

THE OSGOODE CERTIFICATE IN NEGOTIATING & DRAFTING IT AGREEMENTS

ONLINE & IN-PERSON PROGRAM

- 2 Online Primers (Available On Demand)
- 3 One-Day Modules (In-Person or Webcast)
March 7 – April 12, 2019
- One-Day Skills Workshop (In-Person Only)
May 14, 2019

Do you have the skills and knowledge you need to confidently negotiate and draft IT agreements?

Join 25+ expert legal and IT specialists in this innovative and intensive course. You'll get a deep dive into the essential aspects of structuring, negotiating and drafting IT agreements, including:

- Fundamentals of IT system components, players and activities, includes allocating liability and managing security, compliance and privacy issues
- Crucial drafting tips and advanced negotiation strategies and tactics
- Key IP issues that affect IT agreements
- Critical cross-border considerations, emerging issues and technology trends
- **PLUS!** Get personalized feedback, gain essential skills and practical strategies through learn-by-doing drafting and negotiating workshops

Register today at:

osgoodepd.ca/it-agreements

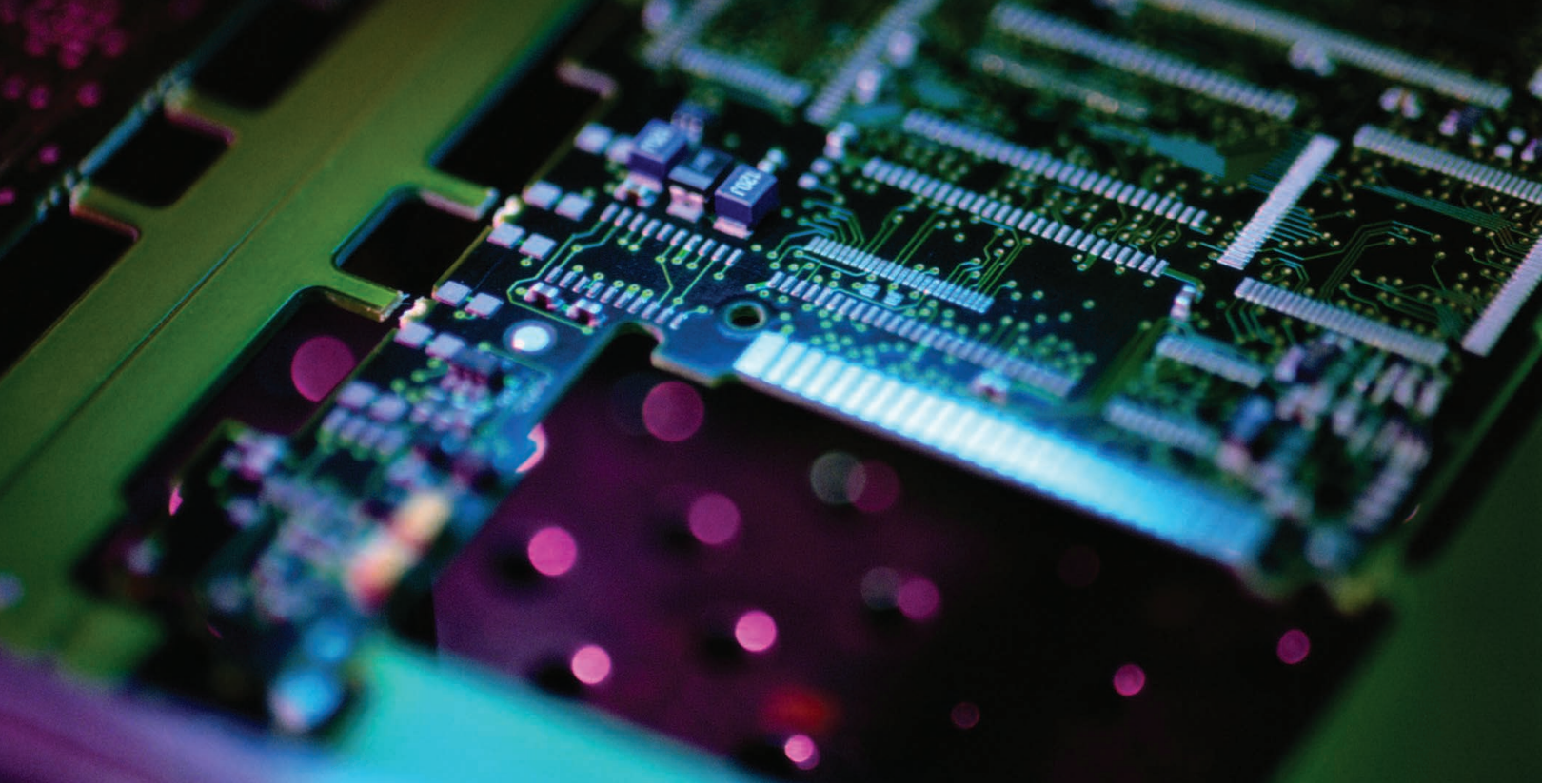
Program Director:

