



Left to Right: Alexandra Urban, Jonathan Bick

Jonathan Bick, Esq. Guest Speaker at October 22, 2004 CLE Luncheon Program

Jonathan Bick, counsel at WolfBlock Brach Eichler in Roseland, NJ and adjunct professor of Internet Law at Pace Law School and Rutgers Law School, was the speaker at the October luncheon and CLE Program. His presentation was entitled "A Practical Guide to SPAM Law: Five Things Every Lawyer Should Know About Spam."

Mr. Bick began with a general discussion of spam and illustrated how profitable it can be. He gave an overview of the CAN-SPAM Act, which became effective January 1, 2004, and highlighted the requirements for compliance with the Act and its enforcement by the FTC and state attorneys general. He also discussed recent litigation in California and Virginia in which traditional laws were used to stop spam, including claims for trespass to chattels, false designation of origin, dilution under the Lanham Act, violation of the Computer Fraud and Abuse Act, and even claims under statutes designed to stop unsolicited facsimile transmissions, in cases where technology allows faxes to be sent and received by computers instead of fax machines.

Mr. Bick offered tips on how to advise a client to lawfully use spam to promote its business and gave jurisdictional pointers for initiating a private action against a spammer. He briefly addressed how your client should respond if it receives an action under a state Consumer Protection Act or a Civil Investigative Demand from the FTC.

In summary, according to Jonathan Bick, the five things every lawyer should know about spam are: (1) spam is legal, (2) spammers can be stopped with existing laws, (3) compliance with the CAN-SPAM Act is easy and inexpensive for the spammer; (4) private actions against spammers are jurisdictionally dependent, and (5) governmental actions against a spammer are actually invitations to negotiate.