

# 2018 CAN-TECH LAW 22<sup>ND</sup> ANNUAL CONFERENCE

**October 29–30, 2018**

**The Marriott Chateau Champlain Hotel,  
1, Place du Canada, Montréal, QC**

## **Accreditation**

**Law Society of Ontario:** This program can be applied towards the 9 substantive hours of Continuing Professional Development (CPD) required by the LSO. **Roundtable 5 is accredited for 1.5 hours of Professionalism hours.**

**Barreau du Québec:** The Barreau du Québec automatically recognizes the program for 16 hours of training as it has been recognized by another Law Society.

**Law Society of British Columbia:** Attendance at this conference can be listed as 16 hours of CLE in completing your Annual Report to the LSBC.

**Law Society of New Brunswick:** This program has been accredited for 16 hours of CLE by the Law Society of New Brunswick.

**Law Society of Alberta:** Alberta lawyers may consider including this course as a CPD learning activity in your mandatory Continuing Professional Development Plan as required by the Law Society of Alberta.

## **About the Conference**

This conference will provide an opportunity to learn about the most recent and significant developments in Canadian and international technology 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.

## **Who should attend**

Counsel practicing in the Corporate Commercial and Technology field, in-house Counsel, IT License & Contract Managers, Directors of Operation, Sourcing and Procurement Professionals, CIO's/CTO's/CPO's/COO's/CEO's.

# Day 1: Monday, October 29, 2018

**8:00–9:00 am**

## **Registration & Continental Breakfast**

Hosted by: Bereskin & Parr LLP

**9:00–9:15 am**

## **Opening Remarks & Welcome**

**Co-Chairs:**

Maya Medeiros, Norton Rose Fulbright (Canada) LLP  
Charles Morgan, McCarthy Tétrault LLP

**9:15–10:45 am**

## **Intellectual Property Update for Technology Practice**

**Moderator:**

Barry Sookman, McCarthy Tétrault LLP

## **Patents**

**Speaker:**

Judith Robinson, Norton Rose Fulbright (Canada) LLP

- Patent litigation and disruptive technologies:
  - Infringement and validity
  - Inventorship / ownership
  - Remedies: Compensatory and punitive damages; injunctive relief

## **Copyright**

**Speaker:**

Jill Jarvis Tonus, Bereskin & Parr LLP

- Scope of protection for databases and data
- Extent of protection for information location tools: Can data aggregators qualify?
- Authorship in the age of artificial intelligence
- Interpretation of Technological Protection Measures
- Copyright Act Reform under Section 92: Reshaping the Copyright Board?
- What is new with fair dealing?

## **Trademarks & Domain Names**

**Speaker:**

Mark Biernacki, Smart & Biggar

- Update on implementation of bill C-31 legislative changes
- Potential mechanism for streamlined trademark litigation
- Importance of trade dress protection
- Availability of global injunctive relief
- Deceptive search results and domain names: Time for assessing confusion
- Sufficiency of trademark rights needed for domain name complaint

**10:45–11:00 am**

## **Networking Break**

Hosted by: McMillan LLP

**11:00 am–12:30 pm**

## **Roundtables Set #1** (1, 2, 3, 4)

**12:30–2:00 pm**

## **Luncheon & Guest Speaker**

Hosted by: Deeth Williams Wall LLP

**Keynote Speaker:** Peter Maoloni, AVP, Online Products and Platforms, Interac Corp.

**Title:** Payments Modernization in Canada – The Real Time Rail

**2:15–3:45 pm**

## **Roundtables Set #1** (1, 2, 3, 5)

**3:45–4:00 pm**

## **Networking Break**

Hosted by: Gowling WLG

**4:00–5:30 pm**

## **Blockchain for Everything Else: Use of Distributed Ledger Technology Beyond Cryptocurrency**

**Moderator:**

Robert Percival, Norton Rose Fulbright (Canada) LLP

**Speakers:**

Ari Brojde, Founder & CEO, Estateably Inc.

