

IT.CAN AND THE LAW SOCIETY OF UPPER CANADA ARE PROUD TO PRESENT:

The 2013 Information Technology Law Spring Forum

A SERIES OF 4 SEPARATE HALF DAY PROGRAMS

Monday, June 17–Tuesday, June 18, 2013

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

or view via webcast (see details on registration form)

PROGRAM 1 IP Issues for IT Law and Business

Monday, June 17, 2013 8:45 a.m. – 12:30 p.m. Chair: **Daniel R. Bereskin, Q.C.**, *Bereskin & Parr LLP*

PROGRAM 2 IT Privacy Law Essentials

Monday, June 17, 2013 1:00 p.m. – 5:00 p.m. Chair: **David Canton**, *Harrison Pensa LLP*

PROGRAM 3 Fundamentals of Technology Contracting – Part 1

Tuesday, June 18, 2013 8:45 a.m. – 12:30 p.m. Chairs: **Richard Austin**, Counsel, *Deeth Williams Wall LLP*
Joel Ramsey, *Osler, Hoskin & Harcourt LLP*

PROGRAM 4 Fundamentals of Technology Contracting – Part 2

Tuesday, June 18, 2013 1:00 p.m. – 5:00 p.m. Chairs: **Richard Austin**, Counsel, *Deeth Williams Wall LLP*
Joel Ramsey, *Osler, Hoskin & Harcourt LLP*

These programs can be applied towards Substantive Hours of Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that this program is not accredited for Professionalism hours. The program may also meet the substantive CLE requirements of other Canadian jurisdictions. Please confirm with the CLE department in your province.

PROGRAM 1

IP Issues for IT Law and Business

Monday, June 17, 2013 8:45 a.m. – 12:30 p.m.

8:45 a.m. – 9:00 a.m. **Opening Remarks**

Chair: **Daniel R. Bereskin, Q.C.**, *Bereskin & Parr LLP*

9:00 a.m. – 9:40 a.m. **Copyright**

Speaker: **Aaron Sawchuk**

Assistant General Counsel, *Blackberry*

- Bill C-11: the *Copyright Modernization Act* – ISP liability
- User generated content
- Review of key copyright issues in the 5 recent SCC cases – what will constitute fair dealing?

9:40 a.m. – 10:10 a.m. **Trade Secrets and Confidentiality**

Speaker: **Etienne de Villiers**, *Dimock Stratton LLP*

- Nature of trade secrets and confidential information
- Requirements for establishing rights
- Misuse of confidential information
- Enforcing rights and available remedies
- Strategies for protecting trade secrets and confidential information

10:10 a.m. – 10:50 a.m. **Trademarks and Domain Names**

Speaker: **Robert A. MacDonald**

Gowling Lafleur Henderson LLP

- Update on recent trademark cases
- What constitutes “use” of a trademark on the Internet?
- The intersection of trademarks and domain names
- New gTLD

10:50 a.m. – 11:05 a.m. **Coffee Break**

11:05 a.m. – 11:45 a.m. **Software and Business Method Patents**

Speaker: **Don Cameron**, *Bereskin & Parr LLP*

- Patentable subject matter in Canada after *Amazon.com* – update on Patent Office guidelines
- Patentable subject matter in the US: software and business methods patents
- Update on recent Canadian and US patent case law: divided and contributory infringement
- *New America Invents Act*

11:45 a.m. – 12:30 p.m. **Case Analysis**

The speakers will consider a case scenario that merges patent, trade secrets and copyright issues. The presenters will be asked by the Chair to comment on how they would advise the adverse parties in relation to specific issues presented by the scenario. The case will be distributed to participants and available on-line prior to the session. There will be an opportunity to ask questions of the panel members.

12:30 p.m. **End of Program 1**

PROGRAM 2

IT Privacy Law Essentials

Monday, June 17, 2013 1:00 p.m. – 5:00 p.m.

