



PO Box 529  
Collins Street West VIC 8007  
Australia

ph: +61-3 9016 0047  
fax: +61-3 9537 2456  
email: [legal@boldenlawyers.com.au](mailto:legal@boldenlawyers.com.au)

[www.boldenlawyers.com.au](http://www.boldenlawyers.com.au)

ABN 19 931 598 590

## INFORMATION TECHNOLOGY

Information Technology ("IT") is still very much alive, despite the global financial crisis.

Bolden Lawyers have been actively involved in helping website development and internet consultancy businesses, have provided substantial assistance to clients with legal advice, contract negotiation and drafting in this area, and have acted for an international internet registrar. We can help you to resolve the full range of problems and opportunities that can arise in this complex area, including website development, software development and licensing.

The ongoing pace of technological change means that the law in this area is changing rapidly in an effort to keep up with new developments in technology. Bolden Lawyers are uniquely placed to advise and assist you in the area of IT law.

Some of the developments over the last few years include:

- The Copyright Act was amended to:
  - Introduce a technology-neutral right of "communication to the public",
  - enable Internet Service Providers ("ISPs") to make temporary reproductions in the course of their business without infringing copyright,
  - introduce criminal sanctions for altering management rights information or dealing in copyright circumvention devices, and
  - modify the definition of "computer programs".
- The Electronic Transactions (Commonwealth) Act 1999 and similar legislation in Victoria and NSW, designed to facilitate e-commerce by enabling use of digital signatures and electronic communication for online transactions.
- Changes to the Privacy Act which dramatically affect the way businesses with a turnover of \$3 million or more store, manage and use personal information relating to staff, suppliers, clients and contacts.
- The Cybercrime Act 2001 (Cth) created a whole range of computer offences and electronic communication offences (including hacking, denial of service attacks and virus propagation).

Whether you are doing transactions online, or simply creating software or a website, we can help with advice, negotiation or drafting agreements. Some of the issues you should consider and set out in properly drafted agreements, disclaimers or conditions of

use, are:

- Who owns the intellectual property in the website and the software?
- Do you own or are you licensed to use any trade marks shown or used? Any trade marks should be shown with the <sup>TM</sup> or ® symbols and properly acknowledged.
- If a website or software is being developed, what are the fees and charges, and are there any requirements for ongoing user charges?
- Who is responsible for providing support and maintenance, and at what level?
- What are the terms and conditions of use of the software or website, and is there a disclaimer restricting liability?
- Will users be confused, misled or deceived in any way, and is there any breach of the Competition & Consumer Act (Cth) 2010?
- Have consents to any linking or framing of web pages been obtained?
- Does the website or software comply with the laws of all target countries in which it may be seen, and are the target regions clearly stated?

Bolden Lawyers can help you to maximise the benefit you can get from Information Technology. Our aim is to help you to take advantage of opportunities that you might not otherwise have been able to, and by doing that, add value to your business. If you need assistance or advice on any of these matters, please do not hesitate to contact our office.

### **Bolden Lawyers**

PO Box 529

COLLINS STREET WEST VIC 8007

Telephone: (03) 9016 0047

Facsimile: (03) 9537 2456

Email: [legal@boldenlawyers.com.au](mailto:legal@boldenlawyers.com.au)

Web page: [www.boldenlawyers.com.au](http://www.boldenlawyers.com.au)

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