



STATE BAR OF MICHIGAN

Michigan IT Lawyer

A Publication of the State Bar of Michigan Information Technology Law Section

<http://connect.michbar.org/itlaw>

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Bits and Bytes from the Section

By Michael Gallo, 2014-2015 Chairperson, Information Technology Law Section

For me, August brings to mind hot summer nights, road trips to Northern Michigan, and a race to enjoy every weekend before the leaves begin to turn color. The past few years, August has also meant that the Information Technology Law Section is getting ready for a blast of activities and exciting changes. This issue of the *Michigan IT Lawyer* highlights many of those changes for your review.

A new feature debuts in this issue. **Vincent I Polley** is the Editor of *Miscellaneous IT-Related Legal News (MIRLN)*, a free e-newsletter begun in 1997, and Mr. Polley will provide a specially selected list of thought provoking articles of interest to members of the IT Law Section. In this issue, the topic is cybersecurity and the vulnerabilities that have impacted law firms over the past year.

On **August 13, 2015**, an **IT Law Section Council** meeting was hosted by *Kelly Law Registry* in Troy, Michigan, which all Section members were invited to attend in person or by teleconference. In addition to a review of the Section’s fund balance of approximately \$58,200, and a discussion regarding the 2015 nomination of Council Members and Section Officers (which is discussed in greater detail later in this issue), there was conversation about the Privacy Committee’s meeting on **June 25, 2015**, during which **Michael Khoury** led a discussion of ‘*Privacy Issues in Merger and Acquisition Transactions*’ at *Jaffe Raitt Heuer & Weiss*. For those interested, keep an eye out for additional Privacy Committee meetings planned for later this year!

By far, the bulk of the Council meeting concentrated on finalizing plans for the **8th Annual Information Technology Law Seminar**, which will take place **Thursday, September 10, 2015!**

- **Mark Malven**, leader of *Dykema’s* Technology and Outsourcing Transactions practice, will serve as Seminar Moderator
- Topics and speakers have been selected by the Speakers Committee, and are listed in this issue
- Three law firms, *Privacy Associates International LLC*, *BejinBieneman PLC* and *Dykema* have ‘stepped up to the plate’ as Seminar sponsors

Michigan IT Lawyer is published every other month. Previously published issues of the *Michigan IT Lawyer*, and its predecessor the *Michigan Computer Lawyer*, are available at <http://connect.michbar.org/itlaw/newsletter/newsletters>. If you have an article you would like considered for publication, send a copy to:

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Bits and Bytes . . .

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2014-2015

Information Technology Section Council

Chair ▪ Michael Gallo
Chair-Elect ▪ Susanna C. Brennan
Secretary ▪ Christopher J. Mourad
Treasurer ▪ Donna K. Mallonee

COUNCIL MEMBERS

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Susanna C. Brennan
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William Henry Hartwell
Daniel John Henry
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Jeanne Marie Moloney
Christopher J. Mourad
Ronald S. Nixon
Carla M. Perrota
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Dalpreet Singh Saluja
Clara Lauren Seymour
Isaac T. Slutsky
Nathan William Steed
David R. Syrowik

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David Sinclair*
Anthony A. Targan
Stephen L. Tupper

Commissioner Liaison

Hope Shovein

NEWSLETTER EDITOR

Michael Gallo

*denotes deceased member

- Three eBlasts and one US Mail flyer were sent to approximately 6,600 members of the Business Law, Intellectual Property Law, Litigation and IT Law Sections
- Half page ads and ‘Section Brief’ notices appeared in the *Michigan Bar Journal*
- Arrangements were finalized for an ‘executive’ continental breakfast, plated lunch, and a complimentary networking reception with beverages and a nice selection of appetizers

At a cost of a mere \$75 for IT Law Section members, the day promises to be a great value and a great experience. All Section members are asked to register early, and generate interest by inviting anyone with an interest in information technology law to review the seminar registration information. As has become a tradition, the Information Technology Law Section’s Annual Meeting, and selection of Council Members and Officers for 2015-2016, will occur during the seminar lunch.

Serving as an executive overview of the past year, this issue includes a copy of the 2014-2015 IT Law Section Annual Report, which is also posted on the Section’s web site.

