

l'Association canadienne du droit  
des technologies de l'information



Canadian IT Law Association

**Presents**

# The Sixteenth Annual Canadian IT Law Association Conference

**October 29–30, 2012**  
**The Marriott Chateau Champlain Hotel**  
**1, Place du Canada**  
**Montréal, QC**

**Ontario delegates:** This program can be applied towards the 9 substantive hours of Continuing Professional Development (CPD) required by the LSUC. This program is not accredited for Professionalism hours or for the New Member Requirement.

**Québec Delegates:** This program has been submitted for certification for 17 hours of CLE by the Barreau du Québec.

**British Columbia Delegates:** Attendance at this conference can be listed as 17 hours of CLE in completing your Annual Report to the LSBC.

**New Brunswick delegates:** This program has been accredited for 17 hours of CLE by the Law Society of New Brunswick.

## Day 1: Monday, October 29, 2012

**8:00–9:00 AM**

### Registration & Continental Breakfast

Hosted by: Bereskin & Parr

**9:00–9:15 AM**

### Opening Remarks & Welcome

**Co-Chairs:**

Duncan C. Card, *Bennett Jones LLP*

Hélène Deschamps-Marquis, *Blake, Cassels & Graydon LLP*

**9:15–10:45 AM**

### Content Convergence and Communications: The Impact on Technology Business

**Moderator:** Mark Hayes, *Heydary Hayes PC*

**Speakers:**

Alexander Du, *Assistant General Counsel, Bell Canada*

Sunny Handa, *Blake, Cassels & Graydon LLP*

Graham Henderson, *President, Music Canada*

Jason Kee, *Director of Policy and Legal Affairs,  
Entertainment Software Association of Canada*

- The regulatory framework of convergence and its impact on commercial considerations: What every lawyer needs to know
- Current issues and tensions under existing telecommunications, broadcasting and copyright laws facing both new media and traditional broadcasters
- Licensing content as new distribution platforms emerge:
  - What rights do you have?
  - Reserving or restricting rights: How not to leave money on the table
- Accessing the content cloud: Authentication, authorization and making copies
- Big picture content convergence:
  - Gaming content and developments (media-crossover)
  - Consumer entertainment devices: Games, movies, books, TV
- Future of technological evolution in the online distribution of content: Related legal and regulatory challenges
- Internet content syndication: The changing distribution paradigm
- Innovative commercial deals today and 2-5 years down the road

**10:45–11:00 AM**

### Networking Break

**11:00 AM–12:30 PM**

### Roundtables Set #1 (Roundtables 1, 2, 3 and 4 AM only)

**12:30–2:00 PM Luncheon & Keynote Speaker**

Charles Atkinson, *Hewlett-Packard (Canada) Co.*

“Intelligent Infrastructure: Smart Cities, Intelligent Communities and Convergent Infrastructures”

**2:15–3:45 PM**

### Roundtables Set #1 (1, 2, 3)

**3:45–4:00 PM**

### Networking Break

**4:00–5:30 PM**

### Legal Issues on the New Frontiers of IT Law: Cloud Computing, Social Media, Digital Commerce & Payments, Clean Tech and More

**Moderator:** Martin P.J. Kratz, Q.C., *Bennett Jones LLP*

**Speakers:**

Richard Corley, *Blake, Cassels & Graydon LLP*

Professor Michael Geist, *Faculty of Common Law,  
University of Ottawa*

Angelina Mason, *Senior Counsel, Visa Canada Corporation*

Matthew Snell, *GTS Canada Senior Counsel, IBM Canada*

- Governance issues: Private and public sector
- Cybersecurity trends and commercial issues
- Cloud computing legal strategies and solutions
- Risk management best practices
- Privacy and data security:
  - Third party vendor requirements
- e-Commerce developments: Security, jurisdiction and IP verification
- Remedial strategies
- Social media legal risk analysis
- Environmental technology trends and developments:
  - Green IT – Smart grid
  - Energy and emissions management
  - Electronics recycling

**5:30 PM**

### Closing Remarks for Day 1

**5:45–6:00 PM**

### IT.CAN Annual General Meeting (For All IT.CAN Members)

**6:45 PM**

### Ticketed Dinner

(See Details on Registration Form)

