

# **2021 CAN-TECH LAW Annual Conference**

**October 20-21, 2021**

**Online – available from anywhere**

*Please note that all times listed are Eastern Time Zone*

## **Day 1 – Wednesday, October 20, 2021**

### **10:15 AM NETWORKING**

**Connect with Your Colleagues in the Networking Lounge**

### **10:30 AM**

**Welcome from the President**

**Nancy Cleman, Partner, Lapointe Rosenstein Marchand Melançon, L.L.P. (Montreal)**

**Welcome from the Co-Chairs**

**Cindy Kou, Associate, Gowling WLG (Canada) LLP (Toronto)**

**Hashim Ghazi, Counsel, Fasken (Toronto)**

### **10:45 AM PLENARY**

**Getting Up to Date on New Data and Privacy Laws: Critical Federal and Provincial Developments for Technology Lawyers**

**Moderator: Lisa R. Lifshitz, Partner, Torkin Manes (Toronto)**

**David Fraser, Partner, McInnes Cooper (Halifax)**

**Éloïse Gratton, Partner and National Co-leader, Privacy and Data Protection, Borden Ladner Gervais LLP (Toronto/Montreal)**

**Bernice Karn, Partner, Cassels (Toronto)**

**Rachel Kattapuram, Legal Counsel, Privacy, Shopify (Toronto)**

Canada's privacy laws are undergoing significant shifts and rapidly evolving, as security and privacy are increasingly top of mind for organizations and lawyers. Keep up with the most recent changes and discuss the most recent analysis of new and proposed privacy laws from our experts including:

- Examining Bill C11 and new federal privacy laws, interpretations and consumer privacy principles
- Getting up to date on sweeping provincial privacy legislation reform across Canada: Bill 64, Bill 96 and more
- Recent developments in data privacy regulation and data security risk mitigation
- Proactive risk mitigation and compliance strategies

Get your guidebook to the latest privacy law changes in Canada.

### **12:00 PM NETWORKING**

**Visit Virtual Booths, Source Content and Engage in Discussions with Industry Experts**

### **12:20 PM Choose Your Track**

Your opportunity to delve into those specialized areas of technology law that are of particular interest to you

<p><b>A: Intellectual Property and Drafting Issues: The Non-Artificial Issues in Artificial Intelligence</b></p>	<p><b>B: Blockchain and Non-Fungible Tokens in Practice Today: Practical Applications and Legal Issues in Copyright, Finance, Entertainment and More</b></p>
<p><b>Moderator: Richard Austin, Deeth Williams Wall (Toronto)</b></p> <p><b>Diana Drappel, Senior Counsel, RBC (Toronto)</b>  <b>Karen Eltis, Faculty member at the University of Ottawa Centre for Law, Technology and Society, Full Professor of Law within the Faculty of Law, Civil Law Section (Ottawa)</b>  <b>Roch J. Ripley, Partner Head of Vancouver Intellectual Property Department Gowling WLG, (Vancouver)</b></p> <p>The Artificial Intelligence environment is continuing to change: the new AI technologies that are emerging and the expanded and evolving uses of AI are giving rise to critical social and ethical issues and challenges in the intellectual property and commercial spheres. This session explores the core developments in these areas to provide the legal expertise you need to understand the issues and to respond to them. You will take away key insights on AI legal issues to help you:</p> <ul style="list-style-type: none"> <li>• Understand available intellectual property protections including key developments in patenting AI inventions</li> <li>• Address data ownership issues</li> <li>• Meet the most current drafting challenges in AI development, licensing and use agreements</li> </ul> <p>Ensure you are up to date on swiftly evolving legal considerations related to AI.</p>	<p><b>Moderator: Jennifer Davidson, Deeth Williams Wall (Toronto)</b></p> <p><b>Vandana Taxali, Arts/Media, IP &amp; Tech (Blockchain) lawyer &amp; Founder and CEO of Artcrypton (Mississauga)</b>  <b>Pauline Couture, Co-CEO at BlockFilm, EFM Startups 2021 (Toronto)</b>  <b>Alan Wunsche, CEO, Co-Founder and Chief Token Officer, TokenFunder and Chair and Co-Founder, Blockchain Canada (Toronto)</b></p> <p>Excitement relating to the practical applications of blockchain and NFTs are growing exponentially and globally. At the same time, the legal treatment of NFTs and blockchain are continuing to evolve. Join our experienced panel to learn about these applications and to build your expertise in this rapidly developing area.</p> <ul style="list-style-type: none"> <li>• What are NFTs? How do they work? What are the pros and cons of using them?</li> <li>• Legal applications in practice management: Learn about how NFTs are being used in the practice of law as it relates to copyright, finance, entertainment, and more</li> <li>• Building your understanding of the legal considerations related to NFTs: privacy, cybersecurity, data protection laws, IP rights, data hosting and storage and royalties</li> </ul>

