

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



Canadian IT Law Association

Presents

The Seventeenth Annual Canadian IT Law Association Conference

October 24–25, 2013
Hyatt Regency Toronto
370 King Street West
Toronto, ON

Ontario delegates: This program can be applied towards the 9 substantive hours of Continuing Professional Development (CPD) required by the LSUC. This program is not accredited for Professionalism hours or for the New Member Requirement (with the exception of Roundtables number 6 & 7).

Québec Delegates: This program has been submitted for certification for 16 hours of CLE by the Barreau du Québec.

British Columbia Delegates: Attendance at this conference can be listed as 16 hours of CLE in completing your Annual Report to the LSBC.

New Brunswick delegates: This program has been accredited for 16 hours of CLE by the Law Society of New Brunswick.

Day 1: Thursday, October 24, 2013

8:00–9:00 AM

Registration & Continental Breakfast

Hosted by: Bereskin & Parr LLP

9:00–9:15 AM

Opening Remarks & Welcome

Co-Chairs:

Wendy Gross, *Osler, Hoskin & Harcourt LLP*

Charles Morgan, *McCarthy Tétrault LLP*

9:15–10:45 AM

Annual Update on IP Issues for Information Technology

Moderator:

Ronald Dimock, *Dimock Stratton LLP*

Patents

Speaker: Brian Gray, *Norton Rose Fulbright Canada LLP*

- Patent law developments for IT lawyers:
 - Is pharmaceutical law ruining it for the rest of us?
- CIPO revised Guidelines
- Software, business method and abstract idea patents at CIPO and in the courts

Copyright

Speaker: Andrea Rush, *Heenan Blaikie LLP*

- Recent Copyright Act amendments and their impact on IT business
- The 5 SCC cases one year later
- Subject matter, ownership and transfer
- Secondary liability
- Functionality and interoperability
- Branding in sound

Trade-Marks and Domain Names

Speaker: Cynthia Rowden, *Bereskin & Parr LLP*

- Use of a trade-mark in an online world
- Trade-mark Clearinghouse for new gTLDs
- Combatting Counterfeit Products Act:
 - Will it help brand owners?
 - Other changes to the Trade-marks Act

Trade Secrets and Confidential Information

Speaker: John Cotter, *Osler, Hoskin & Harcourt LLP*

- Recent case law update
 - Categories and examples of trade secrets and confidential information
 - Protecting trade secrets and confidential information:
 - Enforcing rights and available remedies
-

10:45–11:00 AM

Networking Break

Hosted by: McMillan LLP

11:00 AM–12:30 PM

Roundtables Set #1 (1, 2, 3, and 4 in AM only)

12:30–2:00 PM

Luncheon & Keynote Speaker

Hosted by: McCarthy Tétrault LLP

Michael Michalyszyn, *General Counsel and Vice President HR, QNX Software Systems Ltd.*

2:15–3:45 PM

Roundtables Set #1 (1, 2, 3, and 5 in PM only)

3:45–4:00 PM

Networking Break

Hosted by: Mann Symons LLP

4:00–5:30 PM

Comparative IT Legal Issues in Canada, The United States and Europe

Moderator:

John D. Gregory, *General Counsel, Justice Policy Development Branch Policy and Adjudicative Tribunals Division, Ministry of the Attorney General (Ontario)*

Speakers:

Alan L. Friel, *Edwards Wildman Palmer LLP (Los Angeles, California)*

Kiran Sandford, *Mishcon de Reya, and President of ITechLaw (London, UK)*

Cheryl Slusarchuk, *Blake, Cassels & Graydon LLP*

- Anti-SPAM legislation: CASL/ CAN-SPAM
 - Privacy, data security and data protection
 - Data breach rules
 - Mobile privacy directives
 - Minimum contact rule to establish jurisdiction
 - Cybersecurity issues: Critical infrastructure
 - Safe Harbors for online services for third party rights infringement arising out of user content: DMCA and CDA
 - Online dispute resolution initiatives
-

5:30 PM

Closing Remarks for Day 1

5:45–6:00 PM

IT.CAN Annual General Meeting (For All IT.CAN Members)

7:00 PM

Ticketed Dinner (See Details on Registration Form)

Location: Verona Ristorante, 335 King Street West, Toronto

Day 2: Friday, October 25, 2013

8:00–8:45 AM

Registration & Continental Breakfast

Hosted by: The Canadian IT Law Association

8:45–9:00 AM

Opening Remarks & Welcome

Co-Chairs:

Wendy Gross, *Osler, Hoskin & Harcourt LLP*

Charles Morgan, *McCarthy Tétrault LLP*

9:00–10:30 AM

The Third Industrial Revolution: Emerging Technologies and the Legal Issues They Raise

Moderator:

