

l'Association canadienne du droit  
des technologies de l'information



Canadian IT Law Association

**Presents**

**The Eleventh Annual  
Canadian IT Law  
Association Conference**

**October 18–19, 2007  
Fairmont Waterfront  
Vancouver, BC**

**This brochure is available in French on our website at  
[www.it-can.ca/pdf/ConfBroch07-FR.pdf](http://www.it-can.ca/pdf/ConfBroch07-FR.pdf).  
The language of the program will be in English.**

**8:00–9:00 AM**

**Registration & Continental Breakfast**

Hosted by: Bereskin & Parr

**9:00–9:15 AM**

**Opening Remarks & Welcome**

**Co-Chairs:**

Sunny Handa, *Blake, Cassels & Graydon LLP*

*McGill University, Faculty of Law (Montréal)*

Valerie C. Mann, *Lawson Lundell LLP (Vancouver)*

**9:15–10:45 AM**

**Information Technology IP Annual Update**

**Moderator:**

Daniel R. Bereskin, *Bereskin & Parr (Toronto)*

This panel will focus on recent developments and emerging issues associated with intellectual property related to information technology. This annual review of intellectual property issues is an important update for IT lawyers and this year, the panel will highlight the following topics:

**Trademarks & Domain Names**

**Speaker:** Bradley J. Freedman,

*Borden Ladner Gervais LLP (Vancouver)*

Update of recent case law and statutory developments regarding trademarks in Canada and a summary of decisions regarding .ca domain name disputes.

**Patents**

**Speaker:** Michael Manson, *Smart & Biggar (Vancouver)*

Update of recent case law as well as a comparative review of protection for business method patents in Canada, the USA and Europe. The session will also cover some patent litigation strategies in Canada versus the USA.

**Copyright**

**Speaker:** Eve Munro, *Miller Thomson LLP (Vancouver)*

Update on current issues in copyright law including an update on copyright reform; intellectual property issues in bankruptcy reform; the convergence of copyright law and technology as well as a review of important recent copyright decisions.

**10:45–11:00 AM**

**Networking Break**

Hosted by: Fasken Martineau DuMoulin LLP

**11:00 AM–12:30 PM**

**Roundtables Set #1 (Roundtables 1, 2, 3, 4)**

**12:30–2:00 PM**

**Luncheon & Guest Speaker**

Hosted by: McCarthy Tétrault LLP

**Keynote Luncheon Speaker:** Leonard J. Brody,

*CEO and Co-Founder, NowPublic, Best Selling Author and Venture Capitalist (Vancouver)*

**2:15–3:45 PM**

**Roundtables Set #1 (Roundtables 1, 2, 3, 4)**

**3:45–4:00 PM**

**Networking Break**

Hosted by: Fasken Martineau DuMoulin LLP

**4:00–5:30 PM**

**Going Global: IT Transactions Around the World**

**Moderator:**

Robert A. Fashler,

*Gowling Lafleur Henderson LLP (Vancouver)*

**Speakers:**

Ingmar Borgers, *Senior Counsel,*

*Oracle Corporation (Toronto)*

Robert P. Ellis, *Vice President and Assistant General*

*Counsel, Celestica Inc. (Toronto)*

Cheryl Slusarchuk, *McCarthy Tétrault LLP (Vancouver)*

Information technology transactions are increasingly international bringing with them complex IT legal issues and strategic business considerations. This panel will review those issues in the context of typical global IT transactions. In particular, the panel will draw on its expertise in global licensing agreements, outsourcing to Asia and international IT acquisitions. The panel will provide tools to navigate the additional challenges of managing an international IT transaction including dealing with divergent legal systems and complex bureaucratic regimes.

**5:30 PM**

**IT.CAN Annual General Meeting**

**(For all IT.CAN members)**

**5:45 PM**

**Cocktail Reception**

Hosted by: Smart & Biggar

**7:15 PM**

**Ticketed Dinner (See details on registration form)**

Hosted by: Gowling Lafleur Henderson LLP

**Al Porto Ristorante**, 321 Water Street, Vancouver

**8:00–9:00 AM**

**Keynote Breakfast**

Hosted by: Ogilvy Renault LLP

**Keynote Breakfast Speaker:** David Loukidelis,  
*Information and Privacy Commissioner for  
British Columbia (Victoria)*

**9:00–10:30 AM**

**One Platform – Convergence Issues for IT Lawyers**

**Moderator:**

Duncan C. Card, *Bennett Jones LLP (Toronto)*

**Speakers:**

Michel E. Belec,

*Associate General Counsel, Telus (Burnaby)*

Michael Philips, *Associate General Counsel, Unified  
Communications Group, Microsoft Corporation  
(Redmond, WA)*