Bradley Limpert
Limpert & Associates

Location:

**Osgoode Professional
Development**
1 Dundas St. W., 26th Floor
Toronto, ON





Get Practical Tips, Knowledge & Strategies in Areas, Including:

- Fundamentals of IT components, players and activities
- Strategies for allocating liability in an IT contract
- Key IP issues that affect IT agreements
- Addressing compliance challenges in open source software licensing
- Advanced negotiation strategies and tactics
- Common drafting and negotiation issues that impact IT agreements
- Best practices for proceeding ethically in contract negotiations
- Critical security and privacy issues and how to manage them
- Critical cross-border considerations
- Emerging issues and technology trends
- Dealing with IT contracting issues in Cloud, SaaS and App environments

Who Should Attend?

- Lawyers and professionals who advise on IT agreements and software licensing
- In-house counsel and executives managing software and IT services procurement
- IT managers and developers
- IT procurement professionals
- IT advisors and consultants
- Contract managers and specialists
- Government professionals managing software and IT services procurement
- Outsourcing professionals
- Advisors to technology start-ups and entrepreneurs

“Very valuable learning for my role as an IT Procurement Manager.”

- 2018 Participant

The Osgoode Certificate in Negotiating & Drafting IT Agreements

This unique Certificate features blended-learning to enhance your experience and learning:

- 2 Online Primers (On Demand)
- 3 One-Day Modules of lectures and demonstrations (In Person or Webcast)
- One-Day Skills Workshop (In Person only)

Reserve your place now to take advantage of this unique opportunity!

Technology continues to rapidly evolve and businesses are increasingly reliant on software and IT services. Whether you're a lawyer in private practice or a business or legal professional working within an organization, IT agreements will likely cross your desk. To avoid costly mistakes, you need to know how to anticipate problems, cover-off key points and adequately protect your client's or company's interests.

Are you prepared?

In this intensive Osgoode Certificate, an expert faculty of legal and IT specialists from leading technology companies will provide you with the knowledge and skills you need to confidently and competently structure IT contracts. Over 4 modules, you'll also learn about the critical business, tech and IP aspects underlying IT agreements, giving you a solid grounding in essential concepts.

You will have the opportunity to reinforce your understanding of key concepts and apply what you've learned in small group **learn-by-doing drafting and negotiating workshops** where you will benefit from personalized feedback from expert facilitators.

Draw on the expertise and experience of leading IT lawyers and experts, including:

Program Director



Bradley Limpert

Limpert & Associates

Bradley Limpert is recognized by Intellectual Asset Management of London, UK as one of the world's leading technology licensing and litigation lawyers. Prior to practicing law, he worked as a software developer, project manager and marketing rep. Bradley is also a Certified Licensing Professional and a Patent Agent.

“The roster of speakers was very good. They were knowledgeable and clear in their respective topics.”

- 2018 Participant

Program Faculty

Timothy Banks

nNovation LLP

Pascal Barabé

Senior Legal Counsel, SAP Canada Inc.

Jason (Jake) Bullen

Cassels Brock & Blackwell LLP

Isi (Izzy) Caulder

Patent & Trademark Agent,
Bereskin & Parr LLP

Steve Camicata

General Counsel, Volaris Group Inc.

Richard Corley

Goodmans LLP

Ted Crysler

Lawyer & Counsel

Anaar Dhanji

Director, Contract Negotiators & Advisory Group, Procurement,
BMO Financial Group

May Jim

President, May Jim Business
Consulting & Analysis Inc.

Bernice Karn

Cassels Brock & Blackwell LLP

John Le Blanc

Senior Legal Counsel, Bank of
Nova Scotia

Jason Leung

Principal, Leung Law PC

Bradley Limpert

Limpert & Associates

Fraser Mann

Mann Symons LLP

Andrew Nunes

Fasken Martineau DuMoulin LLP

Richard Pearse

Senior Counsel, eHealth Ontario

Robert Percival

Norton Rose Fulbright Canada LLP

Thomas Prowse

Assistant General Counsel, Pythian

Joel Ramsey

Torys LLP

John Sibley

Senior Manager, Deloitte Canada LLP

Stephen Spracklin

Legal Counsel, Information
Technology and Intellectual
Property, City of Mississauga

Gabriel Stern

Fasken Martineau DuMoulin LLP

Trevor Unruh

Assistant General Counsel,
Open Text Corporation

Agenda

ONLINE PRIMERS (ON DEMAND)

Focusing on critical development methodologies and the ethical elements most likely to be at issue in any software or technology situation, we strongly encourage you to view both Online Primers before Module 1. View anytime. *Online Primers are mobile-friendly.*

Understanding IT System Development Methodologies

Gain the technical background you need to hit the ground running:

- Establishing scope, planning and specifying requirements
- System design
- Development/build stage to implementation/rollout
- Third party contracts

Navigating Ethical Issues in IT Transactions

Learn everything you need to know to handle thorny ethical issues, including how to address conflicts of interest and when the duty of good faith applies in negotiations.