Jillian Friedman, Head of Blockchain, National Bank of Canada  
Iliana Oris Valiente, Managing Director and Canadian Blockchain Lead, Accenture

Loudon Owen, Chair and Executive Officer, DLT, McLean Watson

- How does Distributed Ledger Technology (“DLT”) work?
- DLT project development lifecycle
- DLT vs. traditional technology paradigms: What is different?
- How is DLT being utilized?
- Adoption challenges: Practical, legal and regulatory hurdles to widespread implementation

**5:30 pm**

## **Closing Remarks for Day 1**

**5:40–6:00 pm**

## **CAN-TECH Law Annual General Meeting** (For All CAN-TECH Law Members)

**6:00–6:45 pm**

## **Cocktail Reception**

Hosted by: Torkin Manes LLP

**7:00 pm**

## **Ticketed Dinner** (Full Details on Registration Form)

**Location:** Enoteca Monza, 1251 Av. McGill College

**Sponsored by:** McCarthy Tétrault LLP

## Day 2: Tuesday, October 30, 2018

**7:45–8:45 am**

### **CAN-TECH Women in Technology Breakfast (all registrants are welcome)**

Sponsored by: Microsoft Canada Inc.

#### **Keynote Panel:**

Cindy Fagan, Chief Operating Officer, SAP Canada Inc.  
Suzanne Gagliese, Vice President, Services, Microsoft Canada Inc.  
Natacha Mainville, Chief Innovation Officer, TandemLaunch Inc.  
Cherry Miao, VP Data and Analytics, Lightspeed

**8:45–9:00 am**

### **Opening Remarks & Welcome to Day 2**

#### **Co-Chairs:**

Maya Medeiros, Norton Rose Fulbright (Canada) LLP  
Charles Morgan, McCarthy Tétrault LLP

**9:00–10:30 am**

### **Competition Law Challenges for Big Data and Big Tech**

#### **Moderator:**

Micah Wood, Blake, Cassels & Graydon LLP

#### **Speakers:**

Anthony Durocher, Deputy Commissioner,  
Monopolistic Practices Directorate, Competition Bureau  
Amy Ray, Orrick (*Washington, DC*)

- How is “big data” being collected and used by companies?
  - Advancements in data collection and analysis
  - Proliferation of data collection by Internet of Things
- Competition law and policy implications of big data and algorithmic pricing
- Specific considerations for consumer data
- “Tech-lash” and the rise of antitrust populism
- Privacy vs. competition law issues: Is Canada behind on regulating the collection and use of big data?
- How does the Competition Bureau approach investigations involving big data
- What do companies need to know to remain compliant with the competition laws

**10:30–10:45 am**

### **Networking Break**

Hosted by: Osler, Hoskin & Harcourt LLP

**10:45 am–12:15 pm**

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

**12:15–1:45 pm**

### **Luncheon & Guest Speaker**

Hosted by: Orrick Herrington & Sutcliffe LLP

**Keynote Speaker:** John Weigelt, National Technology Officer,  
Microsoft Canada Inc.

**Title:** Ethical Implications of Smart Cities

**2:00–3:30 pm**

### **Latest Developments in Canadian and International Privacy Law**

#### **Moderator:**

David Fraser, McInnes Cooper

#### **Speakers:**

Eloïse Gratton, Borden Ladner Gervais LLP  
Elisa Henry, Borden Ladner Gervais LLP  
Mark Watts, Bristows (*UK*)

- The GDPR after six months: What has happened and what is yet to come?
- Is PIPEDA still “adequate” for trans-Atlantic data transfers?
- Guidance from the Privacy Commissioner on adequacy of consent
- Is there or will there be a right to be forgotten in Canada?
- Managing data breaches and notifications
- Accountability and “reasonable business practices” under PIPEDA
- Demands and expectations for algorithmic transparency and secondary use of data