Andrea L. Wood,

*Executive Vice President & General Counsel, Alliance  
Atlantis Communications Inc. (Toronto)*

With the increasing pace of convergence bringing together telecommunications, broadcasting and computing, IT lawyers have to integrate legal issues that affect each of these platforms when planning, structuring and executing convergence transactions. This panel will review convergence from a variety of standpoints including telecommunications and broadcasting and the legal issues and challenges including: content management and protection, new distribution platforms, broadcast vs. broadband, data protection and security, regulation vs. deregulation among others.

**10:30–10:45 AM**

**Networking Break**

Hosted by: Fasken Martineau DuMoulin LLP

**10:45 AM–12:15 PM**

**Roundtables Set #2**

(Roundtables 5 (AM only), 6, 7, 8, 9)

**12:15–1:45 PM**

**Luncheon & Guest Speaker**

Hosted by: Borden Ladner Gervais LLP

**Keynote Luncheon Speaker:** Andy Platten,  
*VP Technical Infrastructure, VANOC (Vancouver)*

**2:00–3:30 PM**

**Roundtables Set #2 (Roundtables 6, 7, 8, 9)**

**3:30–3:45 PM**

**Networking Break**

Hosted by: Fasken Martineau DuMoulin LLP

**3:45–5:15 PM**

**Video Gaming: A New Frontier of Converging Law**

**Moderator:** Sunny Handa, *Blake, Cassels & Graydon LLP/  
McGill University, Faculty of Law (Montréal)*

**Speakers:** Joshua Fairfield, *Associate Professor of Law,  
Indiana University School of Law (Bloomington)*  
Jonathan B. Festinger,  
*EVP, Orca Bay Sports & Entertainment (Vancouver)*

The panel will explore the myriad of legal issues involved in the rapidly developing area of both video game law and law governing the rapidly expanding ‘virtual worlds’ industry including: legal analysis of end user license agreements, the overlap of virtual property and IP issues, communications law, obscenity, defamation and freedom of expression, licensing & piracy, and the potential for tort liability. The speakers will also consider the future directions of virtual worlds, video gaming, and interactive television.

**5:15 PM**

**Closing Remarks**

**5:30 PM**

**Closing Wine & Cheese Reception**

Hosted by: Goodmans LLP

Please join us for a wine & cheese reception as we close the 11th Annual IT.CAN Conference and look forward to next year’s program in Halifax, Nova Scotia, October 2008.

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Canadian IT Law Association

### 1. Managing Risk in Online Contests: Not Just Fun and Games

#### Speakers:

Marie-Hélène Constantin,  
*Blake, Cassels & Graydon LLP (Montréal)*  
Arlan Gates, *Baker & McKenzie LLP (Toronto)*  
Brian Makse, *President,*  
*Upshift Marketing Group (Toronto)*

The online environment presents many unique legal and practical issues for advertisers running promotional contests. Today's online contests are typically sophisticated and complex, integrating technologies such as SMS text messaging and user generated media. This roundtable will survey the key legal issues that arise in online contests under criminal, advertising, consumer protection, contract, and privacy laws. The speakers will also discuss strategies for risk management in such areas as contest structure, information disclosure, jurisdiction, fraud, and viral marketing. Case studies will be used to demonstrate best practices and avoidable disasters.

### 2. Fighting It Out: International IT Arbitration & Litigation

#### Speakers:

Jeffrey S. Ross, *Managing Counsel, Oracle Corporation*  
*(Burlington, MA)*  
Peter Ruby, *Goodmans LLP (Toronto)*  
Amy-Lynne Williams, *Deeth Williams Wall LLP (Toronto)*

Despite well-drafted agreements, best efforts and good counsel, disputes can escalate to litigation or arbitration. This session will examine new developments with respect to the resolution of international disputes in the IT sector. Some of the key topics to be discussed include: litigating against your customers and competitors; dealing strategically with the nightmare of eDiscovery; the enforcement of foreign injunctions in Canada; and identifying on-line wrongdoers.

#### Sponsored by Bennett Jones LLP

### 3. Data Protection and IT Transactions

#### Speakers:

Stephen D. Burns, *Bennett Jones LLP (Calgary)*  
Martin P.J. Kratz, *Bennett Jones LLP (Calgary)*

Working through case studies and real-life examples, participants will develop the knowledge and skills they need to help their clients recognize, evaluate and ensure compliance with mandatory privacy regulation. This roundtable will focus on practical solutions and provide a review of some of the latest decisions from the Federal and Provincial commissioners and the courts as well as providing tips for management of the privacy issue in contested outsource transactions and the special considerations of privacy in an e-commerce environment.

