

Final Agenda for Cyberspace Law Institute and Winter Working Meeting
January 25-27, 2018 – Georgia Tech Global Learning Center and Renaissance Atlanta Midtown – Atlanta, GA
Meeting Sponsors: Charles River Associates and Womble Bond Dickinson

Pre-Event: Thursday, January 25, 2018	
6:00 – 8:00 pm	Womble Bond Dickinson Opening Reception

Day 1: Friday, January 26, 2018 - Georgia Tech Global Learning Center			
7:30-8:15 am Break Station, 2 nd FL	Continental Breakfast (included in Registration)		
8:15-8:30 am Amphitheater 225, 2 nd FL	Opening Session	Cheryl Balough , Committee Chair, Balough Law Offices, LLC (Chicago, IL) Cheryl Burtzel , Committee Vice Chair, Duggins Wren Mann & Romero, LLP (Austin, TX)	Welcome and remarks about the upcoming programs and working sessions.
8:30-9:30 am Amphitheater 225, 2 nd FL	CLE: Cyber-World War III: Origins – The Year of Cyberspace in Review	Jon M. Garon , Dean and Professor of Law, Nova Southeastern Univ. Shepard Broad College of Law (Ft. Lauderdale, FL)	This program will highlight the most significant events, cases, and trends in Cyberlaw for 2017. This discussion will include (1) assessment of cyber-attacks emanating from different parts of the world, some of which appear likely to be state sponsored, as well as government counter-measures; (2) phishing’s continued role in the global threat landscape, including not only traditional methods but emerging new threats through other channels, including devices and gaming and mobile apps; (3) the expanding use and development of cryptocurrencies and the resulting legal and policy issues affecting both government and private enterprises; and (4) the emergence of artificial intelligence applications that potential impact privacy, security, and the regulatory environment.
9:30-10:00 am Amphitheater 225, 2 nd FL	CLE: How Can China Be Number One in the World for FinTech Innovation If It Is Still a Socialist Country?	Jane K. Winn , Charles I. Stone Professor of Law, Center for Advanced Study & Research on Innovation Policy, Univ. of Washington School of Law (Seattle, WA)	In February 2017, The Economist Magazine proclaimed China the world’s leader in FinTech, leapfrogging over the UK and the US which had previously been considered the first and second most important FinTech markets. This confound the conventional wisdom that socialism cannot support the “creative destruction” characteristic of capitalism and the Chinese can only copy business models and technology developed elsewhere. This presentation will provide an overview of the legal environment of FinTech in the UK, US and China in order to shed light on what it is in China that is contributing to the revolutionary transformation of financial services occurring there, and noticeably not occurring in the UK or US.
10:00-10:15 am Break Station, 2 nd FL	Break		

10:15-11:00 am Amphitheater 225, 2 nd FL	CLE: Biometric Privacy: It's Not Just Fingerprints Anymore	Erin J. Illman , Attorney, Bradley Arant Boult Cummings LLP (Charlotte, NC) John Isaza , Co-founder and CEO, Information Governance Solutions LLC (Irvine, CA) Neerav Merchant , Partner, Majmudar & Partners (Mumbai, India) John Rothchild , Associate Professor, Wayne State Univ. Law School (Detroit, MI)	The panel will address privacy and security issues raised by new technologies that use biometric information for identification and authentication. Biometric information is derived from an individual's unique and immutable (or nearly so) physical or behavioral characteristics, such as fingerprints. Newer technologies include iris scans, speech patterns, facial or hand geometry, walking gait, keystroke dynamics, ear shape, and vascular patterns. Biometric information use can add convenience to identification and authentication procedures, but biometric systems can result in a loss of privacy and anonymity, allowing individuals to be tracked surreptitiously by both government and commercial entities. Panelists will present information about state laws regulating use of biometric information, provide guidance on global compliance issues, and offer a case study of the government of India's mandatory deployment of biometric identifiers.
11:00-11:45 am Classroom 328, 3 rd FL	Subcommittee and Task Force Meetings Block #1	Candace M. Jones , Co-Chair Isvara Wilson , Co-Chair	<i>Cloud & Enterprise Technology</i> : We will launch a new book project, <i>Enterprise Technology Directors Handbook</i> (working title), targeted to corporate directors and business lawyers. Our goal is to compile essential information to introduce directors to a range of technology topics they may encounter. We will use our time to outline the content and begin identifying authors.
11:00-11:45 am Classroom 330, 3 rd FL	Subcommittee/Task Force Meetings – Block #1	John Rothchild , Co-Chair John Isaza , Co-Chair	<i>Consumer Privacy & Data Analytics</i> : We will (1) discuss hot topics in the consumer privacy and data analytics space, (2) brainstorm ideas for a subcommittee project, and (3) make plans for the Spring meeting.
11:00-11:45 am Classroom 331, 3 rd FL	Subcommittee and Task Force Meetings Block #1	John Black , Co-Chair	<i>Cyberinsurance</i> : We will discuss the panel presentation approved for Spring Meeting and other possible projects, including development of a checklist or article to assist corporate counsel assess cyberinsurance needs of, and cyberinsurance coverages available to, the different types of entities they serve or advise.
11:45- 1:15 pm Atrium, 1 st FL	Lunch (included in Registration)	Michael Farrell , Co-Director, Institute for Information Security & Privacy, Georgia Tech (Atlanta, GA), will discuss some of the exciting cybersecurity research projects IISP is leading in collaboration with government and industry.	
1:15 -2:15 pm Classroom 328, 3 rd FL	Roundtables (1) CLE: Hot Topics in Intermediary Liability	Cathy Gellis , Attorney/Outside Policy Counsel (Sausalito, CA)	This presentation will bring people up to speed on the latest legal pressures on intermediary platforms. Topics include Section 230 jurisprudence and proposed legislation, important updates regarding the DMCA, and other pressures on intermediaries affecting their ability to protect their users.
1:15-2:15 pm Classroom 330, 3 rd FL	Roundtables (2) CLE: Using Artificial Intelligence to Manage Legal Risk by Detecting Anomalies	Alexandra Villarreal O'Rourke , Partner, McGuireWoods LLP (Charlotte, NC) Lisa Lifshitz , Partner, Torkin Manes LLP (Toronto ON, Canada) Richard C. Balough , Principal, Balough Law Offices, LLC (Chicago, IL)	The SEC, FTC, and other governmental agencies are implementing the use of artificial intelligence to detect anomalies such as flagging trading patterns and identity theft. As the agencies begin to implement artificial intelligence for regulatory oversight, do companies also need to implement artificial intelligence for red flagging potential issues? If companies adopt artificial intelligence to red flag anomalies, then have they set a higher standard of care to detect such abnormal activities? The presentation will be the starting point for a roundtable discussion