**Location:** Vinizza Osteria Enoteca

2044 Metcalfe, Montréal QC.

## Day 2: Tuesday, October 30, 2012

**8:00–8:45 AM**

### Registration & Continental Breakfast

**8:45–9:00 AM**

### Opening Remarks & Welcome

#### Co-Chairs:

Duncan C. Card, *Bennett Jones LLP*

Hélène Deschamps-Marquis, *Blake, Cassels & Graydon LLP*

**9:00–10:30 AM**

### Annual Update on IP Issues for Information Technology

**Moderator:** Brian W. Gray, *Norton Rose Canada LLP*

#### Trade-Marks

Professor, Bitá Amani, *Faculty of Law, Queen's University*

- Update on recent trade mark cases
- FCC decision in MGM approving trade-mark registration of the Lion's roar
- New CIPO amendments to allow registration of sound, motion and holographic marks
- Update on the legality of key word advertising
- What constitutes "use" of a trade-mark on the Internet?
- Trade-mark cluttering
- gTLD domain name "reveal" by ICANN

#### Copyright

Professor, Ysolde Gendreau, *Faculty of Law, Université de Montréal*

- Bill C-11: The Copyright Modernization Act
  - Anti-circumvention provisions
  - ISP liability
  - Format shifting/time shifting
  - User generated content
  - Impact of international agreements
- Review of key copyright issues in the 5 recent SCC cases:
  - What will constitute fair dealing?
  - Communication "to the public" by telecommunication

#### IT Patents

Donald M. Cameron, *Bereskin & Parr LLP*

- Update on Amazon and patent office guidelines
- Update on recent Canadian and US patent case law
- Patentable subject matter in Canada: Where are we after Amazon.com?
- Update on patentable subject matter in the US: Software and business methods patents
- New *America Invents Act*
- Geographic limitations on infringement of patents for Internet inventions

**10:30–10:45 AM**

### Networking Break

**10:45 AM–12:15 PM**

### Roundtables Set #2 (5, 6, 7, 8)

**12:15–1:45 PM Luncheon & Keynote Speaker**

Jason Della Rocca, *Senior Consultant,*

*Perimeter Partners and past Executive Director, International Game Developers Association*

**"The Evolving Game Ecosystem: Disruptive Business Models at Play"**

**2:00–3:30 PM**

### Roundtables Set #2 (5, 6, 7, 8)

**3:30–3:45 PM**

### Networking Break

**3:45–5:15 PM**

### Advanced Software Licensing Issues and Trends

**Moderator:** Barry Sookman, *McCarthy Tétrault LLP*

#### Speakers:

Wendy Gross, *Osler Hoskin & Harcourt LLP*

François Lajeunesse, *Senior Counsel, Bell Canada*

Peter Ruby, *Goodmans LLP*

- Trends relating to software licence agreement compliance: Audits and other enforcement activities
- Negotiating rights and remedies relating to compliance
- Licence agreements vs. SAAS agreements: How do they differ?
- Export control restrictions and compliance issues
- Addressing and allocating open source software issues in your licence agreement
- Licence issues relating to multi-jurisdictional software use
- Best practices in structuring of contracts involving software licence and customization, configuration or integration to manage the risk of unsuccessful delivery
- Best practices in structuring support and maintenance terms as part of your licence transaction
- Managing exit and transition risk in a software license agreement
- Licence agreement drafting strategies: Key errors to avoid

**5:15 PM**

### Closing Remarks

**5:30 PM**

### Conference Ends

## 1. Canadian Privacy Law Forum

### Speakers:

David Fraser, *McInnes Cooper*  
Éloïse Gratton, *McMillan LLP*

- Anti-SPAM legislation
- Bill C-12 Amendments to PIPEDA
- Accountability and privacy management programs: Impact on business
- Changing definition of “personal information”
- Overview of federal and provincial privacy jurisprudence
- Quebec privacy update

## 2. Health Care IT Legal Issues

### Speakers:

Richard Pearce, *Senior Counsel, Legal Services, eHealth Ontario*  
Michael Whitt, QC, *Bennett Jones LLP*

- Health sector IT procurement rules and processes: Recent developments and concerns
- Risks and benefits of patient portals, patient-provided data, patient devices, and more
- IT systems for managing chronic care: New paradigms, new participants, local vs. central
- Enabling IT from mobile devices: m-Health, m-devices and telemedicine
- Current hot topics in healthcare IT contracting
- Medical management system architecture

