

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



Canadian IT Law Association



The Law Society of
Upper Canada | Barreau
du Haut-Canada

**IT.Can and The
Law Society of
Upper Canada
are proud to
present:**

The 2012 Information Technology Law Spring Forum

Monday, June 18–Tuesday, June 19, 2012

**Donald Lamont Learning Centre,
The Law Society of Upper Canada
130 Queen Street West, Toronto, Ontario**

or

**view via webcast on your computer desktop
(see details on registration form)**

Program 1 has been accredited by the Law Society of Upper Canada
for 2.75 Professionalism Hours and 3.5 New Member CPD Hours

Program 1 also qualifies for the 2013 LAWPRO CPD Premium Credit

Programs 2,3,4 will qualify for 3.5–4.5 hours per program
with no professionalism content

Program 1: Ethics, Professionalism and Risk Management for Information Technology Law

Monday, June 18, 2012,
9:00 AM to 12:30 PM



Co-Chairs: Dan Pinnington, *Director, PracticePRO, Lawyers' Professional Indemnity Company*
Amy-Lynne Williams, *Deeth Williams Wall LLP*

9:00 AM Opening Remarks

9:15–9:45 AM IT/IP Malpractice Claims: LAWPRO Approaches to Effective Risk Management

Speaker: Dan Pinnington, *Director, PracticePRO, Lawyers' Professional Indemnity Company*

- Most common malpractice claims
- Does your tickler system work properly?
- Importance of good client communications
- Use, abuse and dangers of precedents
- Delegation dos, don'ts and dangers
- Malpractice insurance: What is covered? What is not?

9:45–10:30 AM Managing Privacy Issues in the Practice of IT Law

Speaker: Alex Cameron, *Fasken Martineau DuMoulin LLP*

- Overview of privacy and related rules applicable to lawyers in private practice and corporate counsel
- Case studies to illustrate privacy-related professionalism issues
- Tort claims for invasion of privacy: impact on the practice of IT law
- Emerging developments and trends in privacy and practice
- *PIPEDA and Your Practice — A Privacy Handbook for Lawyers*

10:30–10:45 AM Coffee Break

10:45–11:15 AM Good Faith in Negotiating and Drafting IT Agreements

Speaker: James Kosa, *Deeth Williams Wall LLP*

- Ethical and professionalism questions that arise in licensing and outsourcing transactions
- Good faith, unconscionability and fiduciary duty
- Defining a conflict of interest
- Opposed and unopposed advice in an IT scenario

11:15–12:15 PM Keynote Panel: What to do if....?

This keynote panel of senior IT lawyers will examine a number of scenarios which highlight ethical and professionalism questions that can arise in the context of an IT transaction.

Moderator: Dan Pinnington, *Director, PracticePRO, Lawyers' Professional Indemnity Company*

Speakers: Barry Cleaver, *Siskinds LLP*
Don Johnston, *Aird & Berlis LLP*
Ian Kyer, *Fasken Martineau DuMoulin LLP*
Amy-Lynne Williams, *Deeth Williams Wall LLP*

What to do if....

- ...you discover a defect in the original contract that you helped to draft?
- ...you are asked to act adverse in interest to a former client?
- ...you are considering declining to act for a prospective client?
- ...the other side has made an error in an IT negotiation?
- ...by mistake you were sent a draft of the other vendor's negotiated contract?

12:15 PM Closing Remarks

12:30 PM Program Ends

Program 2: Social Media, Online and Mobile Commerce Issues

Monday, June 18, 2012, 1:00 PM to 5:30 PM

1:00 PM Opening Remarks

Chair: Lisa R. Lifshitz, *Gowling Lafleur Henderson LLP*

1:15–1:45 PM Electronic & Mobile Commerce Consumer Protection Issues

Speaker: Eric Boehm, *Borden Ladner Gervais LLP*

- Creating valid agreements
- Jurisdictional issues
- Use of consumer data
- Geolocation and tracking

1:45–2:45 PM Mobile Payments: A Cross Border Perspective

Speakers: Jason (Jake) Bullen, *Cassels Brock & Blackwell LLP*
Donald J. Mosher, *Schulte Roth & Zabel LLP*
(New York, NY)