#### Sponsored by MacLeod Dixon LLP

### 4. The Convergence of Minds: Social Computing, Crowdsourcing and Wikinomics

#### Speakers:

Anthony Morris, *MacLeod Dixon LLP (Calgary)*  
Michael Sikorski, *CEO, Cambrian House (Calgary)*

This roundtable will review the business models behind social computing and the associated legal challenges including content management, privacy, contract content and management (for remunerated submissions) and other legal issues regarding the integrity of user generated content. It will also include a presentation by a leading "crowdsourcing" website provider Cambrian House.

**Join IT.CAN and stay current on all the latest developments in information technology law.**

**Our members benefit from:**

- **A bi-monthly English Newsletter and monthly French Newsletters**
- **Six Ad Hoc Committees: Outsourcing, Privacy, e-Commerce, Private Equity, Interactive Media and Litigation**
- **The lunchtime Roundtable teleconference series on current IT law issues**
- **Lower registration fees for the Annual IT.CAN Conference and the Spring Training Program**
- **Networking with IT Law colleagues from across Canada .... and more.**

### 5. Internet Gaming: Gambling with Your Freedom

This session will be run once only on Friday morning.

**Speakers:**

C. Ian Kyer, *Fasken Martineau DuMoulin LLP (Toronto)*

Scott F. White,

*President & COO, Parlay Entertainment Inc. (Toronto)*

The role of Canadian online gambling companies and companies offering related services will be explored in this roundtable. Various issues will be discussed including: the impact of the legislation and enforcement efforts in the USA; the new consumer protection legislation in Ontario; the impact of the implementation of the UK legislation; and the legality of First Nations licencing of online gambling in Quebec and Alberta.

### 6. Lawful Access & Privacy: Where do we Stand Currently?

**Speakers:**

Michael Geist, *University of Ottawa Law School (Ottawa)*

Marc A. Tremblay, *Ogilvy Renault LLP (Montréal)*

**Special Commentator:**

David Loukidelis, *Information and Privacy Commissioner for British Columbia (Victoria)*

This roundtable will review proposed lawful access provisions and consider whether they make sense in the current environment. The panelists will discuss how to reconcile privacy considerations with security requirements; what is the appropriate level of access by law enforcement officials; and what further steps should be taken to protect privacy? They will also look at legislative reforms to mandate changes to user agreements by ISP's to establish broader monitoring rights.

### 7. Outsourcing: Best Practices and Current Trends

**Speakers:**

Bradley Limpert, *Gowling Lafleur Henderson LLP (Toronto)*

Richard Pearce, *Senior Counsel-TSG Canada,*

*Hewlett-Packard (Canada) Co. (Toronto)*

Faeron Trehearne,

*Managing Counsel, TD Bank Financial Group (Toronto)*

This roundtable will look at current trends and suggest best practices in commercial outsourcing contracting with a particular focus on negotiating contract clauses such as SLA's and price adjustment clauses (benchmarking, gain sharing, etc.). Revenue recognition principles that may arise from

such clauses will also be discussed. In addition, the session will examine human resource issues and best practices with respect to terms and conditions in off-shoring and cross border processing. Finally, there will be a discussion about limitation of liability for privacy and security breaches and for IP infringement.

### 8. Recent Developments in Open Source Software

**Speakers:**

Eric Smith, *Fraser Milner Casgrain LLP (Ottawa)*

Michael Michalyshyn,

*General Counsel, QNX Software Systems (Kanata)*

Though no longer a novelty, many companies are still struggling with how to integrate and manage the use of open source software in their development and distribution practices. This session will discuss some of the recent developments in open source software and address some of the most commonly faced issues for users and distributors of open source software. Topics to be discussed include: GPL-derivative works vs. collective works; GPL v3 – current status and potential issues; open source litigation; developing internal practices and policies for using open source software; and M&A licensing – due diligence and warranties.

### 9. Advanced IT Commercial Contracting Issues

**Speakers:**

Richard F.D. Corley,

*Blake, Cassels & Graydon LLP (Toronto)*

Wendy Gross, *McCarthy Tétrault LLP (Toronto)*

Some of the more challenging issues that arise when negotiating major IT contracts and some effective strategies which may be used to advance the parties' underlying business interests will be discussed in this session. The interactive forum will cover issues such as: the ownership of and rights to use intellectual property; source code escrow arrangements; revenue recognition in software licensing and development agreements; the allocation of research and development tax credits; limitations of liability and indemnities; allocation of risk of regulatory and other legal changes; change process governance; and other issues of interest to the round table participants.

