Message from the Chair

We are just a month away from the BLS Annual Meeting, and the Cyberspace Law program and meeting line-up is as hot as Austin weather promises to be! Please see below for more information about our sponsored programs and meeting topics of discussion.

If you have delayed committing to the last minute, you can still register. Advanced registration ends August 24. Note that the Fairmont Austin is sold out, but a block of rooms has been reserved at the nearby Hilton Austin. See the accommodations page of the meeting site.

A few spots are still available at our joint committee dinner on Thursday evening at Second Bar + Kitchen. With some generous sponsorship by StoneTurn and SaGo, our multi-course dinner with open bar is just $60 - the best deal in Austin. Thanks again to Warren Agin and A.J. Bosco for securing the sponsorships. To register for the dinner, revisit the Annual Meeting registration page, click on View/Edit Registration (in the orange box), scroll down to Select Events, click on the Edit icon, and go from there.

I want to take this opportunity to thank Kristin Haugen, Tom Kierner, and Tsui Ng, who are completing their terms as Business Law Fellows. Their significant contributions to our committee are most appreciated, and we truly hope they will continue to be actively involved with the committee's work. Alexandra O'Rourke's term continues, and we will be welcoming two new Fellows in September.

The future of blockchain may be up for debate, but as business lawyers we should have a basic knowledge about this technology to counsel our clients. The program Bill Denny and Brian Castro have coordinated for Annual Meeting is a great place to start. Prof. Walter Effross also has curated a collection of blockchain-related materials that is an excellent resource for any attorney who wants to get up to (or maintain) speed on blockchain. See below for more information. Thank you, Walter!

When you find (or create yourself) great resources for experienced or newbie cyberspace lawyers, please let us know. We welcome the opportunity to share that information through our newsletter, website, BLT, and other communications. Let Cheryl Burtzel or me know how you would like to get involved with the committee's work!

Regards,

Cheryl Dancey Balough
Chair, Cyberspace Law Committee

Cyberspace Law Committee Schedule for Annual Meeting

Please plan to attend our sponsored CLE programs and meetings in Austin. If you cannot be there in person, you can call in to most of the meetings. Call-in information will be available soon.

Thursday, September 13
8:00 - 9:00 am: Cybersecurity Subcommittee Meeting

9:00 - 10:00 am: Cyberspace Law Subcommittee Chairs Meeting (by invitation only)

10:00 - 11:00 am: Cyberspace Law Committee Meeting with Smart Mobility: Can Data Analytics Solve Our Transportation Woes (Without Ruining Our Private Life?)

11:30 am - 12:30 pm: Cyber Insurance Subcommittee Meeting

11:30 am - 12:30 pm: Robotics & Artificial Intelligence Subcommittee Meeting

1:00 - 2:00 pm: Federated Identity Management Task Force Meeting

1:00 - 2:00 pm: Health IT Task Force Meeting

2:00 - 3:00 pm: Cloud and Enterprise Technology Subcommittee Meeting

2:00 - 3:00 pm: Cross-Border E-Commerce Subcommittee Meeting

2:30 - 4:00 pm: Autonomous Car Crashes - Who or What Dunnit? Will IP and Cybersecurity Lawyers Replace PI Lawyers in Sorting Out the Legal Issues

3:00 - 4:00 pm: Non-US Cyber Regulations Subcommittee Meeting

3:00 - 4:00 pm: Smart Contracts and Blockchain Subcommittee Meeting

4:00 - 5:00 pm: Consumer Privacy & Data Analytics Subcommittee

4:00 - 5:00 pm: Electronic Payments and Financial Services and Subcommittee Meeting

7:30 - 10 pm: Committee Dinner (ticketed)

Friday, September 14

8:00 - 10:00 am: Cyber Extortion: The Ethics of Advising on Ransom Demands to Restore Client Digital Assets

10:30 am - 12:30 pm: What Business Lawyers Need to Know about Blockchain, Smart Contracts, and ICOs from Fundamentals to Transformative Applications

2:30 pm - 4:00 pm: GDPR: Blueprint for a New World Order?

Saturday, September 15

10:30 am - 12:30 Noon: Legal Ethics and Cryptocurrency

We also are co-sponsoring eight programs, which are listed in the meeting schedule. Please check them out.

Subcommittee News

From the Current Law Task Force

Current Law Task Force Meeting - August 15

Are you interested in writing about emerging topics in cyberspace law? Would you like to publish a piece on a recent development, but don't have the time to draft a long article? Are you looking for a way to get more involved with the Cyberspace Law Committee without traveling to a meeting?
If so, call in to the next meeting of the Cyberspace Law Committee’s Current Law Task Force on July 11 at 10:00 am CT/11:00 am ET. New members are always welcome.

The Current Law Task Force tracks and reports on recent developments in cyberspace law and serves as an incubator for publications and presentations. There are a variety of available publication opportunities, including contributions to the Cyberspace Law Committee Newsletter and Business Law Today. The Task Force can help you publish works of varying length and detail, ranging from long-form articles to pieces as brief as one paragraph.

The Current Law Task Force meets through monthly conference calls to discuss new developments and ideas for publications. The dial-in information for the call is below:

Call In: 312-667-9356
Conference ID: 079455
Security Pin: 160049

From the Cross-Border E-Commerce Subcommittee

The Cross-border E-Commerce Subcommittee held two conference calls in July to discuss the identity management “roadmap” as set out at the April meeting of the UNCITRAL working group on electronic commerce. The Subcommittee intends to assemble comments on the full document and its implications for future work on that topic at UNCITRAL, for the use of the US delegation to the working group and others who may be interested.

