

International Conference on Digital Evidence

2008

Best Practice & Principles for Judges, Lawyers, Litigants & Technology, Security, Investigators & Digital Evidence Specialists...

26th & 27th June 2008
Vintners' Hall, London

Cocktail Reception & Dinner
Thursday 26th June 2008
The Honourable Society of Gray's Inn



Conference Chairman



Stephen Mason,
Barrister, Editor, Digital Evidence and Electronic Signature Law Review, Associate Senior Research Fellow, Institute of Advanced Legal Studies, London Visiting Research Fellow, Digital Evidence Research, British Institute of International and Comparative Law (UK)

Key Contributions By



Senior Master Whitaker,
Senior Master of the Supreme Court, Queen's Bench Division, Royal Courts of Justice & the Queens Remembrancer (UK)

- The Honourable Judge Francis M. Allegra, *U.S. Court of Federal Claims (U.S.)*



The Honourable Judge Dr. Ehab Elsonbaty,
Senior Judge, Damanhour Court (Egypt)



The Honourable Judge Jumpol Pinyosinwat,
Presiding Judge, Central Intellectual Property and International Trade Court (Thailand)

- Honourable Justice J.E. (Ted) Scanlan, *Supreme Court of Nova Scotia (Canada)*



Charles Leacock,
QC, Director of Public Prosecutions (Barbados)

Digital evidence is set to become the dominant form of evidence in legal proceedings across the entire range of law and across jurisdictions. Attend to:

- Learn from a prestigious speaker panel spanning over 17 different jurisdictions
- Keep up to date with the world of digital evidence to continue administering the judicial system properly and fairly
- Demonstrate to clients and litigants that digital evidence is not some arcane new-fangled form of evidence that is best left to the future
- Take up the challenge by becoming familiar with the issues that experts deal with every day
- Share experiences with the world's leading digital evidence specialists and in-house practitioners
- Network and build trust-based relationships at the reception and dinner at Gray's Inn, while enjoying 'historic legal' London!

Book Offer for Early Registrations

Register by 1st May 2008 to receive a FREE copy of *Electronic Signatures in Law* (Tottel, 2nd edn, 2007)
Written by Stephen Mason



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Parallel Session B: Planning And Justifying The Search And Seizure Of Digital Evidence In Criminal And Cartel Proceedings

11:30 – 11:55 Key Contributors

Do the Differences Still Exist? A New Wave Of Legal Response!

With the crucial importance of regulating digital evidence, the classical differentiations between civil law and common law are under question. Digital evidence is a part of the evolving digital era in which a harmonized international legal approach is no longer an option. Planning and justifying the search and seizure of digital evidence in criminal matters needs not only creative legal approaches but also non-traditional concepts of cooperation between law enforcement entities and the judiciary.

- Whether digital evidence challenges the barriers and lines between civil and common law systems
- Very creative approaches of co-operation between the judiciary and law enforcement are needed, however, their legitimacy must be observed
- Egypt is an example of a civil law country; however, the Egyptian legal framework to regulate digital evidence in criminal matters has been influenced by the common law culture
- The Egyptian legal framework for digital evidence in criminal matters
- An overview of the practices of co-operation between the police and judiciary

His Honour Judge Dr. Ehab Elsonbaty, Senior Judge, Damanhour Court, (Egypt)

Judge Dr. Ehab Maher Elsonbaty is a senior judge and a member of the civil, criminal and commercial panel of the Damanhour Court. He lectures on cyber law topics and technology in litigation to the Arab Academy for Science and Technology and Private International Law. He is a consultant to the Council of Europe, UNODC and ITU.



11:55 - 12:20 Search And Seizure Of Digital Evidence: Thresholds And Minefields

Counsel and courts should be aware of the facts that there are unique factors that make dealing with digital evidence challenging. In many instances the information is located in databases that are contaminated with potentially privileged information. How does a litigant gain access to the relevant information without prejudicing their own case? Do the courts and litigants understand the effect of any orders of seizure on the operation of the recipient party? Do they appreciate the potential cost to the litigants, of identifying or retrieving the requested information? What about inter-jurisdictional issues for multinational companies? How does an applicant convince a court that search and seizure is appropriate and that the threshold has been met unless they can answer some of the questions as set out above?

- Initial thresholds - a moving target, each case is different
- Privilege: an ongoing and over arching concern
- Factors to consider in crafting an order: costs, complexity, inter-jurisdictional concerns, risk of loss of relevant information
- Post seizure: why it is important to get back to court as soon as possible to have the courts direct future actions; failure to do so may be putting your case at risk

Honourable Justice J.E. (Ted) Scanlan, Supreme Court of Nova Scotia, (Canada)

Appointed to the Nova Scotia Bar – 1980. Appointed Queens Counsel (Federal) – 1992. Appointed to the Supreme Court of Nova Scotia – 1993. Appointed Deputy Judge Nunavut Court of Justice – 2002. Chair of the Nova Scotia Supreme Court Data Base Committee. Chair of the Nova Scotia Supreme Court Semi-Annual Education Conference Committee. Member of Sedona Canada discussion and planning group. Member of Sedona Canada Editorial Board for Sedona Canada Principles.

12:20 – 12:45 The Search And Seizure Of Digital Evidence For Criminal Proceedings

This paper seeks to examine the emerging frontier of using digital evidence in criminal proceedings. The use of digital evidence must be examined from its creation, storage, retrieval and use in criminal proceedings. The methods of obtaining digital evidence raise issues of privacy, human rights and rules of procedural fairness that must be balanced with the public interest in obtaining a fair trial. The categorization of digital evidence must relate to how such evidence is created and retrieved and not necessarily to how existing tools operate and investigations are conducted.

