



NZLS CLE Ltd
CONTINUING LEGAL EDUCATION
NEW ZEALAND LAW SOCIETY



CONFERENCE CYBER LAW CONFERENCE

May 2016

FROM THE CHAIR

"...in today's technological age, lawyers must at least be familiar with technology and know how it works and how to use it. This Conference should help achieve that objective."



CYBER LAW CONFERENCE

FROM THE CHAIR

7
CPD hours



Last year, introducing this Conference, I suggested that Information and Communications Technology does not stand still. Nor does its impact. The continuing pace of change is a reality. Business has to adapt to new systems and ways of doing things. Automation, the accomplishment of ordinary processes by mechanical means, is giving way to the disruptive and transformative change driven by innovation – a completely new way of working.

*The law is not unaffected by the pace of change. Technology requires that existing rules be re-examined. The issue of publication for defamation and the responsibility of the “owner” of a Facebook page for comments by third parties has been examined in *Wishart v Murray*. The nature of property in a digital file, a matter thought to have been settled by the Court of Appeal in *R v Dixon* is clarified – or possibly confused – by the decision of the Supreme Court in an appeal of the same name. One could have wished for a consistent definition of property in a digital file of universal applicability but regrettably the Supreme Court went only so far as to define the matter for the purposes of the computer crimes provisions of the Crimes Act.*

This Conference will touch upon some big picture innovative approaches as well as other emerging issues that should concern practitioners. In addition to discussions about Cloud Computing, the problems of online reputation, what happens when there is an ICT dispute, aspects of tech contracts and the looming presence and implications of Big Data, we shall also examine the vitally important issue of cybersecurity and the Dark Web - an aspect of the Internet often hinted at but never fully explained.

I have said on a number of occasions, and make no apology for doing so, that in today’s technological age, lawyers must at least be familiar with technology and know how it works and how to use it. This Conference should help achieve that objective.

A handwritten signature in black ink, appearing to read 'David Harvey'.

Judge David Harvey

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PROGRAMME AT A GLANCE

8.00-8.30	REGISTRATION
8.30-8.45	OPENING Chair: Judge David Harvey*/Michael Wigley**
8.45-9.30	The Dark Side of the Internet: Arran Hunt, Joy Liddicoat, Sean Lyons and Judge David Harvey*
9.30-10.15	Cyber Security and the Role of Lawyers - protecting organisations from the bad guys: Paul Ash**, Graeme Neilson, Richard Schmidt* and Michael Wigley
10.15-10.35	MORNING TEA
10.35-11.30	Triaging Online Reputation - a holistic response: Glenda Hughes, Rick Shera and Danny Toresen
11.30-12.15	Pitfalls and Problems with Cloud Computing: Owen Culliney, Mike Flahive**, Lloyd Gallagher, Xavier Marguinaud and Daimhin Warner*
12.15-1.00	Dealing with the Bolt from the Blue - managing ICT disputes: Kevin Glover
1.00-1.45	LUNCH
1.45-2.30	Internet of Things - wear to now?: Clive Elliott, Lloyd Gallagher, Judge David Harvey*, Arran Hunt, Wayne Rumbles** and Nik Turner
2.30-3.15	Tech Contracts 101 - basics: Edwin Lim
3.15-3.35	AFTERNOON TEA
3.35-4.20	Tech Contracts 102 - drafting & negotiating tech contracts: Arran Hunt and Edwin Lim
4.20-5.05	Big Data - a big issue for both the public and private sectors: Katrine Evans and Michael Wigley
5.05-5.15	WRAP UP Chair: Judge David Harvey*/Michael Wigley**
5.15-6.15	DRINKS AND CANAPÉS

LEARNING OBJECTIVES

In this Conference you will:

- Have an understanding of current developments in IT, their impact, and the challenges they present to legal practice.
- Be equipped with the practical information you need when advising your client, including, understanding when issues are likely to arise, how to deal with them and apply legal principles.

* = Auckland only

** = Wellington only

PROGRAMME

8.00-8.30 **REGISTRATION**

8.30-8.45 **OPENING** | *Chair: Judge David Harvey*/Michael Wigley***

8.45-9.30 THE DARK SIDE OF THE INTERNET

The Internet has changed our vocabulary, given us a voice and pushed social change. It has built itself on our desires to consume, gossip and be entertained and has opened up new ways in which we can be attacked, personally and as a society, often without society noticing, or noticing too late. A session looking at the Dark side of the Internet, beyond social media, into areas where there is little policing, where lives can be bought and sold, where laws mean very little, and anonymity may be both your saving grace and your greatest concern.

