

# CPD DAY

## Business and Commercial Law *Update*



PRACTICAL APPLIED LEARNING FOR IN-HOUSE LEGAL AND COMMERCIAL PROFESSIONALS

### HALF-DAY INTERACTIVE WORKSHOPS

#### MORNING

- **CONTRACT LAW UPDATE** – Understand how you can get out if things start to go wrong...
- **DATA PROTECTION UPDATE** – Essential guidance to avoid fines from the Information Commissioner
- **COMPETITION LAW UPDATE** – Recent developments in competition law and the practical implications
- **COMPANY LAW UPDATE** – Companies Act 2006 in practice and challenges for 2009 and beyond

#### AFTERNOON

- **IP LAW UPDATE** – Comprehensive coverage of the latest case law and current IP issues
- **EMPLOYMENT LAW UPDATE** – Essential update of developments in employment rights from the UK and Europe
- **IT CONTRACTING** – Learn how to manage problems before they become a crisis
- **CONTRACT NEGOTIATION SKILLS** – Negotiate win:win contract terms every time

KEEP UP-TO-DATE WITH RECENT CHANGES AND YOUR CPD REQUIREMENTS IN ONE-DAY!

#### THIS INCREDIBLY POPULAR ONE-DAY PROGRAMME

returns to update you with all the current issues facing in-house lawyers and commercial professionals in 2008. The flexible and unique format allows you to receive an in-depth briefing on the two key business and commercial law topics most relevant to YOU and YOUR organisation.

**A DAY OF TWO HALVES** – each session is accredited for 3 hours, a total of 6 hours possible per individual.

*'Friendly and intimate presentation. Very useful, opened my mind to a number of matters'*

David Hirst, Head of Legal Services, Sunderland University

# CPD DAY – BUSINESS AND COMMERCIAL LAW *Update*

In its 4th year this innovative programme delivers a practical update on the key challenges facing in-house counsel, legal advisors, contracts and commercial managers in a series of focused workshops delivered by leading experts in business and commercial law.

The flexible format allows you to select the two topics that are most pertinent to your role and organisation. The timely fully accredited workshops will provide you with a working tool-kit of up-to-date case law and current best practice for the busy lawyer to beat the end of the CPD year.

## HOW THE DAY WORKS

The day will comprise of eight, 3 hour sessions, split into series of morning and afternoon workshops, comprising of four key topic areas in each half day. Designed to be flexible, the CPD day allows participants to select a single half-day session, which is accredited for 3 CPD hours, or two sessions making up a full day accredited for 6 CPD hours.

## SCHEDULE OF THE DAY

**09:00** Registration

**09:30** Start of morning workshops

*A 15-minute refreshment break is scheduled at 11:00*

MORNING WORKSHOPS			
Contract Law Update	Data Protection Update	Competition Law Update	Company Law Update
PRESENTED BY			
Allen & Overy	Pinsent Masons	Clifford Chance	Herbert Smith

**12:45** Lunch

**13:30** Registration for afternoon workshops

**13:45** Start of afternoon workshops

*A 15-minute refreshment break is scheduled at 3:15 pm*

AFTERNOON WORKSHOPS			
IP Law Update	Employment Law Update	IT Contracting	Contract Negotiation
PRESENTED BY			
Charles Russell	Salans	Speechly Bircham	Falconbury Ltd

**17:00** CLOSE OF DAY

## DATE AND LOCATION

**30 September 2008**

CPD Day will be set in the Victorian splendour of the Charing Cross Hotel, in the heart of the West End and easily accessible by all major transport routes.

**The Charing Cross Hotel**

**The Strand**

**London WC2N 5HX**

**Tel: 020 7747 8470**

**Web: [www.guoman.com/charing-cross](http://www.guoman.com/charing-cross)**

## THE 6 KEY BENEFITS OF ATTENDING

- 1 TIMELY.** An ideal opportunity to ensure that you are up-to-date with your CPD requirements for the end of the CPD year.
- 2 SUBJECT.** Each subject area has been nominated by in-house and commercial professionals as a business law issue that they need to be fully versed in.
- 3 FLEXIBLE.** The option to gather 3 or 6 CPD hours depending on your requirements.
- 4 COST-EFFECTIVE.** From £250 per workshop the events are suitably priced for all training budgets.
- 5 EXPERTS.** Leading lawyers who specialise in these key business law areas will be presenting each half-day session and who will be happy to discuss any particular areas of concern with you.
- 6 OPPORTUNITY** to meet colleagues from other organisations throughout the day and learn from their experiences

