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Michigan IT Lawyer

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

<http://www.michbar.org/computer>

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Bits and Bytes from the Chair

By Christopher J. Falkowski, *Falkowski PLLC*

“Periods of tranquility are seldom prolific of creative achievement. Mankind has to be stirred up.”

Alfred North Whitehead(1861-1947)
British mathematician, philosopher, author

Given all of the economic uncertainty in the state of Michigan, I am sure that most of us would really enjoy an extended period of tranquility. Each passing day seems to bring with it news of layoffs, shutdowns, foreclosures, and bankruptcies. The mere opening of a newspaper or tuning in to a local radio or television broadcast is now an act of bravery. Everyone in Michigan, including those who do not work for the auto industry, is inevitably impacted by these events. However, the burden carried by those directly impacted merits due consideration by the rest of us. On behalf of the section, I want to send out heartfelt sympathies to all those households struggling in this current economic climate. Since the early part of the 20th century, the Michigan economy has been based on one of the most revolutionary and disruptive technologies ever devised in human history, the automobile. Although the present may appear to be bleak, the combination of hard work, innovative thinking, and old fashioned common sense that made Detroit the automobile capital of the world remains as pervasive today as they were when the first **Model T** rolled off the assembly line in 1908. It is on those strengths that the automobile industry will reinvent itself in the same way that it previously reinvented the very concept of modernity itself. There is no doubt that recent events have “stirred” things up, and I do not doubt that this period of time will be followed by a corresponding measure of achievement and innovation.

Thanks to everyone who participated in our recent Spring Networking at the **Greektown Casino** on Wednesday, **May 20**. As of this writing, the event is still several days away, but by the time anyone receives this newsletter the event will already be a *fait accompli*. I have always been a big fan of network-

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2008-2009

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Bits and Bytes . . .

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ing events, and I am confident that the venue for this year's event will result in a sure winner. At a cost of \$5 for section members, those who did not attend should ask themselves whether they could really afford to miss out on this valuable networking opportunity.

This year's two major substantive events will be the **Annual Meeting** on **September 17** at the **Hyatt Regency** hotel in Dearborn and our second annual IT Law Seminar with **ICLE** which will be held on **October 29** at the **The Inn of St. John's** in Plymouth. Please mark your calendars for these important events. We are still in the process of finalizing the list of speakers and topics for these events, so if you have any questions or suggestions pertaining to these events, please do not hesitate to contact me at chris@falkowskipllc.com.

If there are things you think the section should be doing that it isn't, please let us know. If your law firm or corporation has a job opportunity that needs to be filled, let us know and we can include a mention in our section communications. If you read an article of interest to our membership or find an extremely helpful online resource, please send it us so that we can share it with the members of the section. I encourage each individual to help shape the section so that it becomes a more valuable resource for all members.

Until next time . . . Godspeed.

Chris Falkowski

Chairperson 2008-2009
IT Law Section

Statement of Editorial Policy

The aim and purpose of the Information Technology Law Section of the State Bar of Michigan is to provide information relative to the field of information technology law and other information that the section believes to be of professional interest to the section members. Unless otherwise stated, the views and opinions expressed in the *Michigan Information Technology Lawyer* are not necessarily those of the Information Technology Section or the State Bar of Michigan.

Recent Developments in Information Technology Law

By David R. Syrowik, *Brooks Kushman PC*

U.S. Courts of Appeal

Patents

As reported at 77 BNA's PTCJ 489, on March 6, 2009, the U.S. Court of Appeals for the Federal Circuit held that a method for marketing a product did not constitute patentable subject matter under 35 U.S.C. § 101. *In re Ferguson*.