Presenters
*Judge David Harvey**
Arran Hunt
Joy Liddicoat
Sean Lyons

9.30-10.15 CYBER SECURITY AND THE ROLE OF LAWYERS - PROTECTING ORGANISATIONS FROM THE BAD GUYS

Cyber-security risk is near the top of the risks identified in surveys of senior management in both the public and private sector. The risk includes significant legal aspects.

The speakers (with long experience in cybersecurity, from legal, industry and government perspectives) will take an integrated and practical approach, addressing:

- What lawyers need to know about the technology
- What are the legal and other issues?
- How should lawyers advise in this area?

Presenters
Graeme Neilson
Richard Schmidt/Paul Ash***
Michael Wigley

10.15-10.35 **MORNING TEA**

10.35-11.30 TRIAGING ONLINE REPUTATION - A HOLISTIC RESPONSE

In this session we will hear three different but intertwined perspectives – the event driven PR side, the private investigator/security side and the legal side – all of which need to be factored into any solution dealing with online reputational harm.

Presenters
Glenda Hughes
Rick Shera
Danny Toresen

11.30-12.15 PITFALLS AND PROBLEMS WITH CLOUD COMPUTING

This session aims to highlight these issues and give practical Q & A advice. Topics will include:

- Cloud Computing – Demystifying the technical jargon, what are the compliance issues with its use, and what policies you should have in place?
- Taking a risk-based approach to the use of the cloud to store personal information; includes Privacy Act considerations and issues that can arise
- The risk profile raised by virtue of the wider potential access to trade secrets and other intellectual property.

Chair
Lloyd Gallagher
Panelists
Owen Culliney
Xavier Marguinaud
Daimhin Warner/Mike Flahive***

12.15-1.00

DEALING WITH THE BOLT FROM THE BLUE - MANAGING ICT DISPUTES

This session will discuss common features of the early stages of ICT disputes, including procedural options and drafting and responding to cease and desist letters. There will also be detailed consideration of practical case studies covering typical infringement scenarios.

Presenter *Kevin Glover*

1.00-1.45 **LUNCH**

1.45-2.30

INTERNET OF THINGS - WEAR TO NOW?

The Internet of Things (IoT) involves the widespread networking of physical objects or “things” embedded with electronics, software and sensors (for starters, think Apple Watch, Fitbit and Pebble). The result is much greater connectedness. However, concerns arise about disclosure of personal data, privacy, security and intellectual property.

In this session, the latest technology will be demonstrated and the panel will explain where we are heading and analyse some of the key legal issues starting to emerge.

Chair *Clive Elliott/Arran Hunt*

Panelists *Lloyd Gallagher*

Judge David Harvey/Wayne Rumbles***

Nik Turner

2.30-3.15

TECH CONTACTS 101 - BASICS

This session will provide an overview of the different types of technology contracts (eg licence, support, implementation, and escrow agreements), and learn what to look for in these contracts to avoid some of the common pitfalls.

Presenter *Edwin Lim*

3.15-3.35 **AFTERNOON TEA**

3.35-4.20

TECH CONTRACTS 102 - DRAFTING AND NEGOTIATING TECH CONTRACTS

A session discussing drafting and negotiating of technology contracts, including how to best secure the rights of your client or the business for the use of the relevant technology. Come prepared to ask questions.

Presenters *Arran Hunt*

Edwin Lim

4.20-5.05

BIG DATA - A BIG ISSUE FOR BOTH THE PUBLIC AND PRIVATE SECTORS

Big Data is on the rise and involves organisations using, mixing and matching complex databases to provide useful information for the organisation such as highly targeted marketing to customers. It raises multiple issues for lawyers ranging from privacy to contracts with third parties. We address:

- What is Big Data?
- What do lawyers need to know?
- What should lawyers do about it?

Presenters *Katrine Evans*

Michael Wigley

5.05-5.15 **CLOSING COMMENTS** | *Chair: Judge David Harvey*/Michael Wigley***

5.15-6.15 **DRINKS AND CANAPÉS**

QUESTIONS?