## WHO SHOULD BE ATTENDING?

- Heads of legal departments
- In-house lawyers
- Legal advisors
- Company secretaries
- Private practice lawyers

And, all those who deal with these key areas in their day-to-day business role, including:

- Commercial directors and managers
- Contracts directors and managers

## CONTINUING PROFESSIONAL DEVELOPMENT

Each half-day module of the CPD Day qualifies for 3 CPD hours by the General Council of the Bar and will also be accredited for 3 CPD hours by The Law Society (CPD reference CSC/FALI). After completion of the module(s) you will receive a certificate of attendance stating the total hours acquired and the type of training you have completed.

## CONTRACT LAW *Update*

DELIVERED BY:  
Richard Farnhill, *Senior Associate*, Allen and Overy

It is demanding but essential for all commercial lawyers and managers to stay up-to-date on the key developments and new cases. It is not only important to be aware of the changes but it is also vital you understand how 'in practice' these changes will affect your organisation.

### PROGRAMME

#### SESSION 1 – REVIEW OF RECENT DEVELOPMENTS ON FORMATION AND VARIATION

When do you have a binding contract rather than merely a non-binding agreement?

- An overview of the rules on formation and what is required to show that an agreement has become a contract.
- The recent case of *Bear Stearns v Forum* (2007) on when, in the negotiating process, the court will find that a contract has come into existence.

- The need to show consideration and the current position on "practical" versus "legal" benefit.
- The ability of parties to vary contracts and the effect of a "no variation" clause.

### PRACTICAL EXERCISE

#### SESSION 2 – TERMINATION OF THE CONTRACT AND THE CONSEQUENCES OF BREACH

You have your contract in place, but how do you get out of it if things start to go wrong?

- An overview of the rules on termination pursuant to the contract and termination for repudiatory breach.

- The right to terminate for persistent breaches and the judgment of the Court of Appeal in *Alan Auld Associates Ltd v Rick Pollard Associates* (2008).
- The effect of clauses allowing termination for "fundamental", "material", "repudiatory" and "any" breach.

### PRACTICAL DRAFTING SESSION ON TERMINATION CLAUSES

**ALLEN & OVERY**

## DATA PROTECTION *Update*

DELIVERED BY:  
Rosemary Jay, *Partner*, Pinsent Masons

Data protection has become the hot topic of the moment. Every business needs to be able to understand and assess its risks in this area and put in place appropriate safeguards. This practical, focused session will cover current issues and place them in the wider context to ensure that you are able to deal with challenges as they arise. With the new provisions allowing the Information Commissioner to issue fines for breach of the law this is an essential briefing.

- A realistic, clear review of the basic rules
- Practical guidance on how to approach common issues facing clients
- An expert review of the current developments including the impact of the recent changes to the law and advice on how to avoid problems

### PROGRAMME

#### SESSION 1 – CORE ISSUES UPDATE

- Definitions – recent case law and guidance and how to apply them
- Individual rights – developments and application
- Principles – current approaches, including the use of Privacy Impact Assessments
- Overseas transfers

### PRACTICAL SESSION BACKED UP WITH WORKED EXAMPLES

#### SESSION 2 – SPECIFIC TOPICS

- Marketing by e-mail, post and telephone
- Security obligations
- CCTV guidance
- Monitoring employees



**Pinsent Masons**

## COMPETITION LAW *Update*

DELIVERED BY: Oliver Bretz, *Partner*, Samantha Spence, *Senior Associate* & Katharine Annesley, *Associate*, Clifford Chance

With recent reforms, and more on the way this interactive workshop presents an essential opportunity to find out more about recent developments in competition law and the practical implications for you and your organisation.

This programme includes group discussion, cases and exercises to enhance your understanding of recent developments in practice.

