Message from the Chair

Welcome to the March Newsletter for the ABA Business Law Section Cyberspace Law Committee. Coming off of an excellent and productive Winter Working Meeting in Florida, we soon fly north to Montreal for the Business Law Section Spring Meeting starting April 7, 2016. Our team just lined up a data security and device encryption debate with Committee Stalwart Warren Agin arguing the part of device manufacturers who wish to maintain secure devices, and former Justice Department lawyer Mark Schamel arguing the part of law enforcement agencies who want access to any device. This debate will lead off our Committee meeting at 9 am on Thursday the 7th. We will also be sponsoring an entire day of subcommittee and task force meetings, and the excellent CLE panels and programs sprinkled throughout the conference.

Our Committee Dinner will be Thursday night at Industria, and we will be sharing a table with the Corporate counsel Committee, Intellectual Property Committee, the Corporate Compliance Committee and others. So come with us for a night on the town. Buy a ticket.

We still need some writers for the BLT Cyberspace Law Edition. The articles are short and simple; the recognition of your skill and service is ongoing. Find an interesting topic and write for us. We will be filing an entire publication cycle of the periodical.

We hope to see you in Quebec.

Ted

Ted Claypoole
Chair, Cyberspace Law Committee of the ABA Business Law Section

2016 Business Law Section Spring Meeting

You have just another month to brush up on your French before joining your Cyberspace Law colleagues in Montreal, Quebec for the 2016 BLS Spring Meeting, April 7-9. Not to worry, however, as all meetings will be in English. Registration for the conference is still open, and registration for our joint dinner with a few other committees has just opened up (see more below).

Thursday, April 7, is full of Cyberspace Law committee and subcommittee meetings. See Ted's letter above about the lively debate that we will have during the full committee meeting. Beginning late Thursday through Saturday, we are sponsoring five of the more than 70 CLE programs. They are:

- "The Emerging Cashless Society" chaired by Ed Morse
- "Beyond the Law: A General Counsel's Functional Approach to Global Compliance" chaired by Ariane Siegel
- "Protecting Your Brand in a Complicated Internet Landscape" chaired by John Rees
- "Cybersecurity Due Diligence in M&A Transactions" chaired by Roland Trope
- "What Business Lawyers Need to Know about Privacy Law" chaired by Bill Roberts

You can access the full schedule of programs here.
Our Thursday evening dinner will be at Industria Brasserie. For just $70, you get a four-course dinner, open bar, and of course wonderful company! If you have already registered for the meeting and want to add the dinner (the smart thing to do!), follow these steps: go to the Spring Meeting registration page; make sure you are logged in; click on View/Edit Registration (orange box); scroll down to Select Events and click on Edit; scroll all the way down (keep scrolling) to Corporate Compliance/Corporate Counsel/Cyberspace/Intellectual Property/White-Collar Crime Joint Committee Dinner; click on the orange Add button to the right; and then proceed through checkout.

We are also planning an informal get-together Wednesday evening. Stay tuned for more details. We look forward to seeing you in Montreal!

**ABA Content Corner**

Was there an "In The Know" or ABA webcast you missed? Maybe you can't find the latest Business Law Today or The Business Lawyer? Do you want to access all of the content that the Business Law Section produced the past few months? No problem! Just visit the ABA's [Content Corner](http://apps.americanbar.org/buslaw/committees/CL320000pub/newsletter/201603/) to access these and more valuable resources.

**Committee Doings**

**From the Enterprise Technology Subcommittee**  
*Co-chairs Candace Jones and Cheryl Burtzel*

The Enterprise Technology Subcommittee has launched its project, **Contracting with Vendors for Information Security and Resiliency** (working title). The project will include work on a survey of relevant regulatory guidance and rules, commentary highlighting issues to be considered in documenting a range of third-party relationships and the various perspectives and concerns of different transaction parties, and sample contract clauses with annotations.