**1:20 PM Choose Your Track**

<p><b>PLENARY – Driving the Connection Between Information Governance and eDiscovery</b></p> <p><b>Pierre Chamberland, Innovation Catalyst for IPRO</b>  <b>Nick Inglis, CIP, IGP, INFO, Director of Information Governance at IPRO</b></p>	<p><b>NETWORKING</b>  <b>Visit Virtual Booths, Source Content and Engage in Discussions with Industry Experts</b></p>
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### 1:40 PM Choose Your Track

This is your opportunity to delve into a more specialized area of technology law that benefits you most.

<b>A: Digital Identity in Canada: Risks and Rewards</b>	<b>B: Drafting and Negotiating Digital Communication and Collaboration Agreements: The Latest Trends and Considerations</b>
<p><b>Moderator: Hashim Ghazi, Counsel, Fasken (Toronto)</b></p> <p><b>Colleen Elliott, Senior Manager, Digital Identity Strategy, Worldwide Public Sector, Microsoft</b> <b>David Goodis, Partner, INQ Law (Toronto)</b> <b>Nancy Cleman, Partner, Lapointe Rothstein Marchand Melancon LLP (Montreal)</b></p> <p>With the adoption of digital identification technologies growing globally, attention is turning to Canadian efforts to implement digital identity at the provincial, territorial and national scale. "Life after COVID-19" has brought digital identity to the forefront of conversations in technology and privacy legal circles, and there remains a number of misconceptions about what digital identity is, how it may affect us and how it may affect our employers and clients, particularly in relation to privacy and digital adoption considerations. Join us as we discuss hot topic issues surrounding:</p> <ul style="list-style-type: none"><li>• what digital identity is and how it works</li><li>• the potential use of vaccine passports when travelling</li><li>• the privacy risks and potential infringement of human rights with the use of digital identification technologies</li><li>• the potential limitations for those who choose not to adopt the use of digital identity (either by personal choice or because of their lack of technological advancement)</li><li>• learnings from recent rollouts of digital identity systems in Canada</li></ul>	<p><b>Moderator: David Cummings, Partner, Bortstein Legal Group</b></p> <p><b>Marina Clements, VP of Legal at Mural (San Francisco)</b> <b>Sam Ip, Associate, Technology, Oslers (Toronto)</b> <b>Stephanie Otou, Senior Counsel, Digital, Strategy and Innovation- RBC Law Group, Royal Bank of Canada (Toronto)</b></p> <p>There is an ever-increasing body of evidence that the pandemic acted as a catalyst for technology transformation. In the last year and a half, organizations have been forced into new ways of interacting – both internally and externally - out of extreme necessity. Recent surveys show that companies plan to increase investment in interactive digital technologies even further in 2022. Gain a roadmap from our experts who will walk you through a transaction case study to help you draft digital interaction agreements that:</p> <ul style="list-style-type: none"><li>• Allow external teams and clients to collaborate safely</li><li>• Protect confidentiality and privacy</li><li>• Draft appropriate liability, indemnity, data usage clauses</li><li>• Anticipate changes in AI and the data that it analyzes and produces</li><li>• Manage and minimize cyber risk and liability</li></ul> <p>Ensure you are prepared to provide top notch digital communication and collaboration agreements to protect your clients.</p>

### 2:40 PM NETWORKING

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### **3:00 PM PLENARY**

#### **Allocating Risk in Technology Agreements:**

#### **Need to Know Trends in Limitations, Liability & Indemnity Clauses and Insurance Coverage**

**Moderator: Paul Matthews, P. Eng. (AB), Partner, Lawson Lundell LLP (Kelowna)**

**Elena Iosef, Legal Counsel, Varicent (Toronto)**

**François Lajeunesse, Senior Legal Counsel, Bell Canada (Montreal)**

**Avi Sharabi, Insurance Coverage & Defence Lawyer, Stieber Berlach LLP (Toronto)**

As a technology lawyer, you are working with risk allocation every day and in every deal. Parsing through and understanding the nuances of each clause, including how courts might view them, are absolutely essential to ensure you are providing the best protection for your clients. Engage with experts to:

- Discover the latest best practices for drafting and negotiating risk allocation provisions
- Acquire critical updates on case law and market trends impacting risk allocation
- Hone your understanding of key perspectives: how are customers, suppliers and the courts viewing risk allocation?
- Get guidelines for insurance conditions: What new clauses do you need to look out for? What language is now common and what is changing? How do you determine what is excluded? What do the terms actually mean?

