

Michel Jaccard | Partner

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DeepTech | Software | Media | Telecoms
Data | Privacy | Cybersecurity | Intellectual Property
Corporate Finance | Acquisitions | Governance

Practice | Expertise

- Special expertise in **innovative and technology matters**, familiar with the complexities and challenges of advanced technologies and innovative or disruptive business models across several industries, among which *AI, AR/VR, fintech* (blockchain and distributed ledgers), *healthcare* and *life sciences* (biotech, medtech), *media* and *adtech*, *IT and IoT*, *software* and *cloud*, *retail*, *mobility*, *gaming*, *security*, *hardware* and *telecoms*.
- Strong track record in the **IP field** (copyright and trademark licensing, technology transfers, software development, deployment and litigation strategies, including open source and open access, new media, online reputation management, entertainment, branding and publishing), **data protection compliance**, **privacy management best practices** and **cybersecurity** incidents.
- Extensive experience in **complex corporate, commercial and finance transactions**, including crossborder acquisitions, sales, business combinations, joint ventures and restructurings. Clients range from early stage, equity or debt financed companies and entrepreneurs to global industry leaders and investment funds and include numerous fast growing VC backed companies and mature Swiss and European SMEs doing business with international suppliers or customers.

Education

- **J.D.** (1993), **Ph.D.** (1996), *University of Lausanne*, with honors.
- **LL.M.** *Columbia Law School*, New York (Fulbright grantee, Harlan Fiske Stone scholar).
- Admitted to the New York bar (1998) and to the Swiss cantonal and federal bars (1999).



Other activities

- **Guest lecturer** at several Swiss universities in IP, IT, e-commerce and corporate law (bachelor, master and EMBA programs) (since 1998).
- **Accredited Special Coach (Legal)**, Innosuisse (since 2018).
- **Advisory board member** of the *Swiss Legal Tech Association* (since 2017).
- **Juror, Mentor and Coach**, MassChallenge, VentureKick, FIT Digital, Business Experience, >>Venture Competition>>, Swiss Board Member Academy, ...
- Member of the **Federal Arbitration Commission for Copyrights** (2016-2019).
- **Member of the editorial committee of Sic!**, the Swiss legal review on IP | IT, anti-trust and telecom issues (2000-2017).
- Founding member of the **editorial committee for IFOSSLR** (International Free and Open Source Software Law Review) (2009-2011).
- **Chairman of the Jury for the Strategis Competition** (Award for Innovation & Entrepreneurship, HEC Lausanne, 2012-2014).
- **Advisory board member** of the *Swiss Legal Tech Association* (since 2017).
- **Blogger** on Law, Technology and Innovation (Bilan Magazine) (since 2012).
- **Member of the Task Force on Global Sourcing Contracts**, International Chamber of Commerce (ICC), Paris (2005).
- International Legal Advisor to the **Free Software Foundation** on the revision of the GPLv2 to GPLv3, the most popular open source license (2007).

Selected Recommendations and Accolades

Listed in 2007 as one of the “*100 personalities who make Western Switzerland*” (Forum des 100) and ranked in 2011, 2012 and 2013 among the “*300 most influential personalities*” in Switzerland by the business magazine Bilan.

Voted in 2012 by peers as the “*Lawyer of the Year*” in Media for the Lake of Geneva region (Best Lawyers), and twice as “*Dealmaker of the Year*” (2012 and 2016, Finance Monthly Magazine).

“direct, to the point and able to give valuable advice quickly, which makes the exchanges very efficient. His approach is very pragmatic and solution-oriented, and he understands the specificities of early-stage businesses and how to deal with the problems that can arise.” (*Chambers Europe 2020*)

“an outstanding lawyer and personality who provides practice-oriented and economically viable solutions” (*Legal500 EMEA 2020*)

“one of the most highly experienced and highly regarded TMT lawyers in Switzerland; he focuses on cross-border technology transactions, M&A and venture capital investments for technology clients.” (*Chambers Europe 2019*)

“a strategic thinker” who is able to “find a solution beyond just the legal viewpoint to align with commercial needs” (*Chambers Global 2019*)

“very skilled at talking to and managing big financial institutions - he’s a real deal-maker. He stands out for his deep understanding of cutting-edge technologies. He understands blockchain, VR, AI, payments” (*Chambers Fintech 2019*)

“boasts a top-tier TMT practice with a strong international focus [and] regularly provides assistance on areas including advanced technologies, data protection and digital transformation” (*WhosWho Legal 2018*)