If you would like to submit questions for any session prior to the Conference, please send them to kelsi.newson@lawyerseducation.co.nz clearly stating to which session they relate. As many questions as possible will be answered during the conference.

* = Auckland only

** = Wellington only

CHAIRS



His Hon Judge David Harvey, Auckland District Court

Judge Harvey was appointed a District Court Judge in 1989. He has been closely involved with Information Technology initiatives involving the Judiciary including the development of trial management software.

In addition to his Judicial duties, Judge Harvey is consultant editor for Butterworths *Electronic Business and Technology Law* and a member of the Editorial Board for Butterworths Technology Law Forum. He is a part-time lecturer at the Faculty of Law, University of Auckland, teaching Law and Information Technology. Judge Harvey has written extensively in the field of law and technology and has presented a number of papers to conferences both in New Zealand and overseas on related topics. He was Chair of the Copyright Tribunal (2002 – 2008) and has had published a book on the law and networked systems entitled *internet.law.nz - Selected Issues*, now in its third edition. Judge Harvey is currently working on a new book about legal paradoxes in the digital paradigm.



Michael Wigley, Wigley and Company, Wellington

Michael's clients include many IT companies, telcos and ICT customers. He has a focus on complex disputed issues, risk, regulation including competition, and public law. Michael has considerable experience over 15 years in advising on cybersecurity and privacy issues faced by companies and the public sector, as well as extensive involvement in advising on directors' liabilities and duties, a major consideration in relation to cybersecurity, ICT and disruptive technologies. Michael is based in Auckland and Wellington, and he often advises clients as part of a multi-disciplinary team, such as technical, media, and economics.

SPEAKERS



Paul Ash, National Cyber Policy Office, Wellington

The National Cyber Policy Office (NCPO) leads and coordinates the development and implementation of New Zealand's cyber security policy. Paul has led the NCPO since it was established in July 2012.

Prior to his present role, he was a career diplomat, most recently serving as Deputy Head of Mission in Brussels from 2008 to 2012. Paul was previously Deputy Director of the International Security and Disarmament Division of the Ministry of Foreign Affairs and Trade. Paul also worked overseas in roles in Honiara, Beijing and Taipei. He has also worked in the Pacific, United Nations and Human Rights, and Development divisions of MFAT in Wellington.

Paul is a graduate of Victoria University of Wellington, where he received a B.A. Hons (1989), and the Chinese Language and Area Studies School of the Foreign Service Institute (1994).



Owen Culliney, James & Wells, Wellington

Owen heads the Commercial Team at national intellectual property and business advisory firm James & Wells.

Given their area of expertise, James & Wells are often instructed to advise on technical matters involving innovative products, services, designs and ideas. Considerations relating to data security, access and cyber threats are inherent in advice relating to modern innovation and the protection of commercially sensitive data so James & Wells have built up a wealth of knowledge in this area.

Owen applies this knowledge in drafting and negotiating the terms for a variety of agreements and policies dealing with or focusing on the collection and storage of, and access to sensitive data which is often hosted in cloud servers. Having migrated from a physical file system to a cloud based electronic system, James & Wells also have first-hand experience dealing with the complexities of cloud computing.

SPEAKERS



Clive Elliott QC, Barrister, Auckland

Clive is a barrister, patent attorney and arbitrator. He specialises in the IP, technology and media areas and has acted as counsel in a number of leading cases in the area.

Clive is a Council member of the NZ Bar Association and the Auckland Branch of the NZ Law Society and is an immediate past president of IPSANZ. He is also convenor of the Intellectual Property Committee of the New Zealand Law Society.

Clive is a contributing author of the LexisNexis text *Copyright and Design in New Zealand*. He is a frequent writer and commentator on IP and Information Technology issues and is a member of the Editorial Board of the Intellectual Property Forum.

Clive is named in the International Who's Who - of Patent Lawyers and of Internet & E-Commerce Lawyers; and the World Trademark Review's World's Leading Trademark Professionals.



Katrine Evans, Hayman Lawyers, Wellington

Katrine has been a privacy law specialist for more than 20 years. She was Assistant Privacy Commissioner (General Counsel) from 2004-2015 and has recently joined Hayman Lawyers to set up a specialist privacy and information law practice.