1:00 p.m. – 1:15 p.m. **Opening Remarks**

Chair: **David Canton**, *Harrison Pensa LLP*

1:15 p.m. – 2:00 p.m. **Privacy Breaches**

Speaker: **David T.S. Fraser**, *McInnes Cooper*

- Memory stick data losses – why so common?
- Anticipating the breach: developing a crisis management plan
- Notification requirements: regulators, customers and others – new PIPEDA regulations
- Impact of multiple jurisdictions
- Liability for the breach

2:00 p.m. – 2:45 p.m. **Social Media and Mobile Privacy Issues**

Speaker: **K. Paige Backman**, *Aird & Berlis LLP*

- Contract considerations: service provider, business to business and business to consumer contracts
- High profile cases: Facebook, etc.
- Service provider data retention
- Law enforcement access
- PIPEDA framework and obligations
- Impact of the new Anti-SPAM legislation
- Geolocation and near field communication data issues
- OPC position and guidance on social media and mobile devices

2:45 p.m. – 3:00 p.m. **Coffee Break**

3:00 p.m. – 4:00 p.m. **Privacy Issues in Health Care**

Speakers: **Bonnie Freedman**

Counsel, *Borden Ladner Gervais LLP*

Robin Gould-Soil

CPO, *University Health Network/SIMS*

Patrick Lo, Director of Privacy, *e-Health Ontario*

- The legal framework for personal health information in Ontario
- Ontario's eHealth agenda and eHealth Ontario services
- Issues arising out of shared electronic systems
- Patient/disease specific portals
- m-Health

4:00 p.m. – 5:00 p.m. **Implications of Canada's Anti-SPAM Legislation for IT Business**

Speakers: **Michael Fekete**, *Osler, Hoskin & Harcourt LLP*

Mark Hayes, *Heydary Hayes PC*

Andy Kaplan-Myrth

Policy Advisor, *Industry Canada*

Lynne M. Perrault, Director of the Electronic Commerce Enforcement Division, *CRTC*

- Commercial electronic messages under CASL: how restrictive are the rules really going to be?
- Obtaining online consent for CEMs and software installations
- Consent exceptions: navigating very tricky waters
- Unsubscribe requests: where, when and how?
- Amendments to existing statutes: *CRTC Act*, *Competition Act*, *PIPEDA* and the *Telecommunications Act*
- What will CASL enforcement look like?
- Achieving compliance: challenges for Canadian businesses

5:00 p.m. **End of Program 2**

PROGRAM 3

Fundamentals of Technology Contracting – Part 1

Tuesday, June 18, 2013 8:45 a.m. – 12:30 p.m.

8:45 a.m. – 9:00 a.m. **Opening Remarks**

Richard Austin, Counsel, *Deeth Williams Wall LLP*

Joel Ramsey, *Osler, Hoskin & Harcourt LLP*

9:00 a.m. – 10:30 a.m. **Software License Agreements**

Moderator: **Richard Austin**

Counsel, *Deeth Williams Wall LLP*

Speakers: **Lisa Abe-Oldenburg**, *Bennett Jones LLP*

Eric Boehm, *Borden Ladner Gervais LLP*

Simon Hodgett, *Osler, Hoskin & Harcourt LLP*

Gabe Takach, *Takach Law*

- Software licensing issues: an overview
- Bankruptcy/insolvency issues
- The impact of open source software
- Exclusions and limits of liability
- Current issues and new developments in software licensing

10:30 a.m. – 10:45 a.m. **Coffee Break**

10:45 a.m. – 11:15 a.m. **Development and Implementation Agreements**

Speaker: **Duncan Card**, Partner, *Bennett Jones LLP*

- Deal structure: contracting for developments or for developers?
- Risk implications of development methodologies
- Tying it together: design, build, integrate and implement
- Ongoing commercial issues: monitor, support and maintain
- Cross border issues: IP, immigration, offshore, cloud

11:15 a.m. – 11:50 a.m. **Services Agreements**

Speakers: **Wesley Ng**, *Stikeman Elliott LLP*

Stephen Spracklin, General Counsel

Konica Minolta Business Solutions (Canada) Ltd.

- The scope of services: what's in and what's out?
- Service levels and remedies: getting what you want
- Governance: managing a changing relationship
- Changing standards: audit clauses and CSAE 3416

11:50 a.m. – 12:30 p.m. **Warranties, Indemnities and Damages**

Speakers: **Helen Aston**, Senior Counsel, Global

Business Services, *IBM Canada Limited*

Barry Sookman, *McCarthy Tétrault LLP*

- Types of representations and warranties
- Remedies for breach:
 - injunctive relief
 - damages
 - rights of termination
- Scope of indemnities by supplier:
 - IP infringement indemnities
 - other indemnities

12:30 p.m. **End of Program 3**

PROGRAM 4

Fundamentals of Technology Contracting – Part 2

Tuesday, June 18, 2013 1:00 p.m. – 5:00 p.m.