- Procedural fairness
- Admissibility
- Authenticity
- Reliability
- Acceptance

Charles Leacock, QC, Director of Public Prosecutions, (Barbados)

Charles graduated from the Hugh Wooding Law School, Trinidad and Tobago in 1983 with the Certificate of Legal Education, having previously obtained the LL.B (Hons) degree in law from the University of the West Indies (Cave Hill Campus) in 1981. In 1993 he was awarded the LL.M degree in Criminal Justice from the University of London. An attorney-at-law for over 20 years, he was called to the Inner Bar in 2001. In 1997, Mr. Leacock was the youngest person to date to be appointed to the post of Director of Public Prosecutions in Barbados.



12:45 – 13:00 Any Further Questions

13:00 – 14:15 Lunch in the Drawing Room

14:15 Please Rejoin Plenary Sessions in The Hall

How the Future Is Going To Shape The Way Lawyers Deal With Digital Evidence? (14:15 – 15:45 Panel session)

Esther George, Senior Policy adviser, CPS HQ Policy Directorate (UK)

Esther specialises in Internet and computer enabled crime, digital evidence and data protection. In January 2002 Esther became the project manager for the CPS High-Tec Crime Project. A Senior Crown Prosecutor at Casework Directorate for three years, Esther dealt with a varied casework portfolio including extraditions, mutual legal assistance, Internet and computer crime, police complaints, corporate manslaughter, and other serious cases.

Janet Day, IT Director, Berwin Leighton Paisner (UK)

Janet is involved in setting the IT strategy for the firm and works closely with partners and fee earners in developing client-facing solutions. Janet qualified with the Institute of Personnel Management and completed an MBA specialising in competitive advantage in the legal profession.



Michael Colao, Global CISO & Director Information Management, Dresdner Kleinwort (UK)

Michael has been with Dresdner Kleinwort since 1999. He is the Director of Information Management. This role means that Michael is both the Global Head of Information Security for the Bank as well as the Global Head of Data Protection and Privacy. He has a strong side-interest in computer forensics and in the management of digital evidence.



Peter Warren, Freelance Journalist Specialising in Technology, Undercover Investigations & Science Issues (UK)

Former technology editor of Scotland on Sunday & the Sunday Express and an associate producer for BBC2, Peter has worked across a variety of media, including the Guardian, the Daily Mirror, Evening Standard, the Sunday Times, the Sunday Express, Sunday Business, Channel 4, Sky News, the BBC & specialist magazines. He has also advised a number of PR agencies on their technology clients.

Professor John Walker, CTO, Secure-Bastion,

Visiting Professor of Science & Technology, School of Computing and Informatics at Nottingham Trent University, & Former Head of Operational Security, Experian (UK)

John is the owner and CTO of Secure-Bastion Ltd, a specialist Contracting/Consultancy in the arena of IT Security and Forensics. He is also actively involved with supporting countering eCrime, eFraud, and on-line Child Abuse. John is a practicing Expert Witness in the area of IT, and is a Visiting Professor of Science and Technology at the School of Computing and Informatics at Nottingham Trent University.

15:45 Closing Comments

16:00 Close of Conference

Conference Venue – Vintners' Hall

With its origins steeped in the history of the City of London, and the import, regulations and sale of wine, the Company continues to maintain strong links with the UK Wine Trade, with Vintners' Hall known as the Trade's "spiritual home". With its trade, social, charitable and educational interests, the Company continues to play an important role in the 21st Century. The site of the Hall was vested in the Company by the will of Guy Shuldharn in 1446. The Hall itself was burnt down in the Great Fire of London. Rebuilding began almost immediately and the Court held its first meeting in the new building in 1671. There is still some late seventeenth century carvings in the Hall, where the main conference will take place.



Vintners' Hall is located next to Mansion House tube station, and the recommended accommodation is only a 10 minute walk away across the bridge. Please see the back page for further accommodation details.

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Computer Crime Research Centre (CCRC) is a non-profit organisation, which conducts research on the problems of computer crime and cyber terrorism. The mission of the CCRC is to warn about unlawful acts involving computers and information technologies. The web site of CCRC www.crime-research.org provides daily updated news about online threats and regular articles column. CCRC also support a discussion forum about online fraud.

British Computer Society (BCS) Established in 1957 BCS is the leading body for those working in IT. With a world-wide membership now over 58,000 members in over 100 countries, BCS is the qualifying body for Chartered IT Professionals (CITP). BCS was incorporated by Royal Charter in 1984. Its objects are to promote the study & practice of computing & to advance knowledge of & education in IT for the benefit of the public. BCS is also a registered charity.

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Conference Day One - Thursday 26th June 2008

08:30 Coffee & Registration in the Drawing Room, Vintners' Hall

08:45 – 09:00 Chairman's Introduction

Stephen Mason, Barrister & Editor, Digital Evidence and Electronic Signature Law Review & Associate Senior Research Fellow, Institute of Advanced Legal Studies

Stephen is also a Visiting Research Fellow, Digital Evidence Research at the British Institute of International and Comparative Law, and a member of the IT Panel of the General Council of the Bar of England and Wales. In 2007 he prepared a training film on electronic signatures for the Judicial Studies Board. Stephen is the general editor of *Electronic Evidence: Disclosure, Discovery & Admissibility (Lexis/News Butterworths, 2007)* and *Electronic Evidence (British Institute of International and Comparative Law, 2008)* and the author of *Electronic Signatures in Law (Tottel, 2nd edn, 2007)* and *E-Mail, Networks and the Internet: A Concise Guide to Compliance with the Law (xpl publishing, 6th edn, 2006)*.