### **4:00 PM**

#### **Concluding Remarks, Day 1, from the Co-Chairs**

**Cindy Kou, Associate, Gowling WLG (Canada) LLP (Toronto)**

**Hashim Ghazi, Counsel, Fasken (Toronto)**

### **4:10 PM Conference Day 1 Adjourns**

## **Day 2 – Thursday, October 21, 2021**

### **10:00 AM NETWORKING**

**Enter Networking Lounge, Connect with Your Colleagues**

### **11:00 AM**

**Welcome from the Co-Chairs**

**Cindy Kou, Associate, Gowling WLG (Canada) LLP (Toronto)**

**Hashim Ghazi, Counsel, Fasken (Toronto)**

### **11:05 AM PLENARY**

**Designing AI for Equity and Justice: Can It Be Done and Is It Being Done?**

**Moderator: Naveen Mehta, CLO at Mesh/Diversity (Toronto)**

**Bitu Amani, Associate Professor, Queen's University Faculty of Law; Adjunct Faculty, Osgoode Professional Development Program; Lawyer at Spark LLP (Toronto)**

**Fion Lee-Madan, Technical Co-Founder, COO and Customer Success at Fairly AI | Risk Management for AI, Fairly.ai (Toronto)**

**Susie Lindsay, Counsel, Law Commission of Ontario (Toronto)**

The speed of growth and development in the world of artificial intelligence continues to stretch existing societal norms, expectations, and regulations. As real world applications of machine learning and artificial intelligence are becoming more and more commonplace, so, too, are conversations and calls for systemic reform to achieve equity, diversity, and inclusion (EDI).

Whether in healthcare, the criminal justice system, education, or workplaces, in living rooms and boardrooms alike, we are grappling with questions about what is fair? Fair to whom? Who gets to decide, and how?

Join us as we bring together leading EDI and AI practitioners to discuss the intersections between EDI and AI conversations, including:

- examples of EDI considerations being embedded (or not) in emerging AI applications;
- reputational and other risks of not embedding EDI consideration in emerging AI applications;
- the existing Canadian landscape for AI regulation and what is on the horizon;
- challenges or opportunities in designing for equity and justice in the existing regulatory framework;
- the role law plays or could play in incentivizing or requiring AI to achieve equity and justice by design.

*This program contains 30 minutes of EDI Professionalism Content. (Ontario)*

### **12:05 PM NETWORKING**

**Visit Virtual Booths, Source Content and Engage in Discussions with Industry Experts**

### **12:20 PM Choose Your Track**

Your opportunity to delve into those specialized areas of technology law that are of particular interest to you

**A: Cybersecurity: Assessing Liability arising from Information Security Breaches in Data Privacy**

**B: International Technology Law Update: Mastering the New Standard Contractual Clauses**

**Moderator: Laura Johnson, Senior Legal Counsel, Accenture (Toronto)**

**Gerald Chan, Partner, Stockwoods, (Toronto)**  
**Tony Morris, Q.C., Partner, Fasken (Calgary)**  
**Sajith Nair, Partner - Cybersecurity, Privacy & Financial Crime, PwC Canada (Toronto)**

In an increasingly interconnected and cloud driven world, even the most conscientious company can fall victim to a cybersecurity incident. These breaches can result in the improper transfer of data of all sorts, whether personally identifying, financial, health or other sensitive information. Concurrently, there are increasing damage claims being made which include penalties and fines, including for failure to adequately private consumer financial information. Join this esteemed panel to gain insights into how to plan for potential breach in negotiating service provider contracts; to facilitate proper crisis management including an understanding of how damages are addressed in litigation; and to protect the bottom line, both for customers and service providers.

Contract Stage:

- Negotiating indemnity provisions and exclusions of liability with reference to assessed cyber risks

Post Incident:

- Quantifying information security liability & damages in a data privacy context
  - What are the typical components of a data breach claim?
  - How are they calculated?
  - Mitigation (cyber incident case study): immediate steps an organisation should take to respond to an incident[ NTD: this might be removed]

Understand potential cyber security risks and understand how contracting parties and the courts are addressing them, including the issue of damages.

