

Hear about getting low-cost access to powerful computer resources

# 4<sup>th</sup> Cloud Computing

Be aware of the risks & legal pitfalls

APPLICABLE TOWARD CPD REQUIREMENT

"Well presented and up-to-date. The expertise of the speakers was evident!"

"Very helpful!"

"Engaging presentations!"

**Workshop Included: Addressing Data Ownership, Privacy, Security and Compliance Concerns**

## participating organizations

- Accenture Inc.
- AccessPrivacyHB
- Bennett Jones LLP
- Blake, Cassels & Graydon LLP
- BMO Financial Group
- Cameron MacKendrick LLP
- Cassels Brock & Blackwell LLP
- Fasken Martineau DuMoulin LLP
- Gowling Lafleur Henderson LLP
- Hayes eLaw LLP
- Hewlett Packard Canada
- Miller Thomson LLP
- Rogers Communications Inc.
- Trapeze Group

## who should attend

In-house Counsel, CIOs; CTOs, VPs, Directors & Managers involved in IT, IM, IP, technology procurement, vendor/contract management, risk management, compliance; Technology Lawyers & Consultants

## course highlights

- Hear from top IT lawyers and in-house counsel from top companies on the risks & legal pitfalls of cloud computing
- Explore what cloud computing is and the related legal and compliance issues
- Assess the implications of virtual storage on legal jurisdiction questions
- Examine the key issues that need to be addressed when negotiating and drafting a cloud computing agreement



Course Leader  
Duncan Card,  
Bennett Jones  
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Pamela Snively,  
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Victor Garcia,  
Hewlett Packard  
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Mark S. Hayes,  
Hayes eLaw  
LLP

## FACULTY

### COURSE LEADER

#### DUNCAN CARD

Duncan Card is a Senior Partner at **Bennett Jones LLP**, and is one of Canada's leading technology and ICT lawyers. He is the author of the widely acclaimed book, "Information Technology Transactions."

### CO-LECTURERS

#### DONALD M. CAMERON

Donald Cameron's IP litigation practice at **Cameron MacKendrick LLP** focuses on patent litigation, computer-related technology, pharmaceuticals and trade-marks & trade secrets litigation.

#### STEVE CIMICATA

Steve Cimicata is General Counsel at the **Trapeze Group**, which provides software & mobile technologies to the passenger transportation industry.

#### RICHARD CORLEY

Richard Corley is a partner in Blake, Cassels & **Graydon LLP's** CleanTech, IT, Business and Competition Groups and co-head of the IT Group.

#### ANAAR DHANJI

Anaar Dhanji is Senior Counsel with the **Bank of Montreal's** Legal Corporate & Compliance Group. She is a member of the Technology & Operations Law Group, focused on drafting and negotiating technology & outsourcing agreements.

#### VICTOR GARCIA

Victor Garcia is **HP Canada's** CTO, responsible for the strategic application of technology and innovation for business transformation.

#### MARK S. HAYES

Mark Hayes founded **Hayes eLaw LLP**, a boutique Toronto law firm focused on technology and media law.

#### BERNICE KARN

Bernice Karn is a partner in the Information, Communications & Entertainment Group at **Cassels Brock** where she practices IP law.

#### IAN KYER

Ian Kyer of **Fasken Martineau**, is the founder and first president of the Canadian IT Law Association and past president of the U.S.-based Computer Law Association, Inc.

#### LISA R. LIFSHITZ

Lisa R. Lifshitz is a partner in **Gowlings'** Toronto office, practicing in the areas of IT and business law.

#### FRASER MANN

J. Fraser Mann is a partner of **Miller Thomson LLP** with extensive experience with procurement & outsourcing transactions; licensing, development and telecommunications agreements.

#### ELENA V. RESHETNIKOVA

Elena V. Reshetnikova is in-house legal counsel at **Accenture Inc.**, where she supports Communications and New Media and Financial Services industry groups.

#### BOBBY SINGH

Bobby Singh is Director of Information Security and Risk Management for **Rogers Communications Inc.**, with over 16 years experience in information security.

#### PAMELA SNIVELY

Pamela Snively is Managing Director with **AccessPrivacyHB**, an information management consultancy affiliated with Heenan Blaikie's Access and Privacy Law Practice.

## COURSE PROGRAM

### UNDERSTANDING CLOUD COMPUTING: THE LEGAL RISKS AND COMPONENTS

While cloud computing gives business low-cost access to powerful computer resources, the process is not without its risks and legal pitfalls. This session will explore what cloud computing is, various cloud computing service models and the related legal and compliance issues.

