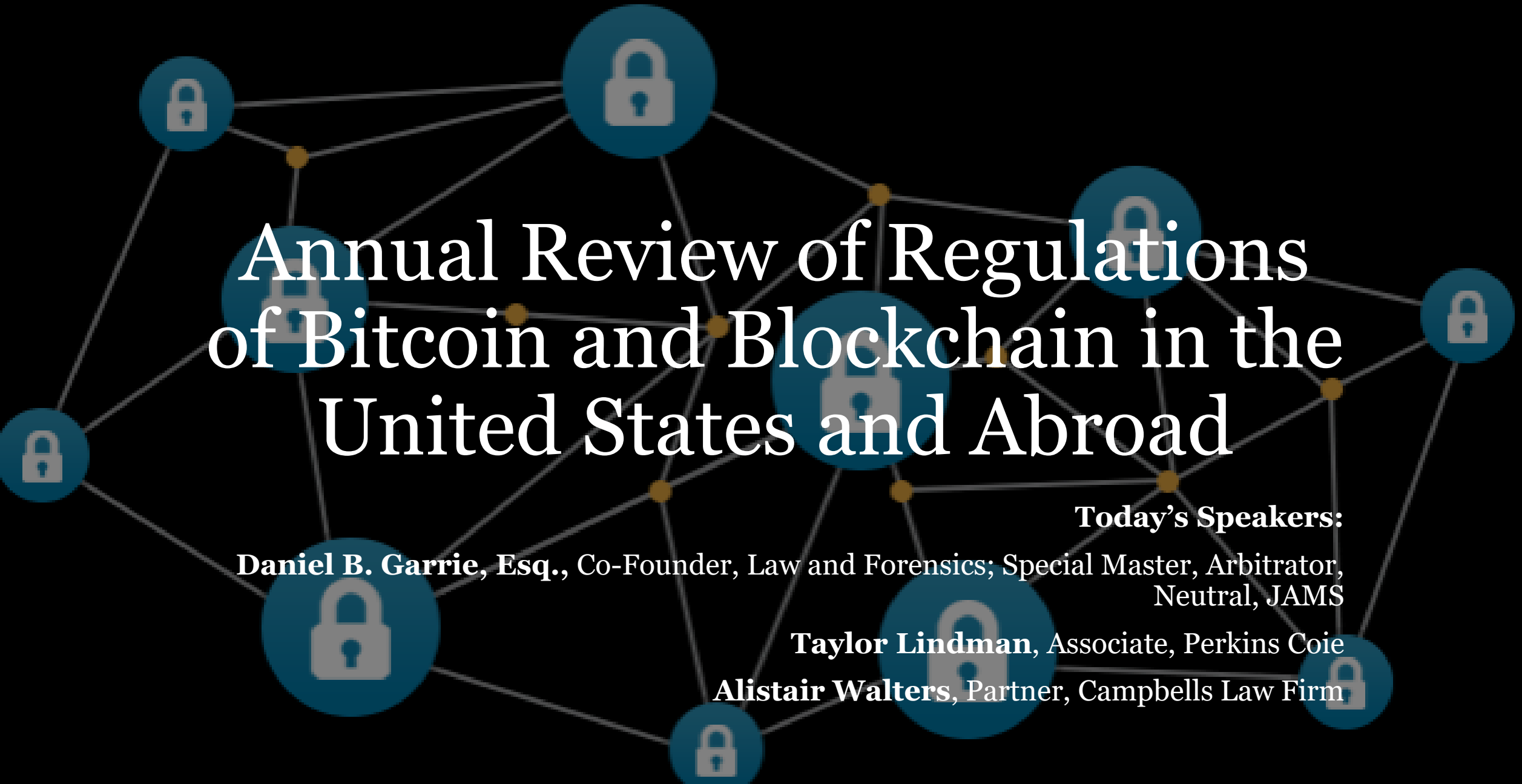


Annual Review of Regulations of Bitcoin and Blockchain in the United States and Abroad