**3:30–3:45 pm**

### **Networking Break**

Hosted by: CAN-TECH Law

**3:45–5:15 pm**

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

**5:15 pm**

### **Conference Ends**

## 1. Intermediary Accountability in the Digital Age

### Speakers:

Richard Austin, Deeth Williams Wall LLP  
Dr. Emily B. Laidlaw, Associate Professor, Faculty of Law,  
University of Calgary

- Who are the intermediaries and what is their role?
- Responsibility of intermediaries for enforcing compliance with legal and ethical norms
- What are the consequences if they do enforce compliance? And if they do not?
- Current regulatory frameworks
- Intermediary challenges:
  - Online reputation
  - Consumer protection
  - Data protection and privacy
  - Intellectual property
  - Globalization and jurisdiction post Equustek
- Case study: Cambridge Analytica and Facebook
- The Future: Automation, the internet of things etc.

## 2. What Every Lawyer Needs to Know About Dispute Resolution

### Speakers:

Michael Erdle, Practical Resolutions  
Michel Solis, Solis Juritech Inc.

- Lawyer's duty to consider ADR in Quebec and common law provinces
- Effective governance and escalation clauses (and the traps to avoid)
- Practical drafting tips for dispute resolution clauses:
  - A "perfect" clause ?
- Effective mediation and arbitration strategies: Timing and other factors
- Ethical issues in dispute resolution

## 3. Data Governance and Management: Collection, Storage & Transfer of Data in Canada

### Speakers:

Wendy Mee, Blake, Cassels & Graydon LLP  
Lyndsay Wasser, McMillan LLP

- When can personal data be legally collected, stored and processed?
- Are there limitations or restrictions on the period for which an organization may (or must) retain records?
- Do individuals have a right to access personal information held by an organization?
- Do individuals have a right to request deletion of their data?

- PIPEDA's new breach recording requirements: Preparing for compliance
- How to "stand ready to demonstrate compliance" pursuant to the OPC's new "Guidelines for obtaining meaningful consent"
- Cross-border transfers of information:
  - Red herring or real concern for Canada?
  - A comparison to the GDPR
- IoT and cloud computing: Data governance issues when data is everywhere and nowhere

## 4. Développements récents 2018 en TI en droit québécois (en français)

(This session will be presented in French on Oct. 29th am only)

### Conférenciers:

Marie-Hélène Constantin, Blake, Cassels & Graydon LLP  
Jean-François De Rico, Langlois Avocats LLP

Les conférenciers feront un survol de certains développements récents pertinents en droit québécois en matière de droit commercial et de droit des technologies de l'information et traiteront entre autres des sujets suivants:

- La jurisprudence récente traitant de la qualification et de l'intensité des obligations des consultants en TI en droit québécois
- Les éclaircissements de la Cour d'appel sur les dispositions de LCCJTI
- L'évolution des recours collectifs alléguant des manquements aux obligations de protection des renseignements personnels
- Certains développements récents relativement à la *Charte de la langue française*
- Certaines décisions récentes en vertu des lois sur la protection du consommateur et leur impact en droit québécois
- L'application par les tribunaux québécois des notions de partie importante de l'œuvre et d'exception d'utilisation équitable en vertu de la *Loi sur le droit d'auteur*

## 5. Artificial Intelligence (AI) and the Practice of Law

(This session will be presented once on Oct. 29th, pm only. This session contains 1 hour and 30 minutes of Professionalism Content.)

### Speakers:

Elisabeth Demone, Senior Counsel, Symcor  
James Kosa, WeirFoulds LLP  
Amir Moravej, Founder, Botler AI

- What is AI?
- What AI can and cannot do
- Current use of Artificial Intelligence in legal practice
- Opportunities and anticipated future advancements
- Essential practice management advice on the use of AI
- Potential ethical challenges when using AI in your practice

## 6. Superclusters: Catalyst for Collaboration

### Speakers:

Anthony de Fazekas, Norton Rose Fulbright (Canada) LLP  
Tristan Mallet, Interim CEO, SCALE.AI supercluster  
Carole Piovesan, McCarthy Tétrault LLP

- What are government mandated superclusters? What are the objectives?
  - University/Industry collaboration
  - IP and collaboration frameworks
  - Data/Technology/IP collectives
- What impact will superclusters have on industry?
- Governance of technology consortia with different players
- Latest trends in collaborative frameworks and how they are being applied in Canada
- Managing technological collaboration through superclusters
- What does “Frictionless IP” really mean for superclusters?
- Competition Bureau guidance on superclusters: Joint Dominance or Economies of Scale?