Key benefits to attending include:

- An update on competition law developments over the last year
- Gain an understanding of the practical effects of competition law enforcement
- Question experts and gain explanations and advice of direct relevance to your organisation

### PROGRAMME

#### RECENT DEVELOPMENTS IN UK AND EC COMPETITION LAW

- Article 81 developments
- Article 82 developments

#### RECENT DEVELOPMENTS IN MERGER CONTROL

- EC merger control developments
- UK merger control developments

### WORKSHOP

- Cartels and dawn raids
- Private enforcement
- Mock hearing

**C L I F F O R D  
C H A N C E**

## COMPANY LAW *Update*

DELIVERED BY:  
Simon Youdale, *Partner*, Herbert Smith

### The Companies Act 2006 – dealing with the 2008 commencements in practice, and a look forward to 2009

In this session we will be focusing primarily on the Companies Act 2006 provisions brought into force during 2008 and what actions should be taken to deal with them. It will also look forward to key issues for 2009. In particular, it will explain:

### PROGRAMME

#### SESSION 1

- Compliance in practice with the new duties of directors in relation to conflicts, including provisions in articles of association, the board approval process and dealing with subsidiary and joint venture companies
- The new accounting provisions – when and how they apply and what the transitional arrangements are
- The provisions on auditors, including requirements in relation to the appointment and resignation of auditors and the ability to enter into liability limitation agreements – what the rules are, what issues they raise and the process for putting an LLA in place

#### SESSION 2

- The new rules on capital maintenance, including the new route for reduction of capital by private companies, the repeal of the prohibition on financial assistance for private companies and the repeal of the rule on intra-group transfers in *Aveling Barford*
- The new rules on objections to company names and trading disclosures

- The changes in company administration, including execution of documents, company secretaries and share registers
- Planning for changes in respect of the 2006 Act across groups of companies

**Herbert Smith**

## IP LAW Update

DELIVERED BY: Jenny Pierce, *Partner*, Charles Russell and Hamish Corner, *Associate*, Charles Russell

Intellectual property law is evolving constantly, not least in order to keep pace with the creative ideas that it is intended to protect. This update will inform you of some of the most important recent developments in the major areas of IP and will help you to put them in context.

### PROGRAMME

#### TRADE MARKS

- Overview of the registration requirements with some recent cases
- Parallel imports – an update
- Developments in comparative advertising

#### COPYRIGHT AND DESIGNS

- Cases on scope of protection and infringement of designs
- A Whiter Shade of Pale and other high profile cases

#### PATENTS AND CONFIDENTIAL INFORMATION

- Overview of patenting software and business methods with update
- Contributory infringement and prior use

- Recent cases on breach of confidence
- Life science update on request

#### IP TRANSACTIONS

- More problems with consultants
- Licence or assignment – the Daleks



CHARLES RUSSELL

## EMPLOYMENT LAW Update

DELIVERED BY: Barry Mordsley, *Partner* and Andrea Nicholls, *Partner*, Salans

With employment law changing at an ever growing pace, it's important to keep on top of not only legislative and compliance requirements, but also the 'market practice'. This knowledge helps you to manage the risks associated with employees in a commercially sound manner, balancing best practice with cost and potential downside.

This programme will provide an essential update of developments in

individual employment rights from the UK and European case law. It is aimed to help you deal with some thorny areas which are now commonplace in many UK workplaces.

The workshop will use a blend of learning styles that will encourage interaction and allow you to learn not only from the experts but also the experience of other participants in the course.

### PROGRAMME

#### SESSION 1 – EMPLOYMENT LAW IN PRACTICE

- Dismissal – Unfair and wrongful
- Workplace disputes – resolution
- Performance management – practical ideas and legal pitfalls
- Age discrimination – nearly 2 years on...

#### SESSION 2 – EMPLOYMENT LAW IN PRACTICE

- General developments in discrimination, including maternity and disability
- Restrictive covenants
- Employee, workers and agency workers



SALANS

## IT CONTRACTING

DELIVERED BY: Robert Bond, Mark Bailey and Alexander Carter-Silk, *Partners* in the IP, Technology & Commercial Group, Speechly Bircham

### TACTICS AND TECHNIQUES FOR NEGOTIATING, DRAFTING AND MANAGING IT CONTRACTS

In this workshop Robert, Mark and Alex will explore a range of current issues affecting practices in negotiating and drafting IT contracts and in managing problems before they become a crisis and dealing with a crisis before it is a disaster. Using case studies and practical examples and materials they will ensure an interactive and practical session.

