

**AMENDED AND RESTATED BYLAWS OF THE
INFORMATION TECHNOLOGY LAW SECTION
OF THE STATE BAR OF MICHIGAN**

**ARTICLE I
NAME AND PURPOSE**

SECTION 1. NAME. The name of this section is the Information Technology Law Section of the State Bar of Michigan.

SECTION 2. PURPOSES. The purposes of the Section are 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:

- (a) the protection of intellectual and other proprietary rights;
- (b) 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;
- (c) electronic commerce;
- (d) electronic implementation of governmental and other non-commercial functions;
- (e) the Internet and other networks; and
- (f) associated contract and tort liabilities, and related civil and criminal legal consequences.

SECTION 3. IMPLEMENTATION OF PURPOSE. This Section shall endeavor to accomplish these purposes by one or more of the following things.

- (a) Publishing a periodic or occasional newsletter with articles and information of interest to its members;
- (b) Conducting and sponsoring seminars, institutes and conferences, either independently or in cooperation with the Institute of Continuing Legal Education (“ICLE”), with other appropriate organizations, and with other Sections and committees of the State Bar of Michigan;
- (c) Appointing, maintaining, and supporting special committees to conduct research regarding, and study, specific legal problems confronting the Section's members and their clients;
- (d) Formulating recommendations to the Board of Commissioners of the State Bar of Michigan
- (e) Publishing books and other writings related to the Section’s purposes;

- (f) Maintaining liaison with other professional and trade associations interested in the same subject matter; and
- (g) Such other things as the Section is permitted by law and other governing charters and/or agreements to do.

ARTICLE II MEMBERSHIP

SECTION 1. DUES AND ENROLLMENT.

- (a) The Council may from time to time set the amount of dues, the period(s) for which such dues shall apply, and the classes of members to which such dues shall apply. Until the Council so changes the dues or period for which such dues apply, the dues shall be **\$25 annually** (\$10.00 in the case of members of the Law Student Section of the State Bar of Michigan) per fiscal year of the Section. Dues are payable in advance.
- (b) The fiscal year of the Section begins on October 1 and continues until the next succeeding September 30.
- (c) The Section shall, upon request to the Executive Director of the State Bar of Michigan and upon payment of dues for the then-current fiscal year (October 1 - September 30), as a member of the Section any member of the State Bar of Michigan. Members so enrolled and whose dues are so paid shall constitute the membership of the Section. Any member of the Section whose annual dues are more than three months past due and remain past due for 30 days shall thereafter cease to be a member of the Section.
- (d) No member who is not a member of the State Bar of Michigan may vote on any matter submitted to a vote of the members of the Section.

SECTION 2. ASSOCIATE MEMBERS. Full-time members of the faculties of law schools and other institutions of higher learning who are not active members of the State Bar of Michigan may become non-voting associate members of the Section upon payment of dues.

SECTION 3. LAW STUDENTS. Members of the Law Student Section of the State Bar of Michigan may become non-voting associate members of the Section upon payment of dues.

SECTION 4. NEW MEMBERS OF THE STATE BAR OF MICHIGAN. The Council may waive for any member of the State Bar of Michigan who has been a member of the State Bar of Michigan for any period of less than two years all or any part of the Section dues for the first fiscal year or portion thereof in which such member of the State Bar of Michigan first joins the Section. The Council may, within these limits, craft offers calculated to encourage new members of the State Bar of Michigan to join the Section.

ARTICLE III OFFICERS

SECTION 1. OFFICERS. The officers of this section shall be the Chairperson, the Chairperson-Elect, the Treasurer, and the Secretary ("Officer(s)"). No person shall serve as Chairperson or Chairperson-Elect for two (2) consecutive terms, and no person shall serve as an Officer for more than four (4) consecutive terms.

SECTION 2. SECTION COUNCIL. There shall be a Section Council consisting of eighteen (18) members, all of whom shall be voting members of the Section, including the four (4) Officers, together with fourteen (14) other members, all eighteen (18) of whom shall be elected by the Section as hereinafter provided. Each past Chairperson shall remain an ex officio (non-voting) member of the Council for as long as he or she chooses to serve in that capacity, and none of said ex officio members shall be subject to removal for failure to attend meetings, provided however, that, subject to Section 7 of this Article, any past Chairperson may be elected to voting membership on the Council.