## 7. Avoiding Cross-Border Pitfalls for Technology Companies

### Speakers:

Paul Casuccio, Fasken  
Katy Pitch, Wildeboer Dellelce LLP

- Withholding tax issues on royalty payments and licensing agreements
- Movement of employees across borders

- Income tax and commodity tax issues regarding cryptocurrencies
- Organization for Economic Co-operation and Development issues
- GST/HST issues with importing and exporting technology and intellectual property
- The newly proposed QST rules for non-resident e-sellers of property and services

## 8. Contracting for Innovative Partnerships

### Speakers:

Dan Shap, Senior Counsel, CIBC  
Wendy Gross, Osler, Hoskin & Harcourt LLP  
Christine Ing, McCarthy Tétrault LLP

- Collaborative and multi-party contracting models
- Workable governance models and jurisdictional concerns
- Complex ownership and rights to:
  - Data
  - Intellectual property
  - Shared assets
- Allocating risk and liabilities within complex eco-systems

ASSOCIATION CANADIENNE DU DROIT DE LA TECHNOLOGIE



CANADIAN TECHNOLOGY LAW ASSOCIATION

## 2019 Early Bird Membership

Renew your CAN-TECH Law Membership for 2019 by December 1, 2018 and SAVE!

New Members to CAN-TECH Law benefit from our introductory \$100 membership fee.

Visit [www.cantechlaw.ca](http://www.cantechlaw.ca) for full details.

# Registration Information

## How to Register:

No faxed registrations please.

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

**By cheque:** mail the original, fully completed registration form and payment to Lisa Ptack, CAN-TECH Law Executive Director, 1 Promenade Circle, P.O. Box 918, Thornhill, ON L4J 8G7. An email address is required in order to receive a confirmation.

**Payment MUST accompany registration.**

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

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

**Registration:** All fees include breakfasts, networking breaks, lunches and access to conference materials. **A current email address is required in order to receive your confirmation.**

**Hotel Reservations:** The Marriott Chateau Champlain Hotel, 1 Place du Canada, Montreal, QC. Special group rate is \$195 plus services and taxes. Tel: 1-800-200-5909; Direct Tel: 514-878-9000 [www.cantechlaw.ca/hotel.html](http://www.cantechlaw.ca/hotel.html)

**Cancellations:** Refunds for conference fees will be made if requested by email, received **PRIOR TO September 29, 2018**. Substitutions will be permitted after this date. There will be **NO** exceptions. A processing fee of \$100 (+ \$13 HST) will be charged for refunds. The email address is [lisa.ptack@cantechlaw.ca](mailto:lisa.ptack@cantechlaw.ca)

### CAN-TECH Law is pleased to thank the following sponsors:

Bereskin & Parr LLP • Blake Cassels & Graydon LLP • Blaney McMurtry LLP  
Deeth Williams Wall LLP • Gowling WLG • McCarthy Tétrault LLP • McMillan LLP  
Microsoft Canada Inc. • Norton Rose Fulbright Canada LLP • Orrick Herrington & Sutcliffe LLP  
Osler, Hoskin & Harcourt LLP • Torkin Manes LLP • WeirFoulds LLP

## Roundtable Schedule

### Monday, October 29, 2018 (11:00 am–12:30 pm)

1. Intermediary Accountability in the Digital Age
2. What Every Lawyer Needs to Know About Dispute Resolution
3. Data Governance and Management: Collection, Storage & Transfer of Data in Canada
4. Développements récents 2018 en TI en droit québécois (en français; matin seulement)

