Cyberspace Law Committee

Message from the Chair

We are into the fall season, which means that we are busy planning for the Committee's Annual Institute on the Law of Cyberspace and Winter Working meeting. Don't forget to save the date -- January 31 - February 1, 2014 at the Four Seasons Hotel in Denver. See more information below. As in prior years, we will have 4-5 hours of CLE on a variety of new cyberlaw topics, moderated roundtables, breakout sessions, and keynotes from leaders in the regional technology and legal communities.

At this point we are still planning the CLE - and there is still room for just one or two more CLE presentations in the lineup. So if there is a particular cyberlaw topic you would like to see included, or which you are interested in presenting, please let us know right away. We also bring in technology and legal businesses as sponsors for the meeting. There are still sponsorship opportunities open, from the small level sponsorships up to our larger-ticket levels, so please contact the chair (me) for more information.

Meanwhile, be on the lookout for some new cyberspace law content coming your way before the end of the year. There will be a special issue later this year of the Business Section's e-magazine, Business Law Today, devoted to cyberspace law topics, and the committee is working on two webinars as part of the Section's free webinar series, "In The Know." In addition, the annual Survey of the Law of Cyberspace, published each year in the Section's Law Review, The Business Lawyer, is off to the presses, to be released by year end.

Here are the details on the TWO WEBINARS our committee is involved with, which are coming up soon:

- **IP for Non-IP Lawyers**, October 25, 1 pm Eastern
- **Security Issues in Cloud Provider Agreements**, November 15, 1 pm Eastern

I look forward to seeing you in Denver!

Jonathan T. Rubens
Chair, Cyberspace Law Committee, Business Law Section
Jon@irlegalgroup.com

Upcoming CLCC Programs

**Institute on the Law of Cyberspace and Winter Working Meeting, January 31 - February 1, 2014**

Kristine Dorrain, Programming Director

We are excited to bring you the 2014 Institute on the Law of Cyberspace and Winter Working Meeting to be held in Denver at the **Four Seasons Hotel**. We will again be including a 1/2 day CLE opportunity to kick off our WWM. Please plan to attend ALL DAY on both January 31 and February 1 as the days will be packed with CLE, discussions, and work time, as well as chances to mingle and network. Registration will open this month, and you can access it through the Institute/WWM webpage.

We will offer "roundtable" discussions again this year at the WWM, with a concerted effort to tie each roundtable to an established or planned work product. The roundtables will be a great chance to review new cases, unresolved issues,
and emerging theories with a small but interested group. We will then segue from the discussion portion (roundtable) to the working portion (breakouts) of the meeting, where we return to the actual work of the committee. Roundtables are typically an hour or longer.

If you are new to this meeting (and/or new to this mailing list), you should know that our annual Winter Working Meeting offers you one of the best ways to get involved with the work of our committee and the Business Law Section. And it is open to everyone. Newcomers are highly encouraged to attend! Each of our subcommittee and task force leaders will come to the meeting prepared to work on a project (checklist, website, book, article, program, webinar, etc). All of these sessions will be open to all, so this is a great chance to get directly involved with the committee’s projects.

It is not too late to suggest a topic for CLE or a roundtable, but please do so right away. We are also looking for corporate sponsors to help keep the registration costs and dinner ticket prices low. Contact Kristine Dorrain for more information on sponsorships or with any questions or suggestions regarding the WWM.

Other Programs of Interest

**Southeastern Business Law Institute**

October 24-25, 2013  
Location: Cumberland School of Law, Samford University  
Format: Live

This program is co-sponsored with the Business Law & Corporate Counsel Section of the Alabama State Bar and the Business Law Section of the Birmingham Bar Association. Presenters include the CLCC's Richard Balough on "Don't Let BYOD Turn into Bring Your Office Disaster" and Sarah Jane Hughes on "Plain Sense, Economic Sanctions, and AML Compliance."

**Am I Competent? The Ethical Use of Evolving Technologies**

October 25, 2013  
Location: N/A  
Format: Webinar/Teleconference

**Hot Topics in Cybersecurity Law**

October 29, 2013  
Location: N/A  
Format: Webinar/Teleconference

**When Strings Attach to Intellectual Property in Government Contracts**

November 4, 2013  
Location: New York City Bar Association  
Format: Live

This roundtable discussion focuses on the risks and consequences for companies that enter into contracts and other funding agreements with the U.S. Government under which they might develop intellectual property and in which, as a result, the Government will gain rights. The CLCC's Roland Trope is one of the panelists.