## 3. International IT Developments for Canadians Doing Business Abroad

### Speakers:

Daniel Glazer, *Fried, Frank, Harris, Shriver & Jacobson LLP (New York)*  
Mark O’Conor, *DLA Piper UK LLP (London)*  
Alexandra Warly, *Vice President & Chief Counsel, Global Services, Manulife Financial*

- Cultural differences and how they impact IT transactions
- Knowing your customer in regulated financial service and public sector industries across the EU
- How varying corporate governance norms impact the transaction
- Keeping track of local contract remedies: EU “hardship” contract re-negotiation rights and more

- Contract terms and conditions: What to expect in various jurisdictions
- Crossing data borders: Different privacy and confidentiality standards
- Evolving contract trends in EU civil law jurisdictions
- Risk management, indemnity and liability limits: Contract norms across Asia, the European Union and the United States

## 4. Développements récents 2011-2012 en TI en droit québécois (en français)

(This session will be presented in French on Monday, October 29th AM only.)

### Conférenciers:

Michel Généreux, *Heenan Blaikie LLP*  
Marc Tremblay, *Norton Rose Canada LLP*

- Les amendements récents à la Loi sur la protection du consommateur, y compris en rapport à l’interdiction de revendre des billets à prix supérieur
- Développements récents en matière de renseignements personnels et discussion de la nature et l’étendue actuelle des contraintes au transfert de renseignements personnels à l’extérieur du Québec
- Revue de la jurisprudence de l’année ayant une incidence en TI, y compris en matière de contrats de licences, de contrats de services et d’entreprises, de paiement électronique, de preuve et de procédure, et en rapport à la Loi concernant le cadre juridique des technologies de l’information

### IT.CAN Membership

If you are interested in becoming a member of IT.CAN, please visit our website at [www.it-can.ca](http://www.it-can.ca) for full details including the membership form.

## 5. Doing Business in Québec: Civil Law for the Common Law IT Practitioner

### Speakers:

Marie-Hélène Constantin, *Blake, Cassels & Graydon LLP*  
Véronique Wattiez Larose, *McCarthy Tétrault LLP*

- Essential differences between common law and civil law IT contracts
- Concept of good faith and its applications
- Overview of key civil law provisions that impact IT contracts:
  - Contract formation – Liability – Limitation of liability – Contract termination – Interpretation
- Quebec regulatory issues including the Charter of the French Language

## 6. Public Sector IT Transformation: Trends & Developments in Outsourcing, Shared Services and Procurement

### Speakers:

Hartley Borst, *Senior Counsel, eHealth Ontario*  
Benoît Long, *Senior Assistant Deputy Minister, Transformation, Service Strategy and Design, Shared Services Canada Shared Services Canada*

- e-Health, telemedicine and health informatics
- Procurement directives:
  - Standard setting via procurements
  - Differences between procurements and transfer payment agreements
- New governance practice rules and requirements
- Cyber security initiatives
- Intelligent infrastructure: highways, hospitals, prisons, airports, office building, public utilities
- Shared Services Canada update

## 7. Latest Trends and Developments in Outsourcing

### Speakers:

Richard Austin, *Counsel, Deeth Williams Wall LLP*  
Daniel Logan, *Torys LLP*  
Daniel Paul, *Vice President, Legal Affairs, CGI*

- Evolution of outsourcing deal structures: Rise of vested outsourcings and other innovative outsourcing business models
- The implications of high-profile data breaches on the allocation of risk in outsourcings
- Current high risk outsourcing issues
- Renewals, renegotiations, recompetes and end of term issues
- BPO vs. ITO outsourcing: Differences and developments
- Challenges of outsourcing for shared services organizations

## 8. Social Media and e-Marketing Law Update

### Speakers:

Jonathan Lee Hickey, *Senior Legal Counsel, Québecor Media Inc.*  
David Potts, *Barrister & Solicitor*  
Lyne Robichaud, *Senior Partner, Legault Joly Thiffault LLP*

- New anti-SPAM legislation
- Social media legal developments
- e-Commerce and brand management law
- Advertisement law and the Internet
- Cyber libel:
  - Online defamation
  - Reputation management
  - Cyber warfare against corporations

