

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



Canadian IT Law Association



The Law Society of
Upper Canada

Barreau
du Haut-Canada

**IT.Can and The
Law Society of
Upper Canada
are proud to
present:**

The Information Technology Law Spring Forum

Monday, June 6–Tuesday, June 7, 2011

**Donald Lamont Learning Centre,
The Law Society of Upper Canada
130 Queen Street West, Toronto, Ontario
or
view via webcast on your computer desktop
(see details on registration form)**

TOTAL CPD: 3.75 hours per session,
with no professionalism content.
Accreditation by the Barreau du Quebec,
the Bar of NB and BC pending.

Program 1: Intellectual Property Issues for IT Law and Business

June 6, 2011 • 8:45 AM–12:30 PM

8:45–9:00 AM Opening Remarks

Chair: Brian Gray, *Ogilvy Renault LLP/Norton Rose*

9:00–9:40 AM Copyright: The Current State of the Law

Speaker: Andrea Rush, *Heenan Blaikie LLP*

- User generated rights
- General exemptions for reproduction for private purposes
- Format shifting/time shifting
- ISP liability
- Educational exemptions
- Copyright Board proceedings

9:40–10:15 AM Patents

Speaker: Robert Wilkes, *Ridout & Maybee LLP*

- Patentable subject matter: *Amazon, Bilski* and beyond
- Update on Patent Office procedures
- Obviousness/inventive step: What counts? What does not?
- Renewed court focus on sufficiency

10:15–10:30 AM Coffee Break

10:30– 11:10 AM Trademarks & Domain Names

Speakers: Catherine Lovrics, *Bereskin & Parr LLP*
Cynthia Rowden, *Bereskin & Parr LLP*

- Is Key Word advertising lawful in Canada?
- Domain name cases: What is the test for bona fide use/ registration?
- Update on recent trade mark cases
- Upcoming legislative and regulatory changes
- CIPO consultations

11:10–12:30 PM Panel: IP Issues for IT Business Transactions

Moderator: Brian Gray, *Ogilvy Renault LLP*

Speakers: Richard Corley, *Blake, Cassels & Graydon LLP*
Ian Kyer, *Fasken Martineau DuMoulin LLP*
Stuart McCormack, *Stikeman Elliott LLP*
Jay Safer, *General Counsel & Secretary,*
IBM Canada Limited

- IP as a corporate asset: What to look for
- Valuation: How to assess the value of IP assets
- Due diligence
- Bankruptcy and insolvency
- IP and social media
- IP Licensing: Following the chain of title

12:30 PM Closing Remarks/Program Ends

Program 2: Online & Mobile Privacy Issues

June 6, 2011 • 1:00–4:45 PM

1:00–1:15 PM Opening Remarks

Chair: Mark Hayes, *Hayes eLaw LLP*

1:15–1:55 PM Mobile Privacy Issues

Speaker: David Fraser, *McInnes Cooper*

- Location data: What is generated and where does it go?
- Location based services
- Mobile advertising
- Law enforcement access to mobile information and smartphones

1:55–2:30 PM Privacy Issues for Online and Mobile Commerce Contracts

Speaker: K. Paige Backman, *Aird and Berlis LLP*

- General contracting considerations
- Service provider contracts
- Facebook case: Rules and regulations
- Business to business and business to consumer contracts

2:30–2:45 PM Coffee Break

2:45–3:20 PM On-Line Tracking and Profiling

Speaker: David Young, *McMillan LLP*

- Privacy Commissioner's draft report on online tracking and profiling
- Impact of Consumer Protection and Privacy legislation
- Deep packet inspection
- Use of web analytics
- US developments and implications for Canada

3:20–4:00 PM Social Media Privacy Issues

Speaker: Adam Kardash, *Heenan Blaikie LLP*

- Privacy issues in social media based marketing campaigns
- Canadian and foreign data protection authority decisions
- Social media class actions
- Social media issues in the workplace

4:00–4:45 PM Impact of the New Anti-SPAM and Anti-Spyware Legislation for Online and Mobile Business

Speaker: Charles Morgan, *McCarthy Tétrault LLP*

- Review of the Anti-Spam and Anti-Spyware provisions
- Proposed amendments to *PIPEDA* and the *Competition Act*
- Practical aspects of running an online or mobile advertising campaign

4:45 PM Closing Remarks/Program Ends

Program 3: Key Contracting Issues for IT Agreements

June 7, 2011 • 8:45 AM–12:15 PM

8:45–9:00 AM Opening Remarks

Chair: Fraser Mann, *Miller Thomson LLP*

9:00–9:30 AM Key IT Licensing Provisions

Speaker: Robert Percival, *Ogilvy Renault LLP/Norton Rose*

- Defining licensed subject matter and scope
- Exclusions, restrictions and limitations
- Addressing third party and open source components
- Sub-licensing and third party user rights
- Modifications and enhancements

9:30–10:00 AM Intellectual Property (IP) Contract Issues

Speaker: Sheldon Burshtein, *Blake, Cassels & Graydon LLP*

- IP rights to improvements, modifications and derivative works
- Procuring IP rights from personnel/subcontractors
- IP rights of suppliers and customers
- Co-ownership issues
- Rights to trade-marks and domain names

10:00–10:30 AM Confidentiality, Privacy and Security

Speaker: Bernice Karn, *Cassels Brock & Blackwell LLP*

- Understanding the dependencies between confidentiality, privacy and security provisions
- Assessing the need to include confidentiality, privacy and security provisions
- Determining the scope of the provisions and the consequences for non-compliance
- Implementing the practices necessary for compliance

