



March 2017

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[Business Law Section Spring Meeting](#)

April 6-8, 2017

New Orleans, LA

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[Lois Mermelstein](#)

## Message from the Chair

Welcome to the Cyberspace Law Committee Newsletter. We are a mere month away from the ABA Business Law Section Spring Meeting in New Orleans, April 6-8. Join us for fellowship, CLE and the excellent cyberspace law projects managed by our various subcommittees and task forces. We should see the first meeting of our Health Care IT task force for those of you interested in health care tech and cyberdelivery of services. You can now register for our committee dinner at the legendary New Orleans Cajun restaurant Mother's in the French Quarter.

### Committee Dinners

Most of the Cyberspace Law Committee events will be held on Thursday, as will our dinner. Some of our CLE programs will be on Friday and Saturday.

See below in this newsletter for the list of CLE panels and cyberspace meeting topics. Our book on Social Media Law may be available for purchase at the Spring Meeting, but if not, we will keep you apprised of when you can pick one up.

Come join in the renaissance of a great American city and learn from the country's best business lawyers. See what the Cyberspace Committee is doing and how you can contribute. We are always looking for writers, speakers and thinkers.

Ted Claypoole  
Chair, Cyberspace Law Committee

## BLS Spring Meeting, April 6-8

The BLS Section Spring Meeting in New Orleans is just one week away, April 6-8, 2017! It's not too late to [register](#). The Cyberspace Law Committee will hold its full committee and subcommittee meetings on Thursday. Three of the subcommittees will include CLE programs *within* their scheduled times, and we'll have two more standalone CLE programs. Each of the following programs has lined up an excellent panel of presenters:

- EU Privacy Shield Impact on Data Transfers from Mobile Devices
- Changing Standards of Unfairness: Recent Enforcement Actions by the CFPB
- Keys to Celebrity Use of Social Media and Paid Endorsements
- Enforcement and Litigation Trends in Privacy and Data Security
- The Uniform Law Commission's Draft Uniform Regulation of Virtual Currency Business Act --- A Report from the Drafting Committee Participations and Stakeholders

The full [Spring Meeting agenda](#) is here.

[Register now](#) for the meeting. And remember to reserve a spot at the Cyberspace Law Committee dinner Thursday evening. We'll be enjoying downhome southern fare with an open bar in a private room at [Mother's Restaurant](#)-a short walk from the hotel. Our friends from Corporate Compliance, Corporate Counsel, Intellectual

Property, White-Collar Crime, and Legal Analytics Working Group will be joining us. Just log into the registration page, click on Register Now, then View/Edit Registration, and edit Select Events to add the dinner. See you in New Orleans!

## News

### **FTC Targets Insecure Routers**

*By John E. Black, Jr.*

The Federal Trade Commission has initiated two actions in the last year to address the dangers presented by insecure routers. In January 2017, the FTC filed a complaint in the Northern District of California against D-Link Corporation and its U.S. subsidiary (D-Link Systems, Inc.), alleging that inadequate security left its wireless routers and Internet cameras vulnerable to hackers, putting at risk the home networks of consumers. Although D-Link promoted the security of its routers, it allegedly failed to address well-known and easily preventable security flaws. The complaint was filed in the wake of large-scale denial of service attacks by hackers on poorly secured internet-connected products through malware such as Mirai to force websites offline.

Just one year earlier the FTC brought an enforcement action to address the threat presented by insecure routers to consumer home networks. In February 2016, the FTC filed an enforcement action against ASUSTeK Computer, Inc, alleging that ASUS was producing routers with critical security flaws that put at risk consumer home networks of consumers and their personal information. The complaint alleged that the routers' insecure "cloud" services led to the compromise of thousands of consumers' connected storage devices and exposed sensitive personal information. The FTC and ASUS entered into a consent order requiring ASUS to establish a comprehensive security program and notify consumers of software updates and other steps to protect themselves from security flaws, and prohibiting ASUS from misleading consumers about the security of its products, including whether the products use current software.

### **Australia Passes National Data Breach Notification Law**

*By Michael Silvestro*

On February 13, 2017, Australian legislators passed a national mandatory data breach notification law. The bill, Privacy Amendment (Notifiable Data Breaches) Bill 2016 amends the Privacy Act of 1988, and is expected to take effect within one year. The law does not clearly specify the types of breaches requiring notification, but rather requires notification of breaches that a "reasonable person" would identify as potentially causing "serious harm." The amended law imposes fines for failing to report a data breach of up to AU\$1.8 million, but notably excludes organizations with less than AU\$3 million in revenues from the reporting requirement. The law also affords companies a 30-day window to assess whether breaches require notification.