**Success Strategies for the Professional Artist in the Digital Age: Legal and Business Tactics for Filmmakers, Musicians, Videogame Creators and Visual Artists**

November 6, 2013 ~ 4:30 pm ♦ 8:30 pm  
Location: NKU College of Informatics  
Format: Live and FREE Webcast

Presented by the NKU Chase Law + Informatics Institute, and sponsored by the Cyberspace Law Committee, Frost Brown Todd, and Copyright Alliance, this program will help lawyers and their creative artist clients understand the modern business practices for digital exploitation of their work. Topics will include a range of business and legal practices, such as:
- Legal and Business Strategies for Local Film Production
- Exhibiting, Licensing, Publishing, and Promoting
- Crowdfunding and Project Financing: Getting the Professional Paid

**Cyber on the Hill: Congressional Cybersecurity Oversight, Legislation & Initiatives for 2013**

November 7, 2013
Location: Washington, DC or remote
Format: In-person or Teleconference

**US/India Commerce and Investment - Converging Interests in Converging Markets**

February 13-15, 2014
Location: New Delhi, India

Come join your colleagues from the United States and India, ABA Section of International Law Leadership, ABA Leadership, and Leadership from Major Indian Bar Associations, government officials, and prominent Indian business personalites at a jointly sponsored conference of the American Bar Association Section of International Law India Committee, Society of Indian Law Firms, and the Bar Association of India, as well as the Indian Services Export Promotion Council to be held in New Delhi, India. MCLE credit will be requested. For more information, including information about speaking possibilities, contact James Duffy (jduffy@bergduffy.com) or Sajai Singh (sajai@jsalaw.com).

**Third Annual Law + Informatics Symposia**

February 27-28, 2014
Location: NKU College of Informatics
Format: Live

The Northern Kentucky Law Review and Salmon P. Chase College of Law will present their third annual Law + Informatics Symposium in late February. The focus of the conference is to provide an interdisciplinary review of issues involving business and industry responses to cyber threats from foreign governments, terrorists, and corporate espionage. The symposium will emphasize the role of the NIST Cybersecurity Framework and industries providing critical infrastructure. CLCC's own Sarah Jane Hughes and Roland Troupe will be presenting at the conference, which is being coordinated by the CLCC's Jon Garon.

**Business Law Section Spring Meeting 2014**

April 10-12, 2014
Location: Los Angeles
Format: Live

For the BLS Spring Meeting, the Cyberspace Law Committee is proposing three CLE programs, which will focus on (1) cybersecurity compliance for directors; (2) risk management and "the internet of things"; and (3) public policy enforcement and payment systems issues. We will also co-sponsor a CFS program and a Banking law program. Each Subcommittee and Task Force will have a meeting slot at this meeting. As in prior years, we need to have at least one of each of the subcommittee or task force co-chairs present in person to run these meetings, so please plan accordingly. There will also be a full Cyberspace Law Committee meeting at Spring Meeting, as well as a committee dinner.

**CLCC Projects**

**Are You Interested in Becoming a Committee Director?**

As a substantive committee of the Business Law Section, the Cyberspace Law Committee appoints directors - a type of liaison - to each of the several non-substantive committees of the Section. These include committees on content, diversity, technology, membership, pro bono, international coordination, programs, publications, and educational programming. We are currently looking for directors to serve as liaisons to several on these committees - which involves attending the meetings of those committees at Spring and Annual Meetings and...
reporting back to our Committee on developments. This is a great way to participate in Committee leadership and to get to know how the BLS works. If you are interested in contributing in this way, please contact Committee Chair Jon Rubens.

**Consumer Protection Subcommittee**

*Co-Chairs John Rothchild and James Nehf*

The Consumer Protection Subcommittee's updating of [www.safeshopping.org](http://www.safeshopping.org) is in its final phase. After the subcommittee co-chairs revised the website's structure, several subcommittee members and other CLCC members updated and revised various sections. The work is expected to be complete before the WWM. Also at the WWM, the subcommittee will discuss possibilities for future projects. If you have any ideas you would like the subcommittee to consider, please contact John Rothchild or Jim Nehf.

**International Trade Subcommittee Report**

*Co-Chairs Hal Burman and John Gregory*

As has happened before, a new international initiative is on the table with a tight time line for action or comments, so the International Trade Subcommittee is focusing on that for several weeks in October and then will resume the schedule for calls on other projects. It's a busy fall for Cyberspace law.