1:00 p.m. – 1:15 p.m. **Opening Remarks**

Richard Austin, Counsel, *Deeth Williams Wall LLP*
Joel Ramsey, *Osler, Hoskin & Harcourt LLP*

1:15 p.m. – 2:00 p.m. **Mobile Contracting: Licensing Issues in the Brave New Mobile World**

Speakers: **Lisa R. Lifshitz**, *Torkin Manes LLP*
Charles McCarragher
Senior Counsel, *TD Bank Group*

- Fundamentals of mobile contracts
- Build vs. license or a combination of both
- Important licensing issues for mobile applications
- Mobile privacy issues
- Distribution models and strategies
- Near field communication issues

2:00 p.m. – 2:45 p.m. **SaaS-Cloud Service Agreements**

Speakers: **Christine Ing**, *Blake, Cassels & Graydon LLP*
Robert Percival, *Norton Rose Canada LLP*

- How is a SaaS agreement different from a traditional software license agreement?
- Data access, security and privacy
- Balancing customization, control, quality and accountability vs. low cost commoditization
- Key risk management issues, including: business continuity, regulatory compliance and insolvency

2:45 p.m. – 3:00 p.m. **Coffee Break**

3:00 p.m. – 3:30 p.m. **Distribution Agreements**

Speaker: **Adam Vereshack**, Barrister & Solicitor

- Term and termination
- Obligations of the parties
- Exclusivity/non-exclusivity
- Ramp-up of minimum annual royalties
- Software and IP ownership issues

3:30 p.m. – 4:15 p.m. **Contracting for Confidentiality, Privacy and Security**

Speakers: **Marie-Hélène Constantin**
Blake, Cassels & Graydon LLP
James Kosa, *Deeth Williams Wall LLP*

- Key challenges in dealing with confidentiality, privacy and security
- Drafting contracts dealing with:
 - confidentiality and non-disclosure
 - personal data transfer
 - security protocols and practices

4:15 p.m. – 5:00 p.m. **Cross Border IT Contract Issues**

Speaker: **Dan Logan**, *Torys LLP*

- Tax treatment of software licenses
- Export controls
- *Foreign Corrupt Practices Act*
- International dispute resolution provisions

5:00 p.m. **Program Ends**

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The Law Society
of Upper Canada

Barreau du
Haut-Canada

**Canadian IT Law Association/
l'Association canadienne du droit des
technologies de l'information**

Tel: 905-889-0640

Website: www.it-can.ca

E-mail: lisa.ptack@rogers.com

REGISTRATION FORM

I WISH TO ATTEND

	CPD HOURS	IN PERSON	BY WEBCAST
Program 1: IP Issues for IT Law and Business	3.5 SUBSTANTIVE HOURS	<input type="checkbox"/>	<input type="checkbox"/>
Program 2: IT Privacy Law Essentials	4.0 SUBSTANTIVE HOURS	<input type="checkbox"/>	<input type="checkbox"/>
Program 3: Fundamentals of Technology Contracting – Part 1	3.5 SUBSTANTIVE HOURS	<input type="checkbox"/>	<input type="checkbox"/>
Program 4: Fundamentals of Technology Contracting – Part 2	4.0 SUBSTANTIVE HOURS	<input type="checkbox"/>	<input type="checkbox"/>

	One half day	Two half days	Three half days	Full program
Regular Fee (after May 17, 2013)	\$340 + \$44.20 HST = \$384.20	\$612 + \$79.56 HST = \$691.56	\$867 + \$112.71 HST = \$979.71	\$1088 + \$141.44 HST = \$1229.44
	<input type="checkbox"/>	(10% savings) <input type="checkbox"/>	(15% savings) <input type="checkbox"/>	(20% savings) <input type="checkbox"/>
Early Bird Special & IT.CAN Member fee* (until May 17, 2013)	\$315 + \$40.95 HST = \$355.95	\$567 + \$73.71 HST = \$640.71	\$803.25 + \$104.42 HST = \$907.67	\$1008 + \$131.04 HST = \$1229.44
	<input type="checkbox"/>	(10% savings) <input type="checkbox"/>	(15% savings) <input type="checkbox"/>	(20% savings) <input type="checkbox"/>

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: \$35 plus \$4.55 HST = **\$39.55 additional per registration.** (PDF materials are included.)

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ONLINE: http://ecom.lsuc.on.ca/cpd* **FAX:** 416-947-5235* *Credit card required

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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