10:30–10:45 AM Coffee Break

10:45–11:15 AM Representations, Warranties and Indemnities

Speaker: Lisa Abe, *Fasken Martineau DuMoulin LLP*

- Types of representations and warranties:
 - Performance-related warranties for software
 - Warranties relating to scope of licenses and IP rights
 - Warranties for services
 - Warranties re: protection of systems/integrity of data
- Remedies for breach: damages, rights of termination
- Scope of indemnities by supplier:
 - IP infringement indemnities
 - Other indemnities

11:15– 11:45 AM Liability and Insurance Issues

Speaker: Michael Beirsto, *Fraser Milner Casgrain LLP*

- Determining appropriate amounts for liability limits
- Exclusions of liability for certain types of losses
- Possible exceptions to liability caps
- Insurance provisions:
 - Types and amounts of insurance coverage
 - Obligations to name customer as additional insured
 - Tie-in of insurance to liability provisions

11:45–12:15 PM Term and Termination Provisions

Speaker: Eric Boehm, *Torys LLP*

- Term of licenses
- Term for service agreements
- Grounds for termination: default or termination for convenience

- Rights of suspension
- Consequences of termination:
 - Delivery up of confidential information
 - Right to receive transition services

12:15 PM Closing Remarks/Program Ends

Program 4: Outsourcing Information Technology: Business Trends and Legal Issues

June 7, 2011 • 1:00–4:45 PM

1:00–1:45 PM Opening Remarks: Current Business Trends in Outsourcing

Chairs: Richard Austin, *Austin Technology Law*
Michael Hart, *Managing Partner, Merit Outsourcing Advisors*

- Post economic recession: New transactions, renewals and expansions in scope
- Emerging market forces: Cost avoidance, scalability and flexibility
- New sourcing strategies: Global sourcing, service bundling and multi-sourcing
- Evolving approaches to governance
- Offshore providers, cloud computing and vendor consolidation: The changing service provider landscape

1:45–2:30 PM Cloud Services vs. Outsourcings

Speakers: Lori Kay, *Senior Counsel, Bell Canada*
James Kosa, *Deeth Williams Wall LLP*

- Traditional outsourcings vs. outsourcings of services to a cloud provider
 - Limitations of each model
 - Key legal differences including: Scope of available services, warranties, service levels, business continuity and disaster recovery
- How different technologies drive different business and legal consequences

2:30–2:45 PM Coffee Break

2:45–3:30 PM Outsourcing and Offshoring Data Security Issues

Speaker: George Takach, *McCarthy Tétrault LLP*

- Confidentiality, Privacy and Data Security
 - Types of security
 - Security versus confidentiality
 - Security technologies
- Unique security issues in the offshore context
- Technical security standards
- Legal security standards
- Security and privacy law

3:30–4:30 PM Panel: Governance and Management Issues in Outsourcing

Moderator: Richard Austin, *Austin Technology Law*

Speakers: Michael Hart, *Managing Partner, Merit Outsourcing Advisors*
Daniel Logan, *Torys LLP*
Jim Vibert, *Senior Counsel, Hewlett-Packard (Canada) Co.*

- Defining a framework-governance vs. operational procedures:
 - Change management
 - Performance management
 - Contract compliance
 - Relationship management
 - Risk management
- Implementing governance in a multi-sourcing environment

4:45 PM Closing Remarks/Program Ends

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Registration Form

| I wish to attend | in person | by webcast |
|--|--------------------------|--------------------------|
| Program 1: Intellectual Property Issues for IT Law and Business | <input type="checkbox"/> | <input type="checkbox"/> |
| Program 2: Online & Mobile Privacy Issues | <input type="checkbox"/> | <input type="checkbox"/> |
| Program 3: Key Contracting Issues for IT Agreements | <input type="checkbox"/> | <input type="checkbox"/> |
| Program 4: Outsourcing Information Technology: Business Trends and Legal Issues | <input type="checkbox"/> | <input type="checkbox"/> |

| | One half day | Two half days | Three half days | Full program |
|---|--|--|--|--|
| Regular Fee (after May 6, 2011) | \$300 + \$39 HST = \$339 | \$540 (\$270 per ½ day) + \$70.20 HST = \$610.20 (10% savings) | \$765 (\$255 per ½ day) + \$99.45 HST = \$864.45 (15% savings) | \$960 (\$240 per ½ day) + \$124.80 HST = \$1084.80 (20% savings) |
| Early Bird Special (before May 6, 2011)/ IT.CAN Member fee* | \$275 + \$35.75 HST = \$310.75 | \$515 (\$257.50 per ½ day) + \$66.95 HST = \$581.95 | \$740 (\$247 per ½ day) + \$96.20 HST = \$836.20 | \$935 (\$234 per ½ day) + \$121.55 HST = \$1056.55 |

LIVE WEBCAST REGISTRATION: Live Webcast registration must be received by **2 business days prior to the date of the program**. Hard copy binders will be shipped immediately after the program. Online access to PDF materials will be available prior to the program.

Hard copy materials: \$25 plus \$3.25 HST = \$28.25 additional per volume. (PDF materials are included.)

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Credit Card # _____ Expiration Date _____

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Name of Attendee _____

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HOW TO REGISTER

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FAX: 416-947-5235 *

MAIL: The Law Society of Upper Canada 130 Queen St. W. 2nd Floor, Toronto, Ontario M5H 2N6

FOR GROUP REGISTRATION, please call 416-947-3315 or 1-800-668-7380 Ext. 3315

We reserve the right to change program content, speakers and locations without notice. Registration fee less \$50.00 plus HST for a full day and \$25.00 plus HST for a part day is refundable if cancellation is received five working days before the program. Transfers (e.g. from live attendance to webcast) will not be accepted within two days of program date. CLE Bursary application forms can be found on the LSUC website at: http://ecom.lsuc.on.ca/pdf/cle_bursary.pdf

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