- Canadian and cross-border financial regulation
 - AML legislation
 - Bank regulation: When does a mobile payment system resemble a bank?
- Taxation of cross-border payment transactions
- Liability for unauthorized use of payment systems
- Does CDIC apply?
- Identity fraud
- Overview of U.S. law and regulations
 - U.S. regulatory aspects of inbound and outbound cross border payments

2:45–3:00 PM Coffee Break

3:00–4:00 PM Social Media and Mobile Privacy Issues

Speakers: David Canton, *Harrison Pensa LLP*
David Fraser, *McInnes Cooper*

- PIPEDA framework and obligations
- Impact of the new Anti-SPAM legislation
- Geolocation and near field communication data issues
- OPC Guidelines re: behavioural advertising and best privacy practices

4:00–4:30 PM Online Advertising Guidelines

Speaker: John Salloum, *Heenan Blaikie LLP*

- Emerging online behavioural advertising developments
- Endorsement and testimonial requirements in online contexts
- Issues with novel digital contests and promotions
- Promoting products/services through third party blogs

4:30–5:20 PM Social Media Governance Best Practices: Mitigating the Risks

Speakers: Daniel Cole, *Gowling Lafleur Henderson LLP*
Wendy Matheson, *Torys LLP*

- Managing User Generated Content issues
 - Minors and consent
 - Protecting your brand on social media
- Effective social media policies for business
- Employee social media guidelines
- Managing Internet defamation risk
- Recent E-discovery issues

5:20 Closing Remarks

5:30 Program Ends

Program 3: Intellectual Property Issues for Information Technology Law and Business

Tuesday, June 19, 2012, 8:45 AM to 12:45 PM

8:45 AM Opening Remarks

Chair: Mark B. Eisen, *Dimock Stratton LLP*

9:00–9:45 AM Patents

Speakers: Matthew D. Powell, *Sim & McBurney*
Nathan J. Prepelka, *Webb Law Firm (Pittsburgh, PA)*

- 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

9:45–10:30 AM Copyright

Speaker: Sangeetha Punniyamoorthy, *Dimock Stratton LLP*

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

10:30–10:45 AM Coffee Break

10:45–11:30 AM Trademarks and Domain Names

Speaker: Catherine Douglas, *IP Assets Mgr, Rogers Communications*

- Update on the legality of key word advertising
- Expansion of domain names – potential problems
- What constitutes “use” of a trademark on the Internet?
- Update on recent trademark cases

11:30 AM–12:30 PM Keynote Panel: IP Strategies and Pitfalls for IT Transactions

Moderator: Mark B. Eisen, *Dimock Stratton LLP*

Speakers: Daniel R. Bereskin, QC, *Bereskin & Parr LLP*
Scott Jolliffe, *Gowling Lafleur Henderson LLP*
Nathan J. Prepelka, *Webb Law Firm*
Barry Sookman, *McCarthy Tétrault LLP*

- Intellectual property as a corporate asset
- Valuation of IP assets
- Intellectual property licensing issues
- Due diligence
- IP indemnities

12:30 PM Closing Remarks

12:45 PM Program Ends

Program 4: Key Issues in Commercial Technology and Outsourcing Agreements

Tuesday, June 19, 2012, 1:00 PM to 5:30 PM

1:00 PM Opening Remarks

Chair: Wendy Gross, *Osler, Hoskin & Harcourt LLP*

1:15–2:00 PM Software Licence Agreements

Speaker: Greg Segal, *Senior Legal Counsel, Dell Canada Inc.*

- Ensuring the licence grant, restrictions and term match the deal and are consistent
- The relationship between the licence agreement and the maintenance and support agreement
- Performance warranties, maintenance agreements, service levels and remedies: How do they all fit together?
- Risk allocation trends: indemnities, limitations of liability and liability exclusions
- Termination rights, remedies and transition requirements
- Licence compliance and audit clauses

2:00–2:45 PM Outsourcing Agreements

Speaker: Richard Austin, *Counsel, Deeth Williams Wall LLP*

- Defining the services, requirements and service levels
- Managing a changing relationship
- Key differences between BPO and ITO
- Trends in responsibility for data security and privacy: Who defines the standard?

