fills the gap between legal and technical commentaries with its very accessible overview of various software-based protection measures. Yip and Zhao, who are from the University of Northumbria at Newcastle (United Kingdom) explain basic debugging and de-assembling strategies (or "cracking" tools), and the steps taken in their use. The authors then provide a detailed exposition of the advantages of metamorphism and poly-metamorphism for software protection. Their conclusion is that legal protection combined with existing software protection mechanisms is insufficient to prevent copyright infringement and that the use of poly-metamorphic code would greatly enhance software protection. The authors are currently working on a poly-metamorphic engine and plan to make it available to researchers and software producers.

Ken Shiu provides an insightful commentary on the benefits and risks associated with the outsourcing of business process operations and software development to lower cost countries ("offshoring") in *Outsourcing: Are you sure or offshore?*. Shiu outlines these benefits and risks in the context of some of the most common offshoring structures including standard third party supplier outsourcing contracts, establishing a foreign subsidiary, setting up a joint venture with an offshore service provider and BOOT arrangements. The article also deals with the main legal concerns associated with offshoring, including protection of intellectual property, the HR/industrial relations sensitivity associated with "moving jobs offshore", data protection and other industry-specific regulatory concerns. Shiu also points out that by engaging an offshore service provider, practical issues of contract enforcement and dispute resolution will take on an international flavour and must be considered by the customer in advance. Shiu concludes that despite the much-hyped cost savings that may be associated with offshoring, it is vital to give proper attention to security and compliance processes it and may even be appropriate to commence with pilot projects or projects with lower operational risk before a large-scale offshore outsourcing initiative is implemented.

Following on from Ben Kremer's article in the March 2004 issue of *Computers & Law* (*Open-Source Software: What is it and how does it work*?), we are pleased to include Kym Beetson's case note on the Sitecom decision heard by the Munich District Court. This decision (on which an appeal is pending) saw the Court require Sitecom (who had developed a product using certain Linux-derived open source software) to comply with the terms of the GPL thereby affirming its contractual validity. Again following up a recent *Computers & Law* article (*Peer-to-Peer Filesharing Networks: The Legal and Technological Challenges for Copyright Owners*), we also have a case note by Melissa Lessi and Sydney Birchall on a Federal Court of Canada decision regarding internet music trading and the liability of the file-swappers' ISPs. Melissa and Sydney give a very useful summary of the decision and the Canadian copyright legislation which grounded it and follow with an analysis of the potential implications for Australian law.

In *Internet Keyword Advertising and Trade Mark Infringement – Searching for Trouble*, Nicholas Tyacke and Rohan Higgins from Clayton Utz explain the increasing efforts to tailor internet advertising to the keyword the individual uses in an internet search engine and the trade mark infringement problem this potentially creates. Tyacke and Higgins survey decisions from the United States, the United Kingdom, France and Germany and compare the various approaches taken by the courts deciding cases against search engine operators and advertisers, with particular emphasis on the United States *Playboy* decision and the UK *Reed* decision. The author's conclusion is that when the issue comes before an Australian court, it is likely that the court will follow the example of the UK precedent and be less likely to find trade mark infringement (or passing off) than the US courts (on the basis of the US doctrine of initial interest confusion).

Back to School over Ownership of Faculty Invented Software by Nathan Archibald examines a recent decision on IP rights in the context of a dispute between a university employer and university faculty staff. As Archibald points out, the issue is likely to remain topical given the increasing pressure within the university sector to find commercial funding and is one that needs to be addressed by universities in a practical sense (for example, by ensuring that internal processes are followed with regard to implementing IP policies), as well as a purely legal one.

Our thanks to the *Computers & Law* editorial team Melissa Lessi and Lisa Ritchie as well as to Margot Hunt, our editorial assistant.

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