Richard Lee, *National Managing Partner, Technology,
Media & Telecom, Deloitte*

3D Printing

Speaker: Michael Weinberg, *VP, Public Knowledge and VP
Institute of Emerging Technologies (Washington, DC)*

- Contours of copyright in things and files that represent things
- Interplay between patents & mash up/remix

Wearable Computing

Speaker: David Canton, *Harrison Pensa LLP*

- What is wearable computing?
- Privacy and security of personal data
- Surveillance vs. sousveillance (counter surveillance)
- Should the legal focus be on the person or the device?
- Contextual uses of wearable generated data

Vehicle Telematics

Speaker: George Takach, *McCarthy Tétrault LLP*

- From cruise control to car control: The automobile as a technology platform
- Search and seizure complications
- Insurance implications
- Privacy law challenges

10:30–10:45 AM

Networking Break

Hosted by: Torkin Manes LLP

10:45AM–12:15 PM

Roundtables Set #2 (6 in am only, 8, 9, 10)

12:15–1:45 PM

Luncheon & Keynote Speaker

Michael Weinberg, *VP, Public Knowledge and VP Institute of
Emerging Technologies (Washington, DC)*

Open Source Hardware

2:00–3:30 PM

Roundtables Set #2 (7 in pm only, 8, 9, 10)

3:30–3:45 PM

Networking Break

Hosted by: The Canadian IT Law Association

3:45–5:15 PM

Complex IT Service Agreements

Moderator:

Fraser Mann, *Mann Symons LLP*

Speakers:

Jay Safer, *General Counsel and Secretary,
IBM Canada Limited*

Barry Sookman, *McCarthy Tétrault LLP*

Amy-Lynne Williams, *Deeth Williams Wall LLP*

- Use of benchmarking and other vendor management programs
- Multi-vendor arrangements
- Public sector outsourcings and P3 agreements
- Cloud computing issues
- Critical terms for major IT agreements

5:15 PM

Closing Remarks

5:30 PM

Conference Ends

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Canadian IT Law Association

1. Managing the Employment Relationship: IT Issues from Hiring to Firing

Speakers:

Joe Conforti, *Goodmans LLP*

Andrea York, *Blake, Cassels & Graydon LLP*

- Social media in the hiring process: Background checks and privacy issue dos and don'ts
- Employment contract terms for IT: Confidentiality, restrictive covenants, conflicts of interest, ownership of IP and more
- Workplace privacy revisited: The limits of employee monitoring/surveillance in light of *R. v. Cole*
- Employees' use of company computers and their own personal devices: Blurring of work life and personal life in IT
- BYOD: Ownership of information, employer access, remote wiping issues
- Managing a termination: Trade secrets, confidentiality and post-employment conduct

2. Current Issues and Trends in Mobile Payments

Speakers:

Daniel Logan, *Torys LLP*

Jeffrey P. Roode, *Barrister & Solicitor*

- How are mobile payments different from regular card-based payments?
- Mobile payment products and business models
- Legal issues: Privacy, security, ownership of the data, storage and more
- Mobile payments regulation and industry governance models
- The future of mobile payments

3. Crowds and the Culture of Sharing

Speakers:

Andrea C. Johnson, *Dentons Canada LLP/Invest Crowdfund Canada*

Bruno Soucy, *Blaney McMurtry LLP*

Elisabeth Symons, *Mann Symons LLP*

- Striking a balance between sharing content and managing legal rights
- Navigating the IP issues when anyone with a browser can sell, contribute to or purchase a work
- Open everything: When being open is about more than source code
- How not to run afoul of the securities laws when pursuing crowd funding

- Lawyers in the share economy
- What you should know when your client tells you that they want to be the next Airbnb

4. Key IT Legal Issues for the Financial Sector (To be presented Oct. 24, AM only)

Speakers:

Lisa Abe-Oldenburg, *Bennett Jones LLP*

John Le Blanc, *Senior Legal Counsel, Scotiabank*

- OSFI, B-10 and FATCA compliance
- Software licensing across the enterprise:
 - Centralizing IT procurement
- System integration issues with bank acquisitions
- New technologies: Mobile apps, mobile payments and wallets, virtualization, cloud computing and backup systems
- Canadian Bankers Association Mobile Payments Guidelines
- Regulation of remote deposits and document imaging rules
- Managing cross-border data transfer, privacy breach and security risk in financial institutions
- Best practices by financial institutions for IT due diligence, risk mitigation, compliance and contracting

5. Développements récents 2012–2013 en TI en droit québécois

(To be presented in French, Oct. 24th, PM only)

Speakers:

Jean-François De Rico, *Langlois Kronstrom*

Desjardins S.E.N.C.R.L

Patrice Martin, *Borden Ladner Gervais LLP*

- Revue de la jurisprudence de l'année ayant une incidence en TI:
 - Décisions en matière de conclusion de contrat
 - Décisions touchant aux questions de diffamation « électronique » et de transmission de documents électroniques
- Revue de la jurisprudence de l'année en matière de preuve et de procédure touchant aux aspects suivants:
 - La signification électronique
 - L'admissibilité d'éléments de preuve obtenus dans des circonstances susceptibles de déconsidérer l'administration de la justice
 - Les paramètres permettant de démontrer une expectative de vie privée
 - Le maintien de l'intégrité de documents électroniques
 - Autres cas d'application des dispositions de la Loi concernant le cadre juridique des technologies de l'information

- La recommandation formulée par la CAI de modifier les lois sur la protection des renseignements personnels:
 - Revue de l'impact de cette recommandation pour les secteurs public et privé
 - Imposition d'une obligation de divulgation en cas d'atteintes à la sécurité/confidentialité

Roundtables Day 2: Oct. 25, 2013

6. Ethical Considerations in Negotiating and Drafting IT Contracts

(Accredited by the LSUC for 1.5 Professionalism Hours. To be presented Oct. 25, AM only)

Speakers:

James Kosa, *Deeth Williams Wall LLP*
Peter Ruby, *Goodmans LLP*

- How to manage untruths, exaggeration, misleading statements and posturing during negotiations?
- What to do when you discover a technical error made by the other side during negotiations?
- How to handle the discovery of a defect in an original contract that you drafted?
- How to handle the discovery of a drafting error in your client's favour?
- How to manage unethical clients?

7. Legal Project Management for Large Scale IT Deals: What Every Lawyer Needs to Know

(Accredited by the LSUC for 1.5 Professionalism Hours. To be presented Oct. 25, PM only)

Speakers:

Andrew Terrett, *Co-leader, BLG Adroit and National Director, Knowledge Management, Borden Ladner Gervais LLP*

Suzanne Wood, *National Director, Legal Project Management, Norton Rose Fulbright Canada LLP*

- Legal project management processes and techniques that help manage files and client relationships better
- Implementing project management in a law firm
- The client's perspective on legal project management: Managing expectations and legal costs

8. IT Consumer Protection Issues

Speakers:

Marie-Hélène Constantin, *Blake, Cassels & Graydon LLP*
Chris Oates, *Gowling Lafleur Henderson LLP*

- Internet Sales Normalization Agreement
- Provincial consumer protection legislation dealing with online contracts
- Website accessibility

- Website language
- Privacy and anti- SPAM compliance issues
- Mobile and social media advertising
- Restrictions on contract modifications and renewals
- Online contests

9. Identity Management: Business and Legal Issues

Speakers:

Richard Austin, *Counsel, Deeth Williams Wall LLP*
Andrew D. Marshall, *CISSP*

Peter Watkins, *Executive Director, Cross Government IM/IT Initiatives, BC Office of the Chief Information Officer*

- The critical challenge of identifying and authenticating users online in an age of cybercrime
- Identity management overview: Digital identities, identity providers and federated identity management models
- Identity management in practice: The British Columbia Services Card
- The legal landscape: Privacy, scope and use assertions, liability and models for a legal identity management infrastructure

10. Privacy in the Age of Big Data: Challenges and Opportunities

Speakers:

Khaled El Emam, *Canada Research Chair in Electronic Health Information, Faculty of Medicine, and the School of Electrical Engineering and Computer Science, University of Ottawa*

Éloïse Gratton, *McMillan LLP*

- Big Data:
 - Challenging the definition of “personal information”
 - When does personal information become anonymized?
- Privacy law reform in light of new forms of data
- Challenges of dealing with personal information in the age of Big Data:
 - New types of uses of personal information and business practices
 - When is certain data “necessary” or “relevant” for an intended use?
 - When to retain/destroy data?
 - Implication of discretionary and compelled disclosures
- Balancing the risk and benefits of data analytics:
 - Governance mechanisms, best practices and transparency
 - Monetizing the value of Big Data collection while addressing associated privacy risks

Registration Form

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Online registration by credit card: Via our secure site at www.it-can.ca

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, 1 Promenade Circle, P.O. Box 918, Thornhill, ON L4J 8G7

No faxed registrations please.

Name _____ Title _____
Firm/Company _____ Street _____
City _____ Prov _____ Postal Code _____
Telephone _____ E-mail (Required) _____

FEES	Early Bird Fee until September 24, 2013	After September 24, 2013
IT.CAN Member	\$1400 (plus \$182 HST) \$1582.00 <input type="checkbox"/>	\$1500 (plus \$195 HST) \$1695.00 <input type="checkbox"/>
Non-IT.CAN Member	\$1600 (plus \$208 HST) \$1808.00 <input type="checkbox"/>	\$1700 (plus \$221 HST) \$1921.00 <input type="checkbox"/>
Academic/In-House Counsel/ Government/Non-Lawyer	\$925 (plus \$120.25 HST) \$1045.25 <input type="checkbox"/>	\$1025 (plus \$133.25 HST) \$1158.25 <input type="checkbox"/>
Student	\$200 (plus \$26.00 HST) \$226.00 <input type="checkbox"/>	\$200 (plus \$26.00 HST) \$226.00 <input type="checkbox"/>

TICKETED DINNER

If you wish to attend the dinner on Thursday, Oct. 24, please check this box and add \$99.00 (plus \$12.87 tax) **per person** (includes gratuity) to your registration fee. Spouses/partners are welcome. Seating is limited.