1:15-2:15 pm Classroom 331, 3 rd FL	Roundtables (3) CLE: 21st Century Trials of Keeping in Touch – GDPR, Brexit, and ePrivacy Regulation	David Flint , Senior Partner, MacRoberts LLP (Glasgow, Scotland) Val Surgenor , Partner, MacRoberts LLP (Glasgow, Scotland) Milton Mueller , Professor, Institute for Information Security & Privacy, Georgia Tech (Atlanta, GA)	The roundtable will look at the European Commission’s proposed e-Privacy Regulation (ePR) and the key practical implications (including the proposed changes to the soft opt-in rules, rules on cookies, and interaction with the GDPR) along with the inter-relationship between the ePR and the European Electronic Communications Code (EECC) and the GDPR, with a focus on Over the Top communication service providers and other online providers.
2:15-3:00 pm Amphitheater 225, 2 nd FL	Subcommittee/Task Force Meetings – Block #2	David S. Flint , Co-Chair Ed Morse , Co-chair Andrew Alleyne , Vice-Chair	<i>Non-U.S. Cyber Regulations:</i> We will continue the conversation begun during the roundtable discussion on GDPR and Brexit. On another front, cryptocurrencies have spread far beyond the usual suspects, including Bitcoin and Ethereum, to include a host of other alternatives. We would like to delve into the topic of emerging frameworks for regulation of these currencies outside the U.S., including securities law regulations affecting coin offerings, AML concerns, and perhaps even taxation.
2:15-3:00 pm Classroom 328, 3 rd FL	Subcommittee/Task Force Meetings – Block #2	Richard C. Balough , Co-Chair Lisa Lifshitz , Co-Chair	<i>Robotics & Artificial Intelligence:</i> We are looking for humans to help plan and participate in a webinar or two for 2018. For example, one webinar might discuss who is liable when a robot, artificial intelligence, or machine learning goes wrong.
2:15-3:00 pm Classroom 330, 3 rd FL	Subcommittee/Task Force Meetings – Block #2	Michael Silvestro , Chair	<i>Current Law:</i> We will be discussing strategies to expand participation in the task force, publication of short and long form articles, coordination with other ABA subcommittees, and ideas for CLEs and other presentations.
3:00-3:15 pm Break Station, 2 nd FL	Break		
3:15-3:45 pm Amphitheater 225, 2 nd FL	CLE: You Can Only Manage What You Can Measure: Measuring and Operationalizing Cyber Risk	Moderator: Edward A. Morse , Professor of Law, McGrath North Mullin & Kratz Chair in Business Law, Creighton University School of Law (Omaha, NE) Mike Jerbic , Lecturer, Dept. of Economics, San Jose State University (Cupertino, CA) Tyanna Smith , Risk Consultant, Risklens (Fort Bragg, NC)	As cyber risk rises to a senior management and board responsibility, enterprise risk managers are integrating cyber risk into their overall operational risk management. But cyber risk today is mostly driven by adopting industry best practices and complying with regulatory requirements. Instead of communicating to senior management and the board in a dollar denominated loss exposure, cyber risk is expressed through qualitative heat maps and compliance checklists. Without quantitatively measuring cyber risk as an annual loss exposure, how can it be integrated with and managed as an operational risk? We show how to measure cyber risk commensurately with operational risk as an annual loss exposure, using the Factor Analysis of Information Risk standard as a way to do this.
3:45-4:15 pm Amphitheater 225, 2 nd FL	CLE: Defend Trade Secrets Act—One+ Year Later. Will the Court grant you a preliminary injunction?	Phong Nguyen , Partner, BakerHostetler, Washington, DC	It has been over a year since Defend Trade Secret Act (DTSA) has been implemented that allows for a misappropriation of a trade secret complained to be filed in Federal Court. Come and learn procedures that Courts look to in order to grant preliminary injunctions when a trade secret has been misappropriated. Being able to obtain an immediate preliminary injunction from the Courts can combat the spread of your client’s trade secrets.