Mike Flahive, Simply Privacy Ltd, Wellington

Mike has an LLB(Hons) and was an Assistant Privacy Commissioner at the New Zealand Office of the Privacy Commissioner for 9 years until December 2014. He has worked in private law practice and as an in-house corporate counsel. Mike has significant private and public sector work experience as an operations and change manager. He has substantial investigations experience in both civil and criminal contexts. Mike currently provides consultancy and contract services in risk and security, information management and privacy, and governance.



Lloyd Gallagher, Gallagher & Co Consultants, Hamilton

Lloyd is actively involved around the world in Alternative Dispute Resolution where he acts as Arbitrator and Mediator. With a strong IT background, he works with law practitioners' and policy makers to develop solutions that focus on access to justice and technology security.



Kevin Glover, Barrister, Auckland

Kevin is a barrister at Shortland Chambers in Auckland. He practises in the area of commercial and civil litigation, and has significant specialist expertise in intellectual property and technology disputes and interim injunction applications.

SPEAKERS



Glenda Hughes, Glenda Hughes Communications, Wellington

Glenda has a 20 year background in significant reputational and risk management in both public and private sectors as well as many high profile individuals.

Her experience, gained in policing, media and communications and as a Chair and Director of both public and charitable organisations, gives her an understanding of how both media and business operate.



Arran Hunt, Turner Hopkins, Auckland

Arran received his first computer at age five, and started teaching himself the BASIC programming language a year later. In his teens he became one of the first million users of the internet. Arran completed a degree in science, before starting work as a technical business analyst. After several years in London, reengineering business processes for one of the world's largest companies, he returned to Auckland to work for several city councils. Arran has now moved to practicing law, providing legal advice influenced by his IT and business experience.



Joy Liddicoat, Office of the Privacy Commissioner, Wellington

Joy joined the Office of the Privacy Commissioner in January 2015. She is a lawyer and worked in her own law practice offering legal services to the public and private sectors for more than 20 years. Joy specialised in public law, including dispute resolution, privacy and human rights. From 2011 to 2014 she worked for the Association for Progressive Communications, a global network of civil society organisations advocating affordable access to a free and open internet and other aspects of technology-related human rights issues. Joy was a Commissioner with the Human Rights Commission from 2002-2010 and is currently Vice-President of InternetNZ.



Edwin Lim, Hudson Gavin Martin, Auckland

Edwin is a partner at Hudson Gavin Martin, a boutique technology, media and IP law firm. He has significant experience in New Zealand and the Middle East in technology procurement, start-ups, outsourcing, IP commercialisation, technology due diligence, and general commercial and corporate matters. Edwin has worked for clients in various industry sectors including the technology, banking, government, media, automotive and healthcare sectors. In addition to his law degree, he has a commerce degree majoring in Information Systems, so he understands the commercial, technical and legal issues involved in technology matters. Edwin is a board member of the New Zealand Software Association, New Zealand Game Developers Association, and is the Secretary of the New Zealand Middle East Business Council.



Sean Lyons, NetSafe, Auckland

Sean has been NetSafe's Chief Technology Officer since 2007. This role has given him the perfect platform to combine his IT and education sector experience.

Sean spends much of his time working with national and international organisations in the development of online safety focused projects. Recently he has been involved in collaborative work with The UK Safer Internet Centre, Facebook, Google, Vodafone & N4L to deliver improved outcomes for New Zealanders.

Sean regularly provides media comment on topics ranging from online bullying to state sponsored cyber espionage.

SPEAKERS



Xavier Marguinaud, Marsh New Zealand, Auckland

Xavier is Marsh New Zealand's Cyber Risk Specialty Head and works closely with clients and insurers in order to set up efficient insurance solutions on a case by case basis. He works with parties (IT specialist, Government,...) in order to develop NZ companies' awareness around cyber risk.

Xavier has been nominated for the 2015 Advisen "Cyber Risk Industry Person of the year - international".



Graeme Neilson, Aura Information Security Ltd, Wellington

Graeme is Chief Research Officer at Aura Information Security Ltd, a leading cybersecurity advising firm. His career has ranged from street performer to software developer to ethical hacker. For the last 15 years Graeme has provided security testing for government and corporate clients around the globe is a regular speaker at information security conferences around the world.



Wayne Rumbles, University of Waikato, Hamilton

Wayne has been an academic Te Piringa - Faculty of Law, University of Waikato for 15 years and took up the position of Dean of Law in June 2015.

