

## ANDREW B. SERWIN



PARTNER

(619) 685-6428  
ASERWIN@FOLEY.COM

402 WEST BROADWAY SUITE 2100  
SAN DIEGO, CA 92101-3542

Andrew B. Serwin is the founding chair of the Privacy, Security, and Information Management Practice and is a partner in the San Diego office of Foley & Lardner LLP. He is a member of the Intellectual Property Litigation, Information Technology and Outsourcing, General Commercial Litigation, and the Trademark and Copyright Practice Groups. He is also a member of the Venture Capital, Emerging Technology, Life Sciences, and Health Care Industry Teams.

Mr. Serwin has extensive experience in privacy and security matters, including state, federal and international restrictions on the use and transfer of information, security breach compliance, incident response, marketing restrictions, and the drafting and implementation of privacy and security policies. Mr. Serwin also advises media and Internet companies regarding online contracting issues, licensing issues, domain name issues, and intellectual property issues, as well as litigation resulting from information security incidents.

Mr. Serwin has unique experience in representing start-up and Internet companies because he served as President and General Counsel of an online political magazine, InPolitics.com. Mr. Serwin has broad experience in technology and business law, including corporate finance, partnership law, securities, e-commerce, software development and licensing, intellectual property licensing and protection, manufacturing and distribution arrangements, joint ventures, information technology transactions, as well as real estate transactions. He has also advised hedge funds and broker dealers in a variety of transactions.

Mr. Serwin's litigation practice includes unfair competition matters; intellectual property litigation; corporate governance disputes; complex commercial litigation; e-commerce matters; partnership disputes and real property matters.

He is the author of "[Information Security and Privacy: A Practical Guide to Federal, State and International Law](#)", a 2,000 page treatise that examines all aspects of privacy and security laws, published by Thomson-West. Mr. Serwin is also the author of the "[Internet Marketing Law Handbook](#)", also published by Thomson-West, which covers topics such as privacy and security, commercial e-mail laws, spyware and unfair competition law. He is also the author of West's Corporate Counsel's Primer on International Privacy and Security (July 2007), the advertising section of the "ABA Model

Web Site: A Knowledge Management Approach to E-Business Model Web Site” that provides guidance on “best practices” for Internet issues, as well as Co-Chair and principle author of the Privacy and Security Section of the ABA’s new publication, “*Selling Products and Services and Licensing Software Online: An Interactive Guide With Legal Forms and Commentary to Privacy, Security and Consumer Law Issues*”, (June 2007).

Mr. Serwin was recently appointed to the privacy and the legal subcommittees of the Privacy & Security Advisory Board of the California Health and Human Services Agency by the California Office of HIPAA Implementation. The committee is charged with developing standards for California’s Interoperable Health Information Exchange for electronic health information, which includes creating and adopting a process to develop and set overall standards, overseeing the coordination, analysis, and promulgation of privacy and security requirements for the Health Information Exchange, researching and developing model contracts and related documents, and providing guidance regarding the interaction of HIPAA and California law. He is also a member of the San Diego Chapter of the San Diego FBI Infragard Group, an organization dedicated to promoting ongoing dialogue and timely communication between information technology companies and the FBI. As a member, he receives daily, non-public briefings on information security and other threats, including early warnings about new attacks on financial services companies or healthcare providers.

He was also recognized as a “Southern California Super Lawyer”, is AV-rated by Martindale Hubble, and was previously identified as one of the leading intellectual property attorneys by the *Daily Transcript* in its 2005 “Top Attorneys List.” He is also the former Co-Chair of the California State Bar’s Cyberspace Law Committee, and the former chair of the San Diego County Bar Association’s Web site Committee from 2002-2004. Mr. Serwin is also a frequent presenter and commentator on technology and legal matters. He is also a columnist for *The Daily Transcript* on technology issues.

Mr. Serwin also serves on the editorial board of Thomson-West’s *Cyberspace Lawyer*, as well as the *Privacy and Information Law Report*. He is also a member of the Publications Board of the Business Law Section of the American Bar Association.

Mr. Serwin is a graduate of the University of San Diego School of Law (J.D., *cum laude*, 1995), where he was a member of the Order of the Coif. He earned his B.A. in political science, *cum laude*, from the University of California, San Diego in 1992. Mr.

Serwin is admitted to practice law in California.

Representative Matters:

- People of the State of New York v. Synergy 6, Inc., et al., Mr. Serwin represented two of the defendants in an action brought by Eliot Spitzer arising out of the alleged improper sending of commercial e-mails.
- Hyundai Motor Company-Daimler Chrysler de Mexico Distribution Agreement, transaction value in excess of \$1,000,000,000.
- Latin American Manufacturing and Consumer Product Assets Joint Venture, \$1,100,000,000.
- Lamon & Stern v. Capstone Investments, Inc., Mr. Serwin represented a broker dealer in a NASD arbitration brought by another broker dealer and affiliated individuals.
- Huntington Beach Hummer v. AM General, et al., Mr. Serwin represented three automobile dealers in an action alleging a violation of California's Unfair Competition Law. Mr. Serwin's clients were dismissed for a waiver of costs, though other defendants had a multi-million dollar verdict entered against them.
- Memon v. Global Cyber Strategies, Inc., et al., Mr. Serwin represented Provide Commerce, Inc. in an action arising out of the alleged violation of California's anti-spam laws.
- Advised companies on processing of protected health information to foreign countries, including India.
- Drafted privacy policies and Web-related agreements for MP3.com, RollingStone.com, and emusic.com.
- Sale of real property, value in excess of \$30,000,000.
- Bridge loan secured by film distribution proceeds, \$18,000,000.
- Drafted content and license agreements for international content provider and publisher.
- Drafted numerous software license, development and Web-related agreements for technology companies.
- People of the State of California v. American Home Craft, Inc., et al., Mr. Serwin represented the defendants in an action brought by the California Attorney General alleging a violation of the federal Do-Not-Call Act and California's Unfair Competition

Law.