As reported at 77 BNA's PTCJ 664, on April 18, 2009, the U.S. Court of Appeals for the Federal Circuit held that a settlement agreement which included an unconditional covenant not to sue for infringement authorizes all acts that would otherwise be an infringement, including sales and, consequently, exhausts the patentee's rights. The patent covered automated toll collection systems. *TransCore LP v. Electronic Transaction Consultants Corp.*

Copyrights

As reported at 77 BNA's PTCJ 704, on April 16, 2009, the U.S. Court of Appeals for the Fourth Circuit held that the archiving of student essays in a database used to check whether new submissions might be plagiarized constitutes fair use. *A.V., a minor, by his next friend Vanderhuy v. iParadigms LLC*.

As reported at 90 USPQ2d 1193, on April 2, 2009, the U.S. Court of Appeals for the Ninth Circuit held that illegal use or operation of electronic video bingo game by copyright owner does not preclude award of actual or statutory damages for infringement, at least where illegality did not injure infringer, since illegal use of otherwise copyrightable work does not deprive work of protection, or provide defense to infringement. *Dream Games of Arizona Inc. v. PC Onsite*.

Trademarks

As reported at 77 BNA's PTCJ 563, on March 17, 2009, the U.S. Court of Appeals for the Ninth Circuit, in a domain name infringement case, split on the prejudice factor of a laches defense and whether the imposition of an injunction was contrary to public interest. The court held that a party asserting laches must show prejudice based on investment in

accused mark as identity of business in minds of public, not mere expenditures in promoting mark; claim alleging that defendant's Internet domain name "ISPWest.com" infringed "IS-West.com" mark is not barred by laches, since defendant did not develop brand recognition for its mark during delay period. *Internet Specialties West Inc. v. Milon-DiGiorgio Enterprises Inc.*

As reported at 77 BNA's PTCJ 630, on April 3, 2009, the U.S. Court of Appeals for the Second Circuit held that Google's sale of trademarks as sponsored links in an actionable use in commerce for purposes of the Lanham Act, reversing a district court's determination that the marks cannot be considered used "in commerce" because they occurred only in non-visible meta tags. *Rescuecom Corp. v. Google*.

As reported at 77 BNA's PTCJ 713, on April 15, 2009, the U.S. Court of Appeals for the Fifth Circuit vacated a domain name squatter preliminary injunction because the district court abused its discretion. *Southern Co. v. Dauben Inc.*

As reported at 77 BNA's PTCJ 679, on April 9, 2009, the U.S. Court of Appeals for the Tenth Circuit held in a trademark infringement action, the first sale defense is not available to infringers when they resell trademarked goods on eBay with a warranty different from the manufacturer's and do not sufficiently disclose the difference to consumers. The warranty included service assistance, software upgrades, rebates, and recalls. *Beltronics USA Inc. v. Midwest Inventory Distribution LLC*.

As reported at 90 USPQ2d 1065, on March 12, 2009, the U.S. Court of Appeals for the Eleventh Circuit held that district court did not violate individual defendant's Fifth Amendment rights by entering default judgment in favor of plaintiff in cybersquatting action, since plaintiff introduced evidence that defendant had been improperly intercepting confidential e-mails between plaintiff and plaintiff's counsel for nearly two years, and dismissal did not occur because of defendant's invocation of Fifth Amendment, but rather as a result of disruption to litigation caused by his misconduct. *Eagle Hosp. Physicians LLC v. SRG Consulting Inc.*

Continued on next page

U.S. District Courts

Patents

As reported at 77 BNA's PTCJ 634 on March 31, 2009, the U.S. District Court for the Eastern District of Kentucky held that the Supreme Court's 2008 ruling in *Quanta* preventing a patent owner from using its patents to restrict the actions of downstream users. The court said that the patent exhaustion doctrine precludes enforcement of printer cartridge reuse restrictions contained in shrink-wrap licenses. *Static Control Components Inc. v. Lexmark International Inc.*

As reported at 77 BNA's PTCJ 677, on March 26, 2009, the U.S. District Court for the Northern District of California held that Beauregard claims in a patent directed to detecting fraud in a credit card transaction between a consumer and a merchant over the Internet are subject to *Bilski's* machine-or-transformation test. *CyberSource Corp. v. Retail Decision Inc.*