### Monday, October 29, 2018 (2:15–3:45 pm)

1. Intermediary Accountability in the Digital Age
2. What Every Lawyer Needs to Know About Dispute Resolution
3. Data Governance and Management: Collection, Storage & Transfer of Data in Canada
5. Artificial Intelligence (AI) and the Practice of Law (PM only)

### Tuesday, October 30, 2018 (10:45 am–12:15 pm)

6. Superclusters: Catalyst for Collaboration
7. Avoiding Cross-Border Pitfalls for Technology Companies
8. Contracting for Innovative Partnerships

### Tuesday, October 30, 2018 (3:45–5:15 pm)

6. Superclusters: Catalyst for Collaboration
7. Avoiding Cross-Border Pitfalls for Technology Companies
8. Contracting for Innovative Partnerships

**SEATING IS LIMITED SO REGISTER EARLY**

# Registration Form

## 2018 CAN-TECH LAW 22<sup>nd</sup> Annual Conference

October 29–30, 2018

The Marriott Chateau Champlain Hotel • 1, Place du Canada • Montréal, QC

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

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

**No faxed registrations please. Payment must accompany registration.**

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

FEES	Early Bird Fee until September 25, 2018	After September 25, 2018
CAN-TECH Law Member	\$1525 (plus \$228.37 tax) <b>\$1753.37</b> <input type="checkbox"/>	\$1625 (plus \$243.34 tax) <b>\$1868.34</b> <input type="checkbox"/>
Non-CAN-TECH Law Member	\$1725 (plus \$258.32 tax) <b>\$1983.32</b> <input type="checkbox"/>	\$1825 (plus \$273.29 tax) <b>\$2098.29</b> <input type="checkbox"/>
Academic/In-House Counsel/ Government/Non-Lawyer	\$975 (plus \$146.01 tax) <b>\$1121.01</b> <input type="checkbox"/>	\$1075 (plus \$160.98 tax) <b>\$1235.98</b> <input type="checkbox"/>
Student	\$200 (plus \$29.95 tax) <b>\$229.95</b> <input type="checkbox"/>	\$200 (plus \$29.95 tax) <b>\$229.95</b> <input type="checkbox"/>

### OPTIONAL DINNER

If you wish to attend the dinner on Monday, October 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 tax = **\$113.83**)

**TOTAL ENCLOSED:**

HST registration #: 886487677RT

### PAYMENT

For credit card payment, please register via our secure online registration page at <http://www.cantechlaw.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 \_\_\_\_\_

# 2018 CAN-TECH LAW 22<sup>nd</sup> Annual Conference

October 29–30, 2018

The Marriott Chateau Champlain Hotel • 1, Place du Canada • Montréal, QC

## About CAN-TECH Law

The Canadian Technology Law Association/ l'Association canadienne du droit de la technologie (CAN-TECH Law) is an association which brings together Canadian and international technology law practitioners in the field of 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 technology law community.

## CAN-TECH Law Membership

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

New Members benefit from our \$100 introductory membership fee.

Renew your current membership for 2019 before December 1, 2018 and SAVE!

## Conference Organization

**CAN-TECH Law would like to thank the following members of the Planning Committee:**

### Chairs:

Maya Medeiros, Norton Rose Fulbright (Canada) LLP  
Charles Morgan, McCarthy Tétrault LLP

### Committee:

Andrew Alleyne, Fasken DuMoulin LLP  
Richard Austin, Deeth Williams Wall LLP  
Lisa Danay, WeirFoulds LLP  
Jennifer Davidson, Deeth Williams Wall LLP  
David Feldman, Blake Cassels & Graydon LLP  
Brian Gray, Brian Gray Law  
Graham Honsa, Wilson Lue LLP  
John Le Blanc, Senior Legal Counsel, Scotiabank  
Lisa R. Lifshitz, Torkin Manes LLP  
Peter Ruby, Goodmans LLP

If the person to whom we have sent this brochure is no longer with the company, please pass it along to someone else in the legal or IT department; or simply send it back to us and we will remove the name from our mailing list.