Today's Speakers:

Daniel B. Garrie, Esq., Co-Founder, Law and Forensics; Special Master, Arbitrator, Neutral, JAMS

Taylor Lindman, Associate, Perkins Coie

Alistair Walters, Partner, Campbells Law Firm

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Daniel B. Garrie, Esq.
Co-Founder,
Law & Forensics
Special Master, Neutral, Arbitrator,
JAMS



Taylor Lindman
Associate, Perkins Coie



Alistair Walters
Partner, Campbells Law Firm

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Agenda

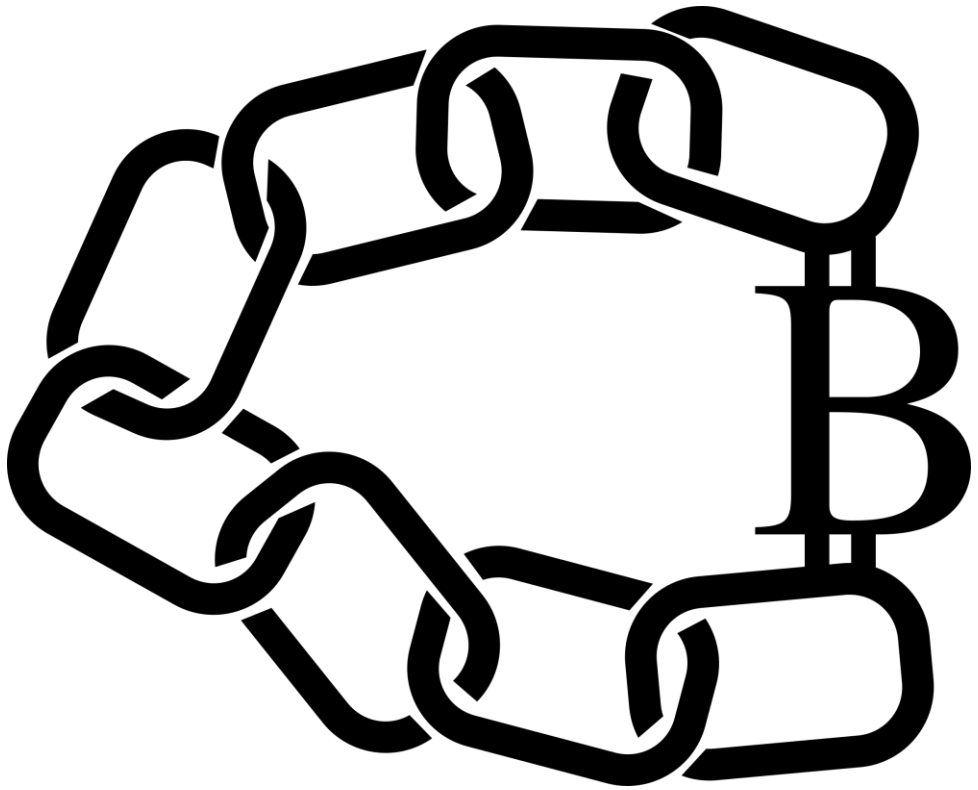
1. What is Blockchain?
2. What is Bitcoin?
3. Governance and Risk Issues
4. Regulation of Blockchain and Cryptocurrencies
5. Case Law
6. The Future of Blockchain

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What is Blockchain?

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What is Blockchain?