MODULE 1 (IN-PERSON OR WEBCAST)

March 7, 2019
9:00 a.m. – 5:15 p.m. EST
Foundations of IT Agreements

Module 1 will provide you with the foundational knowledge you need to maximize your understanding and participation in the remainder of the certificate.

Essential IP Elements & Concepts

- Types of IT that can be protected by trade secret, copyright, patents, and trademark laws
- How is IP obtained, registered and enforced? What is legally protectable confidential information?
- Independent creation as a defence to infringement and risks arising from joint ownership of IP
- What rights do employees and independent contractors have in the IP they provide as part of technology development?

- How to characterize IP in a transaction and how IT impacts a transaction

Key Components, Players & Activities in IT Systems

- IT development, deployment, integration, migration and maintenance: who does what?
- The roles and interests of the key players: Systems Analyst, Programmer, Project Manager, etc.
- Typical life cycles of software development, licensing, customization and sale

Reseller & VAR Agreements

- Understanding terminology and distinctions: Resellers, VARs and distributors
- Exclusive vs. non-exclusive agreements
- Key rights/obligations of Resellers and VARs vs. key obligations of Vendor
- Pricing/payment arrangements
- Term/termination, representations, warranties and indemnities

Risks and Liabilities from a Technical Perspective

- Data loss, data integrity
- Scope creep, integration risk
- Limitations of testing, bugs and defects
- Interaction with legacy systems and interface with other systems
- Vendor control of technology architecture

Critical Cross-Border Issues in IT Contracting

Increasingly, the scope of technology agreements reaches beyond Canada and may engage foreign parties. Learn the multi-jurisdictional issues that affect IT contracts, includes factors affecting the scope and terms of cross-border agreements and the protection of IP rights and confidential/personal information across jurisdictions.

Confidentiality Agreements and Escrow Agreements

This session will examine two key but under-appreciated contracts: Non-Disclosure Agreements (NDAs) and Source Code Escrow Agreements. Learn how to minimize the risks of disclosing and receiving confidential information, as well as the common problems and pitfalls with escrow agreements.

Take-Home Drafting Assignment: Distribution

The take-home drafting assignment will be distributed. This assignment is expected to take about 3-4 hours to complete and it will be due the week after Module 3.

MODULE 2 (IN-PERSON OR WEBCAST)

March 29, 2019
9:00 a.m. – 5:00 p.m. EDT
Privacy/Security; Software Development

Module 2 will continue to examine the essential underlying concepts required for negotiating and drafting various IT agreements. The day will conclude with an interactive demonstration to highlight best practices and tips for negotiating performance warranties and guarantee clauses.

Allocating Liability in the IT Contract

- Thinking through limits of liability, disclaimers, waivers and related clauses
- Liability issues associated with privacy, security and confidentiality
- Indemnities and how they are structured

Security & Privacy Issues in IT Transactions

- Types of security risks: data integrity, transmission, access control, and more
- Methods for ensuring security of information and dealing with spyware
- Privacy overview and common traps in various IT transactions
- The impact of the US and EU laws
- Audit issues: reporting, recording and disclosure of security and privacy measures

Development Agreements

- A developer's perspective: key assumptions and their implications
- Failure rates and remedies, includes non-financial, non-performance and providing for escalation and dispute resolution procedures
- Understanding vendor/developer interests: key pitfalls purchasers should watch out for
- Incorporating development documents into the legal agreement

Negotiation Techniques for IT Agreements

- Can you win without negotiating? Due diligence and preparation for negotiations
- The effect of timing on negotiations
- Structure of negotiations/parallel negotiations
- Creating your BATNA
- How does uncertainty and lack of information affect negotiations?

Demonstration: Negotiating Performance Warranties & Remedies

You will have an opportunity to observe and interact with a live negotiation from the perspective of both supplier and customer. The panel will examine various negotiation positions and provide guidance on the strategic use of language when drafting these important clauses.

Take-Home Drafting Assignment: Discussion/Q&A

You will have the chance to clarify your outstanding questions on the drafting assignment. This assignment is expected to take about 3-4 hours to complete and it will be due the week after Module 3.