In closing, I wish to thank everyone who has contributed to the successes of the past year, and I am looking forward to the enthusiasm and programs that the 2015-2016 Council and Officers will bring to the Section! ▪



State Bar of Michigan Information Technology Law Section Mission Statement

The purposes of the Section are to review, comment upon, and appraise members of the State Bar of Michigan and others of developments in the law relating to information technology, including:

- the protection of intellectual and other proprietary rights;
- sale, leasing, distribution, provision, and use of, hardware, software, services, and technology, including computer and data processing equipment, computer software and services, games and gaming, information processing, programming, and computer networks;
- electronic commerce
- electronic implementation of governmental and other non-commercial functions;
- the Internet and other networks; and
- associated contract and tort liabilities, and related civil and criminal legal consequences.

The Information Technology Law Section’s bylaws can be viewed by accessing <http://connect.michbar.org/itlaw/council> and clicking the ‘Bylaws’ link.

Cybersecurity for Law Firms

By Vincent I Polley, Editor of MIRLN

With a thud came an FBI warning in 2009 that hackers had stolen all of a multinational law firm's files. Since then, the pace of warnings and security failures has steadily increased. In 2013 the American Bar Association published the *ABA Cybersecurity Handbook: A Resource for Attorneys, Law Firms and Business Professionals* – this tool is aimed precisely at law firms, and contains nearly a dozen “to-do” checklists.

News about law firm cyber vulnerabilities continues in the press – the New York Times in particular has broken several stories over the last 12 months (e.g., “[Citigroup Report Chides Law Firms for Silence on Hackings](#)”). My MIRLN e-newsletter has flagged many of these stories, and related topics. Below, a few from recent issues...

- [GCs play growing role in managing ‘super risk’ issue of cybersecurity](#) (Legal Intelligencer, 3 Feb 2015)
- [Private eye is said to face prosecution in a hacking](#) (NYT, 12 Feb 2015)
- [Wall St. and law firms plan cooperative body to bolster online security](#) (NYT, 23 Feb 2015)
- [Most big firms have had some hacking](#) (Bloomberg, 10 March 2015)
- [To satisfy clients, law firms submit to cybersecurity scrutiny](#) (American Lawyer, 12 March 2015)
- [Cyber attacks upend attorney-client privilege](#) (Bloomberg, 19 March 2015)
- [Law firm cyber security and privacy risks](#) (Dan Solove, 23 April 2015)
- [Canadian law firms warned to encrypt client data or risk surveillance threat](#) (Global Legal Post, 8 May 2015)
- [4 ways you are putting your clients’ information at risk](#) (Lawyerist, 19 May 2015)
- [Ethical responsibilities and information security](#) (InsideCounsel, 16 June 2015)
- [CCBE wins case against the Dutch State on surveillance of lawyers](#) (Global Legal Post, 3 July 2015)

Lawyers have a professional responsibility to stay abreast of technology developments, and to use appropriate technology in an appropriate fashion (see, e.g., ABA Model Rules of Professional Responsibility, as amended in 2012). As to the requisite technical competence, the ABA advises us to “Acquire it, or hire it!”. For more information on this topic, I’ve got a PowerPoint with detailed annotations and speakers notes: “*InfoSec Responsibilities and the Attorney-Client Relationship*” [here](#). ■



Michigan Pro Bono Patent Project

a partnership between the
State Bar of Michigan Pro Bono Initiative and the **Intellectual Property Law Section**



The State Bar of Michigan has an exciting new program that matches patent attorneys willing to provide pro bono patent prosecution services with low-income inventors!

The Michigan Pro Bono Patent Project is accepting

- Registrations from patent attorneys
- Applications from inventors

For more information regarding the **Michigan Pro Bono Patent Project**: <http://connect.michbar.org/iplaw/patent>

The State Bar of Michigan facilitates the intake and the screening of inventor requests, as a legal aid organization would, then refers requests to volunteer attorneys.

Robert Mathis, SBM Pro Bono Service Counsel
rmathis@mail.michbar.org; 517-346-6412

2014-2015 State Bar of Michigan Information Technology Law Section – Annual Report

The Information Technology Law Section of the State Bar of Michigan provides education, information, and analysis about issues of concern through meetings, seminars, this site, public service programs, and publication of a newsletter. Membership in the Section is open to all members of the State Bar of Michigan. Statements made on behalf of the Section do not necessarily reflect the views of the State Bar of Michigan.