- "Blockchain is a decentralized ledger of all transactions across a pier to pier network."*
- "Think about a blockchain as a distributed database that maintains a shared list of records. These records are called blocks, and each encrypted block of code contains the history of every block that came before it with timestamped transaction data down to the second. In effect, you know, chaining those blocks together. Hence blockchain."**

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Blockchain Technology Explained

- Uses cryptography and digital signatures to prove identity, authenticity and enforce read/write access rights
- Is replicated (distributed) across a number of systems in near real-time over a peer-to-peer network.
  - Every participant “owns” the same copy of the ledger and gets updates when any transaction is added
  - Every participant helps determine the intrinsic “immutability” of all existing records
- Enables transaction automation via smart contracts, allowing even greater transactional efficiency and savings; and
- Can be anonymous or identification if participants

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Examples of Blockchain Uses

- Data management
- Land title registration
- Stock trading
- Identity management
- Neighborhood Microgrids
- Prediction markets
- File storage
- Supply chain auditing
- Smart Contracts

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What is Bitcoin?

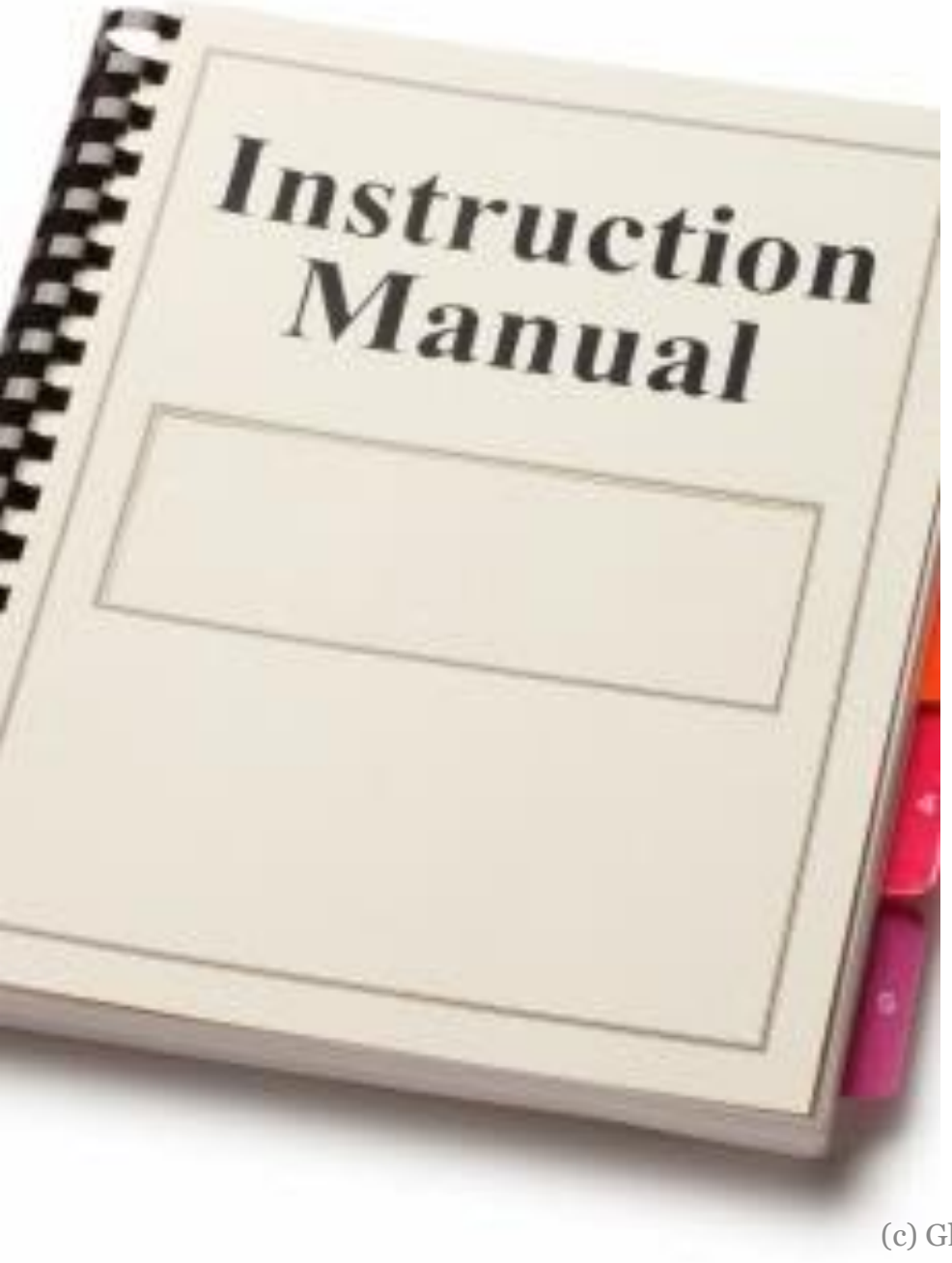
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What is Bitcoin?