He teaches and researches in the areas of Cyber Law, Law and New Technologies, Criminal Law (with a focus on Cyber Crime) and teaches in New Zealand's first Masters in Cyber Security taught jointly by the Faculties of Law and Computer and Mathematical Science.



Richard Schmidt, Ministry of Justice, Wellington

Richard brings a rich mixture of experience from private legal practice, in-house legal counsel, policy and operational roles in the health sector and, more recently, policy and legal expertise in the Criminal Justice team at the Ministry of Justice. His team is responsible for developing policy advice on a wide range of crime related issues, including in relation to cyber-related aspects of criminal law.



Rick Shera, Lowndes Jordan, Auckland

Rick has a Masters degree with first class honours in copyright and internet law from Auckland University. He heads up Lowndes Jordan's IT/IP team, which acts for telcos, ISPs, cloud service providers, media companies, digital publishers and authors, webdesign houses, software and app developers and network providers/integrators, as well as providing IP and IT advice to general business and corporate clients. Rick is the first lawyer to become an IITP Chartered IT Professional. He is a previous Vice President of InternetNZ, where he was instrumental in formulating .nz domain name policy. Rick has advised numerous start-ups and growth companies from formation onwards. He is also chair of Cybercitizenship NFP, NetSafe, an advisory board member of digitalNZ and a director of Crown Company, The Network for Learning Limited.

SPEAKERS



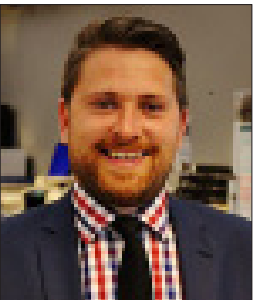
Daniel Toresen, Thompson and Toresen Investigations Limited, Auckland

Danny has a Masters Degree in Security Management from Leicester University (UK) and is a Certified Fraud Examiner. He has over 25 years experience in the industry and is the owner of Thompson and Toresen a corporate investigation firm providing investigative and security assistance to general business and corporate clients around New Zealand.



Nik Turner, PB Technologies, Auckland

Nik is the Digital Marketing Coordinator at PB Technologies' Head Office in Auckland, and has worked in telecommunications and technology industries for the past eight years. He has provided device on-boarding, setup, and migration for journalists, executives, and CEOs, and specialises in translating new gimmicks into meaningful real-world use-cases.



Daimhin Warner, Simply Privacy Ltd, Auckland

Daimhin is Auckland Director for Simply Privacy Ltd, a privacy consultancy which works with agencies to improve privacy practice, giving advice on privacy strategies, training programmes and individual issues or cases. Until December 2015, he was Privacy Officer for Sovereign Assurance, managing the company's Resolution and Privacy team and providing operational advice and strategic guidance to the company in respect of the management of customer information, including medical information. Prior to this, Daimhin worked for the Office of the NZ Privacy Commissioner for eight years, most recently leading the Commissioner's Auckland Investigations team. He is also on the NZ Subcommittee for the International Association of Privacy Professionals ANZ, working to support and grow the privacy profession in NZ. Daimhin has an LLB from Edinburgh University and LLM in Public Law from the University of Auckland, and has been living and working in NZ for 13 years.



CYBER LAW CONFERENCE REGISTRATION

VENUES

<input type="checkbox"/> AUCKLAND 5 May 2016 Crowne Plaza 28 Albert Street Auckland 09 302 1111	<input type="checkbox"/> WELLINGTON 6 May 2016 Rydges Hotel 75 Featherston Street Wellington 04 499 8686	<input type="checkbox"/> LIVE WEB STREAM 6 May 2016 At Your Computer Please note: Live Web Stream registrations close 3pm Monday 5 May 2016
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FEE (Incl GST)		
The registration fee includes extensive materials, morning and afternoon teas and lunch on the day, as well as drinks and canapés after the conference.		
	Early Bird By 5 Apr 2016	or AFTER 5 Apr 2016
NZLS/Associate members	<input type="checkbox"/> \$875	<input type="checkbox"/> \$925
Non-members	<input type="checkbox"/> \$925	<input type="checkbox"/> \$975
Live Web Stream	<input type="checkbox"/> \$855	<input type="checkbox"/> \$905

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