4:15-5:00 pm Classroom 328, 3 rd FL	Subcommittee/Task Force Meetings – Block #3	Tom Smedinghoff , Co-Chair Roland L. Trope , Co-Chair Tsui Ng , Vice-Chair	<i>Cybersecurity</i> : The Cybersecurity Subcommittee will discuss a new project aimed at developing a concise comparison among the emerging cybersecurity regulatory standards. The comparison will be set out in a table for convenient reference by courts and boards of directors when considering what standards to adopt or apply.
4:15-5:00 pm Classroom 330, 3 rd FL	Subcommittee/Task Force Meetings – Block #3	Steve Middlebrook , Co-Chair Sarah Jane Hughes , Co-Chair	<i>Financial Services & Payments</i> : We will discuss diverse topics as the increasing interest in foreign governments to adopt or create virtual currencies as national currencies (with some interested primarily in using VCs to avoid international economic sanctions), benefits and problems inherent in possible "fintech" federal charters, and the growing willingness of courts to use of first-amendment "commercial speech" doctrine to defeat state-based regulation of consumer credit disclosures and terms.
4:15-5:00 pm Classroom 331, 3 rd FL	Subcommittee/Task Force Meetings – Block #3	Dina Ross , Co-Chair Val Surgenor , Co-Chair	<i>Healthcare IT</i> : We will discuss how to address the FDA's recent guidance on "Software as a Medical Device" along with our task force goals in the coming year.
7:00 – 10:00pm Mary Mac's Tea Room, 224 Ponce De Leon Ave NE	Committee Dinner (ticketed event)	Southern Buffet Dinner and Open Bar	

Day 2: Saturday, January 27, 2018 - Georgia Tech Global Learning Center			
7:30-8:30 am Break Station, 2 nd FL	Continental Breakfast (included in Registration)		
8:30-9:30 am Amphitheater 225, 2 nd FL	CLE: Where Was the Board? Where Were the Lawyers? Averting and Responding to Institutional Ethical Crises	Ashley Bynoe , Associate, Womble Bond Dickinson (Atlanta, GA) Mary Pat Kang , Ethics & Compliance Officer, NCR Corporation (Atlanta, GA) Fredric S. Newman , Partner, Hogue Newman Regal & Kenny LLP (New York, NY) Roland L. Trope , Partner, Trope and Schramm LLP (New York, NY)	In the recent wave of corporate ethical crises (VW, Wells Fargo, Rolls Royce, Equifax, Yahoo!, Kobe Steel, Nissan, etc.), there is a trend towards asking if the Board or in-house counsel were in part responsible and should be among those held accountable. We will examine the emerging professional responsibility expectations for in-house and outside counsel to prevent institutional ethical crises, alert management and the Board to ethical "red flags," promptly halt illicit conduct, advise on remediation and voluntary self-disclosure, and guide management and the Board if a crisis becomes public. We will conclude with recommendations for averting and responding to these ethical crises that might otherwise damage the enterprise's credibility and reputation and risk the success of its commercial activities and pending corporate transactions.
9:30-10:15 am Classroom 328, 3 rd FL	Subcommittee and Task Force Meetings Block #4	Harold S. Burman , Co-Chair John D. Gregory , Co-Chair	<i>Cross-Border E-Commerce</i> : We will resume twice monthly working conference calls to consider global activities we should track and engage in. At the forefront are World Bank, WTO, ITU, ISO and regional bodies such as UNESCAP, UNECE, OHADA, and IADB. Of priority are current UNCITRAL topics; initial 2018 input to the UN Secretariat and