MODULE 3 (IN-PERSON OR WEBCAST)

April 12, 2019
9:00 a.m. – 5:00 p.m. EDT
Fundamentals of Key IT Agreements

Module 3 will continue to examine specific types of IT agreements, including outsourcing, support and maintenance and software licensing agreements. Expert faculty will deliver our second interactive demonstration, focusing on the negotiation of a License Agreement.

IT Outsourcing Agreements

- Forms of “outsourcing”, including cloud computing, SaaS, and shared service arrangements
- Specifying service levels in the agreement: multi-sourcing and sub-contractors
- Indemnities and limitations of liability

- Change of control and governance
- Benchmarking and other price/innovation clauses

IT Support and Maintenance Agreements

- How to select the type of support coverage
- Characterizing errors and problems: anticipating and avoiding disputes
- Software updates, upgrades & support for old versions, hardware support and maintenance
- Standard versus customized packages, includes online versus on-site support

Software Licensing Agreements

- Portal access license vs license agreements: pros/cons from licensee and licensor perspectives
- Software bundling: issues arising from inclusion of 3rd party products, rights in derivative works
- Object code vs source code license agreements
- Relationship between software license, consulting services, maintenance and support Maintaining and Insuring

Open Source Software Licensing

- Benefits and risks of open source software: mixing open source and proprietary software
- Types of open source software licenses: addressing open source software in your business model
- Trends, policy approaches and issues to watch out for

Demonstration: Negotiating a License Agreement

Observe senior practitioners negotiate the key elements of a License Agreement from the perspective of both supplier and customer, and learn tools to effectively address issues including payment terms, scope, ownership of IP, strategies for negotiating value-adds, and governance provisions.

Take-Home Drafting Assignment Deadline

The drafting assignment will be due the week after this Module 3.

MODULE 4 (IN-PERSON ONLY)

May 14, 2019
9:00 a.m. – 5:00 p.m. EST
Interactive Drafting & Negotiation Workshop

NOTE: *Due to the interactive nature of this workshop, in-person attendance is required for this Module.*

In Module 4, you will have an opportunity to put into action what you have learned in a zero-consequence environment. The day will feature two small group, interactive workshops, plus a presentation on advanced negotiation techniques.

Drafting Workshop & Assignment Review: License Agreement

Get personalized feedback on your drafting skills and gain strategies, best practices and model drafting clauses from highly experienced faculty.

Instructional Session: Advanced Negotiation Techniques for IT Agreements

Building on the negotiation techniques session, you will learn about using Game Theory and Behavioural Economics in your negotiations, as well as how to conduct a self-assessment of your negotiation skills.

Negotiation Workshop: Tying it All Together (Mock Negotiation)

In small groups, you will engage in a mock negotiation representing either the vendor or customer. You will receive individualized support and feedback from an expert facilitator and benefit from a master debrief and group discussion.

“I liked the breadth of the program. It provided a good foundation.”

- 2018 Participant

Registration Details

Fee per Delegate:
\$2,995 plus HST

Fees include: attendance, program materials, lunch and break refreshments. Visit www.osgoodepd.ca/financial-assistance for details about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.

For Further Program-Related Information Please Contact:

Alexandra Karacsony, Program Lawyer at 647.999.8796
or email AKaracsony@osgoode.yorku.ca.

Certificate of Program Completion

You will receive a certificate upon the successful completion of the **OSGOODE CERTIFICATE IN DRAFTING & NEGOTIATING IT AGREEMENTS** as follows:

(1) View both Online Primers (2) Attend all 4 Modules (3) Complete/pass the take-home assignment (4) Participate in the workshops

4 Convenient Ways to Register



Mail



Online



Fax



Call

Register today at:

osgoodepd.ca/it-agreements



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD/MCLE Hours – LSO (ON): 30h 30m CPD (27h 30m Substantive, 3h Professionalism).

This program is approved for LAWPRO Risk Management Credit.



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.

Here's what some of our 2018 Participants had to say about this Certificate program:

“Overall well worth the amount paid [and] brilliant concept to [use] a case study as a tool for delivering the contents of the program.”

“This course provided me with the knowledge I needed for my current assignment [and] increased my capability in this area by 1-2 years. The precedent cases are helpful and gave me an understanding on where the boundaries are. The gotchas [from practitioners] were good as I don't necessary know what to look for.”

“I have worked with contracts for many years and must say I certainly have a completely different perspective when I am reviewing contracts than I did prior to taking this course. The course materials provided are also an excellent resource! It was great to be able to attend in person and I enjoyed meeting others who took the course from across the country. Always good to hear the perspectives, views and challenges that others face when it comes to negotiating IT contracts. The folks at Osgoode made everyone feel very welcome, the conference room and breakout rooms were great and the food and snacks were excellent.”