Mission Statement

The purpose of the section is to review, comment upon, and apprise members of the State Bar of Michigan and others of developments in the law relating to information technology, including:

- the protection of intellectual and other proprietary rights;
- sale, leasing, distribution, provision, and use of, hardware, software, services, and technology, including computer and data processing equipment, computer software and services, games and gaming, information processing, programming, and computer networks;
- electronic commerce
- electronic implementation of governmental and other non-commercial functions;
- the Internet and other networks; and
- associated contract and tort liabilities, and related civil and criminal legal consequences.

Bylaws

The Information Technology Law Section bylaws were last amended November 16, 2012, and are available at <http://connect.michbar.org/itlaw/council>

Officers and Council Members

Officer	Name	Telephone	Email
Chair	Michael Gallo	313-667-0031	michael@gallo.us.com
Chair-Elect	Susanna C. Brennan	248-952-0539	brennsc@kellyregistry.com
Secretary	Christopher J. Mourad	313-330-3455	cjmourad@yahoo.com
Treasurer	Donna K. Mallonee	989-793-5080	donnamallonee@yahoo.com

Council Members with a term that expires September 30, 2015

Steven D. Balagna – P33230
Christopher J. Mourad – P68011
Dalpreet Singh Saluja – P72292

Robert L. Rothman – P23651
James McCauley Seitz – P23654
Clara Lauren Seymour – P74421
Nathan William Steed – P72355
David R. Syrowik – P25331

Council Members with a term that expires September 30, 2016

Susanna C. Brennan – P67018
William Henry Hartwell – P73847
Donna K. Malonee – P68649
Carla M. Perrotta – P67644

Council Members with a term that expires September 30, 2017

Keith A. Cheresko – P32663
Daniel John Henry – P68296
Jeanne Marie Moloney – PP72253
Isaac T. Slutsky – P72253

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Meeting Schedule

Minutes from all Information Technology Section meetings are available at <http://connect.michbar.org/itlaw/council>

Meeting Type	Date	Location
Privacy Law Committee	October 29, 2015	Jaffe, Raitt, Heuer & Weiss, P.C., Southfield
IT Law Council	November 13, 2015	Bejin Bieneman PLC, Detroit
IT Law Council and Section	February 12, 2015	Teleconference
Privacy Law Committee	February 20, 2015	Kemp Klein Law Firm, Troy
IT Law Council and Section	May 14, 2015	Kemp Klein Law Firm, Troy
IT Law Council and Section	August 13, 2015	Kelly Law Registry, Troy
IT Law Section Annual Meeting	September 10, 2015	The Inn at St. John's, Plymouth
IT Law Council	September 10, 2015	The Inn at St. John's, Plymouth

General Budget Information

The Information Technology Law Section continues to be in excellent financial shape. Expenses are expected to be within the amounts proposed in the 2014/2015 budget, providing the 2015/2016 Information Technology Law Council with a fund balance of approximately \$50,000.

Events and Seminars

Event or Seminar Title	Date	Location
First Annual Entrepreneurial Law Institute	May 28-29, 2015	Detroit
8 th Annual Information Technology Law Seminar	September 10, 2015	The Inn at St. John's, Plymouth

Legislative issues

None

Recommendations for next Council

As always, new members can invigorate the Section and bring new ideas and programs alive. The 2015-2016 IT Law Section Council may wish to sponsor one or more events at Michigan Law schools to increase visibility.

Although the annual IT Law Seminar is doing well, improvements are always possible. By identifying a 'Topics and Speakers' committee earlier in the Council year, the Section could get a jump start on identification of that year's speakers and topics, which would allow for earlier development of flyers and communications, which may lead to an increased number of attendees and sponsors.

Adding a speaker or presenter at Section and Council meetings held during the year, combined with advertising of the presentation topic, may increase attendance by Section members, and encourage more volunteers for Council members and Section leadership positions.

The Council may wish to provide, sponsor, or co-sponsor other educational opportunities, such as a mid-year function with the International Law Section.

All State Bar of Michigan Sections are offered the opportunity to contribute to the *Michigan Bar Journal* 'Section Briefs', by submitting a notice of up to 75 words by the fifth of each month. The notice should contain significant developments in the law, noteworthy events, section publications or achievements, or any other information of interest. The IT Law Section took advantage of this opportunity several times during 2014-2015, and suggests the effort continue.

Each year, the State Bar of Michigan sponsors an 'invitation only' Bar Leadership Forum, and extends an invitation to the IT Law Section Chair and Chair-Elect. This event provides an opportunity to meet with peer Section and Bar leaders, attend various presentations, and provide recommendations for Section and Council considerations. Past attendees have enthusiastically recommended that IT Law Section leaders attend this two day event during June, which is typically held at Mackinac Island's Grand Hotel.