The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) has scheduled a meeting on the development of a Regional Agreement on Paperless Trade (and the Single Window). The proposed agreement raises a number of e-commerce law issues that have been before us. There is some urgency to (1) decide whether to engage this and (2) formulate input, since there will be an inter-governmental meeting in Bangkok on November 20th. *If we want views or recommendations to be considered, they would need to formulated by early November. The final draft if there's support for that would be on the table at a May 2014 conference, but we would need to be on the table now-i.e., in November-to be taken seriously then.*

An initial conference call to assess whether we should engage this was held on October 9 at 2:00 EDT. A follow-up conference call is scheduled for October 16. We will work together with the ABA Science & Technology Section on this. Those interested should contact either co-chair John Gregory or Hal Burman for call-in details. The draft UNESCAP Agreement (latest version is August 19th) and an Explanatory Note by the Secretariat (latest version June 14) are available at [http://www.unescap.org/tid/projects/draft-ra-subreg.pdf](http://www.unescap.org/tid/projects/draft-ra-subreg.pdf) and at [http://www.unescap.org/tid/projects/draft-ra-egmnote.pdf](http://www.unescap.org/tid/projects/draft-ra-egmnote.pdf). If you have problems accessing these, let us know and we'll email them directly to you.

We will resume work on e-commerce drafts before the UNECE and UNCITRAL later this month.

**Update from the Internet Governance Task Force**

*Co-Chairs David Satola and Michael Kelly*

The IGTF is pleased to announce the following additions to the team. Please join us in welcoming Prof. Michael J. Kelly, Professor of Law and Associate Dean at Creighton University Law School, as the new co-chair of the Task Force. Mike can be reached at mkelly@creighton.edu. Mike brings a strong public international law perspective to the work of the Task Force, as more and more legal issues of international Internet governance are trending in that direction. Mike joins David Satola as co-chair of the Task Force. Please also join us in welcoming Prof. John Villasenor of UCLA and Senior Fellow at Brookings Institute as Technology Policy Advisor to the Task Force. John is an engineer and will bring a valuable technology and policy perspective to the work of the Task Force. He can be reached at villa@ee.ucla.edu. We look forward to working with Mike, John and David and hope you will be able to meet them in person at Winter Working Meeting.

**Planning Committee for Winter Working Meeting**

It's not too late to join the planning committee for the Winter Working Meeting. We are looking for Colorado-based members to join the committee to help with logistics for the meeting, to reach out to the Denver-Boulder academic community, to identify members of the local law and technology business
community who might join us at the meeting, and to identify and lock in corporate and law firm sponsors for the meeting. Please let Jon Rubens or Kristine Dorrain know if you are interested.

Cyber News You Can Use

If You Couldn't Make It to the ABA Annual Meeting...
You can access materials from the Business Law Section's programs at the 2013 ABA Annual Meeting here.

UK Admits Offensive Cyberattack Capability
Sarah Jane Hughes, Publications Director
According to the Financial Times, the UK has become the first nation to admit that it is developing the capability to conduct offensive cyberattacks. You can access the September 29 Financial Times article here.

See MIRLN for Cyberspace Updates
For up-to-date news on cyberspace law happenings, you should also visit MIRLN, a monthly newsletter edited by Cyberspace Law Committee member Vince Polley. It's free.

Presentations and Publications of Interest

Mobile Payments
Sarah Jane Hughes, University Scholar and Fellow at Maurer School of Law, Indiana University, participated on a panel at the consumer payments symposium at the Federal Reserve Bank of Chicago, on September 24. The panel's discussion focused on improving the consumer experience in payments across the spectrum of options. On October 3rd, she was on a panel discussing mobile payments and privacy at the NACHA Mega Council meeting in Reston, Va.

Cloud Computing
Lisa Lifshitz, of Torkin Manes, is chairing a program on "Cloud Computing: A Practical Approach" in Toronto on November 28. The program will be webcast, and you can register here. Continuing education credit for various provinces is available.

Other Payment News
Sarah Jane Hughes was interviewed by Bloomberg News in connection with the pending settlement of the Visa-MasterCard Interchange Antitrust Litigation before the hearing in the Eastern District of New York on September 12, 2013. She also was interviewed by Credit Union News about Judge Leon's July 31, 2013 vacatur of the Durbin Amendment Interchange Fee regulation promulgated by the Board of Governors of the Federal Reserve System, and also subsequent to the hearing on the stay of the vacatur that occurred on August 14, 2013.

Your Articles Are Welcome

We are always looking for fresh and relevant content for the CLCC newsletter. Have you written or presented on something your fellow committee members would be interested in? Let them know! Email your contribution to committee communications co-directors Cheryl Balough and Lois Mermelstein.