- Bitcoin is a cryptocurrency, a form of electronic cash. It is a decentralized digital currency without a central bank or single administrator that can be sent from user-to-user on the peer-to-peer bitcoin network without the need for intermediaries.

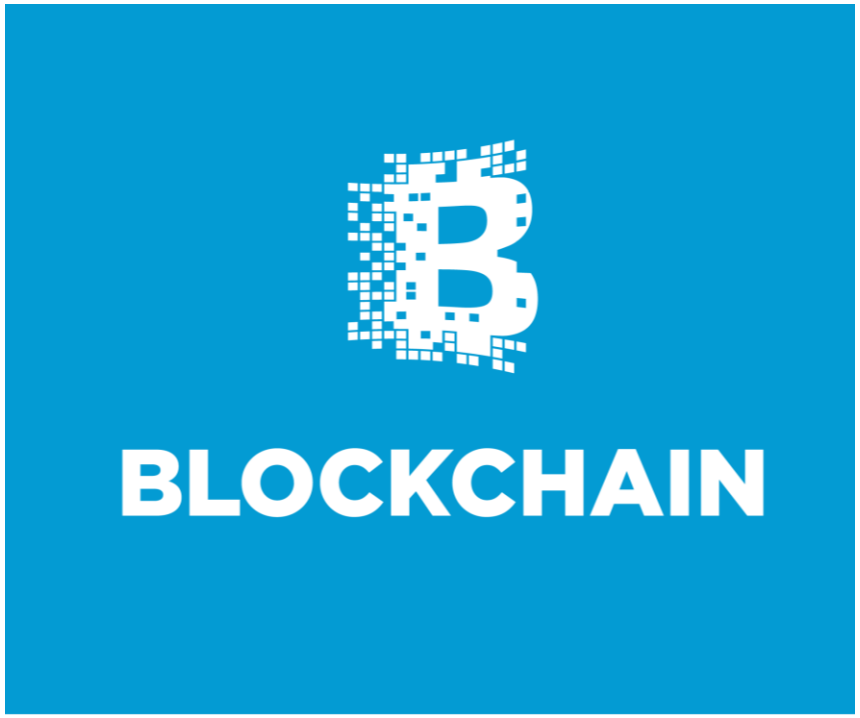
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How does Bitcoin work?

- Each Bitcoin is basically a computer file which is stored in a 'digital wallet' app on a smartphone or computer.
- People can send Bitcoins (or part of one) to your digital wallet, and you can send Bitcoins to other people.
- Every single transaction is recorded in a public list called the blockchain.
- This makes it possible to trace the history of Bitcoins to stop people from spending coins they do not own, making copies or undo-ing transactions.

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Bitcoin vs. Blockchain

- Bitcoin is a type of unregulated digital currency, also known as a “cryptocurrency.”
- Bitcoin transactions are stored and transferred using a distributed ledger on a peer-to-peer network that is open, public and anonymous.
- Blockchain is the underpinning technology that maintains the Bitcoin transaction ledger

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Governance and Risk Issues

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What are some of the governance issues associated with Blockchain?

Regulations	Standards	Transaction rules	Contracts
Security	Legal	Privacy	Data
Compliance	Key governance	Identity	Authentication
Technology assurance	Auditing	Performance	

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What are some risks?