No. of persons _____ × (\$99.00 + \$12.87 HST = **\$111.87**)

TOTAL ENCLOSED:

HST registration #: 886487677RT

For credit card payment, please register via our secure online registration page at <http://www.it-can.ca>. 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 registrant) _____

Address of credit card holder: Street _____ City _____ Postal Code _____

More registration information next page

Registration Information

Registration: All fees include breakfasts, networking breaks, lunches and access to conference materials. **A current email address is required.**

Hotel Reservations: Booking Website: https://resweb.passkey.com/Resweb.do?mode=welcome_ei_new&eventID=10434063

Cancellations: Refunds for conference fees will be made if requested by email, received **NO LATER THAN TUESDAY, SEPTEMBER 24, 2013**. There will be **NO** exceptions. A processing fee of \$100 (+ \$13 HST) will be charged for refunds. The email address is lisa.ptack@rogers.com

How to Register:

No faxed registrations please.

By credit card: use our secure, online registration form at www.it-can.ca.

By cheque: mail the original, fully completed registration form to Lisa Ptack, IT.CAN Executive Director, 1 Promenade Circle, P.O. Box 918, Thornhill, ON L4J 8G7. An email address is required in order to receive a confirmation and the link to conference materials.

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.

IT.CAN is pleased to thank the following sponsors:

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McCarthy Tétrault LLP • McMillan LLP • Norton Rose Fulbright Canada LLP
Osler, Hoskin & Harcourt LLP • Torkin Manes LLP • Torys LLP
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Roundtable Schedule

Thur. Oct. 24, 2013 (11:00 AM–12:30 PM)

1. Managing the Employment Relationship: IT Issues from Hiring to Firing
2. Current Issues and Trends in Mobile Payments
3. Crowds and the Culture of Sharing
4. Key IT Legal Issues for the Financial Sector (AM session only)

Thur. Oct. 24, 2013 (2:15–3:45 PM)

1. Managing the Employment Relationship: IT Issues from Hiring to Firing
2. Current Issues and Trends in Mobile Payments
3. Crowds and the Culture of Sharing
5. Développements récents 2012-2013 en TI en droit québécois (*en français*) (PM session only)

Fri. Oct. 25, 2013 (10:45 AM–12:15 PM)

6. Ethical Considerations in Negotiating and Drafting IT Contracts (AM session only)
8. IT Consumer Protection Issues
9. Identity Management: Business and Legal Issues
10. Privacy in the Age of Big Data: Challenges and Opportunities

Fri. Oct. 25, 2013 (2:00–3:30 PM)

7. Legal Project Management for Large Scale IT Deals: What every Lawyer Needs to Know (PM session only)
8. IT Consumer Protection Issues
9. Identity Management: Business and Legal Issues
10. Privacy in the Age of Big Data: Challenges and Opportunities

SEATING IS LIMITED SO REGISTER EARLY

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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 and international IT law 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 and international 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.

Who should attend

- Corporate/Commercial Lawyers specializing in IT, IP, and e-commerce
- In-House Counsel
- Procurement Counsel
- Government Lawyers
- IT License & Contract Managers/Directors of Operations
- CIO's / CTO's / CPO's

Conference Organization

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

Chairs:

Wendy Gross, *Osler, Hoskin & Harcourt LLP*
Charles Morgan, *McCarthy Tétrault LLP*

Conference Planning Committee:

Darin Ahing, <i>Senior Counsel, Shared Services, Manulife Financial</i>	Lisa Lifshitz, <i>Torkin Manes LLP</i>
Richard Austin, <i>Counsel, Deeth Williams Wall LLP</i>	Richard Pearse, <i>eHealth Ontario</i>
Frank Giblon, <i>Barrister & Solicitor</i>	Ebad Rahman, <i>Torys LLP</i>
Brian Gray, <i>Norton Rose Fulbright Canada LLP</i>	Peter Ruby, <i>Goodmans LLP</i>
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Christine Ing, Blake, <i>Cassels & Graydon LLP</i>	Roger Watkiss, <i>Norton Rose Fulbright Canada LLP</i>
Karen Levin, <i>Aird & Berlis LLP</i>	Dan Malamet, <i>ZSA</i>
	Lisa Ptack, <i>IT.CAN Executive Director</i>

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