09:00 – 09:30 Opening Speech

Keynote Speaker to be announced

Digital Evidence: Integrity, Trustworthiness and Reliability (09:30 – 11:00 Sessions)

09:30 – 09:50 Authenticity of E-Mail Correspondence in a Recent Icelandic Case

In an Icelandic criminal case, which is likely to be concluded with the judgment of the Supreme Court at the date of the conference, charges were to a large extent based on e-mail correspondence, the authenticity of which was challenged by the defendants. The presentation will examine the technical details of the case and, hopefully, discuss the final judgment.

- Summary of the technical details of the case
- The police investigation, seizure and investigation of electronic evidence
- Proceedings before the Icelandic courts
- Challenging the authenticity of the electronic evidence
- The final judgment?

Gunnar Þór Þórarinnsson, District Attorney, Attorneys at Hofdabakki (Iceland)

As an associate with Attorneys at Hofdabakki for six years, Gunnar was involved in high profile cases in Iceland as well as working in corporate law. He received his law degree in 2001 from the University of Iceland and is currently pursuing an LL.M degree in the London School of Economics and Political Science. He has written articles on electronic evidence and electronic government in Iceland and abroad.



09:50 – 10:10 The French Law of Digital Evidence

Under the French law, digital evidence must fulfil two conditions: integrity of the document and identification of the author. A variety of questions can be considered, such as: What are the reference texts? Who drew up these regulations? What difficulties arise for their actual application? What is the Tribunals' response to digital evidence? In practice, three main issues arise in relation to digital evidence:

- The technical means to insure its reliability (the market supply)
- The legal standards to insure its trustworthiness (the legal demands, which are often disproportionate)
- How to preserve in a long term both previous requirements (digital archiving, the core issue in digital evidence)

Parallel Session A: The Role and Nature of the Digital Evidence Specialist

11:30 – 12:10 How "Expert" Can an Expert Witness Be?

Fingerprints are fingerprints. Science has improved investigation techniques but, fundamentally, it is the presence or absence of a specific print in a specific location that is the evidence. Something that is not so easy to do in the digital world. You do not expect a fingerprint expert to comment on ballistics, so how much should we expect from a "computer forensics expert"?

- The rate of change in the digital domain is accelerating
- Can a single computer forensic expert keep up or be expected to know enough?
- Is it wise to rely on software tools that, inherently, are prone to error?
- How much of the process of forensic examination can be relied upon?
- How do we prepare for the future of digital forensics?

Andrew Sheldon, Director and Principal Consultant, Evidence Talks Limited (UK)

Andrew holds a Masters degree in Forensic Computing from the Royal Military College of Science at Cranfield University. He has specific expertise in computer forensics dating from 1993 coupled with an in depth knowledge of e-discovery and e-disclosure issues.



12:10 – 12:50 Certification, Registration and Education of Digital Forensic Experts

- Expert roles in different jurisdictions
- Meetings between experts
- Novel scientific evidence issues
- Digital forensic examination, privilege and inextricable linking

Peter Sommer, Visiting Professor, Information Risk and Security, Department of Management, London School of Economic and Political Science (UK)

Peter Sommer is a Visiting Professor in the Information Systems Integrity Group in the Department of Management at the London School of Economics and also a Visiting Senior Research Fellow, Faculty of Mathematics, Computing and Technology, Open University.

12:50 – 13:00 Any Further Questions

Parallel Session B: Some Practical Issues Faced by the Digital Evidence Specialist

11:30 – 12:00 Diving into Magnetic Stripe Card Skimming Devices

Millions of transactions take place at terminals based on magnetic stripe card readers, such as ATMs, POS terminals and petrol pumps. The lack of secure systems have opened up opportunities for skimming devices. This presentation will cast some light on forensic examinations of such cases.

- How magnetic stripe cards and skimmers work
- Examinations and analyses of skimming devices
- Possibilities, intelligence information, technical proof

Johnny Bengtsson, Engineer, National Laboratory of Forensic Science (Sweden)

Johnny Bengtsson belongs to the Computer group at the Swedish National Laboratory of Forensic Science. SKL. His role is to develop new methods within the field of computer forensics and to perform analyses of electronic devices with unknown functions.



12:00 – 12:30 Digital Forensics in Malaysia

Previously, evidence adduced in the court of law would be physical evidence, mostly documents tendered to support a case. In certain circumstances, the maker of the document will be called to testify on the authenticity of the documents. With the emergence of computers and the advancement of information technology, not only computer generated evidence is tendered, but the computer itself can be adduced as evidence in the court of law. In such circumstances, a digital evidence specialist is needed to provide expert opinion to the court with regards to the digital evidence adduced.

- The laws at present relating to admissibility of digital evidence in Malaysia
- The role of CyberSecurity Malaysia in facilitating the court with digital evidence

Aswami Fadillah Mohd Ariffin, Head, Digital Forensic, CyberSecurity (Malaysia) and Izwan Iskandar Ishak, Senior Executive, Strategic Policy & Legal Research, CyberSecurity (Malaysia)

12:30 – 13:00 Misinterpretation and Misrepresentation: The Potential Misuse and Abuse of Digital Evidence

The session will examine how data may be misconstrued or wrongfully presented in evidence. Notable in recent cases has been the tendency for experts to assert the theoretical functionality or interaction of software and hardware without actually testing the underlying materials, which has on occasions led to seriously misleading and erroneous conclusions being represented as fact.

- Misleading the court: deliberately or inadvertently
- Flawed analysis: common failures in the analysis of digital evidence
- Breaks in the evidential chain
- Contamination of evidence
- Ground rules for admissible and probative evidence

Edward Wilding, Chief Technical Officer, Data Genetics International Limited (UK)

Mr. Wilding has served as an expert witness for the prosecution and the defence in criminal cases, at employment tribunals, in civil litigation and at official hearings including the Hutton Inquiry into the death of Dr David Kelly CMG. His previous book, "Computer Evidence. His latest book "Information Risk and Security" was published by Gower in March 2006.