- Decentralized access control and a reduced role for trusted intermediaries
- Non-trusted participants can join the blockchain
- Cyber-security attacks are expected to increase as the technology matures and scales
- Trust is established by majority consensus, not a designated central authority
- Lack of standards
- Current regulations may prove ineffective
- Compliance and enforcement frameworks will need to keep up
- Traditional assurance and auditing approaches will no longer be effective

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Regulation of Blockchain and Cryptocurrencies

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Blockchain Globally

- With blockchain use cases and applications expanding in scope and number, regulators around the world, including the US, Canada, Switzerland, the UK, China, Japan, Singapore, and Australia, have expressed interest in regulating blockchain to protect consumer and the market from fraud and other illegal conduct.

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Blockchain in the U.S.

- The U.S. federal government has not exercised its constitutional preemptive power to regulate blockchain to the exclusion of states (as it generally does with financial regulation) or even expressed intention to do so.
- The U.S. Commodity Futures Trading Commission has granted LedgerX, a cryptocurrency trading platform operator, approval to become the first federally regulated digital currency options exchange and clearinghouse in the U.S.

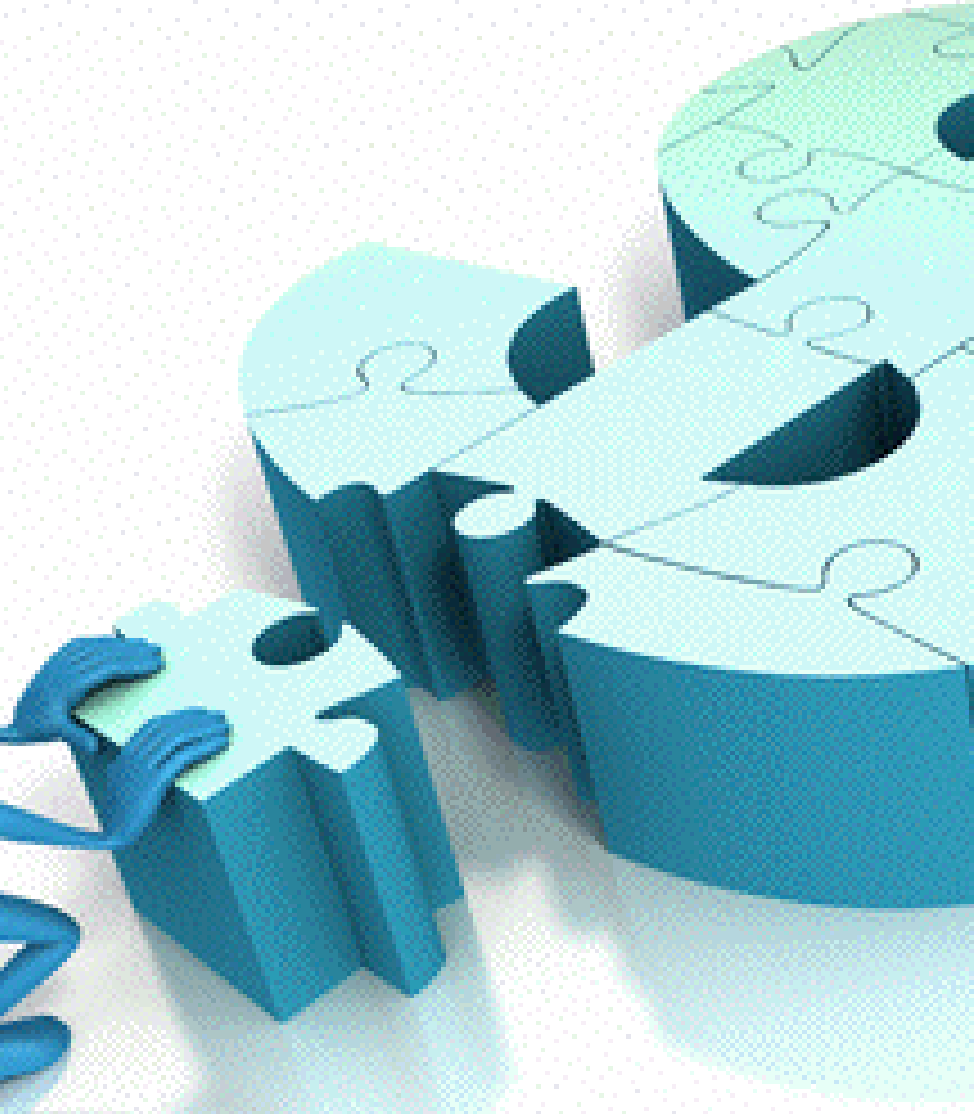
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Regulation of Blockchain Activities