- Briefing on recent legal developments
- Tips and techniques for effective drafting and negotiating
- Best practice to avoid costly litigation

### PROGRAMME

#### SESSION 1 – IT CONTRACTING

- Preparing for negotiation
- Typical key terms and tactics
- Vendor and buyer positions
- Drafting the key clauses to achieve a win-win
- Building flexibility and longevity into the contract

#### SESSION 2 – IT CONTRACTING

- Third parties, insurers, joint liability with other contractors
- Choice of law and jurisdiction
- Mediation, arbitration and litigation
- Preventing an issue becoming a crisis and a crisis becoming a disaster (avoiding litigation)

SpeechlyBircham

## CONTRACT NEGOTIATION TECHNIQUES FOR LAWYERS

DELIVERED BY: Arun Singh OBE, Falconbury Ltd

Many deals are lost through poor negotiation skills. What may seem like an impasse can actually be turned into a successful closure for your organisation if your negotiation skills are strong enough.

This interactive workshop will deliver some core techniques and approaches for undertaking negotiations and how to manage them to successfully close a deal. Highlight the key areas that need to be focused on when specifically negotiating contracts to deliver a win:win situation.

### PROGRAMME

The session will include active participation in negotiation based on real-life scenarios

#### PREPARING FOR NEGOTIATIONS

- Proven tools and techniques
- Objectives – Slicing the pie or expanding the pie
- The myth of 'win/win'
- Creating value – long and short term
- Identifying your objectives and strategy
- Strategy variables – BATNA and ZOPA

#### NEGOTIATING IN TEAMS

- Roles
- Unity
- Charter

#### COMMUNICATION SKILLS

- Effective listening
- Effective telling
- Body language
- Silence
- Telephone and Internet

#### OFFERS

- Offers
- Counter offers
- Strategic anchors

#### SITUATION TACTICS OR PLOYS AND COUNTER-PLOYS

- Creating the right atmosphere
- Seating

- Threats/insults
- Interruptions
- Emotional appeals
- Making and reinforcing a final offer
- Encouraging closure



## CONTRACT LAW UPDATE

**RICHARD FARNHILL** is Senior Associate at Allen & Overy specialising in arbitration and dispute resolution. He has particular experience in contractual disputes and disputes involving insurance. Richard is qualified in England and New York and has practised in both jurisdictions. He is currently based in Allen & Overy's London office. Richard teaches the law of contract on a part-time basis at the University of London.

## DATA PROTECTION UPDATE

**ROSEMARY JAY** is a partner in the Outsourcing, Technology & Commercial Group of Pinsent Masons and is Head of the Information Law Team. She advises clients on privacy, data protection, human rights, access to information and related information law issues including rights of re-use. Prior to joining the firm, Rosemary headed the legal department at the office of the Data Protection Registrar. She is author of *Data Protection Law and Practice* (Sweet and Maxwell) and an editor of *The White Book*. She sits on the editorial board of the *Journal of Freedom of Information*, the Examination Committee of the ISEB/BCS Data Protection Certificate Board and is a member of the Fraud Advisory Panel's human rights and privacy group.

## COMPETITION LAW UPDATE

**OLIVER BRETZ** has been a partner in the European Competition & Regulation Group of Clifford Chance LLP since 2002. He specialises in EC and UK competition, regulatory and trade law, in particular mergers and acquisitions, joint ventures, cartels, distribution and licensing arrangements, state aid, public procurement, single market and WTO issues. He is a member of the firm's Global Cartel and Merger Taskforces. He speaks regularly at conferences and industry events and has written many articles on legal issues.

**SAMANTHA SPENCE** is a Senior Associate in the European Competition & Regulation Group of Clifford Chance LLP. She is experienced in EU and UK competition law, including the control of mergers and joint ventures, cartels and abuse of market power, sector inquiries and market investigations across a range of industry sectors and has also spent a year on secondment as an international counsel at a major US multinational. She is editor of Clifford Chance's *Antitrust Review Bulletin*.

**KATHARINE ANNESLEY** is an Associate in the European Competition & Regulation Group of Clifford Chance LLP. She has experience in EC and UK competition law, including mergers and acquisitions, joint ventures, cartels, distribution arrangements and market investigations.

