



August 2016

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## Important Dates

### [Business Law Section Annual Meeting](#)

September 8-10, 2016  
Boston, MA

## Editorial Board

[Lois Mermelstein](#)

## Message from the Chair

Welcome Cyberlawyers to a brave new world with an EU Privacy Shield in it. If you are the type of lawyer who stays ahead of all the legal news in our field, you may want to join the new Current Law Task Force for the Committee, led by Chicago's John Black ([jblack@skarzynski.com](mailto:jblack@skarzynski.com)). The task force will meet on phone conferences to talk about recent changes or events in cyberspace law, and then write up short (or long if they like) reports about the news we all should know. We expect some articles and possibly webinars will emerge from these efforts. This task force is a great place for people to participate and contribute to the Cyberspace Law Committee without the need to travel and attend meetings.

Our Boston meeting is coming up and you can still register. We have listed the Committee sponsored CLE below, and we have a full day of meetings on the Conference's first day, including the Committee dinner that night at the Summer Shack, within walking distance from our hotels. The Cyberspace Committee meeting will include a discussion of the cyber aspects of the new U.S. Trade Secrets Law, led by Stephen Chow. The sub-committee meetings will include work on our ongoing projects, like books and legal database tools, and new projects will emerge. If you have good ideas for presentations, publications or any tools we can create to support and lead the world of cyberspace lawyers, join us and speak up. We will meet informally in Boston for dinner on Wednesday night for those arriving early. We plan to meet at [Tico](#), a pan-Latin restaurant from Beard award winner Michael Schlow, at 7pm. Please send me an email if you plan to attend and if you plan to bring guests so that we may reserve enough seats.

We are still hunting for short (3000 word) cyberspace law articles for our reserved spot this year in every Business Law Today publication. Late summer haze can lead to inspiration for the fall. Contact me if you are inspired to publish your thoughts.

Ted Claypoole  
Chair, Cyberspace Law Committee

## BLS Annual Meeting - September 8-10

[Registration](#) is open for the Business Law Section Annual Meeting in Boston. The Cyberspace Law Committee will have a full day of committee/subcommittee meetings on Thursday, September 8. We will also sponsor CLE programs on:

### 1. Don't be Spokeo'd: What You Need to Know in Litigating Data Breach Cases (from Breach to Remedies) (Katris)

- This program will cover practical tips regarding what every attorney should know and do when a data breach occurs.
- Includes unique discovery concerns in data breach matters as well as potential remedies and resources for recovery.

### 2. The Legal Landscape Through a Virtual Reality Lens (Huffman)

- What's up with Virtual Reality technology - development, progress and

future outlook of an industry.

- Will cover legal concerns of developers, including IP, privacy, speech, impersonation, jurisdiction, data security, and liability concerns.
- The concerns of consumers and advocates also will be addressed.

### **3. The Government's Role in Your Cyber Incident: Friend, Foe or Both?** (McAndrew)

- This program will discuss the various roles that different governmental entities play in a company's cyber life - including establishing standards for, and direct regulation of, organizational cybersecurity and cyber information sharing.
- Provides an understanding of the benefits and costs of interacting with federal law enforcement agencies in the investigation of different types of cyber incidents, using actual case examples to illustrate the issues.
- Highlights key issues in civil and criminal litigation relating to organizational cyber incidents.

### **4. Securing Your Connected Devices: Plan to Avoid Liability from the Internet of Things** (Rothchild)

- Program will provide insight into the Federal Trade Commission's use of its unfairness jurisdiction against manufacturers and users of connected devices with security vulnerabilities.
- Includes a discussion of potential private actions/suits that can be raised, and ways a manufacturers and users of connected devices can reduce their exposure to liability.

### **5. Director and Officer Liability and Cybersecurity: Questions Every Officer and Director Must Answer** (Sarkar)

- Program will discuss the Director and Officer liability exposures as a result of a cyber-incident, including the duties of directors and officers have with respect to cyber security and how to address their related fiduciary responsibilities.

### **6. Blockchain for Business: Emerging Legal Issues Associated With Using Distributed Ledger Technology in a B2B Environment** (Middlebrook/Hughes)

- Program will discuss what distributed ledger technology ("DLT") is and how it is being integrated into business models and processes.
- Includes a description of the roles and responsibilities of entities involved in DLT projects as well as the key legal issues business lawyers need to assess when reviewing DLT projects.

Register [now](#), and make sure to [reserve your hotel](#) too before the room blocks sell out. And whether you're just registering now or have been registered for a while, be sure to [add](#) the Cyberspace Law Committee's dinner at Summer Shack- a fun seafood joint run by Jasper White, a James Beard award-winning chef who believes great food doesn't need to be "haute"! We look forward to seeing you in Boston.