SECTION 3. BEGINNING AND END OF TERM. The Chairperson, the Chairperson-Elect and Treasurer and Secretary shall be nominated and elected by the Council, in a manner hereinafter provided, immediately following each annual meeting of the Section, to hold office for a term beginning at the close of the annual meeting at which they shall have been elected and ending at the close of the next succeeding annual meeting of the Section (and until their successors shall have been elected and qualified).

SECTION 4. TERM; SECTION COUNCIL. The members of the Section may elect at each annual meeting of the Section up to six Section members to serve on the Council for terms of three (3) years.

SECTION 5. DEFINITION OF "YEAR." A "year," as herein used, is the interval of time between annual meetings of the Section.

SECTION 6. DURATION OF COUNCIL MEMBERSHIP. No person shall be eligible for election to serve as a member of the Council if that person is then a voting member of the Council and has been continuously for a period of six (6) years, except for Officers, who shall be allowed to remain on the Council for so long as they remain an Officer of the Council, subject to Section 1 of this Article.

SECTION 7. ELECTION OF AND TERMS OF OFFICERS. Immediately following each annual meeting of the Section, the Council shall elect, from the voting membership of the Council, for the one-year term ending as provided in Section 3 of this Article; one (1) member of the Council to serve as each of the four (4) Officers of the Council: Chairperson; Chairperson-Elect; Treasurer; and Secretary; except that, at each annual meeting of the Section, unless he or she shall submit written resignation or shall have failed to successfully perform the duties of his or her

office; the Chairperson-Elect, if any, shall automatically succeed to the office of Chairperson of the Section for the next one-year term; the Secretary, if any, shall automatically succeed to the office of Chairperson-Elect of the Section for the next one-year term; and the Treasurer, if any, shall automatically succeed to the office of Secretary of the Section for the next one-year term.

ARTICLE IV NOMINATION AND ELECTION OF OFFICERS

SECTION 1. NOMINATION. At or before each annual meeting of the Section, the Chairperson, with the advice of the Chairperson-Elect, shall appoint a Nominating Committee of at least three (3) members of the Council, which Committee shall make and report nominations to the Section for vacancies on the Council. The Nominating Committee shall not nominate any of its own members. Other nominations for the Council may be made from the floor, but must be made and seconded only by voting members of the section

SECTION 2. ELECTIONS. All elections may be by written ballot or any other means authorized by the Council. Only voting members of the Section shall be entitled to vote.

ARTICLE V DUTIES OF OFFICERS

SECTION 1. CHAIRPERSON. The Chairperson shall preside at all meetings of the Section and of the Council. The Chairperson shall formulate and present at each Annual Meeting of the State Bar of Michigan a report of the work of the Section for the then past year. The Chairperson shall perform such other duties and acts as usually pertain to the office.

SECTION 2. CHAIRPERSON-ELECT. Upon the death, resignation, or during the disability, of the Chairperson, or upon his or her refusal to act, the Chairperson-Elect shall perform the duties of the Chairperson for the remainder of the Chairperson's term except in the case of the Chairperson's disability and then only during so much of the term as the disability continues.

SECTION 3. TREASURER. The Treasurer shall keep a true record of all monies received and disbursed and shall report thereon to the Council whenever requested. Annually, he or she shall submit a financial report for presentation to the membership of the Section. Consistent with the bylaws of the State Bar of Michigan, he or she shall be responsible for forwarding all monies of the Section which come into his or her hands to the bookkeeping department at the State Bar Headquarters in Lansing for deposit and credit to the account of the Section. Further, unless waived on a meeting-by-meeting basis by vote of the Council, the Treasurer shall present a current financial report at each meeting of the Council.

SECTION 4. SECRETARY. The Secretary shall be the custodian of all books, records, papers, documents, and other property of the Section, other than those entrusted to the Treasurer under

Section 3 of this Article. He or she shall keep a true record of the proceedings of all meetings of the Section and of the Council, whether assembled or acting under submission. With the Chairperson, he or she shall prepare the Section's Annual Report. The Secretary, in conjunction with the Chairperson, as authorized by Council, shall attend generally to the business of the Section.