- Cloud computing infrastructure, platforms and software issues
- Fundamental characteristics of cloud computing as a service model
- Key legal issues for businesses engaging in cloud computing
- Developing licensing and service agreements

### JURISDICTIONAL ISSUES IN CLOUD COMPUTING: DEALING WITH DIFFERENCES IN LAW

With cloud computing, data may be physically located in one or more remote servers, and may be widely distributed and frequently moved across many jurisdictions. This transborder transfer of data within the cloud is a complex legal issue. This session will assess the implications of virtual storage on legal jurisdiction questions

- Providing a framework for analyzing legal jurisdictional challenges
- Risks in data flows among different national jurisdictions
- Impact of differences in privacy, security and confidentiality concepts and regulations
- Assessing the risk of having data switched without your knowledge

### SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts and approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers' papers. See the list of presentations on page 4.

Delegates will also receive a trial subscription to the Business Law Channel, a much broader resource representing hundreds of hours of interactive multimedia lectures on leading edge Business Law topics as delivered at our many recent Business Law conferences and courses.

- *This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.*
- *For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.*
- *Attendance at this course can be reported as 12 hours of Continuing Professional Development (CPD) to the Law Society of B.C.*
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- *Attendance at this course can be reported as 12 hours of Continuing Professional Development (CPD) to the Law Society of New Brunswick*

### DRAFTING CLOUD COMPUTING CONTRACTS

Cloud computing raises a host of contractual issues that must be addressed by the parties' contract or licensing arrangements. This session will examine the key issues.

- Cloud contracting models: avoiding use of "standard" form contracts
- Establishing a standard of care that the provider must meet
- Contractual obligation regarding uptime
- Addressing remedy limitations

### PRIVACY AND CONFIDENTIALITY IN CLOUD COMPUTING

The nature of cloud computing raises many major privacy issues. This session will examine privacy threats that arise due to remote hosting and processing of data.

- Dealing with classified data restrictions
- Potential for increased third-party access to data
- Ensuring compliance with national and local privacy laws
- Dealing with differences in privacy rules in foreign jurisdictions

### ADDRESSING E-DISCOVERY AND LITIGATION ISSUES

The use of cloud computing can lead to complications in the litigation context, as the discovery process in the cloud computing context requires parties and the courts to face new issues concerning how electronic information is stored and retrieved. This session will examine these issues.

- Meeting litigation hold requirements in cloud computing
- Ensuring the integrity of the data used in cloud computing
- Determining who has possession, custody and control of ESI
- Preservation, retention and disposal of data in cloud computing

### DATA PROTECTION LAW REQUIREMENTS

Data security issues, are a major impediment for many organizations considering the adoption of cloud computing. This session will examine security concerns of both cloud providers and their customers.

- Current security practices being employed in cloud computing
- Effective data security strategies for in cloud computing
- What should be demanded regarding data security from provider
- How data breach in the cloud environment is being addressed

### SERVICE PROVIDER SELECTION, SERVICE LEVELS & BUSINESS CONTINUITY

Unlike a traditional single entity outsourcing model, cloud computing involves data that constantly shifting between multiple cloud providers. This session examines how customers mitigate associated risks.

- Due diligence in cloud environment
- Defining data security and disaster recovery policies
- Getting specifics on where their data resides
- Assessing the service provider's anti-hacking and anti-viral processes

### COMPLYING WITH OPEN SOURCE LICENSES

This session will examine the most recent developments affecting these open source licenses in cloud computing.

- What is "open source"
- Open source licensing schemes
- Differences between open source licensing schemes
- Concerns/risks for users of open source

### CLOUD COMPUTING AND COPYRIGHT LAW

Copyright laws are a major worry for businesses considering cloud computing. This session looks at intellectual property issues that arise in the cloud.

- Enforcing IP rights given the increased anonymity of both users and content providers
- Protecting trade secrets in a cloud
- Impact of jurisdictional and infringement issues on patent protection
- Trade secret protection

### ESTABLISHING EXIT SCENARIOS

A key component of any cloud computing contract is how it deals with exit scenarios. The session will provide a checklist of issues to cover dealing with exit/termination.

- The different types of exit scenarios and considerations for each
- Rights to continued provision of services in all scenarios
- Data retrieval and portability: how, when and in what form
- Transition assistance: what is needed for a smooth exit

### WARRANTIES, INDEMNIFICATION AND LIMITATION OF LIABILITY: ALLOCATING RISKS IN THE CLOUD

This session will explore the process of negotiating warranties, indemnification and limitation of liability clauses that will satisfactorily allocate risks.