- A variety of state and federal agencies and international bodies have shown interest in regulating blockchain-related activities, with a focus on virtual currencies.
- The widespread application and relative novelty of blockchain technology make it difficult to conclusively determine which agencies are likely to investigate any particular blockchain activity.

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Blockchain and the Financial Industry

- Businesses and regulators are increasingly using blockchain to conduct and provide oversight of cross-border banking and finance activities.
- The visibility offered through blockchain is currently being used to track provenance and document financial transactions in multinational arrangements, ranging from supply chain to trade finance.

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Blockchain in Commerce - U.S.

- Several U.S. states have enacted or proposed legislation validating the use of blockchain technology in commerce.
- States include:
  - Vermont
  - Nevada
  - Delaware and
  - Wyoming

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Blockchain in Commerce - Global

- Australia is currently implementing a blockchain-powered securities exchange.
- In 2017 Japan's Ministry of Internal Affairs and Communications announced a blockchain/smart contract solution that would allow companies to interact with the government.
- The Monetary Authority of Singapore, in collaboration with a consortium of launched "Project Ubin".
- The European Commission announced the launch of #BlockChain4EU in 2017.

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Global Regulators

- As demand for cryptocurrency grows, global regulators are divided on how to keep up.
- Most digital currencies are not backed by any central government, meaning each country has different standards.
- Each country does however differ on their regulations for bitcoin exchanges and their views on bitcoin as legal tender.

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Global Policies on Bitcoin as Legal Tender

- Legal Tender
  - Japan as of last April
  - Switzerland
- No Legal Tender
  - The United States – In any jurisdiction
  - The European Union – No EU member state can introduce its own currency
  - The United Kingdom
  - South Korea
  - China
  - Singapore
  - India who is reportedly taking steps to outlaw it completely

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Global Policies on Bitcoin Exchanges

- **Japan-** Exchanges are legal if they are registered with the Japanese Financial Services Agency
- **The United States-** Exchanges are legal, depending on the state. The SEC views digital currency as a security, the CFTC views it as a commodity and the IRS views it as property.
- **The United Kingdom-** Exchanges are legal and need to be registered with the Financial Conduct Authority. Regulated under AML and counter-terrorism standards.
- **The European Union –** Exchanges are legal depending on the country.

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Global Policies on Bitcoin Exchanges (cont.)

- **South Korea –** Legal but use of anonymous bank accounts for virtual coin trading is prohibited. Needs to be registered with South Korea's Financial Services Commission.
- **China-** Illegal. In 2017 the government banned ICO's and shut down domestic cryptocurrency exchanges.
- **Singapore-** Legal, may fall under regulatory purview of Monetary Authority of Singapore.
- **India-** Legal. **T**he Indian government has issued warnings but does not currently regulate exchanges.
- **Switzerland-** Legal, need to register with the Swiss Financial Market Supervisory Authority

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Case Law

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In the Matter of Tomahawk Exploration LLC and David Thompson Laurance, Securities

- Facts: On August 14, 2018, the U.S. Securities and Exchange Commission (SEC) issued an order against Tomahawk Exploration LLC (Tomahawk) and its principal, David Thompson Laurance, regarding an ICO for Tomahawkcoins that Tomahawk engaged in during mid-2017
- Holding: the SEC found that the virtual tokens being offered by Tomahawk were securities under the *Howey* test. While the part of the Order discussing unregistered sale of securities, fraud and misrepresentations to investors is rather obvious, the Order also discussed additional issues that significantly affect token sales worldwide. According to the SEC:
  - ICO bounty programs involve the sale of securities; and
  - Tokens can be treated as equity securities and considered "penny stock.