ARTICLE VI DUTIES AND POWERS OF THE COUNCIL

SECTION 1. PRIMARY DUTIES AND POWERS. The Council shall have general supervision and control of the affairs of the Section, and shall elect Officers of this Section (as provided in Article III, Section 7, and in Section 3 of this Article VI). The Chairperson and the Treasurer, or either of them, may authorize expenditure of Section funds in amounts up to and including \$500 per transaction. Any contract that requires the expenditure of Section funds in excess of \$500 must be approved by the Council. Any expenditure of a kind approved by the Council in any budget of the Section is considered authorized to the extent of the allocation in the budget. Notwithstanding the foregoing, neither the Council nor any officer of the Section may, without the approval of the State Bar of Michigan Board of Commissioners, authorize commitments or contracts that require the payment of more money during any fiscal year than the total of: (a) the amount received in Section dues for such fiscal year; and (b) any unexpended funds remaining in the Section treasury.

SECTION 2. COMMITTEES. The standing committees of the Section follow.

- (a) Annual Meeting
- (b) Contracts
- (c) Membership
- (d) Newsletter
- (e) Proprietary Rights
- (f) Spring Luncheon
- (g) Writing Award

The Council may authorize the Chairperson to appoint one or more other committees. All committees shall consist of Section members. Committees may perform such duties and exercise such powers as the Council may direct, subject to the limitations of these bylaws and of the bylaws of the State Bar of Michigan. The Chairperson shall appoint the Chairperson and members of such committees and may remove any Chairperson or member from such committees and fill any vacancies on such committees created from time to time.

SECTION 3. VACANCIES. The Council, during the interim between annual meetings of the Section, may fill vacancies in its own membership or in the offices of Treasurer or Secretary or--in the event of a vacancy in both the office of Chairperson and Chairperson-Elect--in the office of Chairperson. No vacancy in the office of Chairperson-Elect shall be filled other than by a vote of the voting members of the Section at the annual meeting next succeeding such vacancy. A member

of the Council or Officers so appointed shall serve until the close of the next annual meeting of the Section. At such annual meeting, the voting members of the section may elect a member to serve for the remainder of the term, if any.

SECTION 4. REGULAR MEETINGS, LOCATIONS, INVITEES. Regular meetings of the Council shall be held at times and locations to be determined by the Chairperson, and the schedule of regular meetings for each fiscal year shall be published in advance. At least three regular meetings of the Council shall be held in each fiscal year. Members of the Section shall be entitled to attend all meetings of the Council. The Chairperson shall be entitled to invite persons who are not members of the Section to attend any regular or special meeting of the Council. Upon request of any member of the Council, the Council may meet in executive session, without the presence of invitees, to deliberate and vote upon any business, which may come before it.

SECTION 5. SPECIAL MEETINGS. Special meetings of the Council may be called by the Chairperson or majority of the voting members of the Council at such times and places as either may determine.

SECTION 6. DEFINITION OF "ATTENDANCE." For all purposes under these bylaws, "attendance" shall be deemed to include physical (in person) attendance, or attendance by such telephonic, electronic, videoconference, or other means of interactive communication as the Section or the Council may make available. The Section and the Council will use reasonable efforts to make attendance possible by telephonic, electronic, videoconference, or other means of interactive communication for members wishing to attend any meeting by telephone, electronic, videoconference, or other means of interactive communication.

SECTION 7. QUORUM. Attendance by ten (10) voting members of the Council constitutes a quorum on both regular and special meetings of the Council.

SECTION 8. CONTROLLING VOTE. Provided there is a quorum present at the inception of the meeting, the Council shall act pursuant to a majority of those in attendance at regular and special meetings of the Council; and the Chairperson, or Chairperson-Elect presiding in the Chairperson's absence, may vote only to break a tie.

SECTION 9. FAILURE TO ATTEND MEETINGS. If any Council member fails to attend three (3) consecutive Council meetings without an excuse approved by the Council, a majority of the whole Council may remove that Council member at any Council meeting thereafter. If the Council so removes a Council member, the Council may then fill the vacancy in accordance with Section 3 of this Article.

ARTICLE VII SECTION MEETINGS

SECTION 1. ANNUAL MEETING. The annual meeting of the Section shall be held during and at the same place as the Annual Meeting of the State Bar of Michigan or at such other place and time as the Council designates. The Council shall, in scheduling the annual meeting, take into account location, geographic distribution of members, electronic or similar accessibility, and scheduling of other events. The annual meeting will include such programs and order of business as the Council (or, in the absence of a designation by the Council, the Chairperson) designates.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Section may be called by the Chairperson or by a majority of the voting members of the Council at such times and places as either may determine.