- Scope of warranties
- Remedies available for breach of warranties
- Scope of customary indemnification obligations
- Identification of customer's vulnerabilities

### THE CLOUD: WHERE ARE WE NOW?

The evolution of cloud computing and cloud-based applications is continuing at a rapid pace. But where is the future of cloud computing heading? This session will assess the future for cloud computing.

- Expected changes in application development and configuration
- The focus of future cloud computing law
- Platform-as-a-service
- APIs in cloud computing
- Use of public, private or hybrid clouds

## WORKSHOP

Addressing Data Ownership, Privacy, Security and Compliance Concerns

As more data is stored in the cloud, our traditional notions of data ownership and control are being strained. This interactive workshop will examine data ownership and the increasingly rigorous contracts and due diligence practices needed to address these concerns.

- Addressing data "ownership" and access before the data is stored
- Data breach readiness
- Liability for data breaches
- Data commingling: what is to be done?

## MULTIMEDIA PRESENTATION

Your registration includes an interactive multimedia database comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio or video and accompanying slides. You may also purchase the multimedia proceedings of the course which will be available on CD-ROM 60 days after the course.

### Industry Perspective on Cloud Computing

Jason Kee  
John Weigelt  
*Entertainment Software Association of Canada*  
*Microsoft Canada*

### Understanding Cloud Computing: Drafting Cloud Computing Contracts

Stephen Cross  
*Gowling Lafleur Henderson LLP*

### Negotiating Cloud Computing Contracts: A Practical Perspective

Todd Harrold  
*Entrust Group of Companies*

### Due Diligence in Selecting a Service Provider

Pierre-Paul Henrie  
*Ogilvy Renault LLP*

### Latest Developments in Copyright Reform

Gerald Kerr-Wilson  
*Fasken Martineau DuMoulin LLP*

### Beware of the Emerging Patent Landscape in Cloud Computing

Scott Miller  
*Intellectual Property Law LLP*

### Allocating Risks in the Cloud: Copyright Law

Margot Patterson  
*Fraser Milner Casgrain LLP*

### Complying with Open Source Licenses: Their Impact in the Cloud

Michael Morgan  
*Labarge Weinstein Professional Corporation*

### E-Discovery & Litigation Issues

Simon Castonguay  
*KPMG LLP*

### Cloud Computing & Information Management

Stephen Donahoe  
*CGI Information Systems & Management Consultants Inc.*

### Privacy & Confidentiality in Cloud Computing

David Elder  
*Stikeman Elliott LLP*

### Addressing Data Ownership, Privacy, Security and Compliance Concerns

Elisabeth Preston  
*McMillan LLP*

### Legal Issues for Web 2.0 Sites and Interactive Internet Applications

Chris Bennett  
*Davis LLP*

### Privacy and Confidentiality

Michael Davenport  
Bobby Singh  
Joel Ramsey  
*Bank of Nova Scotia*  
*Rogers*  
*McCarthy Tetrault LLP*  
**Establishing Exit Scenarios**  
David Ma  
*Blaney McMurtry LLP*

### Allocating Risks in the Cloud

Parna Sabet-Stephenson

*Blake Cassels & Graydon LLP*

### Cloud Computing and Copyright Law

Lisa Abe  
*Fasken Martineau DuMoulin LLP*

### Online Contracting: Enforceability of Online Agreements

Jeffery E. Wittmann  
*Studio B Productions Inc.*

### Legal Issues Impacting Open Source Software

Donald B. Johnston  
*Aird & Berlis LLP*

### Web 2.0 Copyright Issues

Jill Jarvis-Tonus  
*Bereskin & Parr*

### Corporate Policies for Internet Technology Use in the Workplace

Lisa Abe  
*Fasken Martineau DuMoulin LLP*

### The Basics of Cloud Computing

Victor J. Garcia  
*Hewlett-Packard Canada*

### Jurisdictional Issues

C. Ian Kyer  
*Fasken Martineau DuMoulin LLP*

### Litigating Online Disputes

Damir Karaturovic  
*Miller Thomson LLP*

**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Novotel Toronto Centre Hotel, 45 The Esplanade, Toronto, ON, M5E 1W2

**Conditions:** Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to March 13, 2012. No refunds will be issued after this date.

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## TO REGISTER FOR CLOUD COMPUTING

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Title \_\_\_\_\_ Department \_\_\_\_\_  
Approving Manager Name \_\_\_\_\_  
Approving Manager Title \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
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