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Canadian IT Law Association

# Registration Form

## The Sixteenth Annual Canadian IT Law Association Conference

October 29–30, 2012 • The Marriott Chateau Champlain Hotel • 1, Place du Canada, Montreal, QC

**Online registration by credit card:** Via our secure site at [www.it-can.ca](http://www.it-can.ca)

**Registration by mail:** Please complete all boxes on form and forward with payment by cheque or credit card to Lisa Ptack, IT.CAN Executive Director, 1 Promenade Circle, P.O. Box 918, Thornhill, ON L4J 8G7

**No faxed registrations please.**

Name \_\_\_\_\_ Title \_\_\_\_\_  
Firm/Company \_\_\_\_\_ Street \_\_\_\_\_  
City \_\_\_\_\_ Prov \_\_\_\_\_ Postal Code \_\_\_\_\_  
Telephone \_\_\_\_\_ E-mail \_\_\_\_\_

	DAY 1 (Monday, October 29)	DAY 2 (Tuesday, October 30)	BOTH DAYS
<b>IT.CAN Member</b>	\$800 (plus \$119.80 HST) <b>\$919.80</b> <input type="checkbox"/>	\$800 (plus \$119.80 HST) <b>\$919.80</b> <input type="checkbox"/>	\$1475 (plus \$220.88 HST) <b>\$1695.88</b> <input type="checkbox"/>
<b>Non-IT.CAN Member</b>	\$900 (plus \$134.78 HST) <b>\$1034.78</b> <input type="checkbox"/>	\$900 (plus \$134.78 HST) <b>\$1034.78</b> <input type="checkbox"/>	\$1675 (plus \$250.83 HST) <b>\$1925.83</b> <input type="checkbox"/>
<b>Academic/In-House Counsel/Government/Non-Lawyer</b>	\$550 (plus \$82.36 HST) <b>\$632.36</b> <input type="checkbox"/>	\$550 (plus \$82.36 HST) <b>\$632.36</b> <input type="checkbox"/>	\$1000 (plus \$149.75 HST) <b>\$1149.75</b> <input type="checkbox"/>
<b>Student</b>	\$150 (plus \$22.46 HST) <b>\$172.46</b> <input type="checkbox"/>	\$150 (plus \$22.46 HST) <b>\$172.46</b> <input type="checkbox"/>	\$200 (plus \$29.95 HST) <b>\$229.95</b> <input type="checkbox"/>

### TICKETED DINNER

If you wish to attend the dinner on Monday, Oct. 29, please check this box and add \$99.00 (plus \$14.83 tax) **per person** (includes gratuity) to your registration fee. Spouses/partners are welcome. Seating is limited.

No. of persons \_\_\_\_\_ × (\$99.00 + \$14.83 HST = **\$113.83**)

**TOTAL ENCLOSED:**

HST registration #: 886487677RT

For credit card payment, please register via our secure online registration page at <http://www.it-can.ca>. Alternatively you can fill in the information below and pay by mail.

Cheque or

Please charge my  Visa  MasterCard Card Number \_\_\_\_\_

Expiry Date \_\_\_\_\_ Signature \_\_\_\_\_

Name of credit card holder (if different from registrant) \_\_\_\_\_

Address of credit card holder: Street \_\_\_\_\_ City \_\_\_\_\_ Postal Code \_\_\_\_\_

**More registration information next page**

## Registration Information

**Registration:** All fees include breakfasts, networking breaks, lunches and conference materials.

**Hotel Reservations:** The Marriott Chateau Champlain Hotel, 1, Place du Canada, Montreal, QC. Special group rate is \$169 + services and taxes. Tel: 800-200-5909; Direct: 514-878-9000 (Group rate for Canadian IT Law Association) <http://www.marriott.com>

**Cancellations:** Refunds for conference fees will be made if requested by email received **NO LATER THAN FRIDAY, SEPTEMBER 28, 2012**. There will be NO exceptions. A processing fee of \$100 (+ \$13 HST) will be charged for refunds. The email address is [lisa.ptack@rogers.com](mailto:lisa.ptack@rogers.com)

### How to Register:

**No faxed registrations please.**

**By credit card:** use our secure, online registration form at [www.it-can.ca](http://www.it-can.ca).

**By cheque:** mail the original or a photocopy of the fully completed registration form to Lisa Ptack, IT.CAN Executive Director, 1 Promenade Circle, P.O. Box 918, Thornhill, ON L4J 8G7. Advance registrants who provide an email address will receive a confirmation.