## Registration Form

# The Eleventh Annual Canadian IT Law Association Conference

October 18–19, 2007 • Fairmont Waterfront • 900 Canada Place Way, Vancouver, BC

**Online registration by credit card:** Via our secure site at [www.it-can.ca/en/confregister2007.html](http://www.it-can.ca/en/confregister2007.html)

**Registration by mail:** Please complete all boxes on form and forward with payment by cheque or credit card to Lisa Ptack, IT.CAN Executive Director, 92 Jessica Gardens, Thornhill, ON, Canada L4J 3G2

Name \_\_\_\_\_ Title \_\_\_\_\_  
Firm/Company \_\_\_\_\_ Street \_\_\_\_\_  
City \_\_\_\_\_ Prov \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_ E-mail \_\_\_\_\_

	Early Bird Fee until September 18, 2007	Received after September 18, 2007
<b>IT.CAN MEMBER</b>	\$950 (plus \$57 GST) <b>\$1007.00</b> <input type="checkbox"/>	\$1000 (plus \$60.00 GST) <b>\$1060.00</b> <input type="checkbox"/>
<b>NON-IT.CAN MEMBER</b>	\$1100 (plus \$66.00 GST) <b>\$1166.00</b> <input type="checkbox"/>	\$1200 (plus \$72.00 GST) <b>\$1272.00</b> <input type="checkbox"/>
<b>SPECIAL ACADEMIC RATE*</b> <i>(* Applies to full-time Academics only)</i>	\$750 (plus \$45 GST) <b>\$795.00</b> <input type="checkbox"/>	\$850 (plus \$51 GST) <b>\$901.00</b> <input type="checkbox"/>
<b>LAW STUDENT</b>	\$175 (plus \$10.50 GST) <b>\$185.50</b> <input type="checkbox"/>	\$275 (plus \$16.50 GST) <b>\$291.50</b> <input type="checkbox"/>

### TICKETED DINNER

If you wish to attend the dinner on Thursday, Oct. 18, please check this box and add \$95.00 + tax **per person** (includes gratuity) to your registration fee. Spouses/partners are welcome. Seating is limited.

No. of persons \_\_\_\_\_ × (\$95.00 + \$5.70 GST = **\$100.70**)

**TOTAL ENCLOSED:**

(GST Registration #: 886487677RT)

For credit card payment, please register via our secure online registration page at <http://www.it-can.ca/en/confregister2007.html>. Alternatively you can fill in the information below and pay by mail.

Cheque

Or please charge my  Visa  MasterCard Card Number \_\_\_\_\_

Expiry Date \_\_\_\_\_ Signature \_\_\_\_\_

Name of credit card holder (if different from above) \_\_\_\_\_

Address of credit card holder: Street \_\_\_\_\_ City \_\_\_\_\_ Postal Code \_\_\_\_\_

**More registration information next page**

## Registration Information

**Registration:** All fees include breakfasts, networking breaks, lunches, conference materials and cocktail reception.

**Hotel Reservations:** A block of rooms has been reserved at the conference hotel, The Fairmont Waterfront, 900 Canada Place Way, Vancouver, BC, 1-800-441-1414

There is a special group rate for IT.CAN conference participants: \$239 (plus applicable tax) available until Sept. 17, 2007. Please make your reservations directly with the hotel and mention that you are attending the IT.CAN conference in order to ensure you receive the discounted room rate.

**Cancellations:** Refunds for conference fees will be made if requested by email received **NO LATER THAN TUESDAY, SEPTEMBER 18, 2007**. There will be

NO exceptions. A processing fee of \$100 (+ \$6 GST) will be charged for refunds. The email address is [lisa.ptack@rogers.com](mailto:lisa.ptack@rogers.com)

**How to Register:** **By credit card:** use our secure, online registration form at [www.it-can.ca/en/confregister2007.html](http://www.it-can.ca/en/confregister2007.html). **By cheque:** mail the original or a photocopy of the fully completed Registration Form to Lisa Ptack, IT.CAN Executive Director, 92 Jessica Gardens, Thornhill, ON, Canada L4J 3G2. Advance registrants who provide an email address will receive a confirmation.

**Payment MUST accompany registration.**

**Payment:** Payment can be made by cheque, Visa or MasterCard **ONLY**. Please make cheque payable to Canadian IT Law Association.