As reported at 89 USPQ2d 1938, on December 9, 2008, the U.S. District Court for the District of Delaware denied a preliminary injunction in action alleging infringement of patent for invention designed to improve user interfaces for search engine technology using "thumbnail" visual images of hyper-linked Web pages in search results, since construction of claim terms offered by plaintiff will not be adopted, leaving substantial questions concerning infringement and validity, since, therefore, plaintiff failed to demonstrate likelihood of success on merits, and since plaintiff has not clearly established irreparable harm. *Girafa.com Inc. v. Amazon.com Inc.*

As reported at 89 USPQ2d 2001, on October 27, 2008, the U.S. District Court for the Southern District of Florida held that the independent claim of patent for method of managing bulk e-mail distribution of marketing materials is invalid as directed to non-statutory subject matter, since mere recitation of practical application of abstract idea does not render invention patentable, and plaintiffs cannot patent abstract idea of fulfilling customer's e-mail order by applying concept "if at first you don't succeed, try, try again" in context of e-mail marketing. *Perfect Web Technologies Inc. v. InfoUSA Inc.*

As reported at 78 BNA's PTCJ 6, on April 8, 2009, the U.S. District Court for the Western District of Wisconsin held that Internet-based music services offered by Pandora Media Inc. and Napster LLC do not infringe a patent on song playlist generation and playback. *MOAEC Inc. v. Pandora Media Inc.*

Copyrights

As reported at 77 BNA's PTCJ 602, on March 25, 2009, the U.S. District Court for the Southern District of New York held that an interactive computer service provider that links to third-party content is not immune under the Communications Decency Act of 1996 from state law intellectual property claims. *Atlantic Recording Corp. v. Project Playlist Inc.*

As reported at 89 USPQ2d 1629, on November 24, 2008, the U.S. District Court for the Southern District of New York dismissed counterclaims asserted by defendant Web site operators, seeking declaratory judgment that they are shielded from liability for copyright infringement by "safe harbor" provisions of Digital Millennium Copyright Act, since counterclaim is not viable unless it presents independent case or controversy that would survive dismissal of opponent's infringement claim, since declaratory judgments sought in defendants' counterclaims parallel their affirmative defense of limitation of liability under DMCA, since DMCA does not provide affirmative cause of action, and since counterclaims do not constitute independent cause of action, in that defense under DMCA could not stand on its own if plaintiffs were to dismiss their infringement claims. *Arista Records LLC v. Usenet.com Inc.*

As reported at 89 USPQ2d 1713, on January 9, 2009, the U.S. District Court for the Eastern District of Virginia granted plaintiff software company a partial summary judgment that defendant Internet software distributors knowingly trafficked in counterfeit labels, in violation of 18 U.S.C. § 2318; term "knowingly" requires only that defendants knew they were selling software with non-genuine labels, not that they knew such conduct was unlawful. *Microsoft Corp. v. Pronet Cyber Technologies Inc.*

As reported at 78 BNA's PTCJ 10, on April 21, 2009, the U.S. District Court for the Middle District of Pennsylvania rejected an attempt by an alleged P2P infringer of music copyrights to fight back by charging the record company plaintiffs with harassment and extortion. *UMG Recordings Inc. v. Martino.*

As reported at 90 USPQ2d 1042, on March 4, 2009, the U.S. District Court for the Northern District of Georgia held that defendant Web site operator may be subject to liability, as distributor, for sale of allegedly infringing jewelry pendants on its site, since copyright owner can proceed against anyone in chain of distribution for infringement, since defen-

dant affirmatively sold pendants, and presumably profited from sale of those items, and since defendant thus engaged in conduct that contributed, even if innocently, to infringement. *Metal Morphosis Inc. v. Acorn Media Publishing Inc.*