13:00 – 14:00 Lunch in the Drawing Room

Searching for Evidence and Dealing With the Clashes That Accompany Digital Evidence (14:00 – 15:15 Sessions)

14:00 – 14:30 The Incompleteness Problem in Searching For Relevant Electronic Evidence: Some Fuzzy Thoughts On Keywords and Their Limitations

In U.S. federal courts, an emerging litigation issue has become the extent to which parties can and should use specific forms of "search protocols," involving keywords, Boolean operators, and other forms of concept searching, as part of civil discovery. Drawing on the work of The Sedona Conference®, the speaker will highlight the limitations of existing search methods and will discuss current research on known alternatives.

- A need exists for lawyers to re-examine certain assumptions they make about the efficacy of existing search methods in finding relevant electronic evidence.
- Reliance on simple keywords as the sole means for searching through large electronic data stores has known limitations in producing hugely inefficient and ineffectual searches.
- The US Federal Rules of Civil Procedure are changing the manner in which lawyers are strategically approaching the search problem in litigation, including consideration of more collaborative approaches.
- New research in the area of text retrieval points to alternatives based on fuzzy logic, concept searches, and other forms of statistical techniques, that should be seriously considered for use in litigation involving a substantial volume of electronic evidence.

Jason R. Baron, Esq., Director of Litigation,

U.S. National Archives and Records Administration (U.S.)

Mr. Baron is Director of Litigation at the U.S. National Archives and Records Administration, and a former trial attorney and senior counsel at the U.S. Department of Justice. He currently serves as Editor-in-Chief of The Sedona Conference® Best Practices Commentary on the Use of Search and Information Retrieval Methods in E-Discovery.



Philippe Bazin, Avocat, Emo Hébert & Associés, Mont-Saint-Aignan (France)

Philippe Bazin, 55 years old, is a French lawyer, member of the Law Bar Association of Rouen and Le Havre, www.emo-hebert.com. He is also a member of the Association pour le Développement de l'Informatique Juridique (Association for the development of computer laws), www.adj.fr where he conducts courses on digital archiving and digital evidence practices. He is the author of an e-learning module, devoted to digital evidence, www.lexbase.fr



10:10 – 10:30 Digital Evidence: Integrity and Probative Value

The purpose behind this presentation is to assess how electronic evidence co-exists with the traditional rules of evidence, including the best evidence rule, and the rules avoiding superfluous materials. More importantly, the weight to be given to assessing digital evidence and the burden of proof within the context of the general rules of civil procedure.

- Brief overview of Malta's common law background in civil evidence
- The realities and practicalities of ensuring that civil digital evidence satisfies the criteria of quality and trustworthiness of evidence
- What weight and importance to attribute to civil digital evidence
- Burden of proof, moral certainties and balance of probabilities with digital evidence
- How civil digital evidence fits within the evolution of the well tried and tested traditional rules of civil evidence

Dr Patrick J Galea, Advocate, Patrick J Galea & Associates (Malta)

Patrick was admitted to practice in 1982. His main areas of activity include commercial litigation and arbitration, corporate work in all aspects, intellectual property and competition, and information technology, construction industry, planning regulation financial services with particular reference to the Banking sector, Leisure, travel, tourism and timeshare industry.

10:30 – 10:50 Cross-Border Electronic Notarial Documents

Electronic signature verification is a fine technological showpiece, but how can you really be sure that this document really comes from the person that is shown in the certificate? If the electronic document purports to be a notarial one, how can one be sure (in a court or elsewhere) that it comes from a notary that is lawfully in office in his or her own country? What if a document is signed with an expired certificate, but you can not be sure if the certificate had expired or when the document was executed? We asked ourselves such questions when we created the IVTF platform, and the (tentative) answers we gave is the subject of this presentation.

- Different electronic signature formats and legal frameworks
- Whether we need standards or tools
- E-Legalisation and e-Apostilles
- Are we building a new Tower of Babel?

Dr. Ugo Bechini, Civil Law Notary, President, Comité Francoitalien du Notariat LP (Italy)

10:50 – 11:00 Any Further Questions

11:00 – 11:30 Morning Coffee Break in the Drawing Room

Please Select Parallel Sessions A or B (11:30 – 13:00 Sessions)

14:30 – 15:00 Digital Evidence and Employment Relationships in Belgium

The presentation will consider the legal value before Belgian courts of digital evidence where an employee, contrary to the prohibitions set out by the employer, uses information technology at work improperly, and where the digital evidence is collected in violation of the law of privacy.

- Applicable principles regarding privacy at work in Europe and in Belgium
- How to respect privacy law with regard to employment relationships
- How to collect digital evidence whilst respecting the privacy of the employee
- The legal value of evidence obtained against the privacy law in Belgium

Romain Robert, Attorney, Dewolf & Partners, Brussels (Belgium)

Romain is specialised in Information Technology law and Intellectual Property related issues. A Member of the Brussels Bar since 2002, he deals with several IT matters such as : IT contract drafting, telecommunication law, internet law, electronic commerce, data protection, both in legal counselling and litigation.

15:00 – 15:15 Any Further Questions

15:15 – 15:40 Afternoon Tea Break

Please Select Parallel Sessions A or B (15:40 – 17:00 Sessions)

Parallel Session A: The In-House Conundrum, When To Call In An Outside Digital Evidence Specialist Or Call The Police

15:40 – 16:20 Models of Investigation and Processing of Digital Evidence

The presentation considers the range of problems that are unique to collecting evidence in cyberspace and deals with a number of possible investigative models and the subsequent processing of evidence. Consideration will be given to developing new standards for the collection and processing of digital evidence; data archiving and the storage of data and devices.