## COMPANY LAW UPDATE

**SIMON YOUNDALE** is a partner in Herbert Smith's corporate division. He advises chiefly in the areas of M&A, corporate finance, corporate reconstructions and joint ventures. His credentials include advising BAT Industries on the disposal of its financial services business to Allied Zurich; advising Securicor on the £3.15 billion disposal of its interest in Cellnet to British Telecom and advising The Department of Trade and Industry on matters relating to the Royal Mail Group. Simon has frequently advised in relation to the reorganisation and refinancing of insolvent businesses. He also has extensive experience in the creation and negotiation of complex contractual arrangements.

## IP LAW UPDATE

**JENNIFER PIERCE** is a partner in the London office of Charles Russell LLP, specialising in IP, IT and related competition law in an international context. She deals with the full range of issues relating to all intellectual property, more especially in the context of transactions for clients ranging from start-ups to multinationals in a variety of industries.

**HAMISH CORNER** is an associate at Charles Russell LLP specialising in non-contentious IP and IT law. He acts for numerous technology clients and is also a member of the firm's Sports & Leisure Group, acting for a variety of sports teams and clubs, hotel and restaurant chains and fashion goods retailers.

## EMPLOYMENT LAW UPDATE

**BARRY MORDSLEY** is a partner in the London office of Salans and Head of the Employment Department where he concentrates on employment law and connected matters. He works in all areas of employment law, providing strategic, tactical and commercial advice, using his considerable experience and knowledge aided by his being a Chairman of Employment Tribunals since 1984. Barry also has experience of company and partnership law, which can often be useful. He has acted in many important cases, including a recent whistle-blowing claim and collective redundancy and various discrimination cases. He is chair of the Discrimination and Gender Equality Committee of the International Bar Association, which further assists his discrimination practice and provides international connections.

**ANDREA NICHOLLS**, is a partner in the London office of Salans, specialises in employment law advising on complex disciplinary and grievance processes, large scale restructures and redundancies, TUPE, sex/race discrimination, equal pay, whistle-blowing and restrictive covenant. She also has regularly lectured to other lawyers on senior executive dismissals and board room disputes. Andrea's advice is practical and commercial, and clients praise her problem solving approach. Andrea writes regularly for national newspapers and HR journals and makes frequent appearances on radio and TV.

## IT CONTRACTING

**ROBERT BOND** is Partner and Head of IP, Technology & Commercial at Speechly Bircham in London. A notary public of England and Wales, Robert specialises in intellectual property law, advising businesses, large or small, on identifying, protecting and commercialising their intellectual property interests. His clients include multinationals who he advises on a range of IT and commercial contracts and EU regulations. Robert's work encompasses IT contracts, outsourcing, internet law, franchising and general commercial law. His particular areas of specialist knowledge include legal issues for the computer games and gaming sectors, data protection and information security.

**ALEXANDER CARTER-SILK** is a partner in the London office of Speechly Bircham where he advises on contentious and non-contentious intellectual property and technology matters. He advises suppliers and their insurers on recovering failed or failing technology projects, including large scale IT projects. Alex has significant experience investigating and reporting on the causes of project failures leading teams of lawyers and IT technology specialists in the resolution of complex high value litigation mediation and arbitration.

**MARK BAILEY** is an experienced IT, technology & commercial partner for Speechly Bircham who advises in relation to software licensing, OEM/reseller agreements, consultancy and professional services agreements, hosting agreements, internet/e-commerce issues, data supply agreements and outsourcing/ASP arrangements. Mark also works on commercial agreements including distribution, agency, supply/reseller and manufacturing agreements, franchising, terms and conditions of sale and purchase, consumer credit issues and product liability/defective products. Mark works with entrepreneurs, technology companies, universities, university spin-outs, public authorities and financial institutions.

## CONTRACT NEGOTIATION SKILLS

**ARUN SINGH OBE** is an international lawyer at Grundberg Mocatta and Rakison LLP. He was formerly a partner and Head of Commercial Law at KPMGLegal. Arun is cited and ranked in Chambers Guide of the World's Leading Lawyers. He concentrates on international investment, joint ventures, licensing of technology, research and development, M&A, energy, outsourcing and corporate governance in developed and emerging markets. He also handles international legal risk management matters. Arun advises a range of international organisations. He is a Senior Associate at Oxford University's Institute of Legal Practice and has taught international negotiations at the University of Cambridge.

