

Workshop on Electronic Evidence

10 – 11 May 2009, Abu Dhabi

Organized by Stephen Mason, Barrister, upon the request of Counselor Abdul Rahman M. Al Baloushi, Director of International Cooperation Administration at the Ministry of Justice, Abu Dhabi, United Arab Emirates

Aims of the workshop:

1. To define ‘electronic evidence’ and offer practical illustrations and examples of analogue and digital evidence.
2. To recognize and illustrate the importance of awareness and knowledge of the nature of digital evidence in respect of the substantial legal and procedural issues in legal proceedings, and to appreciate that failing to challenge false assumptions can lead to a miscarriage of justice (to include the admissibility and interception of electronic evidence and the role of judges in assessing and evaluating electronic evidence, including a comparative perspective).
3. To identify some of the practical problems that judges have to deal with, in both criminal and civil proceedings, and by doing so, to evaluate what judges can do to further their own knowledge on an individual basis, and what further actions may be necessary by the members of the judiciary collectively (to include the role of the digital evidence specialist, the safe keeping of electronic evidence, and how such evidence is collected, investigated and seized).

First day: Sunday 10 May 2009

- 09:00 - 09:30 **Registration**
- 1st Session** Judge Hussain Moh'd Al Jahazi
Chairman: President of the Appellate Court, Advisor to the office of H.E. the
Minister of Justice
- 09:30 – 10:10 **A short history of the Internet to put digital evidence into
perspective**
Professor Jon Bing
Professor, Norwegian Research Center for Computers and Law,
Faculty of Law, University of Oslo, Norway
- 10:10 – 10:50 **An introduction to digital evidence**
Stephen Mason, Barrister, UK
- 10:50 – 11:30 **Characteristics of digital evidence**
Burkhard Schafer, Senior Lecturer at the School of Law,
University of Edinburgh, UK
- 11:30 – 12:00 **Discussion**
- 12:00 – 12:15 *Break*
- 2nd Session** Judge Dr. Ali Keldari, Dubai Courts
Chairman:
- 12:15 – 12:45 **The law and practice relating to electronic evidence in the UAE**
Judge Muhamed Ubeid
Fujairah Federal Court of First Instance, UAE
- 12:45 – 13:20 **Electronic Signatures**
Stephen Mason, Barrister, UK
- 13:20 – 14:00 **Laying the foundations for the admissibility and assessment of
digital evidence**
Stephen Mason, Barrister, UK
- 14:00 – 14:30 **Discussion**
- 14:30 Lunch

Second day: Monday 11 May 2009

- 1st Session** Lt. Colonel Dr. Salah Ubeid Al Ghouli, Ministry of Interior
Chairman:
- 09:00 – 09:40 **A specialist view on the investigation and verification of electronic evidence in civil and criminal cases**
Svein Willassen, M.Sc, PhD
Digital evidence specialist
- 09:40 – 10:20 **The role of experts in the preparation of digital evidence specialist reports**
Stephen Mason, Burkhard Schafer and Svein Willassen.
- 10:20 – 11:15 **The challenges posed by electronic evidence in criminal, civil and execution cases**
Burkhard Schafer, Stephen Mason and Svein Willassen.
- 11:15 – 11:40 **Discussion**
- 11:40 – 12:15 *Break*
- 2nd Session** Advocate General Sultan Ibrahim Al-Juwaed, Federal Attorney
Chairman: General's Office
- 12:15 – 13:45 **A presentation of a criminal case and the challenges of relying on electronic evidence**
An exercise using a real case to illustrate the sorts of legal disputes that can arise involving electronic evidence and the legal and economic ramifications of their handling and resolution
Stephen Mason, Burkhard Schafer and Svein Willassen.
- 14:00 Lunch

Biographies of speakers

Jon Bing, (born Tønsberg, Norway 1944), cand jur (Oslo) 1969, dr juris (Oslo) 1982, Professor, Norwegian Research Center for Computers and Law, Faculty of Law, University of Oslo. Dr juris hon causae (Stockholm 1997 and Copenhagen 1998), Computer Law Pioneer Award (San Diego 1993), Visiting Professor, King's College (London) 1998-2000. Telenor Nordic research prize for information technology and society 2001, Nordic honorary prize for contribution to law (offered every fourth year) 2002, Honorary prize Norwegian Library Association 2004.

Member of the Norwegian Academy of Science and Letters, Royal Swedish Academy of Engineering Science, and a Knight of St Olav first order (by King Harald V).