**Payment MUST accompany registration.**

**Payment:** Payment can be made by cheque, Visa or MasterCard **ONLY**. Please make cheque payable to Canadian IT Law Association.

**Queries:** Contact Lisa Ptack at [lisa.ptack@rogers.com](mailto:lisa.ptack@rogers.com).

### IT.CAN is pleased to thank the following sponsors:

Aird & Berlis LLP • Bennett Jones LLP • Bereskin & Parr LLP  
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Osler, Hoskin & Harcourt LLP • Torys LLP  
Backbone Magazine

## Roundtable Schedule

### Mon. Oct. 29, 2012 (11:00 AM–12:30 PM)

1. Canadian Privacy Law Forum
2. Health Care IT Legal Issues
3. International IT Developments for Canadians Doing Business Abroad
4. Développements récents 2011–2012 en TI en droit québécois (*en français*) (AM session only)

### Mon. Oct. 29, 2012 (2:15–3:45 PM)

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2. Health Care IT Legal Issues
3. International IT Developments for Canadians Doing Business Abroad

### Tue. Oct. 30, 2012 (10:45 AM–12:15 PM)

5. Doing Business in Québec: Civil Law for the Common Law IT Practitioner
6. Public Sector IT Transformation: Trends & Developments in Outsourcing, Shared Services and Procurement
7. Latest Trends and Developments in Outsourcing
8. Social Media and e-Marketing Law Update

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6. Public Sector IT Transformation: Trends & Developments in Outsourcing, Shared Services and Procurement
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**SEATING IS LIMITED SO REGISTER EARLY**

# The Sixteenth Annual Canadian IT Law Association Conference

October 29–30, 2012 • The Marriott Chateau Champlain Hotel • Montréal, QC

## About IT.CAN

The Canadian IT Law Association/l'Association canadienne du droit des technologies de l'information (IT.CAN) is an association which brings together Canadian and international IT law practitioners in the field of Information Technology law. We are a national forum seeking to foster the discussion of specifically Canadian legal developments in this increasingly innovative and topical field, a goal which has been greeted with an enthusiastic response from the IT Law community.

## About the Conference

This annual conference seeks to provide information technology ("IT") lawyers with an opportunity to learn about the most recent and significant developments in Canadian and international IT Law, to benefit from an analysis of such developments as provided by leading practitioners and government officials and to network with leading practitioners in the area.

The main object of this two-day conference will be to provide succinct and topical updates on developments in various areas of IT law as they relate to Canada.

## Who should attend

- Corporate/Commercial Lawyers specializing in IT, IP, and e-commerce
- In-House Counsel
- Procurement Counsel
- Government Lawyers
- IT License & Contract Managers/Directors of Operations
- CIO's / CTO's / CPO's

## Conference Organization

### IT.CAN would like to thank the following members of the Planning Committee:

#### Chairs:

Duncan C. Card, *Bennett Jones LLP*

Hélène Deschamps-Marquis, *Blake, Cassels & Graydon LLP*

#### Conference Planning Committee:

David Adolph, *Barrister & Solicitor*

Richard Austin, *Counsel, Deeth Williams Wall LLP*

Frank Giblon, *Cognition LLP*

Brian W. Gray, *Norton Rose Canada LLP*

François Lajeunesse, *Senior Counsel, Bell Canada*

Jonathan Lee Hickey, *Senior Legal Counsel, Québecor Media Inc.*

Fraser Mann, *Mann Symons LLP*

Mark McCans, *Counsel, CIBC Legal Department*

Daniel Paul, *Vice President, Legal Affairs, CGI*

Richard Pearse, *Senior Counsel, eHealth Ontario*

Peter Ruby, *Goodmans LLP*

Barry Sookman, *McCarthy Tétrault LLP*

Christian S. Tacit, *Barrister & Solicitor*

Dan Malamet, *ZSA*

Lisa Ptack, *IT.CAN Executive Director*

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