- Collecting evidence in cyberspace
- New methods of investigation
- Data archiving
- Storing of devices

Dr. Zdenek Blazek, Security Manager, IT Products Group Leader and Assistant Vice-President, Commerzbank AG (Czech Republic)

Dr. Blazek, PhD, CISM worked as an Assistant Professor at The Czech Technical University III 1995. This year he joined Commerzbank AG Czech Republic and Slovak Republic as the Head of IT, IT Security and IT Products. Mr. Blazek is also working as an independent consultant in his private enterprise. He is a member of ISACA and ITSMF.



16:20 – 17:00 Caught In The Middle: Whether United States Companies Seek Help Through The Private Or Public Sectors When They Find Themselves As Victims Of Information Technology Abuse

When people abuse computers and computer networks, the victims are put in the unenviable position of trying to ascertain where they should look for help. In the United States, the victims usually have to choose between whether they should hire private consultants or go to the police to seek justice. This session will explore the practical and legal implications of their choices in the United States, whilst touching on international scenarios.

- Search and seizure v electronic discovery
- United States evidentiary concerns
- International Cybercrime

Joseph J. Scherwa IV, M.S., J.D., Associate Professor of Business Law; Owner, TraceEvidence, LLC (U.S.)

Mr. Scherwa has the unique experience of having served in both the private and public sectors for several years. His primary responsibilities lie with his position as an Associate Professor within the Department of Business and Economics at California University of Pennsylvania. While not teaching, Mr. Scherwa concentrates on his computer forensics, privacy, and e-discovery consulting business, TraceEvidence, LLC.



Parallel Session B: Civil Disclosure And Reasonableness, Sanctions For Deliberate Destruction And The Tests To Be Applied

15:40 – 16:20 Key Contributions

Senior Master Whitaker, Senior Master of the Supreme Court of England and Wales, Queen's Bench Division, Royal Courts of Justice & the Queens Remembrancer (UK)

A former barrister, Senior Master Whitaker has been one of the judicial members of the Civil Procedure Rules Committee of England and Wales since 2002 and is also a member of one of the judicial advisory groups advising the Secretary of State on the use of Information Technology in the Civil and Family courts. He was trained as a Mediator by CEDR in 2003 and is an editor of Thomson's Civil Procedure (The White Book). Master Whitaker is the Honorary President of the LIST Group.



16:20 – 17:00 Avoiding Disputes Regarding Electronic Evidence: A U.S. Perspective

Many disputes involving electronic evidence are easily avoided and involve evidence that, in the end, the requesting party might not find desirable to have. The latter situation often occurs where the requesting party asks for extensive information that proves useless or cannot economically be managed and searched. Generally, better electronic document requests are more targeted at focusing on a specific time period and communications involving individuals of particular interest. Consideration will be given to:

- The nature of the request
- Formulating narrowly-tailored requests
- Talking to the opposing side
- A party's willingness to engage in such discussions in good faith is likely to prove helpful even if disputes later arise

Judge Francis M. Allegra, United States Court of Federal Claims, Washington, D.C. (U.S.)

Judge Allegra was appointed Judge of the United States Court of Federal Claims on October 22, 1998. He graduated from Borromeo College of Ohio, receiving a B.A. degree in 1978; he then attended Cleveland State University, receiving a J.D. degree in 1981. Judge Allegra formerly was a Deputy Associate Attorney General at the Department Justice, 1994-1998.

17:00 Summary and Close of Day One

18:30 – 19:30 Cocktail Reception, The Large Pension Room, The Honourable Society of Gray's Inn

19:30 - 21:30 Dinner,

The Hall, The Large Pension Room, The Honourable Society of Gray's Inn



Conference Day Two - Friday 27th June 2008

08:30 Coffee in the Drawing Room, Vintners' Hall

09:00 Chairman's Re-Opening

Stephen Mason, Barrister & Editor, Digital Evidence and Electronic Signature Law Review & Associate Senior Research Fellow, Institute of Advanced Legal Studies and Visiting Research Fellow, Digital Evidence Research, British Institute of International and Comparative Law (UK)

Obtaining Evidence in Other Jurisdictions: Practical Issues and Problems (Legal, HR, Data Protection, Cultural, Disclosure) (09:10 – 11:00 Sessions)

09:10 – 09:35 Evidentiary Issues in Finland

Finland is an example of a constrained operating environment when obtaining of evidence is considered. Due to strict privacy legislation, inappropriate procedures can subject a party obtaining evidence - even from his own systems - to criminal sanctions. The presentation discusses practical approaches, which can be used to obtain and preserve evidence while avoiding unnecessary liabilities in a constrained environment, covering:

- Fundamental issues
- Legislative framework
- Certain scandals
- Practical approach

Ismo Kallioniemi, Specialist Partner, Head of Corporate Criminal Liabilities Team, Hannes Snellman Attorneys at Law Limited, Helsinki (Finland)

Head of Corporate Criminal Liabilities Team, Ismo has advised clients in numerous criminal proceedings related to industrial espionage, copyright crimes, misappropriation and misuse of trade secrets, digital forgery and the like. Typically, these proceedings and related criminal investigations have involved massive amounts of digital evidence, such as source codes, logs, partially destroyed data and meta data.

09:35 – 10:00 Multi-National Corporations And The Treatment Of Digital Evidence In Litigation In China

- General principles for the admission of digital evidence created overseas
- Chinese rules of Civil Procedure regarding digital evidence
- The role of the digital evidence specialist in litigation proceedings
- The challenges to multi-national corporations in the information era

Chen Jihong, Partner, Zhong W & D Law Firm, Beijing (China)

Mr. Chen is also Co-Chairman of IT High-Tech Law Committee under All China Lawyers Association. Mr. Chen graduated from Chicago-Kent College of Law with high honor. His practice mainly concentrates in e-Commerce, High-tech law, cyber space law and telecoms law.