Doctoral thesis on legal information systems and communication processes. Additional areas of research: Data protection, intellectual property law, interlegal law and Internet governance, all related to information technology. Numerous publications, national and international.

Former offices include Council of Europe Committee on Legal Data Processing (chair), European Cultural Foundation (member), Norwegian Film Council (Chair), Norwegian Arts Council (Chair), Organising Committee International Conference for Library and Information 2005 Oslo (chair), Generic Name Support Organization, Data Protection Tribunal (chair), ICANN (member), Current offices include Norwegian Board of Technology (member), Norwegian Research Council Program on Safety and Security (chair) and Bergesen's Foundation for Public Well (member).

First fiction 1967 (with Tor Åge Bringsværd), since then published novels, short-stories, essays, translations; plays for stage, radio and television, libretti of operas; edited anthologies, *etc.* Prizes for best annual juvenile novel (1975), best annual crime fiction (1979), best annual comic strip (1980), NKS educational prize for a television series introducing law in practice (1991), Brage Honorary Prize for contributions to Norwegian literature (2001), Prize by librarians at schools (1985) and IBBY International prize for the translation of juvenile fiction.

Burkhard Schafer has been a Lecturer (since 1996) and Senior Lecturer (since 2004) at the School of Law, University of Edinburgh, where he teaches courses on AI and Law, evidence, forensic computing, e-democracy and the social, philosophical and political implications of technology law.

He is a Co-director of the Joseph Bell Centre for Forensic Statistic and Legal Reasoning, an interdisciplinary centre involving forensic and computer scientists, mathematicians and lawyers. He is also Co-director of the AHRC Centre for IT and IP law, responsible for the research strand on agent technology and law. Born in Wiesbaden, Germany, in 1967, he holds degrees in computer linguistics, logic and epistemology from the University of Munich (MA with distinction, 1993), and Law Lancaster (LLM, with distinction 1996). He is the Chair of the Rechtsinformatik (legal informatics) working group of the German Informatics Association (GI) and member of the executive of both the International Association for AI and Law IAAIL and the British-Irish Law, Education and Technology Association BILETA. Since 2003, he is also Senior External Fellow of the Canadian Institute for Social Innovation research and since 2006 member of the steering committee of the Scottish Institute for Police Research. He was PI or Co-PI on several large externally funded projects, including ESRC "Evidence : its nature and evaluation" (RES-000-23-0729) EPSRC "Think Crime" project

“Model Based reasoning and Crime Investigation” (GR/S63267/02 and GR/S98603/01(P): “Software for the investigation and evaluation of scientific evidence to combat trafficking in illegal materials”, IKT SoS (Norwegian Academy) DESDIFOR: defining standards for computer forensics and EU Fifth Framework project FF POIROT (IST-2001-38248) on Financial Fraud Prevention Oriented Information Resources using Ontology Technology.

He is Associate Editor (Law and AI) of *Script-ed, The Journal for Legal Information Design* and the *Journal for Information Law and Technology*. He is also Member of the Editorial Board of the *Oxford Journal of Law, Probability and Risk*.

Stephen Mason, BA (Hons), MA, LL.M, PGCE (FE), is a Barrister (<http://www.stephenmason.eu>), a member of the IT Panel of the General Council of the Bar of England and Wales and the UK representative on the IT Law Committee of the Council of Bars and Law Societies of Europe. He is the general editor of *Electronic Evidence: Disclosure, Discovery & Admissibility* (LexisNexis Butterworths, 2007) and *International Electronic Evidence*, (British Institute of International and Comparative Law, 2008). He is the author of *Electronic Signatures in Law* (Tottel, 2nd edn, 2007) and *E-Mail, Networks and the Internet: A Concise Guide to Compliance with the Law* (xpl publishing, 6th edn, 2006). He is the founder and general editor of the *Digital Evidence and Electronic Signature Law Review* (<http://www.deaslr.org/>)

Svein Willassen, M.Sc, PhD has worked for ten years in the field of Digital Forensics; as Special Investigator in the Norwegian Central Computer Crime Unit, as independent consultant and as Manager of Computer Forensics as a business area in Ibas AS. He recently completed a PhD with the title *Timestamps in Digital Forensics*. Willassen has conducted forensic investigations in a wide range of criminal and civil cases, and has also established education in Digital Forensics. He has also participated in international standardization within the area, through Interpol and the International Organization on Computer Evidence. Willassen is currently operating his own business within computer forensics and digital evidence through his privately owned business Svein Willassen AS. He has regular assignments as consultant and expert witness within criminal and civil court proceedings.