

Online TMT News

Website Blocking legislation & other news

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Website Blocking Bill passed by both houses with Committee report amendments

On 22 June 2015, the Senate passed the *Copyright Amendment (Online Infringement) Bill 2015* (Cth). The Bill establishes a new regime for the Federal Court to grant injunctions against ISPs requiring ISPs to take reasonable steps to disable access to an online location (eg, a website) operated overseas, the primary purpose of which, is to infringe or facilitate the infringement of copyright.

A recent report by the Senate Legal and Constitutional Affairs Legislation Committee recommended that the Bill be passed subject to some recommendations. The Bill has since passed the Senate and includes a significant Committee recommendation. The recommendation adopted relates to various factors (eg, the flagrancy of the infringement or facilitation of infringement) which a Court was required (under the Bill as originally drafted) to take into account in determining whether to grant an injunction against an ISP. As amended, a Court will have a discretion as to which of the relevant factors it will actually take into account in making that determination. The Committee made this recommendation because it considered that the section in its original form "may be too prescriptive in requiring the Court to consider all the listed matters in every application for injunctive relief under section 115A. The Committee takes the view that the Court should be able to exercise discretion in identifying the salient features of each matter on a case-by-case basis".

- View [Bill as passed by both houses](#)
- View [the Committee's report here](#)

Former employer seeks return of all confidential information

Decision in *International Warehousing Distribution Pty Ltd & Anor v Trail* [2015] FCCA 1608

On 14 May 2015, the Federal Circuit Court of Australia in the case *International Warehousing Distribution Pty Ltd & Anor v Trail* [2015] FCCA 1608 ordered the respondent, Mr Justin Trail, to provide certain materials to an independent forensic specialist engaged by the applicant, International Warehousing Distribution Pty Ltd (**IWD**). These materials include Mr Trail's iPhone, his iPad and password for his email account "justintrail@gmail.com". The expert is to provide the applicant's solicitors with a list of the documents found and further, a confidentiality regime is to be put in place.

The applicant's statement of claim pleads that an employment contract was entered into on 27 July 2012 between the respondent and his former employer, the applicant, which included a term that upon termination of

the employment relationship, Mr Trail would return all confidential information to IWD. The statement of claim further pleads that Mr Trail sent IWD's confidential information and literary works to his personal email account on 13 June 2013 and thereafter, on 26 June 2013, he resigned from IWD and started work with its competitor. Mr Trail in his defence claims that he sent the emails to himself for work purposes and destroyed them on 12 July 2013. The matter is listed for hearing before Judge Whelan from 28 to 30 October 2015.

- View [the decision here](#)

ACCC seeks further information to determine if proposed acquisition of iiNet by TPG affects competition

On 11 June 2015, the Australian Competition and Consumer Commission (**ACCC**) released a Statement of Issues outlining ACCC's preliminary views on the proposed acquisition of iiNet Ltd (**iiNet**) by TPG Telecom Ltd (**TPG**) and its lines of further inquiry in relation to the issue. It is said that the proposed acquisition would "combine two of the five largest suppliers of fixed broadband in Australia". The ACCC considers that acquisition of iiNet may result in a substantial decrease in competition therefore leading to higher prices or decline in quality of non-price offers, including customer service. However, it notes that it is unlikely that the acquisition would raise competitive concerns in other markets, including supply of wholesale transmission, mobile broadband and voice services. ACCC Chairman Rod Sims notes that consumers' submissions reflect their concerns that reduction in competition from the proposed acquisition will lead to decline in the customer service levels. The ACCC has invited further submissions from interested parties in response to its Statement of Issues by 2 July 2015 and its final decision will be released on 20 August 2015.

- View [ACCC's Statement of Issues here](#)

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