10:00 – 10:25 The Digital Economy - Where Is The Evidence? Theoretical And Practical Problems In Understanding Digital Evidence In Romania

The present legal framework and digital economy in Romania may sound like a well-working system. But the lack of real and adequate implementation of the framework, IT-related expertise and fear from some legal experts to understand the digital evidence may transform any legal-related problem into a nightmare for most of the new economy representatives.

- The digital economy in Romania and the legal framework – a short overview
- Implementing the legislation: institutional and practical problems and difficulties
- Practical cases that highlight the main problems
- Relevant IT expertise: level of information necessary for a judge to know about digital evidences, lack of independent experts

Bogdan Manolea, Executive Director, Association for Technology and Internet - APTI (Romania)

Bogdan Manolea has a legal background with considerable experience in the Law and IT&C. He runs the only Romanian web page dedicated to IT Law - Internet Laws - www.legi-internet.ro where he also regularly blogs about ITC & legal issues.



10:25 – 10:50 Get it or Forget it - Digital Evidence in the U.S.

Face it: we all are staring at our own digital incompetence. U.S. attorneys, courts, and agencies are as much in the dark as you (maybe more so). This session will aim to expose the secrets of modern web services. The challenges and opportunities in digital evidence will be considered, including mobile technology bring. Consideration will be given to online storage and whether it will break the evidentiary chain for most web investigations.

- Five things you MUST know about e-discovery and admissibility in the U.S.
- Hash or hack? Digital signatures, e-notarization, and software agents
- Who turned out the lights? Web 2.0, social networking, and user-centric identity
- The rise of rich internet applications

Daniel W. Perry, Attorney, Former Judge, and a U.S. Civil-Law Notary (U.S.)

Daniel is an attorney former Judge, and a U.S. civil-law notary in the area of digital evidence and discovery international computer contracts and technology agreements. He is a frequent speaker/writer on computer law, data protection and privacy issues. He is General Counsel to Identity Commons, Inc., an organization for collaboration in digital identity metasytem.



10:50 – 11:00 Any Further Questions

11:00 – 11:30 Morning Coffee Break

Please Select Parallel Sessions A or B (11:30 – 13:00 Sessions)

Parallel Session A: Planning And Justifying The Search And Seizure Of Digital Evidence In Civil Proceedings

11:30 – 11:55 Key Contribution

In comparison to normal civil litigation, intellectual property matters tend to enjoy more pronounced measures that can ordinarily be used. Consideration will be given to the search and temporary seizure orders in respect of intellectual property matters, and Article 50 of the TRIPS Agreement will be considered, because intellectual property right holders often apply for search and temporary seizure orders to prevent infringement or to preserve relevant evidence under Article 50. The Thai Central IP&IT Court and outstanding procedures will be briefly outlined, as will the civil and criminal search order in the Thai Central IP&IT Court. Practical issues and statistics concerning search and seizure orders will be provided.

- Search and seizure of digital evidence in the Central IP&IT Court, Thailand
- Admissibility of digital evidence
- Search and temporary seizure orders to prevent infringement or preserve relevant evidence under Art. 50 of the TRIPS Agreement
- Some major procedures in the Central IP&IT Court
- Practical issues and statistics concerning search and seizure order

The Honourable Judge Jumpol Pinyosinwat, Presiding Judge, Central Intellectual Property and International Trade Court (Thailand)

Jumpol Pinyosinwat is the Presiding Judge of the Central Intellectual Property and International Trade Court of Thailand. He is also the Director of the Intellectual Property Research Center, ECAP II. He is the Honorable Advisor to the Committees on Independent Body Affairs of the Thai Parliament; Member of the Committee of the National Assembly on drafting various bills such as the Electronics Commerce Bill, Electronics Signature Bill, and Computer Crime, and an Adjunct Professor at the Law School of Golden Gate University, US and Adjunct Professor at the Law School of Bangkok University, Thailand.



11:55 - 12:20 Planning And Justifying The Search And Seizure Of Digital Evidence In Civil Proceedings

This session addresses the challenges faced when planning and justifying the search and seizure of electronic evidence. The session will particularly focus on the practical and legal issues arising in civil law jurisdictions, where the lack of discovery proceedings renders the search and seizure of electronic evidence even more complex than in common law jurisdictions.

- Planning the search and seizure of electronic evidence
- Precautionary measures in the advent of disputes
- Legal barriers arising from (limited) data storage requirements and privacy aspects
- Preliminary measures and enforcement
- Practical difficulties, experience and current trends

Dr. Henriette Picot, IT Practice Group, Bird & Bird, Munich (Germany)

Henriette Picot specialises in IT and IP law, with a particular focus on IT agreements (licensing, distribution, e-commerce professional services etc.), data protection and general corporate commercial matters. Henriette studied law at the universities of Freiburg, Seville and Dresden.

12:20 – 12:45 Obtaining And Preserving Digital Evidence In United States Federal Courts: Before, During And After The Litigation

This presentation will provide an overview of the types of evidence; a brief review of the Federal Rules; a brief overview of various local rules (survey); a discussion of the decision in Zubulake V; the most recent guidelines review (from the ABA guidelines); and the position post-Zubulake V.

Thomas M. Dunlap, Managing Partner, Dunlap, Grubb & Weaver, PLLC (U.S.)

Tom is the managing partner of Dunlap, Grubb & Weaver where his practice focuses on complex civil litigation in the areas of patent, copyright, trademark & commercial law in the United States Federal Courts.