## **Committee Doings**

### **From the Current Law Task Force**

*Chair John Black*

The Current Law Task Force will commence with its first teleconference call on Wednesday, August 24, 2016. We will hold teleconference meetings every month. Taskforce members will be asked to watch for changes in cyberspace law, new

impactful cases, regulatory prosecutions, settlements or policy statements, or new statutes that might affect the business of cyberspace, data, or the digital world. Members should bring their findings to the teleconferences and be prepared to write short articles about them. Our goal will be to choose at least one topic to write up every meeting, and assign a writer. The written product should be concise and quick - a few paragraphs - and be published in the newsletter and on the committee's website. If the short article is of sufficient interest, the writer or taskforce may be asked to turn the item into an article for BLT.

The calls will occur every other month at **12:00 noon Eastern Time** on the third Wednesday of the month. Our first call is planned for **Wednesday, August 24, 2016** at 12:00 Noon Eastern. An email reminder will be sent with call-in instructions before the meeting.

If you are interested in participating in the first teleconference call, please email your contact information before Monday, August 22, 2016, to [John Black](#) to be included in the listserv notice for call-in details. You can also join the Task Force at its [website](#).

### **From the Enterprise Technology Subcommittee**

*Co-chairs Candace Jones and Cheryl Burtzel*

The Enterprise Technology Subcommittee continues its work on the project ***Contracting with Vendors for Information Security and Resiliency***. The project continues to include new members interested in the discussions and in contributing to eventual work product.

Our next project call is on **Thursday, August 11, at 12:00 noon Eastern Time**. We then will take a short break from our calls for the remainder of August and will resume project work in person at our Subcommittee meeting at the ABA Annual Meeting in Boston. This in-person meeting is scheduled for **Thursday, September 8, 2016 at 11:30 Eastern** in the Helicon Conference Room, 7<sup>th</sup> Floor, Westin Copley Hotel. We plan to have a call-in number available for those who are unable to attend in person, and will circulate that number to project members as soon as possible.

The purpose of the calls is to have structured discussion about the particular topic for the call agenda. An agenda for each call will be distributed the week of the call to those who sign up with [Cheryl Burtzel](#) or [Candace Jones](#). We welcome volunteers to serve as "reporters" for the workshop calls and author/editors of the materials we develop based on those calls.

We have distributed a discussion draft of a checklist to help address the issues surrounding information security provisions in vendor contracts through a series of workshop conference calls. The project also will begin soliciting sample contract clauses from participants soon. Part of our meeting on September 8 will be devoted to discussion of the process for submission of clauses and preparation of commentary for each substantive matter. We welcome volunteers to serve as "reporters" for the workshop calls and author/editors of the other materials we plan develop based on those calls.

Please let [Cheryl Burtzel](#) or [Candace Jones](#) know if you are interested in participating in one of those roles or otherwise contributing to the project.

### **From the International Trade Subcommittee**

*Co-chairs John Gregory and Hal Burman*

The International Trade Subcommittee is preparing, together with experts from the SciTech Section and others, a midyear overview of global e-commerce developments. The review will cover UNECE, UNCITRAL, UNESCAPE, ITU, and others whose activities impact North American e-commerce law, as well as issues arising in the NAFTA context.

There are expected to be a number of action items to deal with in the fall. At our meeting in Boston, the Subcommittee will decide priorities and resume its full conference call schedule.

Proposals from folks in Cyberspace for global e-commerce matters that should be considered for the Subcommittee schedule would be welcome as always.

Documentation, including the global development review will be posted through the Committee's website or links available through co-chairs John Gregory ([John@EUCLID.CA](mailto:John@EUCLID.CA)) and Hal Burman ([Halburman@aol.com](mailto:Halburman@aol.com))

#### **From the Non US Cyber Laws Task Force**

Robert Bond is sadly stepping down from his involvement in the ABA and in particular the Cyberspace Law Committee and as a consequence David Flint of MacRoberts LLP is kindly taking over the Non US Cyber Laws Task Force.

Robert is sad to be leaving the ABA and sends his best wishes and warm regards to all the friends that he has made over the last 25 years.

Robert asks that members give their support to David Flint as he moves the important work of the Non US Cyber Laws Task Force forward and hopes that he can keep in touch with you all."

### **Member News**

ABA Publishing just released Warren Agin's book, "The Bankruptcy and Intellectual Property Handbook". You can get more information and order a copy at <http://shop.americanbar.org/eBus/Store/ProductDetails.aspx?productId=252173889>.

### **Upcoming Programs of Interest**

[Confidential: Protecting Attorney-Client Privilege and Corporate Documents](#)

August 16, 2016

Format: Webinar

[Moneyball for Lawyers: How Legal Analytics Is Transforming the Business and Practice of Law](#)

August 17, 2016

Format: Webinar

### **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](#).

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