Message from the Chair

Dear Cyberspace Law Colleagues:

We had a strong turnout for Committee events at the recent Spring Meeting of the ABA Business Law Section in Los Angeles. We offered some very current programming. An interested crowd turned out for our programs on the Internet of Things (Careful, do you know who your refrigerator is talking to?) and Advising Boards on New Cybersecurity Responsibilities (one year after the Executive Order on cybersecurity, the ramifications of cyber-breaches to the power grid are more daunting than ever). And our latest collaboration with the Consumer Financial Services, Banking and UCC Committees drew a large crowd to our program on the Justice Department's "Operation Choke-Point" and current developments in enforcement of and potential prohibitions of non-ACH mobile payments, ably organized and moderated by Professor Sarah Jane Hughes. Always nice to have a panel chock full of regulators taking issue with each other!

Stay tuned in the coming weeks for news of our plans for the upcoming first Fall Annual Meeting of the Business Law Section, in Chicago September 11-13, where we will present CLE programming, host a full roster of subcommittee and committee meetings, and cook up another stellar joint committee dinner -- although our L.A. Korean Barbecue spectacular will be hard to top!

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

Upcoming CLCC Programs

Business Law Section Annual Meeting
September 11-13, 2014
Kristine Dorrain, Programming Director

Thank you to everyone who attended our programs during the Spring Meeting. It is always wonderful to experience such great turnout; it reinforces the relevance our committee has to the practice areas of so many lawyers. Looking ahead to the new Business Law Section Annual Meeting in September, the Cyberspace Law Committee must submit program ideas to BLS leadership this week. If you have an idea but have not yet submitted it to Kristine Dorrain, do so now with copy to Jon Rubens.

To submit a program idea you need to:

- Provide a written description of your program. A reasonable paragraph or two should suffice. Be clear about timeliness/ripeness and be specific as to relevance to the Section and Committee.
- Identify who you think will be on the panel (will you speak? moderate? organize?). Keep in mind the diversity requirements. If you’re a leader or subcommittee co-chair, encourage others to step up and do something. Speakers can get travel assistance in some circumstances, so bring in speaker from outside the ABA. (Speakers MUST register and pay for the
New this year: you can specify if the program is a 60-, 90-, or 120-minute program.

Identify who is going to chair the panel and provide that person’s name, phone, and email. The chair does not need to speak and may simply be the contact person (and materials coordinator) for the panel.

Please feel free to email Kristine Dorrain or Jon Rubens if you have any questions.

Registration for the BLS Annual Meeting in Chicago is open now. Register before the early bird deadline of July 18 and save $100.

Other Programs of Interest

Cyber Security Summit 2014
October 21-22, Minneapolis MN

The Cyber Security Summit was started in 2011 out of a concern positioned by the University of Minnesota based on what they saw as a pending national threat, cyber-attacks. The first summit was developed with content focused on changing the paradigm of how we look at digital space and security while educating on cyber threats and providing actionable solutions. The fourth annual summit will take place this fall. For more information, contact the Cyber Security Summit 2014 website.

CLCC Publications and Presentations

Bitcoins Webinar

Close to 500 people logged in to hear the Cyberspace Law webinar on "Bitcoin Accepted Here: Virtual Currencies and the Surrounding Issues" on March 28. Steve Middlebrook (FSV Payment Systems), Andrew Shipe (Arnold & Porter LLP), and Sarah Jane Hughes (Indiana University Maurer School of Law) reviewed the rapidly evolving area of virtual currencies and discussed some of the most significant legal implications. Stay tuned for updates on new developments.

CLCC Projects

New Cyberspace Law Books

If your subcommittee identified a potential book project, please let Sarah Jane Hughes know as soon as possible. We want to prepare a roster of possible projects and alert the participants to the procedures that book projects approvals go through and other helpful details. The Cyberspace Law Committee is excited about tackling new book projects during the next three years, so send those ideas you generated in Los Angeles in now.

Consumer Protection Subcommittee Update
Co-Chairs John Rothchild and James Nehf

The Consumer Protection Subcommittee met at the Spring Meeting and further developed its thinking about a new project related to the Internet of Things. We decided to focus on consumer issues arising from the practice of remotely disabling Internet-connected devices. We agreed to give further thought to two possible projects: (1) a presentation at the September 2014 Business Law Section Annual Meeting in Chicago and (2) an article for the Business Lawyer or some other publication. If you are interested in either project, please contact John Rothchild or Jim Nehf.

Electronic Payments and Financial Services Subcommittee Update
Co-Chairs Stephen Middlebrook and Ed Morse
A big thank you to everyone who attended the CLE on "Operation Choke Point" at the BLS Spring Meeting and to our fabulous speakers, with special thanks to Sarah Jane Hughes and CLE Co-Chairs Rob Hunter (Banking Law) and Veronica McGregor (CFSC). We had as many as 85 people in the CLE at one point on Saturday!

Steve Middlebrook is happy to announce that Ed Morse from Creighton University School of Law will be returning to his position as co-chair of the subcommittee after serving combat duty as the editor of Cyberspace's annual survey for the Business Lawyer. Welcome back Ed.

At the spring meeting in LA, the subcommittee discussed plans for creating a FAQ document answering legal questions consumers may have about using bitcoin and other virtual currencies. We plan to address topics such as: Is bitcoin legal to use? Do I have to register with the government? Can I dispute unauthorized or fraudulent transactions? Is my money safe with my currency exchange and/or wallet provider? What are the tax implications of using bitcoin? Our goal is to have a version ready for distribution by Annual Meeting in September.

We are also working with our fellow payment geeks on the Banking Law, UCC, and Consumer Financial Services committees to organize a CLE panel on virtual currencies for the Annual Meeting in Chicago. Details to come.

