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Digital Technology

2019 Technology + The Law Symposium Recap

Many futurists predict technology and society will change more between 2000 and 2050 than the previous century.

So began Michael Best & Friedrich LLP Raleigh Office Managing Partner Tony Biller's opening remarks at the 2019 Technology + the Law Symposium. While the accelerating pace of change creates opportunities for innovators, entrepreneurs and business leaders, the legal system was designed to evolve more deliberately – and is struggling to keep up. From artificial intelligence (AI) to cryptocurrency to cannabis products, innovators across technologies and industries are straining against the inherent sluggish pace of the law.

“That is why we're here today,” Biller told attendees, hosted by Michael Best in conjunction with Duke University's Office of Licensing & Ventures, “to explore the ways we can challenge ourselves to best facilitate that continued evolution.”

Thought leaders from academia, technology, business and law assembled for the day-long symposium on Duke's campus to share insights, exchange perspectives and to contemplate the difficult questions facing a world where the pace of change is dizzying, with no slowdown in sight. Speakers and panelists delivered a wealth of wisdom and knowledge covering how the law and technology are evolving separately and impacting each other as they do. Here is a sampling of the day's insights:

- The **pace and scope of technological advancement** might force a reckoning in the very structure of the legal profession. Historically, the legal profession has been organized in well-defined silos, forcing large organizations to employ highly specialized attorneys focusing on discrete areas. With the proliferation of technology-driven products and service-lines and the massive amounts of data ingested and generated by those products, organizations require inside and outside legal

counsel with a broad experience and knowledge based which cuts across longstanding verticals.

- Intellectual property law is not organized to adequately protect the vast amounts of information being generated and stored on The Cloud, and its capitalization. One prime example is AI – **it's not clear whether the conclusions and other outputs from AI can be patented** – and even if they can, violations of those patents won't be necessarily detectable, rendering patent protections as they currently stand impotent, to say the least. This begs the question: do we have the right legal tools to protect what's being created?
- There is a continued **lag in diversity in the innovation economy**. To start making strides towards equality in the upper levels of the workplace, innovators and business leaders need to provide meaningful mentorship, focus on inclusion in both professional and social settings, publicly commit to diversity and inclusion goals, and provide a steady stream of honest, constructive feedback as diverse professionals move forward in their technology-driven careers.
- **Innovators in healthcare** should work diligently to educate regulators, legislators and other officials at the state level on how their innovations work and how they'll benefit the public. A panel covering the intricacies of launching a healthcare startup revealed the average tenure for state Medicaid directors is 18 months, and few who take the job have any understanding of the universe of healthcare innovation. Given this environment it is imperative for innovative companies to proactively pursue government-relations strategies which will drive public officials to more informed decisions.
- The tension between ingenuity and the analog legal system is on full display in **cryptocurrencies and their regulations**. While the industry has become increasingly sophisticated and is beginning to shake its "Wild West" reputation, innovators in the cryptocurrency space face a head-spinning array of regulation at the state and federal levels. As with the healthcare industry, innovators must maintain robust dialogues with regulators – and be prepared to jump through burdensome and seemingly endless regulatory hoops.
- Innovation, change and the impact on law is particularly prevalent in the **burgeoning cannabis industry**. The exploding popularity of CBD oil and related products has outstripped regulation of the hemp-derivative's production, while medical and recreational marijuana legalization is becoming more common across the U.S. The cannabis industry is rife with challenges, including federal regulations which continue to block cannabis entrepreneurs' access to the banking system. However, entrepreneurs in the space are unlikely to be daunted and will continue to push ahead – while both scientific researchers and policymakers scramble to catch up.
- By contrast, in the **privacy & cybersecurity arena**, rule-makers, regulators and other officials have stepped into a leadership role. However, while the system and private-sector have made great strides, the pace of innovation and the reliance on Cloud-based platforms for all aspects of modern life, will continue to create risks faster than regulators and business leaders can plan for them.

Attendees also heard insights on AI-generated content and the impact of Surveillance Capitalism, additive manufacturing and drug pricing, and got a raucous overview of recent developments in patent law – including a federal circuit ruling which could invalidate hundreds of rulings by the Patent Trial and Appeal Board.

With so much at stake and with new technologies and innovations coming to market on a nearly daily basis, it's vital that business and technology leaders continue to gather in forums to exchange ideas and hear from the innovators and thought leaders who are on the front lines – and they engage with outside counsel and consulting services which focus on forward-looking solutions which account for the rapid pace of change.

While this year's attendees heard plenty of reasons to be encouraged about what's ahead, it's clear an equally challenging set of issues and questions awaits them at the 2020 Technology + Law Symposium.