As reported at 90 USPQ2d 1123, on February 6, 2009, the U.S. District Court for the Northern District of California rejected argument that copyright misuse may never be asserted as counterclaim, and defendant in action for infringement of copyrights in computer operating system may assert counterclaim for misuse based on plaintiff's end-user license agreement and allegedly spurious litigation. *Apple Inc. v. Psystar Corp.*

As reported at 90 USPQ2d 1161, on March 6, 2009, the U.S. District Court for the Middle District of Pennsylvania held that news misappropriation claims can survive preemption by Copyright Act if plaintiff alleges time-sensitive value of factual information, free-riding by defendant, and threat to very existence of product or service provided by plaintiff. However, newspaper publisher plaintiffs' claim for misappropriation, stemming from defendant publisher's alleged copying of obituaries from plaintiffs' newspapers and Web sites, is preempted by Copyright Act, since plaintiffs have not alleged that defendant's copying of obituaries posed threat to existence of plaintiffs' publications, or to plaintiffs' ability to provide service of collecting and distributing obituaries to customers. *Scranton Times LP v. Wilkes-Barre Publishing Co.*

Trademarks

As reported at 78 BNA's PTCJ 10, on April 20, 2009, the U.S. District Court for the Eastern District of Virginia held that a software company's competing use of the trademarks of its founders' former employer in banner ads, metatags, and domain names may create confusion. *Deltek Inc. v. Iuvo Systems Inc.*

Trademarks/Personal Jurisdiction

As reported at 90 USPQ2d 1028, the U.S. District Court for the Southern District of New York held that infringement defendants, whose principal place of business is in Nevada, have "transacted business" in New York, and thus are subject to personal jurisdiction under New York's long-arm statute, since defendants operate interactive Web sites through which they have sold hotel rooms and vacation packages to New York residents, and since defendants' Internet activity is significant and unqualifiedly commercial in nature. *Société des Bains de Mer et du Cercle des Etrangers à Monaco v. MGM Mirage.*

Antitrust/Trademarks

As reported at 89 USPQ2d 1958, on October 7, 2008, the U.S. District Court for the Southern District of Florida held that the Noerr-Pennington doctrine bars infringement defendant's assertion of affirmative defense under 15 U.S.C. § 1115(b)(7), which creates defense to liability if owner of registered mark has used, or is using, mark to violate antitrust laws, since similarity of parties' marks, and defendant's conduct in choosing similar marks for same lines of products, is strong circumstantial evidence that defendant chose its marks intentionally to exploit plaintiff's goodwill, and since plaintiff's claims thus are not "objectively baseless". *Dell Inc. v. 3K Computers LLC.*

U.S. Patent and Trademark Office

Patents

As reported at 89 USPQ2d 1988, in an unpublished opinion, on May 28, 2008, the Board of Patent Appeals and Interferences held that a claim in a patent application directed to techniques, simulation, and problem solving using computer system is directed to unpatentable manipulations of data, even though data represent physical systems, and claimed method includes step of outputting model, since creation of intangible mathematical expressions does not constitute transformation of subject matter, and since claim is directed merely to mathematical manipulations used to create model, and thus is non-statutory, even though it may be improved method that models physical, rather than theoretical, system. *Ex parte Langemyr.*

As reported at 90 USPQ2d 1326, on rehearing and in an unpublished opinion, on November 13, 2008, the Board of Patent Appeals and Interferences held that claims in application directed to styling of portal view in display of pervasive agent are held to be directed to software *per se*, and thus unpatentable under 35 U.S.C. § 101, since claims at issue are directed to purely software components, and specification clearly indicates that invention is not limited solely to hardware embodiments, since, in context of software embodiment, "server" of claims is reasonably interpreted as meaning "provider of services," and since scope of claims thus does not require hardware in addition to recited software components. *Ex parte Godwin.*

As reported at 90 USPQ2d 1379, on November 20, 2008, the Board of Patent Appeals and Interferences held that claims in a patent application for a transmission control method for preventing outflow of predetermined information when sending information to external networks from com-

Continued on next page

puter are unpatentable as directed to non-statutory subject matter under 35 U.S.C. § 101, since transformation of data, without machine, is insufficient to establish patent eligibility, since invention of claims does not require particular machine or apparatus, or transform any article into different state or thing, and since independent claim at issue is directed to computer program *per se*, and thus is directed to non-statutory process as series of abstract program steps. *Ex parte Noguchi*.

