Message from the Chair

We are busy planning the upcoming 2014 Cyberspace Law Institute and Winter Working Meeting, which will be held January 31-February 1 at the Four Seasons Hotel in Denver. Meeting registration is now live, so please sign up for the meeting and reserve a room now. We are thrilled to be bringing the meeting to the Front Range of Colorado, with a very vibrant technology community in the Denver-Boulder area and beyond. Thanks to the input and legwork from our Colorado Planning Committee of local cyberlawyers, we have reached out to the University of Colorado School of Law and its Silicon Flatirons Center for law, technology and entrepreneurship.

Stay tuned for more details on the agenda for the meeting and the special events planned, but in the meantime, you can count on full 5 hours of CLE. We will offer presentations on new and exciting cyberlaw topics such as:

- the emerging area of "brainspray" technologies: yes, I can fly my toy helicopter with my mind and you can too
- the expanding world of virtual currency: bitcoins and beyond
- latest developments in online defamation issues in the age of microblogging: how can the law preserve First Amendment rights and deter "twibel"?
- privacy issues in geolocation and Big Data services: no you haven't heard the end of this!
- ongoing concerns about privacy and civil liberties in light of the disclosures about US government information collection: not just The Lives of Others, redux
- and more.

Meanwhile, be on the lookout for the latest from the committee: a special issue of the Section's e-magazine Business Law Today with a focus on cyberlaw topics and, soon after, the annual Survey of the Law of Cyberspace in The Business Lawyer. Do you follow the committee but have never joined? Get in touch; we are always looking for new contributors from our membership.

I look forward to seeing you in Denver!

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

Upcoming CLCC Programs

Security and the Cloud: Key Tips to Managing Your Risks in Cloud Computing Agreements
November 15, 1 pm EST
Webinar/Teleconference

Don't miss this free 90-minute CLE program, sponsored by the Cyberspace Law Committee. Cloud computing, a form of outsourcing involving the delivery of computing services over the Internet using shared resources, is becoming...
increasingly popular for use by companies and governments internally as well as a means to provide services to customers. However, using remotely located computing resources under the control of third parties comes with several key legal and business risks, including privacy concerns. This panel will (i) identify privacy and security concerns relating to cloud computing and gaps in standard cloud computing contracts; (ii) discuss significant developments in cloud litigation; (iii) consider steps that companies need to take in order to meet U.S. and international privacy and security regulatory requirements; and (v) offer best practices regarding privacy and cloud security for the Cloud. The panelists are Ian Ballon, Robert Bond, Lisa R. Lifshitz, and Nick Nugent. Register now.

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 is now open, 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.

We still have spots for a couple of corporate sponsors to help keep the registration costs and dinner ticket prices low. Contact Kristine Dorrain or Jon Rubens for more information on sponsorships or with any questions or suggestions regarding the WWM.

Other Programs of Interest

Drones on the Horizon: Legal Issues with Unmanned Aerial Vehicles in Domestic Airspace
November 15, 2013
Location: N/A
Format: Webinar/Teleconference

The Changes in Online Gaming Regulation: What Can Get Your Client in Trouble
November 19, 2013
Location: N/A
Format: Webinar/Teleconference

Going on the Cyber Offensive
December 5, 2013
Location: N/A
Format: 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 personalities 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 (jpduffy@bergduffy.com) or Sajai Singh (sajai@jsalaw.com).

Third Annual Law + Informatics Symposium

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 Trope 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 programs on financial services and banking law. 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 Publications

RFIDs, Near-Field Communications, and Mobile Payments Ready for Reprinting
Sarah Jane Hughes, Publications Director

RFIDs, Near-Field Communications, and Mobile Payments, the committee’s new book which was launched in August, has received great reviews. We hear this cutting-edge book is already headed for reprinting. Co-editors Sarah Jane Hughes, Stephen T. Middlebrook, and Candace M. Jones along with two dozen members of the CLC contributed chapters or sections to this book. You can purchase a copy of the book through the ABA website. If you have already purchased a book, please note that Chapter 13 contained errors that the authors spotted and an errata sheet has been created by Business Law Publishing. The errata sheet is available from Sarah Jane Hughes, if you just send her a note.

International Governance Task Force Update
Co-Chairs David Satola and Michael Kelly

Multi-stakeholderism remained a vibrant theme at the 8th Internet Governance Forum (IGF) in Bali, Indonesia (October 21-25, 2013). While multiple working groups dealt with a diverse array of issues from cyber security to human rights to expanding connectivity and exchange points, a chief consideration in all the Internet governance sessions was the multi-stakeholder paradigm versus the multilateral paradigm. The multi-stakeholder paradigm empowers non-state actors (corporations, civil society groups, etc.) to participate in Internet governance in a flexible and informal approach. Conversely, the multilateral paradigm is state-centered and operates from the premise of greater state control of the Internet, thereby embodying a less flexible and more formal approach. A move to multilateralism would allow states more direct regulatory power over content, commerce, and connectivity. This is generally viewed as a less favorable approach by both the U.S. and the ABA as well as the majority of IGF participants. Consequently, at the IGF's closing session, a continued preference for multi-stakeholderism and use of the IGF for free conversation instead of as a platform for creating positive law were overwhelmingly endorsed. Internet Governance Task Force co-chairs Mike Kelly and David Satola will provide an in-depth briefing of the goings-on at the 8th IGF as well as the highlights of what's what in the world of Internet governance at the upcoming Winter Working Meeting. In the meantime, a selection of YouTube videos of workshops and sessions from this year's IGF can be found at http://www.youtube.com/user/igf.