**Moderator: Richard Corley, Partner, Goodmans LLP (Toronto)**

**Carmen De la Cruz, Partner, LEXcellence Ltd. Legal Services (Zug, Zug, Switzerland)**  
**Lorenzo Iobbi Honorati, Data Protection & Privacy Counsel, Morgan Stanley (Germany)**  
**Benjamin Ross, Partner, Bortstein Legal Group (London, UK)**

In light of the CJEU judgment in *Data Protection Commissioner v. Facebook Ireland and Maximilian Schrems*, this year, the European Commission published new standard contractual clauses for transferring personal data from the EU to third countries pursuant to the GDPR. These must be used from 27 September 2021 instead of the old Standard Contractual Clauses and all current contracts must be updated by 31 December 2022. The UK has also published similar draft documents which remain under consultation.

Explore these topics and ask questions of our expert panel on:

- Applicability
- Risks for failure to comply with international data transfer rules
- Common scenarios
- Structure of the new Standard Contractual Clauses (SCCs)
- How to complete and use the new SCCs
- Strategic decisions to make to complete the new SCCs
- How to incorporate the new SCCs into contracts
- Applicability of the new SCCs to the UK
- Schrems II requirements

Ensure compliance with international laws affecting your clients.

## 1:20 NETWORKING

Visit Virtual Booths, Source Content and Engage in Discussions with Industry Experts

## 1:40 PM PLENARY

**Women in Tech: What is Technology-facilitated Gender-based Violence and How are Social Media Platforms Fostering/Mitigating It?**

**Moderators:**

**Kuljit Bhogal, Legal Counsel, LoyaltyOne**

**Lisa Danay Wallace, Associate, Weirfoulds LLP**

**Suzie Dunn, Associate Member, University of Ottawa Centre for Law, Technology and Society,  
Assistant Professor of Law, Dalhousie University**

**Rosel Kim, Staff Lawyer / Avocate employee, LEAF Women's Education and Action Fund**

*"Online platforms such as social media networks, discussion forums, search engines, and video sharing websites have become central venues of our personal and professional lives. It thus comes as no surprise that online platforms are also central sites of technology-facilitated gender based violence, which has often been exacerbated by the actions (or inaction) of the platforms themselves." – Deplatforming Misogyny, by Cynthia Khoo, Published by Women's Legal Education and Action Fund (LEAF)*

Join our expert faculty for an enlightening discussion of how technology-facilitated gender based violence disproportionately impacts women and potential legal solutions, including:

- Understanding how online platforms are breeding grounds for hate and help perpetuate abuse
- The impact of technology-facilitated gender based violence on women
- How platform content moderation measures, policies and procedures could be improved to minimize technology-facilitated gender based violence
- Whether platforms should be regulating technology-facilitated gender based violence and what legislative reform can be possible
- Which Canadian laws might create platform liability for technology-facilitated gender based violence by a platform's user

*This program contains 30 minutes of EDI Professionalism Content. (Ontario)*

**2:40 NETWORKING**

**Visit Virtual Booths, Source Content and Engage in Discussions with Industry Experts**

**3:00 PM Plenary**

**Developments in Intellectual Property: What Technology Law Practitioners Need to Know**

**Moderator: Catherine Lovrics, Partner, Lawyer, Trademark Agent, Marks & Clerk Canada (Toronto)**

**PATENTS, INDUSTRIAL DESIGN & TRADE SECRETS: Reshika Dhir, Partner, Bereskin & Parr (Toronto)**

**COPYRIGHT: Professor Ysolde Gendreau, Universite de Montreal (Montreal)**

**TRADEMARKS & DOMAIN NAMES: David Bowden, Associate, Clark Wilson (Vancouver)**

Boost your knowledge of the latest developments in patents, copyrights, trademarks, trade secrets and more, to ensure you are providing optimal service and advice to your clients. Explore with our experts, through a unique fact situation based on bringing a technology-based product to market, the most recent IP changes and the implications for technology transactions including:

- CIPO's re-consideration of patentable subject-matter in response to Federal Court of Canada's decision in *Choueifaty v Canada (Attorney General)*, 2020 FC 837
- The impact of CUSMA on Canadian patent law
- What's next for Copyright Bill C10 and the Broadcasting Act?
- Protecting interfaces through trademarks, industrial designs and copyright
- Product lifecycles and delays in obtaining Canadian trademark registrations
- What you need to know about webscraping and cookie policies
- Ecommerce and global directives

**4:15 PM**

**Closing Remarks from the Co-Chairs**

**Cindy Kou, Associate, Gowling WLG (Canada) LLP (Toronto)**

**Hashim Ghazi, Counsel, Fasken (Toronto)**

**4:30 PM Conference Adjourns**