Trademarks

As reported at 90 USPQ2d 1246, on March 25, 2009, the Trademark Trial and Appeal Board held that the proposed trademark "The Montecito Diet" for printed publication and online journals providing health, diet, and related information is not primarily geographically descriptive, even though "Montecito" refers to generally known geographic location, since there is no evidence that relevant public would believe that applicant's goods and services originate from any location in Montecito. *In re Mankovitz*. ■



State Bar Launches "A Lawyer Helps" Program to Celebrate and Support Attorneys' Contributions to Society

"A Lawyer Helps" – and the State Bar of Michigan wants everyone to know just how much.

The Bar, in cooperation with a host of partners including civil legal aid agencies, bar associations, law schools, law firms and the Michigan State Bar Foundation, has launched a program to celebrate and support lawyers' public service.

"A Lawyer Helps" has two goals: recognizing how lawyers make a difference everyday for people and society and providing tools for them to continue doing so.

"Thousands of Michigan lawyers contribute pro bono or free legal services to low-income people every year, and thousands more give generous financial support for legal aid. They also give time by volunteering in their local communities," said Ed Pappas, president of the State Bar of Michigan. "We are extremely proud of that record, and 'A Lawyer Helps' will shine a light on their efforts."

"A Lawyer Helps" focuses on the legal profession's priority of pro bono free legal help for the poor and financial donations to help nonprofit legal aid agencies, and it recognizes that many lawyers also provide other community service. These volunteer efforts will be featured extensively in State Bar publications including the May issue of the Michigan Bar Journal, and on a new website at www.alawyerhelps.org. Attorneys interested in getting involved in pro bono and community service opportunities can seek information at that website, and lawyers can also find a link to donate online to the Access to Justice Fund for the statewide endowment or for a local legal aid program. In addition, the website provides information on how to obtain "A Lawyer Helps" gear such as t-shirts, aprons, or buttons to wear while volunteering and ways to recognize lawyer volunteers. ■

Be Safe Online

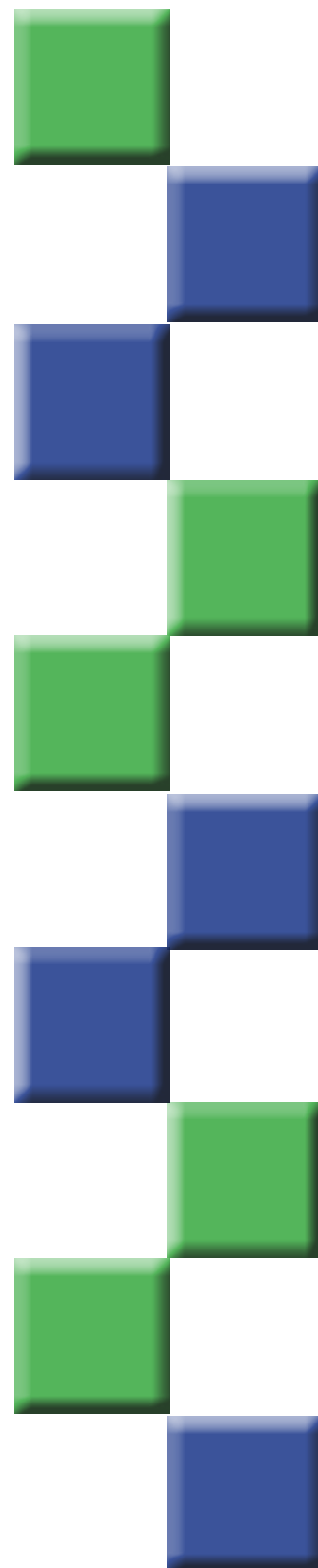
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(NAPS)—Being on guard online can help protect your information, your computer—even yourself. Experts say these seven practices can help you be safe while surfing.