Task Force on Professional Responsibility and Technology
Co-chairs Lois Mermelstein and Juliet Moringiello

The Task Force on Professional Responsibility and Technology will meet at the Winter Working Meeting in Denver to discuss some "clean up" work involving the Ethics 20/20 amendments related to technology. Some of you provided comments to the Ethics 20/20 Commission regarding these changes, and you may remember that not all of them were adopted. Charlie McCallum, the chair of the Business Law Section's Professional Responsibility Committee has asked for our help in explaining to the Standing Committee on Ethics and Professional Responsibility why some of the technology related amendments were not handled appropriately and in suggesting other technology-related areas in which a formal opinion from the Standing Committee might be helpful.

Update from the Cybersecurity Subcommittee
Co-Chairs Tom Smedinghoff and Roland trope

Preliminary Cybersecurity Framework. Pursuant to the President's Executive Order No. 13636 (Feb 2013), the National Institute of Standards and Technology (NIST) released in October for public comment a draft Preliminary Cybersecurity Framework. Material is accessible here and text here.

Updated Smart Grid Cybersecurity. NIST also released in October for public comment Updated Smart Grid Cybersecurity Guidelines, the first update to NISTIR 7628 since its initial publication in September 2010. The draft can be downloaded from this site.

Cybersecurity: Authoritative Reports and Resources. The Congressional Research Service released in October a compendium of Cybersecurity Authoritative Reports and Resources. It's a 107-page, annotated list of such materials, and thus a handy research tool. A copy can be accessed here.

International Trade Subcommittee Report
Co-Chairs Hal Burman and John Gregory

The International Trade Subcommittee held a conference call last month about a proposed agreement by the United Nations Economic and Social Commission for Asia and the Pacific (UN-ESCAP) on electronic commerce. (Links to the documents were in the CLC's October newsletter) Participants included subcommittee members and some members of the ABA's Section on Science and Technology. Some of the proposed provisions appeared problematic, in part because they were so general that their scope was not clear. The document is to be considered at a meeting in Bangkok later in November. If a further conference call is needed to finalize an American government response, a notice will be sent
out to the subcommittee's mailing list.

UNCITRAL's Working Group IV on Electronic Commerce meets in Vienna December 9 - 13 to continue work on electronic transferable records. The documents to be discussed at the meeting are online here. Subcommittee members will be invited to comment on and discuss these documents in a conference call closer to the date of the meeting, through the mailing list.

It is clear that the ABA - through groups like ours - is a key source of technical and policy input for the U.S. government on these issues. Members are encouraged to participate; our voice is being heard.

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.

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

Cyber Payment and Money Laundering

Sarah Jane Hughes presented at the Southeastern Business Law Institute hosted by Cumberland School of Law in Birmingham, AL on October 24th. Her presentation was entitled "Plain Sense, Economic Sanctions and AML Compliance." It was a one-woman variation on the CLE program that CLC co-sponsored at the Spring Meeting. Her presentation immediately preceded the presentation by CLC's own Richard Balough.

BYOD Policies

Richard Balough also presented at the Southeastern Business Law Institute hosted by Cumberland School of Law on October 24. His presentation on "Don't Let BYOD Turn into Bring Your Office Disaster" focused on helping your corporate clients prepared effective Bring Your Own Device policies.

Canadian IT Law

Lisa R. Lifshitz was recently elected to the board of directors of the Canadian IT Law Association, one of Canada's preeminent information technology law organizations.

Virtual Currencies

Senators Merkley and Heller have invited Professor Sarah Jane Hughes to testify in a hearing convened by two subcommittee of the Senate Banking Committee on virtual currencies and their regulation, and national security. The hearing will be held on November 19th. Her testimony will focus on (1) standard protections for payments - drawn from the paper world, including the ability to redeem value
on demand or a predictable schedule and to prove the authenticity and integrity of a particular payment, (2) the prospects for disintermediation of payments by non-government, non-depository providers, and (3) the balance and future of dual regulation of payments in the United States in which states do most of the prudential regulation and the federal government focuses on anti-money laundering, anti-terrorism efforts and also on enforcement of economic sanctions laws.

**Cybersecurity**


**Government Contracts**

Roland L. Trope's November speaking engagements include: "When Strings Attach to Intellectual Property under US Government Contracts," at the MIT Enterprise Forum of NYC and City Bar of New York (Nov. 4, 2013, NYC), and "Averting 'Failure by Design' in Defense System Procurements" during the conference on "Modern Challenges in the Military Legal Domain", sponsored by Auditoria General de Chile and the International Society on Military Law and the Law of War (Santiago, Chile, November 22, 2013).

**Cloud Storage**


**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.