12:45 – 13:00 Any Further Questions

An Invitation from MIS Training (a Euromoney Training Company) and Conference Partner and Chairman, Stephen Mason, Barrister, Editor of the Digital Evidence and Electronic Signature Law Review, Associate Senior Research Fellow, Institute of Advanced Legal Studies and Visiting Research Fellow, Digital Evidence Research, British Institute of International and Comparative Law (UK):

We are delighted to invite you to attend the dynamic inaugural **International Conference on Digital Evidence 2008**, convening on 26th and 27th June 2008 at The Vintners' Hall. With its origins steeped in the history of the City of London, The Vintners' Hall will make a wonderful setting for this important international conference.

Lawyers, judges, barristers, IT investigators, in-house counsel and digital forensics experts from all over the globe will present you with the most current and timely reports from around the world.

Why Should You Attend?

Digital evidence is set to become the dominant form of evidence in legal proceedings across the entire range of law and across jurisdictions, including crime, family, land law, formation of contract, employment, divorce proceedings. Judges and lawyers must rapidly do what they are best at: recognising that the world has changed, then adapting to those changes, whilst properly understanding the nature of the new world, to ensure they administer the judicial system properly and fairly, and demonstrate to clients and litigants that digital evidence is not some arcane new-fangled form of evidence that is best left to the future.

The future is with us now, and the special part taken by digital evidence specialists cannot be underestimated in the realm of digital evidence. It is crucial for judges and lawyers to take up the challenge and remedy their lack of knowledge by becoming familiar with the issues that experts deal with every day. The expertise of digital evidence specialists and in-house practitioners is central to digital evidence, which is why they are a firm part of this conference.

Don't Miss the Reception and Dinner at The Honourable Society of Gray's Inn!

The Reception and Dinner is an integral part of the conference and is included in your registration fee. It will take place in the beautiful and historic Hall of the Honourable Society of Gray's Inn. All Conference attendees and their guests are invited to attend.

Please tick the box to confirm your place at these functions. A memorable evening that will show off the unique and unexpected qualities of 'legal London' as the host city for the inaugural conference.



Book Offer for Early Registrations

MIS is hosting & developing the International Conference on Digital Evidence 2008 in partnership with, and under the guidance of, Stephen Mason, Barrister and Editor of the Digital Evidence and Electronic Signature Law Review.

Reserve Your Place before 1st May 2008 to receive Mr. Mason's book:

Electronic Signatures in Law (Tottel, 2nd edn, 2007) [This text covers 98 jurisdictions including case law from Argentina, Australia, Brazil, Canada, China, Colombia, Czech Republic, Denmark, Dominican Republic, England & Wales, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Italy, Lithuania, Netherlands, Papua New Guinea, Poland, Portugal, Singapore, South Africa, Spain, Switzerland and the United States of America].

Mr. Mason is also:

- Author and General Editor of *Electronic Evidence: Disclosure, Discovery & Admissibility* (LexisNexis Butterworths, 2007)
- General Editor of *Electronic Evidence* (British Institute of International and Comparative Law, 2008)



About MIS Training (Euromoney Training Group)

Founded in 1978, MIS Training Institute provides training courses, summits & conferences, & on-site training to professionals working in the areas of Information Security, IT Audit, e-Forensics, Compliance, Internal Audit, Fraud, Security & Governance. MIS has offices in the UK, Asia & the U.S.. MIS sits within the Euromoney Training Group, as a division of Euromoney Institutional Investor Plc (FTSE250). The group also includes Legal Media Group, Euromoney Legal Training, Euromoney Books, and other related legal services within the publishing and training community. Euromoney Institutional Investor Plc is part of the Daily Mail & General Trust (DMGT).

Euromoney Training Group is registered with the Law Society in London for CPD Hours. MIS Training Institute is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing education on the National Registry of CPE Sponsors, and CISSP Information Security CPE hours.

Who Will Attend...

Legal judges, barristers, general counsel / in-house lawyers, lawyers in practice

Technology heads of e-forensics / e-Crime; digital forensic specialists, chief information security officers, IT directors

Law Enforcement police officers, e-crime and e-forensics specialists

All professionals responsible for conducting investigations to the issues that surround digital evidence... from across the world

A prestigious speaker panel from across the globe (spanning over 17 different jurisdictions) will share recent experiences and cases in the important area of digital evidence, including:

Keynote Contributions

- **Senior Master Whitaker**, *Senior Master of the Supreme Court of England and Wales, Queen's Bench Division, Royal Courts of Justice & the Queens Remembrancer (UK)*
- **The Honourable Judge Francis M. Allegra**, *U.S. Court of Federal Claims (U.S.)*
- **The Honourable Judge Dr. Ehab Elsonbaty**, *Senior Judge, Damanhour Court (Egypt)*
- **The Honourable Judge Jumpol Pinyosinwat**, *Presiding Judge, Central Intellectual Property and International Trade Court (Thailand)*
- **Honourable Justice J.E. (Ted) Scanlan**, *Supreme Court of Nova Scotia (Canada)*
- **Charles Leacock, OC**, *Director of Public Prosecutions (Barbados)*