**Queries:** Contact Lisa Ptack at [lisa.ptack@rogers.com](mailto:lisa.ptack@rogers.com).

## Travel Information

IT.CAN has made arrangements with Air Canada for special flight rates for our speakers and delegates. To book a flight and receive the lower fare, please contact your travel agent or go to [www.aircanada.com](http://www.aircanada.com) and enter the Promotion Code: MQABY361. The code will access discounted rates for flights to Vancouver, BC on Sunday, October 14–Monday, October 22, 2007.

### IT.CAN Membership

If you are interested in becoming a member of IT.CAN, please visit our website at [www.it-can.ca](http://www.it-can.ca) for full details including the membership form.

## Roundtable Schedule

### Thurs. Oct. 18, 2007 (11:00 AM–12:30 PM)

1. Managing Risk in Online Contests:  
Not Just Fun and Games
2. Fighting It Out: International IT Arbitration & Litigation
3. Data Protection and IT Transactions
4. The Convergence of Minds: Social Computing,  
Crowdsourcing and Wikinomics

### Thurs. Oct. 18, 2007 (2:15–3:45 PM)

1. Managing Risk in Online Contests:  
Not Just Fun and Games
2. Fighting It Out: International IT Arbitration & Litigation
3. Data Protection and IT Transactions
4. The Convergence of Minds: Social Computing,  
Crowdsourcing and Wikinomics

### Fri. Oct. 19, 2007 (10:45 AM–12:15 PM)

5. Internet Gaming: Gambling with Your Freedom  
(AM session only)
6. Lawful Access & Privacy:  
Where do we Stand Currently?
7. Outsourcing: Best Practices and Current Trends
8. Recent Developments in Open Source Software
9. Advanced IT Commercial Contracting Issues

### Fri. Oct. 19, 2007 (2:00–3:30 PM)

6. Lawful Access & Privacy:  
Where do we Stand Currently?
7. Outsourcing: Best Practices and Current Trends
8. Recent Developments in Open Source Software
9. Advanced IT Commercial Contracting Issues

**SEATING IS LIMITED SO REGISTER EARLY**

# The Eleventh Annual Canadian IT Law Association Conference

October 18–19, 2007

Fairmont Waterfront

Vancouver, BC

## About IT.CAN

The Canadian IT Law Association/l'Association canadienne du droit des technologies de l'information (IT.CAN) is an association which brings together Canadian practitioners in the field of Information Technology law. We are a national forum seeking to foster the discussion of specifically Canadian legal developments in this increasingly innovative and topical field, a goal which has been greeted with an enthusiastic response from the IT Law community.

## About the Conference

This annual conference seeks to provide information technology ("IT") lawyers with an opportunity to learn about the most recent and significant developments in Canadian IT Law, to benefit from an analysis of such developments as provided by leading practitioners and government officials, and to network with leading practitioners in the area.

The main object of this two-day conference will be to provide succinct and topical updates on developments in various areas of IT law as they relate to Canada.

## Conference Organization

**IT.CAN would like to thank the following members of the Planning Committee:**

### Chairs:

Sunny Handa, *Blake, Cassels & Graydon LLP (Montréal)*  
Valerie Mann, *Lawson Lundell LLP (Vancouver)*

### Conference Planning Committee:

Bernard Brun, *Senior Counsel, Desjardins Financial Security Life Assurance Company (Montréal)*  
Duncan C. Card, *Bennett Jones LLP (Toronto)*  
Richard Coleman, *Osler, Hoskin & Harcourt LLP (Toronto)*  
Richard Corley, *Blake, Cassels Graydon LLP (Toronto)*  
Brad Freedman, *Borden Ladner Gervais LLP (Vancouver)*  
Arlan Gates, *Baker & McKenzie LLP (Toronto)*  
Wendy Gross, *McCarthy Tétrault LLP (Toronto)*  
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Anthony Morris, *MacLeod Dixon LLP (Calgary)*  
Richard Pearse, *Senior Counsel-TSG Canada, Hewlett-Packard (Canada) Co. (Toronto)*  
Peter Ruby, *Goodmans LLP (Toronto)*  
Eric J. Smith, *Fraser Milner Casgrain LLP (Ottawa)*  
Bruce Tattrie, *Fasken Martineau DuMoulin LLP (Vancouver)*  
Faeron Trehearne, *Managing Counsel, TD Bank Financial Group (Toronto)*  
Dan Malamet, *IT.CAN (Toronto)*  
Lisa Ptack, *Executive Director IT.CAN (Toronto)*

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