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Commodity Futures Trading Commission v. Gelfman Blueprint, Inc., and Nicolas Gelfman

- Facts: In September 2017, the CFTC filed a complaint against Gelfman Blueprint, Inc. and its CEO Nicholas Gelfman for operating a bitcoin Ponzi scheme. According to the Complaint, the Defendants used falsified performance reports and promises of significant payouts to solicit more than $600,000 from 80 customers between 2014 and 2016.
- Holding: In October 2018, a judge order Gelfman and Gelfman Blueprint, Inc. to pay a combined total of over $2.5 million in fines and restitution. In addition an injunction was placed on Gelfman that permanently bars him from trading.

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The Future of Blockchain

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Next Steps

- The current state of regulation in the cryptocurrency and blockchain space has attracted a melting pot of perspectives that have left many perplexed as to which governance structure to follow.
- With an uncertain road ahead, a unified regulatory framework for blockchain and cryptocurrency will be crucial to utilizing these exciting technologies to their full potential.

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Next Steps (cont.)

- This has already begun. In March, members of the G20 convened to discuss the future of cryptocurrencies on the international stage. While no consensus was reached, members acknowledged the unique value proposition of the industry, and pledged to publish a formal proposal in July.
- At present, it may seem as if there is more friction than unity between regulatory bodies and industry experts about how the space should develop.
- However, in the very near future, this is all expected to change, as blockchain becomes internationally recognized as an essential technology for companies seeking to connect the dots in an increasingly globalized world.

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Questions?

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Contact Us



Daniel B. Garrie
Email: daniel@lawandforensics.com
dgarrie@jamsadr.com
Phone: 855-529-2466
URL: www.lawandforensics.com



Taylor Lindman
Email: TLindman@perkinscoie.com
Phone: (212) 261-6865
URL: https://www.perkinscoie.com



Alistair Walters
Email: awalters@campbellslegal.com
Phone: +1 (345) 914 5861
URL: https://www.campbellslegal.com

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Daniel B. Garrie, Esq.
Law & Forensics – Co-Founder
JAMS – Special Master, Neutral, Arbitrator
Contact:
W: (855) 529 - 2466
M: (215) 280 – 7033
E: daniel@lawandforensics.com
URL: www.lawandforensics.com

LAW & FORENSICS
Computer Forensics, E-Discovery, Cyber Security

B.A., Computer Science, Brandeis Uni.
M.A., Computer Science Brandies Uni.
J.D., Rutgers School of Law

Daniel Garrie is an Arbitrator, Forensic Neutral, technical Special Master at JAMS, available in Los Angeles, New York, and Seattle; Executive Managing Partner of Law & Forensics LLC, Head of Computer Forensics and Cyber Security Practice Groups, with locations in the United States, India, and Brazil; and adjunct Professor of Law at Cardozo School of Law. He is also a Partner at Zeichner Ellman & Krause, where he heads their global cyber security practice.

Mr. Garrie has built and sold several Internet security, e-commerce, and search technology startups. Prior to his time at Pulse Advisory, Daniel Garrie was the Worldwide Director of Electronic Discovery & Information Governance at Charles River Associates. He also works as a Strategic Partner for Quorumm Ventures and a Board of Governors member for the Organization of Legal Professionals. He is a nationally recognized educator and lecturer on various topics including computer software, cyber security, e-discovery, forensics, emerging internet and mobile technologies, and cyber warfare. He is the Editor in Chief of the Journal of Law & Cyber Warfare, a fellow at the Ponemon Information Privacy Institute, a distinguished neutral with CPR, and on the editorial board of the Beijing Law Review.