1. Protect your personal information. It's valuable. To minimize your risk of identity theft, don't share your personal information unless you know how it will be used and protected. Don't reply to or click on links in any e-mail asking for your personal information.
2. Know who you're dealing with. When shopping online, look for a seller's physical address and a working telephone number. Before downloading free software, read the fine print—some downloads come with spyware.
3. Use antivirus software and a firewall, and update both regularly. Look for antivirus software that recognizes current viruses, as well as older ones; effectively reverses the damage; and updates automatically. If your firewall was shipped in the "off" mode, turn it on, and be sure to set it up properly.
4. Be sure to set up your operating system and Web browser software properly, and update them regularly. Select security settings high enough to reduce your risk of being hacked. Make sure to regularly update your system with the latest patches.
5. Protect your passwords. Keep your passwords in a secure place, and don't share them on the Internet, over e-mail, or on the phone.
6. Back up important files. If you have important files stored on your computer, copy them onto a removable disc and store it in a safe place.
7. Learn who to contact if something goes wrong online. Visit OnGuardOnline.gov and click on "File a Complaint" to learn how to respond if problems occur when you're online.

The website also provides practical tips (including the ones above) from the federal government and the technology industry to help you be on guard against Internet fraud, secure your computer, and protect your personal information.

Web Watch The helpful content at OnGuardOnline.gov includes tips, articles, videos and quizzes. The site shows you how to report spam or scams and how to sign up for periodic computer security alterations while its interactive quizzes are a fun way to help you figure out how savvy you are about computer safety. ■



Meet a Section Member: Vincent I. Polley



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- **What is the name of your firm/corporation/employer?**
KnowConnect PLLC
- **What is your area of practice?**
IT/E-commerce – specifically:
 - Policy development and implementation (including training) regarding employee communications policies, and information security/privacy processes
 - E-Evidence (e.g., record retention programs; Federal Rules evidentiary conferences and agreements)
 - Knowledge Management assessments, program planning, and implementation
 - Arbitration and mediation of complex IT disputes
 - Specialty IT legal advice – internet governance, website T/Cs and privacy policies, e-commerce, etc.
- **When did you first become involved with the Section?**
I was active in the Section in the early 1990s, but inactive while living in Texas (1993-2005). Since my 2006 return to Michigan (I've moved to Michigan five times!) I've been on the Section's Council. From 2002-2005, I chaired the ABA's Cyberspace Law Committee.
- **Where did you grow up?**
East Lansing
- **Where else have you lived?**
Minneapolis, Washington, D.C., Boston, and Houston
- **Where did you attend undergraduate and law school?**
I majored in mathematics at Harvard, and received my law degree from the University of Michigan.
- **What was your undergraduate major?**
Mathematics (see above). I supported myself in college by working on computer simulation studies (in the 1970s).
- **What are your hobbies, other interests?**
Reading (history), computers, yoga and swimming
- **Favorite restaurant?**
Lupe Tortilla's (in Houston)
- **A recent book you read?**
The Story of Civilization (Will & Ariel Durant)
- **Last vacation?**
Greece and Turkey
- **Who is your hero? (a parent, a celebrity, an influential person in one's life)**
My father (obituary here: http://www.vip-law.com/Vince_Polley/Ira_Polley.html).
- **If you had to describe yourself using three words, they would be...**
Inquisitive, musical, networked
- **What is your favorite movie of the past ten years?**
Magnolia
- **What do you like to do most with a free hour?**
Read (blogs, news).
- **What is the most significant event of your life in the last three months?**
The Inauguration of President Obama.
- **What one word would you put on your gravestone?**
Loved.
- **What email can Section members use to contact you?**
vpolley@knowconnect.com
- **A short comment on why you became involved with the Information Law Technology Section:**
Best-practice exchange (and development) –talking with peers is the most effective way to identify emerging best-practices, and/or to create them. In areas of rapidly changing technology and business applications, the law lags; this creates uncertainty which can be ameliorated by leading-edge lawyers collaborating to develop new paradigms. The IT Law Section is a crucible for this work. ■