			government/private sector participants should be ready soon. We may comment on cross border aspects of cloud computing and data management.
9:30-10:15 am Classroom 330, 3rd FL	Subcommittee/Task Force Meetings – Block #4	Bill Denny , Co-Chair John Ottaviani , Co-Chair	<i>Smart Contracting</i> : We will brainstorm about questions the subcommittee should address, such as what is a smart contract, what are its limitations, who are the participants, and what terms apply, and we will discuss what legal we might provide.
9:30-10:15 am Classroom 331, 3rd FL	Subcommittee/Task Force Meetings – Block #4	Juliet Moringiello , Chair	<i>Publications</i> : We will review how best to support the multiple book projects the Cyberspace Law Committee is working on, as well as how to best contribute to and benefit from other BLS publications.
10:15-10:30 am Break Station, 2 nd FL	Break		
10:30-11:30 am Classroom 328, 3 rd FL	Roundtables (1) CLE: Intelligent Eavesdropping: Privacy and Legal Issues Raised by Digital Personal Assistants and Artificial Intelligence Devices Connected to the Internet of Things	Sara Beth A.R. Kohut , Counsel, Young Conaway Stargatt & Taylor, LLP (Wilmington, DE) Eric Boughman , Partner, Forster Boughman & Lefkowitz (Orlando, FL) David Sella-Villa , Asst. Gen. Counsel, South Carolina Dept. of Administration (Columbia, SC) Michael V. Silvestro , Principal, Skarzynski Black, LLC, (Chicago, IL)	Voice-controlled digital assistants like Amazon’s Alexa are becoming increasingly ubiquitous and capable of providing many services. These intelligent devices offer a frontier of opportunities. But as always-listening devices connected to the internet-of-things, they also present challenges to protecting the privacy and security of information. This panel will explore the legal issues raised by voice-controlled digital assistants and the implications they pose as this technology expands from home and personal use into the workplace and other settings.
10:30-11:30 am Classroom 330, 3 rd FL	Roundtables (2) CLE: Blockchain Technology and “Smart Contracts”’: Understanding Opportunities and Challenges Through Examination of Specific Use	William R. Denny , Partner, Potter Anderson & Corroon LLP (Wilmington, DE) John Ottaviani , Partridge Snow & Hahn LLP (Providence, RI) Prof. Carla L. Reyes , Berkman Klein Center for Internet & Society at Harvard University and Stetson University College of Law (Gulfport, FL)	We will discuss concepts, legal challenges, and innovative opportunities associated with blockchain technology and smart contracts in the context of two significant use cases: the digital asset exchange and self-sovereign identity. Our discussion will include a brief background explanation of terms and technology, privacy and identity issues, custodianship of digital assets and private keys, unintended consequences, security issues, and compliance with legal regulation by agencies such as the OCC, SEC, CFTC and IRS. We will also consider, inversely, the ways that regulatory agencies are using blockchain technology to enhance enforcement and implementation of the regimes under their purview.

<p>10:30-11:30 am Classroom 331, 3rd FL</p>	<p>Roundtables (3) CLE: Navigating Demands for Ransom and Other Ethical Challenges in Cyber Investigations</p>	<p>Moderator: Cheryl Burtzel, Duggins Wren Mann & Romero, LLP, (Austin, TX) Louis S Scharringhausen, Principal, Charles River Associates, Forensic Services (Dallas, TX)</p>	<p>Cyber-security events are on the rise worldwide, with 2018 expected to be the biggest year yet. Handling these incidents pose unique challenges for businesses and agencies especially in regard to ransomware and cyber-blackmail events. This panel will address these multifaceted challenges on how to handle the ethical issues arising in handling these incidents; including recovering from the incident, when to notify the board, ethical considerations in paying ransom, and what privacy concerns exist when dealing with possible internal attacks. This discussion will be helpful for anyone dealing with, responding to, or recovering from, a security incident including in-house counsel, or outside counsel tasked with providing insight into these ethical decisions and dilemmas.</p>
<p>11:30 am-12:00 pm Amphitheater 225, 2nd FL</p>	<p>CLE: Brainspray 3.0: The Age of Brain/Machine Interface</p>	<p>Ted Claypoole, Partner, Womble Bond Dickinson (Atlanta, GA)</p>	<p>Technology now exists to read and interpret brain signals from outside our heads, and technology businesses, from Facebook to Elon Musk's companies, are investing heavily in different methods of directly reading our brains. From the military to medicine, from media to university research, this presentation explores the latest advances in brain signal interpretation and brain/machine interfaces.</p>
<p>12:00-12:30 pm Amphitheater 225, 2nd FL</p>	<p>Cheryl Balough, Balough Law Offices, LLC (Chicago, IL), Committee Chair Cheryl Burtzel, Duggins Wren Mann & Romero, LLP, (Austin, TX), Committee Vice-Chair</p>		