

Employment Update

Copyright (Infringing File Sharing) Amendment Act 2011

A new law which sets out procedures and penalties for those breaching copyright by online file-sharing has been in force for several months now. The changes to the Copyright Act created a “three-strikes” approach whereby if the holder of an internet account is found to have breached copyright three times they can be fined up to \$15,000 or have their internet account cancelled altogether.

For some time it seemed that the provisions would remain unused, as copyright owners were not alerting the Internet Protocol (IP) Address Provider that infringements had taken place. However, several infringement notices have recently been issued with the strong possibility of more to come as copyright holders get used to the process.

This is important for employers as the liability under these provisions falls on the account-holder not the individual user. If an employer’s business depends on employees using computers, it is critical that they have an unambiguous internet/email policy in place which their employees are familiar with. If it is impractical for an employer to block downloads on their system altogether, employees should be made aware of the policy that file-sharing copyright works (e.g. music, movies, television shows, computer games etc) is strictly prohibited on work computers or the work internet account.

A clear internet/email policy is important for other reasons as well. The steady rise in popularity of social networking can impact on an employer through lost productivity or potentially derogatory/defamatory “posts” on sites such as Facebook. Recent cases also show that if an employer allows an undefined degree of personal use of work computers then they may find that the employee develops an expectation of privacy over the personal content of the employer’s hard-drive or email account. It is also important to regulate what an employee can send out on their company email address (as a representative of the employer).

Jackson Russell can provide you with advice about your rights and obligations in dealing with employees who have misused your computer system. We can also help you to formulate a computer use and internet policy or to review the effectiveness of your current policies.

Jackson Russell Employment Specialists –

**Glenn Finnigan, Partner
Simon Davies-Colley, Solicitor**

For specific advice

If you have any questions or would like assistance with these or any other legal matter then please let your usual Jackson Russell contact, or Darryl King, Partner (Business Law); Glenn Finnigan, Partner (Employment); Mark Sullivan, Partner (Dispute Resolution and Insurance)

Disclaimer

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