Continued on next page

Other Information

Privacy Law Committee

- The Information Technology Law Section supports a standing Privacy Law Committee, which is co-chaired by Bob Rothman, rrothman@privassoc.com and Keith Cheresko kcheresko@privassoc.com.
- The Privacy Committee is a forum for discussing this new and developing area of the law affecting a broad range of practices at the state, national and international levels. The committee also works to help educate members of the State Bar of Michigan about the privacy and security obligations of their own organizations and of their clients. The committee targets meeting quarterly, to discuss various privacy related matters.
- For more information, visit <http://connect.michbar.org/itlaw/newsletter/news>

Annual Entrepreneurial Law Institute

- The First Annual Entrepreneurial Law Institute, held May 28-29, 2015, was coordinated by ICLE, (the Institute of Continuing Legal Education) and cosponsored by the, Business Law Section Information Technology Law Section and Intellectual Property Law Section. The IT Law Section may wish to continue sponsorship in the future. There should be no cost to the Section for sponsoring the event, and Section members are offered discount from the cost of attending. For more information, visit www.icle.org/eli.

Edward F. Langs Writing Award

- Each year the IT Law Section seeks student essays for Edward F. Langs Writing Awards. A total of up to \$3,000 is divided between up to six award winning essays that contribute to the knowledge and understanding of information technology law. The winning essays are published in the Section's newsletter, the *Michigan IT Lawyer*. Essays must be submitted as a Microsoft Word document, postmarked by June 30 of the award year, and emailed to dsyrowik@brookskushman.com. For more information, visit <http://connect.michbar.org/itlaw/newsletter/news>

The Michigan IT Lawyer

- The Information Technology Section sponsors a newsletter titled '*The Michigan IT Lawyer*', which is published in electronic format, between four to six times per year. Prior issues are available at <http://connect.michbar.org/itlaw/newsletter/newsletters>
- Ex-Officio member David Syrowik, Brooks Kushman P.C., submits the article '*Recent Developments in Information Technology Law*' several times each year, as well as the annual article '*The State of Information Technology Law*'. These articles are a highlight of the publication, and the IT Law Section is indebted to Mr. Syrowik for his tireless effort in providing concise reviews of thousands of cases over the years. Thank you David!

Information Technology Law Section Website

During 2015, the State Bar of Michigan deployed a new web infrastructure that includes new landing pages for all Sections. To access the new web site for the Information Technology Section, visit <http://connect.michbar.org/itlaw>

Section Membership

- Section Members: 650 members
- LinkedIn Group Members: 221 members. The Information Technology Law Section has a LinkedIn Group, titled '*IT Law Section of State Bar of Michigan*', which is open to all State Bar of Michigan attorneys. The group provides a way for non-members to learn more about the Section, and allow everyone to participate in discussions, share information, present career opportunities, identify others with common interests, and receive prompt and timely notification of Section efforts. Visit <http://linkedin.com> and search for '*IT Law Section of State Bar of Michigan*' to join!

Member Publication

- In 2015, Ex-Officio Member Mark Malvern's '*Technology Transactions: A Practical Guide to Drafting and Negotiating Commercial Agreements*' was published by the Practising Law Institute, and is available at <http://amazon.com>. The 410 page spiral-bound edition provides the reader with the tools necessary to draft, review and negotiate technology transaction agreements with the confidence that he or she is properly addressing the most important issues. The guide is also available in a Kindle version.

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Michigan Pro Bono Patent Project

- The State Bar of Michigan has a new program that matches patent attorneys willing to provide pro bono patent prosecution services with low-income inventors. For more information regarding the Michigan Pro Bono Patent Project: <http://connect.michbar.org/iplaw/patent>. Section members interested in participating can also contact Kim Paulson, IT Law Section Ex-Officio Member, who is involved with this effort. ▪



IT Law Section - 2015 Council and Officer Nominations

The Information Technology Law Section's 2015 Nominations Committee (Robert Rothman, Michael Gallo and Jeanne Whalen) approved the following Council Member and Officer nominations, which will be presented for vote at the September 10, 2015, Information Technology Section and Council meetings:

At the Annual Section Meeting, the following will be proposed as Council Members for a three year term of 2015-2018