Mr. Garrie's scholarship in e-discovery, forensics, and cyber security is frequently cited by the bench and the bar, including: Arrivalstar v. US, US v. Briggs, Coast Professional, Inc. v. US, Genger v. TR Investors, LLC, John B. v. Goetz, and Northruop Grumman Computing Systems, Inc. v. US. Mr. Garrie is also frequently quoted by leading publications including the New York Times, Fortune, Forbes, and the Wall Street Journal on issues relating to cyber security and cyberwarfare.

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Taylor Lindman
Perkins Coie LLP – Associate
Contact:
E: TLindman@perkinscoie.com
W: (212) 261-6865
URL: https://www.perkinscoie.com

PERKINSCOIE
COUNSEL TO GREAT COMPANIES

Taylor Lindman focuses his practice on fintech, distributed ledger technology, payments and finance matters. He advises a variety of companies, funds and entrepreneurs on the operation of rules and regulations promulgated by the CFTC, SEC, FTC, FinCEN, banking regulators and state agencies.

Taylor's experience includes counseling technology companies on regulatory considerations associated with the formation and operation of virtual currency trading platforms and advising financial services organizations on issues related to the transfer, custody and storage of virtual currency assets.

Working closely with platform developers and e-commerce companies, Taylor advises on regulatory compliance considerations and risks, and building compliance policies and procedures.

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Alistair J. Walters
Campbells Legal – Partner
Contact:
W: +1 (345) 914 5861
E: awalters@campbellslegal.com
URL: https://www.campbellslegal.com

Campbells

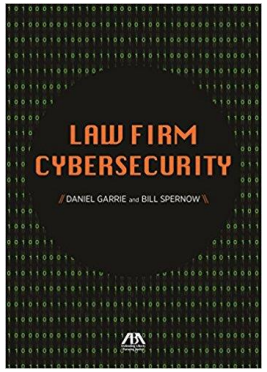
For over 25 years Alistair has advised clients on complex financial services and business disputes and litigation. He also specializes in advising on cases involving insolvency and winding up issues. Alistair qualified as an English solicitor in 1990 and worked in the City of London until joining Campbells in 1999.

- QUALIFICATIONS AND ADMISSIONS:
  - LLB 2.1, Middlesex University 1987
  - Solicitor of the Supreme Court (England & Wales) 1990 (non-practising)
  - Attorney at Law Cayman Islands, 1999
  - Solicitor, Eastern Caribbean Supreme Court (BVI), 2013
  - Certified Fraud Examiner
  - Certified Mediator
  - Certificates for Blockchain/Distributed Ledger Technology and Smart Contracts
- AREAS OF PRACTICE AND EXPERTISE:
  - Litigation
  - Bankruptcy and restructuring particularly in the area of investment funds and capital markets structures
  - Compliance, internal investigations and regulation
  - Contentious issues relating to Distributed Ledger Technology, Smart Contracts and ICO's

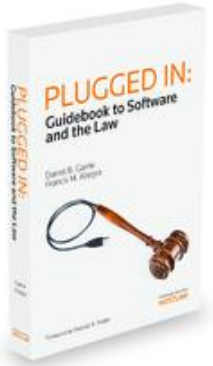
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Additional Reading

Books



Law Firm Cybersecurity



Plugged In: Guidebook to Software and the Law



Software and the Law: Digital Forensic Investigations and E-Discovery



Dispute Resolution and e-Discovery

Articles



Arbitration, Mediation Can Resolve Cyber Coverage Disputes



Spearfishing Can Be Stopped Once You Remove the Bait



Mediators Need to Become 'Bilingual' to Resolve Smart Contracts