**International Trade Subcommittee Update**

*Co-Chairs Hal Burman and John Gregory*

At the Spring Meeting, the International Trade Subcommittee discussed regional initiatives in e-commerce and privacy law, reviewed particular initiatives respecting electronic invoicing, and canvassed methods for increasing involvement of subcommittee members and disseminating information to them.

It was noted that initiatives in developing legal frameworks for electronic commerce were springing up in regional forums as well as the global ones that we were used to, like UNCITRAL. The debate one sees globally between the less-regulatory approaches to e-commerce and those seeking more control play out in regions as well. At the global level, the International Telecommunications Union (ITU) is a relatively new player wanting its place among the regulators. The International Standards Organization (ISO) was doing a lot of work on security standards that would be of interest too.

The United Nations Economic Commission for Europe (UNECE) had long been active in this field, notably working group 4, and CEFACt, the Centre for Trade Facilitation. More recently, the U.S. government had been looking for input on a set of authentication rules proposed by the United Nations Economic Commission for the Asia-Pacific (UNESCAP), and another based on cybersecurity, but with broader implications, originating with the African Union. At present the most valuable comments tended to come from outside government on these matters, notably from the ABA (Cyberspace Law Committee and Science and Technology Section).

Phillip Schmandt reported on recent initiatives on e-invoicing in the EU. There were two directives, in 2001 and 2006, that allowed businesses to report their value-added taxes to governments using electronic evidence of their sales, i.e. their invoices, on condition that the e-invoices relied on PKI or EDI systems or national standards, including "other reliable business controls." The member states had done a good job transposing the directives into their national laws.

However, many countries were still insisting on PKI evidence and did not want to have to evaluate the reliability of business controls. The national tax authorities were deciding. A forum of experts has been reviewing this field for a couple of years, and it reported in 2013. Two of its working groups recommended mandatory e-invoicing for public sector procurement. A legal group advocated uniform rules among the tax authorities. It also urged that privacy rules exclude the information on business cards, so this information could be shared more freely.

Phillip noted that Latin American countries are often influenced by EU
developments and, in fact, sometimes surge ahead of the EU. Mexico, for example, has legislation on electronic invoicing, and Brazil is developing it. Again here, the countries divide into the more-regulatory and more-free-market orientations.

There was a lot of work here for members of the subcommittee to get their teeth into, where value could be added even by new members of the bar. We're working on more systematic reaching out, and mentoring.

**mCommerce Subcommittee Update**  
*Co-Chairs Richard Balough and Ted Claypoole*

The mCommerce Subcommittee met at the Spring Meeting in Los Angeles, drawing a dedicated team committed to analyzing business and legal trends in mobile computing. The subcommittee continues to seek writers interested in BYOD to help provide a short practical issues checklist for the Committee website. The subcommittee's sponsored panel discussion, "Calling All Toasters: Risk Management in the Internet of Things," featured speakers from academia, government practice and non-lawyer technologists, exploring the current state of device connectivity and the likely next steps as sensors, vehicles, drones, clothing, and appliances interconnect more deeply on the Internet. The crowd was lively and asked excellent questions regarding the coming pervasive object connectivity and next generation self-operating devices.

The subcommittee is currently examining newer topics in the space, including 1) a next generation look at developments in Geolocation Privacy law and technology, 2) a program on connected wearables and the legal issues they raise, and 3) a book project on business issues in the mobile space. Please contact Richard Balough or Ted Claypoole if you are interested in any of these projects or if you have another mobile topic to explore.

**Cyber News You Can Use**

**U.S. Military Cyberspace Operations**  
*Contributed by Ed Morse*

On April 1, 2014, Colonel James G. Bitzes presented at Creighton University School of Law. Colonel Bitzes is the Staff Judge Advocate for U.S. Cyber Command in Fort Meade, Maryland. USCYBERCOM is the military command responsible for planning and conducting operations in and through cyberspace to assure U.S. and allied freedom of action, deny adversaries freedom of action, and enable effects beyond the cyber domain. His lecture before law students, faculty and members of the local military legal community was entitled "Cyberspace Operations: Some Legal and Practical Considerations from a Military Perspective." You can access a video of the presentation [here](#).

**New Brazilian Law on the Internet**  
*Contributed by Renato Opice Blum*

Brazil enacted on April 23, 2014 a new law that establishes principles, guarantees, rights, and obligations for the use of the Internet in Brazil. Renato Opice Blum has provided an English translation for the law, which takes effect on June 23, 2014. You can access the original and a translation of the law [here](#).

**Presentations and Publications of Interest**

**Nova Southeastern University Names Jon Garon as Dean of Shepard Broad Law Center**

Nova Southeastern University (NSU) President George L. Hanbury II, Ph.D., has announced the appointment of the Cyberspace Law Committee's own Jon Garon as dean of the Shepard Broad Law Center. Garon is currently a tenured professor of law and founding director of the Chase Law + Informatics Institute (an interdisciplinary program in law, business and technology) at Northern Kentucky University in Highland Heights, Ky. He will commence his appointment
on July 1. In his role, Garon will serve as the chief academic and administrative officer of the Law Center, working with a remarkably diverse community of scholars and students in the creation of new programs and initiatives for its students, graduates, and members of the bar. You can read more about the appointment and Garon's background [here](http://apps.americanbar.org/buslaw/committees/CL320000pub/newsletter/201405/5/5).

**Study of Alternative Currencies**

Sarah Jane Hughes has been appointed as reporter for a new Uniform Law Commission study of alternative currencies and mobile payments. Fred Miller is chairing the study.

**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](mailto:cbalough@americanbar.org) and [Lois Mermelstein](mailto:lmermelstein@americanbar.org).