- **Chris Mourad** (second term) - <https://www.linkedin.com/pub/christopher-mourad/15/421/756>
- **Adam Rubin** (first term) - <https://www.linkedin.com/in/adamsrubin>
- **Joellen Shortley** (first term) - <https://www.linkedin.com/pub/joellen-shortley/12/284/67b>
- **Michael McCandlish** (first term) - <https://www.linkedin.com/pub/mike-mccandlish/7/4a3/334>

At the Council Meeting, the following will be proposed as Officers for a one year term of 2015-2016

- Chair - Susanna Brennan
- Chair-Elect - Chris Mourad
- Secretary - Donna Mallonee
- Treasurer - Keith Cheresko

Thanks to those who participated in this process, and best wishes to the nominees! ▪



8th Annual Information Technology Law Seminar

Everyone with an interest in information technology law is invited to this seminar. When registering, take advantage of the opportunity that joining the IT Law Section and attending the seminar as a member will cost less than attending as a non-member! For more information, visit the Information Technology Law Section, and under 'Calendar,' click on 'Annual IT Law Seminar.'

Thursday, September 10, 2015

9:00 a.m.–4:00 p.m.

Inn at St. Johns, 44045 Five Mile Rd, Plymouth

Registration: [online](#) or by [mail/fax form](#)

Annual Meeting

The Annual Meeting and council meetings will be held during the luncheon, and will include election of 2015–2016 council members and section officers. There is no charge to attend the Annual Meeting.

Our Moderator

The Information Technology Law Seminar will be moderated by *Mark Malven*, leader of Dykema's Technology and Outsourcing Transactions practice, and author of the Practising Law Institute treatise, *Technology Transactions: A Practical Guide to Drafting and Negotiating Commercial Agreements*.

Our Speakers & Topics

- Basics of IP Protection for Software—*Charles Bieneman, Bejin Bieneman PLC*
- Open Source Software Licensing: Opportunities & Pitfalls—*Christopher J. Falkowski, Falkowski PLLC*
- Technology Buyers Panel—Panelists include *Vincent J. Wilk, GM Legal Staff, & Donald M. Crawford*
- X-Commerce: Understanding the Changing Landscape & Legal Issues in Payments—*Erin Fonte, Dykema*
- Privacy Panel: Privacy & Data Protection is Not Just for Clients—Moderator: *Robert L. Rothman, Privacy Associates International*; Panelists: *Keith Cheresko, Privacy Associates International; Vincent I. Polley and Jeffrey A. Ingalsbe*
- Technology & “Cyber” Insurance—*Lawrence Harb, IT Risk Managers, Inc.*

As in previous years, this promises to be an educational and entertaining event. The cost of the seminar includes a light breakfast, lunch, and a complimentary cocktail reception!

The Annual IT Law Section and Council meetings will be held during the luncheon, and will include election of 2015–2016 Council Members and Section Officers.

Sponsored by



PRIVACY ASSOCIATES INTERNATIONAL LLC

IT Law Section - Writing Competition!

Each year the IT Law Section seeks student essays for Edward F. Langs Writing Awards. A total of up to \$3,000 is available for distribution for up to six award winning essays that contribute to the knowledge and understanding of information technology law, which are published in the Section's newsletter, the Michigan IT Lawyer. Please share this opportunity with law school faculty, staff and students who may be interested!

2016 Edward F. Langs Writing Award Essay Competition Rules

1. Awards will be given to up to six student essays, which in the opinion of the judges make the most significant contribution to the knowledge and understanding of information technology law. Factors to be taken into consideration include: originality; timeliness of the subject; depth of research; accuracy; readability; and the potential for impact on the law.
2. Essay must be original, deemed to be of publishing quality, and must not have been submitted to any other contest within the previous 12 months.
3. Essay must be typed, double spaced, at least ten pages in length, must contain proper citations listed as either end-notes or footnotes, and must have left, right, top, and bottom margins of one inch.
4. Essay must include the submitter's name, email address, mailing address, telephone number, and school attended.
5. A total of up to \$3,000 in US dollars is available for distribution between the award winning essays, and all rights to award winning essays shall become the property of the State Bar of Michigan.
6. The Information Technology Section of the State Bar of Michigan reserves the right to make editorial changes, and to publish award winning essays in the Section's newsletter, the Michigan IT Lawyer. (Previous issues of the Michigan IT Lawyer can be accessed at <http://connect.michbar.org/itlaw/newsletter/newsletters/>)
7. Essay must be submitted as a Microsoft Word document, postmarked by June 30, 2016, and emailed to dsyrowik@brookskushman.com.