Esteemed Speakers

- **Esther George**, *Senior Policy adviser, CPS HQ Policy Directorate (UK)*
- **Andrew Sheldon**, *Director and Principal Consultant, Evidence Talks Limited (UK)*
- **Bogdan Manolea**, *Executive Director, Association for Technology and Internet (Romania)*
- **Chen Jihong**, *Partner, Zhonglun W&D Law Firm (China)*
- **Daniel W. Perry**, *an attorney, former judge, and a US civil-law notary (U.S.)*
- **Dr Patrick J Galea**, *Advocate, Patrick J Galea & Associates (Malta)*
- **Dr. Henriette Picot**, *IT Practice Group, Bird & Bird, Munich (Germany)*
- **Edward Wilding**, *Director, Data Genetics International Limited (UK)*
- **Gunnar Þór Þórarinnsson**, *District Attorney, Attorneys at Hofdabakki (Iceland)*
- **Ismo Kallioniemi**, *Specialist Partner, Head of Corporate Criminal Liabilities Team, Hannes Snellman Attorneys at Law Limited, Helsinki (Finland)*
- **Izwan Iskandar Ishak**, *Senior Executive, Strategic Policy & Legal Research, CyberSecurity (Malaysia) and Aswami Fadillah Mohd Ariffin, Head, Digital Forensic, CyberSecurity (Malaysia)*
- **Janet Day**, *IT Director, Berwin Leighton Paisner (UK)*
- **Jason R. Baron, Esq.**, *Director of Litigation, U.S. National Archives and Records Administration (U.S.)*
- **Johnny Bengtsson**, *Engineer, National Laboratory of Forensic Science, (Sweden)*
- **Joseph J. Schwerha IV**, *TraceEvidence LLC and Schwerha & Associates, Associate Professor, Department of Business and Economics, California University of Pennsylvania (U.S.)*
- **Michael Colao**, *Global CISO & Director Information Management, Dresdner Kleinwort (UK)*
- **Peter Sommer**, *Visiting Fellow, Information Risk and Security, Department of Information Systems, London School of Economic and Political Science (UK)*
- **Peter Warren**, *Freelance Journalist Specialising in Technology, Undercover Investigations & Science Issues (UK)*
- **Philippe Bazin**, *Avocat, Emo Hébert & Associés, Mont-Saint-Aignan (France)*
- **Romain Robert**, *Attorney, Dewolf & Partners, Brussels (Belgium)*
- **Ugo Bechini**, *Civil Law Notary, President, Comité Francoitalien du Notariat LP (Italy) & Chairman, International Verification Task Force, Brussels (Belgium)*
- **Zdenek Blazek**, *Security Manager, IT Products Group Leader and Assistant Vice-President, Commerzbank AG (Czech Republic)*
- **Thomas M. Dunlap**, *Managing Partner, Dunlap, Grubb & Weaver, PLLC (U.S.)*

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IMPORTANT INFORMATION - When registering for this conference please quote ref: **CCRC**

Conference Venue & Accommodation

Conference will Convene at Vintners' Hall

With its origins steeped in the history of the City of London, and the import, regulations and sale of wine, the Company continues to maintain strong links with the UK Wine Trade, with Vintners' Hall known as the Trade's "spiritual home".

Vintners' Hall is located next to Mansion House tube station. The Southwark Rose Hotel is only a 10 minute walk away across the Southwark Bridge.

Vintners' Hall, Upper Thames Street, London EC4V 3BG
Tel: 020 7236 1863, Fax: 020 7236 8177

www.vintnershall.co.uk

Where to Stay?

Since Vintners' Hall has no accommodation on site, MIS Training has arranged discounted rates at the following local hotels. The recommended hotel, where most of the speakers will stay is:

Southwark Rose Hotel

It is a pleasant 10 minute walk from the conference venue, across Southwark Bridge. £125 per night (single or double occupancy) www.southwarkrosehotel.co.uk

Limited rooms available at this price so please book early. Quote the conference name.

Further discounted rooms are available at the following Grange Hotels:

Grange Whitehall Hotel £120.00 + VAT, The Clarendon Hotel £120.00 + VAT

The Beauchamp Hotel £135.00 + VAT

Rates are exclusive of VAT and inclusive of service charge. Special Breakfast Rate of £10.00 (inc. VAT) per person per day.

When making your booking with a Grange Hotel, please quote: Digital Conference Group Allocation, Reference Number: 250608G and the name of the hotel you would like to stay in

This offer is only valid until 26th May 2008. We cannot guarantee availability & pricing after this date.



Reception and Dinner at The Honourable Society of Gray's Inn

The dinner and cocktail reception are an integral part of the event, and are included in your registration fee.

Please tick this box if you are able to join.

The Honourable Society of Gray's Inn - Thursday 26th June 2008:

18:00 – 19:30 – Cocktail Reception, The Large Pension Room

www.graysinnbanqueting.com/largepension.asp



19:30 – 22:00 – Dinner, The Hall

www.graysinnbanqueting.com/hall.asp

The fee for the two-day conference is £1,350 + VAT @17.5%

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5 Easy Ways to Register

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- CISO Executive Summit Middle East 2008, 12 - 14 May 2008, Sheraton Bahrain Hotel, Manama - Kingdom of Bahrain
- CISO Executive Summit & Roundtable 2008, 11 - 13 June 2008, Novotel Budapest Centrum, Budapest - Hungary
- 3rd Annual Audit, Risk & Governance Africa Conference 2008, 22 - 25 July 2008, La Palm Royal Beach Resort, Accra - Ghana
- Audit Risk & Governance Conference 2008, 28 - 31 October 2008, Paris - France
- 2nd Annual Chief Security Officer (CSO) Summit 2008, 3 - 5 December 2008, Geneva - Switzerland
- 3rd Annual Fraud & Corruption Summit 2008, 11 - 13 March 2009, Amsterdam

Further Information

Cancellation Policy: Should a delegate be unable to attend, a substitute may attend in his or her place. A credit card or refund, minus 10% administration charge, is available if written notification is received by 6th June 2008. Thereafter, no refunds will be given. MIS reserves the right to change or cancel this programme due to unforeseen circumstances.

Founded in 1978, MIS Training Institute is the international leader in providing training & conferences to information security, audit, fraud & IT audit professionals. With offices in the USA, UK, & Asia, MIS is a division of Euromoney Institutional Investor Plc (FTSE250) and is part of the Daily Mail & General Trust (DMGT). www.mistieurope.com

Book Offer for Early Registrations

Register by 1st May 2008 to receive a FREE copy of Electronic Signatures in Law (Tottel, 2nd edn, 2007) - Written by Stephen Mason