At the annual meeting of the Section in Austin, the Subcommittee will summarize these discussions and other topics of interest at international bodies, including the UN Commission for Asia and the South Pacific (ESCAP), which has adopted a framework agreement for cross-border paperless trade, and the UN Commission for Europe’s Center for Trade Facilitation (CEFACT) which has begun work on a convention on international trust frameworks.

The Subcommittee will be looking for a co-chair, since John Gregory’s tenure with the ABA ends at the end of August. Members with an interest in the international legal scene in e-communications are invited to express that interest to management of the Committee. If you have comments or questions, feel free to contact one or both of the current co-chairs of the subcommittee, Hal Burman and John Gregory.

From the Healthcare IT Subcommittee

The Healthcare IT Subcommittee is looking forward to Austin. We are planning a series of bite-size, easy-to-digest online publications on topics of interest to healthcare and technology (think: AI and Healthcare, Blockchain and Healthcare, etc.), geared towards tech lawyers who would like a healthcare uplift, and healthcare attorneys looking for a tech uplift. Please join us at our subcommittee meeting and consider taking one on!

FTC Announces Public Hearings on Enforcement Priorities and Policy Agenda

Heidi Kuffel, Skarzynski Black LLC

The FTC has announced a series of public hearings from September 2018 through January 2019 targeted toward evaluating and improving the FTC’s enforcement, priorities, and policy agenda. The FTC is welcoming comments before August 20, 2018 on a variety of consumer protection law issues including: the current state of antitrust law; identifying and measuring market power and
entry barriers; the FTC's authority relating to privacy and data security; the intersection of competition, big data and privacy; effects of mergers and acquisitions; analysis of monopoly power; intellectual property's impact on encouraging innovation; artificial intelligence and predictive analytics' roles in relation to consumer welfare; analysis of and the interplay between federal and state regulations and statutes involving prohibition of deceptive and unfair acts; and the FTC's overall enforcement, investigative and remedial procedures related to such matters.

In addressing this broad variety of topics, the FTC plans to analyze and improve its processes to address the changing landscape of the economy and technology, as well as a myriad of other developments and evolutions involving business practices. Although these topics represent areas of interest to the FTC, comments need not be tailored to these precise topics.

Comments may be submitted through August 20, 2018. The FTC will then invite further comment via news release prior to each hearing session and will again seek commentary upon the completion of all of the hearings. The hearings are expected to begin this September and conclude in January, 2019. For more information, click here.

New Blockchain Blog Welcomes Guest Contributors

All members of the Cyberspace Law Committee are invited to contribute guest posts to the blog of the newly-launched Blockchain for Law Students (blockchainforlawstudents.com). The site, created by American University law professor (and former E-Commerce Subcommittee chair) Walter Effross, provides an annotated list of key resources; summarizes the caselaw concerning blockchain and cryptocurrency; identifies a wide variety of legal issues and source materials analyzing them; and categorizes participants in the blockchain economy.

Possible topics for guest posts include: recommendations of (online or hard-copy) reading materials; suggestions of paper topics; advice on law school/CLE courses to take; and discussion of specific knowledge/skills/experience (including coding) that students-or interested lawyers-should consider acquiring to enhance their involvement in this area. Longtime members of the Committee might address applications/analogies of lessons from their pioneering periods of Internet practice.

Cyberspace Law Committee Chair note: Prof. Effross's thorough, curated collection of blockchain-related materials is an excellent resource for any attorney who wants to get up to (or maintain) speed on blockchain! Please do check it out.

Brazilian Data Protection Regulation is Approved by Congress

Opice Blum

After over eight years of legislative debates, the plenary of the Brazilian Federal Senate unanimously approved, as of July 10, 2018, the Brazilian personal data protection regulation, or "LGDP" for its acronym in Portuguese (Bill of Law 53/2018), which currently awaits for Presidential signing (or veto) within the next 15 business days.

Once signed, the LGDP will take effect 18 months after publicized in the Brazilian official gazette. Considering that data protection legislation was already part of
Europe's daily activities prior to its General Data Protection Regulation "GDPR" - which provided for a two year window for necessary adaption before coming into full effect - the 18 month adaption period provided by the LGDP may reveal itself rather limited. Fines up to R$ 50,000,000,00 may be applied in case of infringement, among others administrative sanctions and damage compensation.

Read more…

Committee Member News


Sarah Jane Hughes served as the reporter for the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act that the Uniform Law Commission approved for state enactment on July 25th. This supplemental commercial law provides robust consumer protections and clear duties for providers who have "custody" of clients' virtual-currency assets. The regulation act was approved in July 2017, but many states were waiting to enact it until both the regulatory and the commercial acts were ready for enactment. In connection with the supplement commercial law act, Professor Hughes also briefed the chair of the New York City Bar's Uniform Law Committee. New York State's Department of Financial Services promulgated the nation's first regulation that prudentially regulates providers of virtual-currency business services and products to users, which is known as the BitLicense.

Juliet Moringiello has been appointed Associate Dean for Faculty Research and Development at Widener University Commonwealth Law School.

Warren Agin has joined legal AI strategy firm LexPredict, LLC, as a senior consultant and Director of Professional Development. Warren will lead LexPredict's professional development efforts to help their clients adapt to the changing legal landscape, in addition to lending his legal practice experience to their consulting services. He continues as of counsel to Swiggart & Agin, LLC, which he co-founded in 2000.

Warren will also be presenting his paper, Using Machine Learning to Predict Success or Failure in Chapter 13 Bankruptcy Cases, at the Law via Internet conference in October, in Florence Italy. The full paper is scheduled for publication in Norton Annual Survey of Bankruptcy law this August.

Call for Future Contributions

Do you have something that might make a good contribution to next month's Cyberspace Law newsletter? Email Tom Kierner with your blurb! Have a less Cyberspace-y contribution? It might be a good fit for Business Law Today. Email Juliet Moringiello, and she will help you with the submission process.