Selected publications and presentations:

- "The FTC Offers Some Guidance, but Leaves Open Questions", *BNA's Privacy and Security Law Reporter*, January 2008.
- "Case could signal shift in the law of electronic monitoring", *The Daily Transcript*, July 10, 2007.
- "ECPA and you: the government's quest to retain and monitor communications", *The Daily Transcript*, June 6, 2006.
- "FTC expands financial data security enforcement under the FTC Act", *Consumer Financial Services Law Report*, May 3, 2006.
- "Data Security, Protect Now or Pay Later", *Counsel to Counsel*, March 2006.
- "Is UCL Fraud Now Akin to Common Law Fraud? Reliance, Materiality and Causation After Proposition 64", *The Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California*, by Andrew Serwin and Russell Carlburg, May 4, 2005.
- "Privacy Laws Target Data Usage for Direct Marketing", *Los Angeles Daily Journal*, March 17, 2005.
- "California's Prop 64 and the Web: What Your Company Must Know to Avoid Liability," *Computer and Online Industry Litigation Reporter*, December 1, 2004.
- "Getting Past the Lawsuits and Governing," *The San Diego Union-Tribune*, December 3, 2004.
- "Passage of Proposition 64 Provides Some Relief," *Foley & Lardner LLP Law Watch*, November 19, 2004.
- "Disclosure becomes a concern when seeking venture funding," *San Diego Daily Transcript*, October 24, 2004.
- "Too many hurdles for Do-Not-Spam list," *San Diego Daily Transcript*, July 27, 2004.
- "A tangled web," *San Diego Daily Transcript*, June 1, 2004.
- "CAN-SPAM will trump most state e-mail laws," *San Diego Daily Transcript*, December 9, 2003.
- "Identity Theft," *The Cyberspace Lawyer*, published by Glasser LegalWorks, September 2003.
- "Complying with Data Security Code Presents Hurdles," *San Diego Daily Transcript*, July 2, 2003.

- "New Law Targets Corporate Officers and Accounting Firms," *Los Angeles Daily Journal*, August 6, 2002.
- "Employee Monitoring in the Information Age", Presenter, Pincus Professional Education, December 13, 2007.
- "Hot Issues in Privacy and Security", Presenter, San Diego County Bar Association, December 11, 2007.
- "Information Security & Privacy—Interoperability and Medical Privacy" Moderator and Presenter, Thomson-West, December 6, 2007.
- "Help! I Lost My Laptop (And All My Confidential Corporate Files)", Presenter, Ziff-Davis, November 28, 2007.
- "Information Security and Data Privacy Summit", Co-Chair and Presenter, Thomson-West, November 15, 2007.
- "The Rutter Group Information Security and Privacy", Moderator and Presenter, November 12, 2007.
- "Hot Topics & Critical Issues – Information Security and Privacy", ACCA-SoCal Roundtable, October 31, 2007.
- Information Privacy and Data Security Summit 2006, Program Chair and presenter, *West Legalworks*, November 2, 2006. Presentations by Mr. Serwin included: Pretexting and Data Broker Issues/Wire Monitoring; Spyware; Internet privacy; The Changing Role of Representations in FTC Actions; and Security Breaches: Notice Statutes and Other Issues.
- "Privacy and Security Litigation", Presenter, October 27, 2006.
- "SPYWARES: Spyware, Digital Rights Management and Privacy in the New Media Age" Moderator and presenter, CONVERGENCE – NOW: New Media, Entertainment Technology & the Law, October 19, 2006.
- "The FTC's New Privacy and Security Agenda", Presenter, ABA Business Law Section Meeting, April 8, 2006.
- "Privacy Issues in the United States", presenter, Confederation of German Industry & Trade, November 2, 2005.
- "What Every Lawyer Should Know About Privacy", presenter, CEB, October 8, 2005.

- "Recent Developments in Internet Selling and Advertising", presenter, Law Seminars International, October 6, 2005.
- "Privacy and Security in the New Millennium", presenter, The Cyberspace Law Committee of the State Bar of California, September 9, 2005.
- "Untangling the Web: E-Business, Marketing & More", chair and presenter, The Daily Transcript Seminar Series, November 16, 2004.
- "State Privacy Implications for Your Website", presenter, California County Counsels' Association Fall Health and Welfare Study Section Conference, November 4, 2004
- "What Every Lawyer Should Know About Spam," presenter, July 13, 2004.
- "FINDLAW: Direct Marketing in 2004," presenter, May 20, 2004.
- "Hottest Issues in Cyberspace," chair and presenter, the State Bar of California, January 23, 2004.
- "Cybercrime Reporting Challenges & Issues," presenter, San Diego Supercomputer Center January 13, 2004.