- Key approaches to managing your exit risk
- Is a benchmarking right worth the trouble?
- Understanding, using and following the contract after it is signed

2:45–3:00 PM Coffee Break

3:00–3:45 PM Development Agreements

Speaker: David Ma, *Blaney McMurtry LLP*

- Structuring the deal: Are you paying for developers or developments?
- IP ownership and licence clauses
- The perils of joint ownership: allocating ownership and IP liability
- How to deal with rights to embedded IP during and after the term
- Unique issues when your developers are offshore
- Ensuring knowledge transfer relating to developments
- The value of a non-assert clause

3:45–4:30 PM Strategic Alliances and Joint Development Agreements

Speaker: Cheryl Slusarchuk, *McCarthy Tétrault LLP*

- What is a “joint venture” or “strategic alliance” and how is it different from other commercial technology agreements?
- Pitfalls in international joint ventures with a focus on China
- Key cross-border terms including “joint” ownership of IP, tax and remedies
- Agreements for new and emerging models

4:30–5:15 PM Software as a Service Contracts

Speaker: Joel Ramsey, *Osler, Hoskin & Harcourt LLP*

- How is a SAAS agreement different from a traditional licence agreement?
- Dealing with data access, security and privacy
- Balancing customization, control, quality and accountability vs. low cost commoditization
- Key risk management issues: business continuity, regulatory compliance and insolvency

5:15 PM Closing Remarks

5:30 PM Program Ends

Registration Form

I wish to attend

in person

by webcast

Program 1: Ethics, Professionalism and Risk Management for Information Technology Law	<input type="checkbox"/>	<input type="checkbox"/>
Program 2: Social Media, Online and Mobile Commerce Issues	<input type="checkbox"/>	<input type="checkbox"/>
Program 3: Intellectual Property Issues for Information Technology Law and Business	<input type="checkbox"/>	<input type="checkbox"/>
Program 4: Key Issues in Commercial Technology and Outsourcing Agreements	<input type="checkbox"/>	<input type="checkbox"/>

	One half day	Two half days	Three half days	Full program
Regular Fee (after May 18, 2012)	\$325 + \$42.25 HST = \$367.25	\$585 (\$292.50 per ½ day) + \$76.05 HST = \$661.05 (10% savings)	\$828.75 (\$276.25 per ½ day) + \$107.74 HST = \$936.49 (15% savings)	\$1040 (\$260 per ½ day) + \$135.20 HST = \$1175.20 (20% savings)
Early Bird Special (until May 18, 2012) & IT.CAN Member fee*	\$300 + \$39 HST = \$339.00	\$560 (\$280 per ½ day) + \$72.80 HST = \$632.80 (10% savings)	\$803.75 (\$267.92 per ½ day) + \$104.49 HST = \$908.24 (15% savings)	\$1015 (\$253.75 per ½ day) + \$131.95 HST = \$1146.95 (20% savings)

LIVE WEBCAST REGISTRATION: Live Webcast registration must be received by **2 business days prior to the date of the program**. Hard copy binders will be shipped immediately after the program. Online access to PDF materials will be available prior to the program.

Hard copy materials: \$25 plus \$3.25 HST = \$28.25 additional per registration. (PDF materials are included.)

I enclose my: (You are not registered until payment is received.)

Cheque payable to The Law Society of Upper Canada \$ _____ or

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Credit Card # _____ Expiration Date _____

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Name of Attendee _____

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HOW TO REGISTER

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FAX: 416-947-5235 *

MAIL: The Law Society of Upper Canada 130 Queen St. W. 2nd Floor, Toronto, Ontario M5H 2N6

FOR GROUP REGISTRATION, please call 416-947-3315 or 1-800-668-7380 Ext. 3315

We reserve the right to change program content, speakers and locations without notice. Registration fee less \$50.00 plus HST for a full day and \$25.00 plus HST for a part day is refundable if cancellation is received five working days before the program. Transfers (e.g. from live attendance to webcast) will not be accepted within two days of program date. CLE Bursary application forms can be found on the LSUC website at: http://ecom.lsuc.on.ca/pdf/cle_bursary.pdf

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