SECTION 3. QUORUM. The following numbers of voting members constitute a quorum at each respective type of meeting.

Regular Section meetings (not the annual meeting)	10
Special meetings	10
Annual meeting	20

provided, however, that at any annual meeting that is duly noticed and that is held during and at the same place as the regularly-scheduled annual convention of the State Bar of Michigan such members of the Section who attend the annual meeting shall collectively constitute a quorum even if their number is less than the number stated above.

SECTION 4. CONTROLLING VOTE. Except as otherwise expressly provided in these bylaws, the vote of a majority of the voting members in attendance at a properly called meeting of the Section at which a quorum is present is the act of the Section.

ARTICLE VIII MISCELLANEOUS PROVISIONS

SECTION 1. FISCAL YEAR. The fiscal year of the section shall be the same as that of the State Bar of Michigan.

SECTION 2. DEBTS. All debts incurred by the Section, before being forwarded to the Treasurer or to the Executive Director of the State Bar of Michigan for payment, shall first be approved by the Chairperson or by the Treasurer, or, if the Council shall so direct, by both of them.

SECTION 3. COMPENSATION. No salary or compensation of any kind shall be paid to any Officer, Council, or committee member.

SECTION 4. PUBLIC POLICY POSITIONS.

- (a) Generally, neither the Section nor the Council may take or disclose to the public any policy position except in compliance with the requirements of Article VIII of the Bylaws of the

State Bar of Michigan. Upon the request of the voting members of the Section or of the Council, the Chairperson shall report to the State Bar Board of Commissioners for further action any resolution adopted or action taken by the Section. If a provision of these Bylaws and a provision of the bylaws of the State Bar of Michigan conflict with regard to public policy positions, the provision of the bylaws of the State Bar of Michigan shall govern.

(b) Procedure.

(i) Normal Procedure

- (A) Introduction. Should any member of the Section request that the Section endorse a policy position on a permissible policy issue, that member may introduce that request, in writing, at a Section Meeting. Any such request must include that member's reason, in detail, for requesting Section endorsement.
- (B) Referral to Committee. If the Section approves continued action on the request, the Chairperson shall refer the request to the appropriate Section committee for study and report by the next meeting. If the policy position does not fall under the ordinary responsibilities of any committee, the Section may create a special committee to study the proposed policy position.
- (C) Action by the Committee. The committee shall consider the proposed policy position and shall prepare recommendations thereon and report its recommendations to the Council as reasonably required by the Chairperson. It is not necessary that any particular recommendation of the committee have the support of any particular number of those serving on the committee. The report of the committee may include reasoned dissent.
- (D) Action by the Council. Within a reasonable time after receipt of the committee report, the Council shall consider the committee's report and the policy position. If the Council, by majority vote, recommends adoption of the policy position, whether as reported by the committee or with changes, it shall cause its recommendation, together with the complete and accurate text of said policy position, to be published in the Michigan Bar Journal or the Section newsletter.
- (E) Meeting Requirements – Timing and Notice. The Section may consider and approve the recommendation of the Council and the policy position at any meeting of the Section that occurs at least thirty (30) days after publication of the recommendation and the policy position, provided that, if the meeting is other than an annual meeting of the section, the notice for the meeting

must state that the recommendation and the policy position are to be considered.

- (F) Approval Requirements. The vote of two thirds of members of the Section who have voting rights and who are present at a meeting of the Section at which a quorum is present and for which the requirements of subsection (E) are met is required in order to adopt a policy position.

(ii) Urgent Matters

- (A) Introduction. Should a request with regard to a public policy issue require prompt action and no regular Section Meeting is scheduled within 30 days, the member may submit his or her request, in writing, to the Chairperson. In describing the reason for endorsement, that writing must set forth the need for action prior to the next Section Meeting.
- (B) Referral to Council and Committee. The Chairperson shall forward that request to the Council and the Council may refer the request to the appropriate committee or create a special working group to study and report on the proposed endorsement at the next regular Section meeting or as set forth in this Section 5.
- (C) Action by the Committee. If the Council refers the policy position to a committee, the committee shall consider the proposed policy position and shall prepare recommendations thereon and report its recommendations to the Council as reasonably required by the Chairperson. It is not necessary that any particular recommendation of the committee have the support of any particular number of those serving on the committee. The report of the committee may include reasoned dissent.
- (D) Voting. Should circumstances, as determined by the Chairperson or the Council, reasonably dictate that the request be expedited for approval by the Section, the Council or the committee or working group will take reasonable measures to notify Section members of the proposed policy position, including publishing the request on the Section web page, sending the request electronically to members and/or mailing the request to members. The Chairperson or the Council may ask the members of the Section to vote on the proposal "as is," save for minor editorial changes and may specify reasonable means and time periods (not to be less than 10 days) for voting, with due consideration to electronic and other means reasonably designed to allow widespread participation by Section members. A vote of 2/3 of those responding to the request to endorse the proposal will constitute the endorsement by the Section of the proposal, provided that at least 20 Section members have voted.

