

78 Sidaway St
Chapman ACT 2611
AUSTRALIA

18 January 2008

Mr Bruce J. Akhurst
Group Managing Director
Telstra Media Services and CEO Sensis Pty Ltd
242 Exhibition St
Melbourne VIC 3000

cc. Mr T. O'Callaghan
Piper Alderman
167 Flinders St
Adelaide SA 5000

Dear Mr Akhurst

Re: Use of the Term 'Yellow Pages'

I have received a letter dated 18 December 2007 from a partner of a law firm who purports to be acting on your behalf and requests that I insert a symbol into a web-page. The letter was incorrectly addressed to the facilities provider rather than to the content provider, and hence took nearly a month to reach me.

The web-page in question dates from 1995, and has not been amended since March 1996.
See: <http://www.anu.edu.au/people/Roger.Clarke/ISRes/AISPlug>

It offered a directory of 'Electronic Communications Resources' for Information Systems (IS) Academics across the world, through the international Association for Information Systems. In a section entitled 'Ways of Finding IS People and IS Departments', it included text and hot-links as follows:

"For more general resources, try:

- the world fax number directory;
- Telstra's (Australian) White Pages;
- Telstra's (Australian) Yellow Pages (the first commercial yellow pages in the world on the net)."

The web-site as a whole contains a couple of thousand pages, and has accumulated something approaching 25 million hits; but the hit-count on this particular page has contributed a minuscule proportion of them, and most recent hits would doubtless be merely search-engine robots.

I find it absolutely extraordinary that your company would fund a partner in a law firm to waste time and money searching out harmless web-pages and writing 'nastygrams' of this kind – energy that could instead be invested in improvements to the product.

The lawyer's letter failed to provide a precise, or indeed any, explanation in terms of Australian copyright legislation and case law, of what asserted rights the lawyer is seeking to exercise on your behalf and how it is claimed that those rights are being breached.

The use of the term on the web-page is quite general. There is no evidence that it has been used in a manner likely to cause confusion to the public, nor of any attempt to appropriate the term, nor to benefit commercially or otherwise from its use, nor to denigrate the IP owner. In fact it promotes your site, and speaks in a complimentary manner about it.

Under the circumstances, the letter is not only inappropriate, but intimidating and oppressive.

Yours sincerely

Roger Clarke

Tel: +61 2 6288 6916 or 6288 1472

Web:

Email: Roger.Clarke@xamax.com.au
<http://www.anu.edu.au/people/Roger.Clarke/>