Publicly Available Websites for IT Lawyers

The Proprietary Rights Committee of the Information Technology Law Section has assembled a list of over 50 publicly available websites with up-to-date, reliable and comprehensive information that is useful to lawyers who practice in the IT law area. The websites are easy to search or navigate to obtain the desired information, and although raw data and information are important, often the websites contain summaries and discussions, as well as links to other useful websites.

The Michigan IT Lawyer will publish a selection of these websites in each issue, and feedback or recommendations for additional websites can be forwarded to David Syrowik, DSyrowik@brookskushman.com. Enjoy!

Online Business

- <http://www.ftc.gov/bcp/edu/pubs/business/ecommerce/bus41.pdf> - FTC staff paper 'Dot Com Disclosures - Information about Online Advertising', which is a booklet describing "the information businesses should consider as they develop online ads to ensure that they comply with the law."
- <http://www.ftc.gov/bcp/menus/consumer/tech.shtm> - Numerous FTC consumer publications regarding computer and Internet topics. Examples: 'Securing Your Wireless Network', 'Electronic Check Conversion', and 'The Cooling-Off Rule: When and How to Cancel a Sale'.
- <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html> - A helpful overview of how to determine whether a worker is an employee or independent contractor

General Reference for Science and Technology

- <http://www.howstuffworks.com> - A source, similar to an encyclopedia, of credible and simple descriptions of how various things work.
- <http://nsdl.org> - The National Science Digital Library is the nation's online library for education and research in science, technology, engineering and mathematics.
- <http://infomine.ucr.edu> - A comprehensive scientific research virtual library that contains useful Internet resources such as databases, electronic journals, electronic books, bulletin boards, mailing lists, online library card catalogs, articles, directories of researchers, and many other types of information.
- <http://scholar.google.com> - A simple way to broadly search for scholarly literature. Allow one the ability to search across many disciplines and sources: peer-reviewed papers, theses, books, abstracts and articles, from academic publishers, professional societies, preprint repositories, universities and other scholarly organizations.
- <http://www.scirus.com> - Comprehensive scientific research tool that contains over 450 million scientific items and allows one to search for journal content, scientists' homepages, courseware, pre-print server material, patents and institutional repository and website information. ■

Upcoming Events

Plan to attend the Information Technology Section's **Annual Business Meeting**. Mingle with your Section peers, learn about opportunities to get more involved with the Section, participate in the election of Section Council Members, *and* attend a substantive presentation on IT law. The Information Technology Section's Annual Business Meeting is expected to coincide with the State Bar of Michigan's annual convention, which is planned for September 17, 2009 at the Hyatt Regency in Dearborn. Be there! Please contact Mark Malven at MMalven@dykema.com to suggest speakers or topics, or if you have questions about the event.



Circle the Date! The Information Technology Section of the State Bar of Michigan and the Institute of Continuing Legal Education (ICLE) will host an **IT Law Seminar on Thursday, October 29, 2009 at The Inn of St. Johns in Plymouth**. The seminar will cover important and topical issues to enable you to better serve your clients. Sponsors are still needed. More information will be released as available! Suggestions regarding potential speakers or topics are encouraged, and if you are interested in sponsoring the event, please contact Charlie Bieneman at cab@raderfishman.com. ■

2009 Edward F. Langs Writing Award

Essay Competition Rules

1. Awards will be given to up to three 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 endnotes 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 \$1,500 in US dollars shall be divided 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*.
7. Essay must be submitted as a Microsoft Word document, postmarked by **June 30, 2009**, and emailed to **DSYROWIK@brookskushman.com**