- (c) Reporting and Effect of Adoption. If the Section adopts a policy position, the Chairperson shall report the adoption and any related recommendations as provided in the Bylaws of the State Bar of Michigan. The effect of the policy position shall be as stated in the Bylaws of the State Bar of Michigan.

SECTION 5. ELECTRONIC ENABLEMENT AND NOTICES.

- (a) Notices. Any notice required or permitted by these bylaws may be given by
 - (i) depositing such notice in the United States Mail anywhere in the State of Michigan, addressed to the recipient, and with first class postage attached,
 - (ii) personally delivering such notice, or
 - (iii) transmitting such notice by electronic mail.

As to items (i) and (iii) above, notice may be sent to the last known address in the Section's records.

- (b) Writings Requirements. To the maximum extent allowable by the bylaws or other governing documents of the State Bar of Michigan, the Uniform Electronic Transactions Act ("UETA"), the Electronic Signatures in Global and National Transactions Act ("E-Sign"), or other applicable law or rule, where any provision of these bylaws requires a writing or that a notice or other communication be in writing, an electronic record (as that term is defined in UETA) satisfies the requirement. Where any provision of these bylaws requires a signature, an electronic signature (as that term is defined in UETA) satisfies the requirement.
- (c) Presumptions Regarding Electronic Transmissions. The Council shall be entitled to assume the authenticity of any electronic communication apparently sent from an e-mail or other electronic address (including fax machine telephone number) given by an member as that member's electronic address. To the maximum extent allowable by applicable law or rules, each electronic transmission shall be regarded as bearing or constituting an electronic signature unless an expression to the contrary is included in the electronic transmission. Without limiting the foregoing, any typed name or identification heading or footer shall be regarded as an electronic signature unless an expression to the contrary is included in the electronic transmission.
- (d) Action of the Council by Written Consent. Any vote or other action required or permitted to be taken by the Council may be taken by the written consent of a majority of the whole Council, provided that a record giving notice of the matter submitted for consent is transmitted to every Council member and, in the case of an action adopted by such consent, a record containing a summary of those consenting, those affirmatively withholding consent, and those not responding, is transmitted to

every member of the Council within 10 days after the number of consents required for action is received. The Chairperson or the Secretary shall transmit such notices upon the written request of at least five members of the Council and may do so by any means, provide that, if a means other than an electronic record by e-mail is used, the notice shall also be sent as an electronic record by e-mail. The Chairperson or the Secretary may rely on the last known e-mail address for each member of the Council in the records of the Section. The Officer transmitting the notice shall receive all responses to such notice, shall tally the votes, and shall report to the members of the Council as required in this section. Without limiting other means of providing written consent, the consent of a member of the Council shall be sufficient if it contains a reference to the notice, expresses the consent of the member of the Council, and contains an electronic signature (which may take the form of a typed name) of the member of the Council.

ARTICLE IX AMENDMENTS

SECTION 1. AMENDMENTS. These bylaws may be amended at any annual meeting of the Section by a vote of two-thirds of the members of the Section present and voting, provided there is a quorum; and provided further that any such proposed amendment shall first have been submitted for its recommendation to the Council and provided further that no amendment so adopted shall become effective until approved by the Board of Commissioners of the State Bar of Michigan.

SECTION 2. PROCEDURES. Any proposed amendment of these bylaws shall first be submitted in writing to the Council in the form of a petition signed by at least ten (10) members of the Section and considered by the Council at a regular or special meeting prior to the annual meeting of the Section at which it is to be addressed. The Council shall consider the proposed amendment at such a meeting and shall prepare recommendations thereon; and those recommendations, together with a complete and accurate text of said proposed amendments, shall be published in the Michigan Bar Journal or Section newsletter at least thirty (30) days prior to the annual meeting of the Section at which the amendment is to be considered.

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