## Subcommittee News

### **From the Social Media Subcommittee**

*Co-chairs John Isaza and Valerie Surgenor*

It looks like June is the official release date for *A Handbook on Global Social Media Law for the Business Lawyer*. Preliminary reviews of the book and its content have been stellar. In the meantime, various members of the Social Media subcommittee and contributing authors have already started hitting the speakers' circuit with key topics covered in the book. In January, Valerie Surgenor and John

Isaza co-presented on Social Media Records and Information Management Issues at the Winter Cyberspace Law meeting, and earlier that month John Isaza presented a CLE webinar on Social Media Ethics. Finally, Adam Nadelhaft, Valerie Surgenor, John Isaza, and Joe Rosenbaum will be presenting on Celebrity Use of Social Media at the ABA's Business Law meeting in New Orleans. Come support your fellow subcommittee members at this most interesting and lively presentation on Thursday, April 6<sup>th</sup> at 10:30 a.m.

On a separate note, we are chagrined to report that Valerie Surgenor will be stepping down as co-chair of this subcommittee. Ted Claypoole has "stolen" her to head another subcommittee, where she will provide equal and dedicated leadership as provided to our Social Media subcommittee. Thank you Valerie from our collective hearts for your dedication and service.

#### **From the Legal Analytics Working Group**

*Chair Warren Agin*

The Legal Analytics Joint Working Group has a meeting and two programs scheduled for the Spring Meeting. Our working meeting is Friday morning from 9 to 10:30 am. Saturday morning from 10:30 to 12:30 we are running two great programs back to back in the same room: first, [Data Driven Risk Assessment For Litigators and Transactional Lawyers](#), and then [Behavioral Economics: How It Informs Corporate Compliance, Dispute Resolution, and Disclosures](#).

We are also looking for ideas for programs at the Section's annual meeting, scheduled for Chicago September 13 to 16. We will have to submit ideas soon!

Cyberspace members interested in signing up for the Legal Analytics Working Group can do so at [http://ABA\\_LAWG](http://ABA_LAWG).

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

*Chair John Black*

The Current Law Task Force will hold a teleconference call to discuss recent cyberspace law developments on Wednesday, March 15, 2016, at 11 am Central Time/noon Eastern Time. Please join us to discuss new cases, laws or rulings that affect cyberspace, data, and the digital world. The Task Force provides a great opportunity for members to publish short articles on emerging cyberspace topics in the monthly newsletter and Business Law Today and to organize cutting edge topics for webinars or panel presentations.

An email reminder will be sent with call-in instructions a week before the next meeting. If you are interested in participating, please register on the website or email your contact information to John Black, [jblack@skarzynski.com](mailto:jblack@skarzynski.com), to be included in the listserv notice.

### **Committee Members Out and About**

Sarah Jane Hughes and Steve Middlebrook participated in what is scheduled to be the last Drafting Committee meeting on the ULC's uniform regulation of virtual currency business act. The meeting was held in Chicago in early March.

### **Programs of Interest**

**Invitation from India Committee to Conference on Saturday, April 29 in Washington, D.C. at the law offices of DLA Piper from 8:50 AM - 5:00 PM.**

The ABA Section of International Law's India Committee is hosting a one day

conference for a visiting delegation of lawyers from India led by the President of the Indian Bar Association and the President of the Society of Indian Law Firms. Keynote speaker of the conference will address the media treatment of the Trump Administration. There will be three panels of speakers on the following topics:

- Sustainability and Shareholder Activism
- Cybersecurity Due Diligence in M&A Transactions
- Intellectual Property under U.S. Government Contracts.

Speakers will include the General Counsel of Abercrombie, former General Counsel of General Motors, partners from Jones, Day, Wachtel, Lipton and Kirkland & Ellis as well as members of our Cyberspace Law Committee - Candace Jones and Roland Trope.

All members of the Cyberspace Law Committee are welcome to attend. There is no cost to attend, and lunch will be provided by DLA Piper.

If you intend to attend, please email Roland Trope at [rltrope@tropelaw.com](mailto:rltrope@tropelaw.com) who is one of the co-chairs of the India Committee and who would appreciate the expression of interest so that the India Committee can have an reliable estimate on the seating and refreshments needed for the conference.

#### **International Identity Management Law and Policy meeting**

The Identity Management Legal Task Force, in conjunction with The World Bank and the Open Identity Exchange, will be holding an International Identity Management Law and Policy meeting on **May 18, 2017**. The meeting will focus in part on the issues being raised in the discussions regarding identity management legislation at the United Nations Commission on International Trade Law (UNCITRAL) and the Uniform Law Commission Study Committee on Identity Management in Electronic Commerce. The full-day meeting will be held at the World Bank in Washington DC. Please contact Tom Smedinghoff at [Tom.Smedinghoff@lockelord.com](mailto:Tom.Smedinghoff@lockelord.com) to register or for further information.

### **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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