Project participants will first compile information for the regulatory survey. The survey is intended to provide an overview of the regulatory landscape across a range of industries. It will identify sources of relevant regulatory authority, the nature and scope of guidance or regulation, and the mechanism, if any, for enforcement. Information will be collected in a standard template, which has been circulated to Subcommittee members and other project volunteers.

If you would like to contribute to the survey, we have a list of authorities not yet claimed. You may also identify regulatory authorities you think have provided relevant guidance but that may not be on our current list. Please contact Candace or Cheryl for more information or to get started contributing to the survey.

The Subcommittee plans to invite project participants to contribute to an outline of issues to be covered in commentary and sample clauses. The outline will frame the collection of sample clauses and commentary. Our goal is to facilitate a conversation among lawyers who bring a variety of perspectives and to capture those perspectives in work product that helps to educate and provide useful tools for business lawyers negotiating vendor contracts. We welcome input from both sides of these procurements - vendors and customers - to assist all in realistic and reasonable approaches to cybersecurity-related terms.

Candace M. Jones (candace.jones@ny.frb.org)  
Cheryl M. Burtzel (cburtzel@dwmrlaw.com)  
Co-chairs, Enterprise Technology Subcommittee

**From the International Trade Subcommittee**  
*Co-chairs Hal Burman and John Gregory*
The International Trade Subcommittee held a conference call at the end of February to further explore identity management. The meeting discussed approaches to the topic that might maximize the chances of making useful progress on the legal issues. Two approaches were considered in particular: coming at the issue through the notion of liability and through the notion of a government-to-start credential system (as in the EU). Some pros and cons of each approach were debated. For example, was there any viable business model for a pure authentication entity that would bear full liability for errors? (Shades of Utah 1995!) Was there a foreseeable route to transition between a government-only system and one that the private sector could use?

**Member News**

John Gregory recently published a column on the implications of voice recognition in the Internet of Things - the title borrowed from a phrase of Jon Garon's in his talk to the Winter Working Meeting in January. (Dean Garon is not responsible for the contents.)

The Cyberspace Law Committee was well-represented at the February 19-21 drafting committee meeting in Palo Alto regarding the Uniform Regulation of Virtual Currency Business Act. The ABA Business Law Section Advisor is Stephen T. Middlebrook, the ALI Advisor is Richard Field, Committee member Tom Brown is an Observer, Fred Miller is the Chair of the Drafting Committee, and Sarah Jane Hughes is the Reporter. GO, CLC. The next Drafting Committee meeting is on April 2-3 at the Hotel Monaco in Chicago; persons wishing to attend should register with rnewitt@uniformlaws.org.

Before the Drafting Committee meeting, Sarah Jane Hughes will be on a panel with Dana Syracuse (who was heavily involved in drafting the BitLicense Regulation adopted by the NY State Department of Financial Services to say the least) on April 1st in Washington, D.C.

**Upcoming Programs of Interest**

**Big Data, Big Benefits, Big Burdens**  
March 16, 2016  
Format: Webinar

**FanDuel and DraftKings: Gambling with the Legality of Daily Fantasy Sports**  
March 23, 2016  
Format: Webinar

**The War Against Data Breaches: Locking Down Law Firm Data**  
March 30, 2016  
Format: Webinar

**National Institute on the Internet of Things**  
March 30-31, 2016  
Format: In-Person, Washington, DC  
Speakers include Committee members Richard Balough, Lisa R. Lifshitz, and Tom Smedinghoff.

**2016 Digital Currency and Blockchain Technology National Institute**  
April 1, 2016  
Format: In-Person, Washington, DC  
Speakers include Committee member Sarah Jane Hughes. Use the discount code CE15CPDNIVIP to save $100 on registration.

**A Note from the Editor**
In addition to reporting on the committee's work and what its members are up to, we'd like the newsletter to include articles on topics of interest to members. Articles should be 250-500 words, timely, and original content not already published elsewhere (including on your firm's website). To submit an article or ask questions, please contact the editor, Lois Mermelstein.