“extremely pragmatic, goes straight to the point and provides strong leadership” (*Chambers Global 2018*)

“has an outstanding reputation for data protection and privacy matters. Commentators highlight his “expertise in data protection” and are impressed by his ability “to bridge the foreign and Swiss legal frameworks and adapt the way he talks depending on his client.” Jaccard is also highly esteemed for his work on cybersecurity and outsourcing mandates” (*Chambers Europe 2017*)



"an experienced, pragmatic and charismatic negotiator" (Legal 500 Europe 2016)

"a highly respected authority in the field of data protection, IT and technology. Clients identify him as 'very competent in the field of outsourcing,' and admire his ability to 'create a very nice atmosphere in the negotiations" (Chambers Europe 2016)

"is a well-known name in the Swiss IP field" (Chambers Europe 2016)

"understands all the aspects of a transaction and doesn't focus on the timesheet but the success of his client." (Chambers Europe 2016)

"a great specialist in TMT field, [with a] 'very practical approach, really tries to understand his clients' problems and is very solution-oriented'. His broad practice covers data privacy and security; media and privacy matters" (Chambers Europe 2015)

"noted for his expertise in both IP and IT, and sources are quick to describe him as a 'brilliant lawyer; I know if I handed him a case tomorrow he would do a good job'" (Chambers Europe 2015)

"continues to impress market commentators with his skill in assisting start-ups on M&A matters. 'He is an excellent negotiator and helped us at some key moments' enthuse clients" (Chambers Global 2015)

"provides pragmatic and efficient solutions, and very good value for money, especially for tech companies and start-ups" (Legal 500 Europe 2015)

"provides very focused legal and technical advice but also takes into account the commercial side of the transaction, and can translate his advice into lay terms" (Chambers Europe 2014)

"a dynamic practitioner with substantial market expertise and knowledge of venture capital transactions" (Chambers Global 2014)

"passionate and extremely knowledgeable about technology, so really understands how we work" (Chambers Europe 2013)

"a very intelligent person who quickly gets the important facts and understands without much explanation. He's always thinking at least two steps ahead" (Chambers Europe 2013)

"he knows how to create a good atmosphere. He's gentle in wording but very precise and well-prepared" (Chambers Europe 2013)

"an uncontested specialist for IT and internet-related Swiss legal matters" (Legal500 Europe 2013)

"recommended for his firm but realistic negotiation style, and responsive and commercial approach" (Legal500 Europe 2013)

"a pragmatic expert with the presence to get things moving" (Chambers Europe 2012)

"someone who understands business and offers no-nonsense advice" (Chambers Europe 2010)

"commended for his business sense and talent for coming up with creative solutions and ability to work internationally" (Chambers Global 2007)



Representative Assignments in Technology, Media, Privacy, and IP

- Negotiation and drafting of *outsourcing (IT & BPO), ASP, SaaS, IaaS, licensing, integration and professional services agreements* for major financial, media, healthcare, ICT, retail and industrial clients.
- Expert advice regarding *management and compliance of intellectual property rights and data protection* in connection with online transactions, bitcoin and blockchain platforms, data hosting and managed services (including on cloud infrastructures), portals, peer networks, social media platforms and blogs.

- Comprehensive support on *privacy compliance and privacy issues*, including intra-group and cross border, for global businesses and leading brands based in the US, in the EU and in Switzerland.
- Negotiation and drafting of *complex technology agreements and transactions* (software development and distribution including OEM, VAR, co-branding, R&D joint ventures, technology transfer, hosting, support, maintenance and facilities | infrastructure management, business continuity, security policies and contingency plans).
- Drafting of *software development, license and maintenance agreements* as well as extensive risk assessment checklists with regard to the use of IP and regular advice to *apps developers, CTOs and publishers* on multiple platforms.
- Design, drafting and implementation of *agency, franchise and distribution (wholesale and retail) networks* for services and products, in many industries, including luxury, watchmaking, marketing, advertising, sports, food & beverages, software, engineering, healthcare and pharma.
- Assistance on *production and online distribution strategies*, in particular in the gaming and entertainment industries (movies, music, games).
- Drafting and negotiation of *IT separation agreements*, license assignments and implementation and migration of ERP solutions in connection with corporate restructurings, divestures, acquisitions, including regarding employment issues and transfer of employees.
- Assessment of *dispute resolution strategies* in connection with failed IT, business and commercial projects and joint venture.
- Compliance audits and implementation of best practices for *electronic archiving, cybersecurity* as well as *data and records management processes*.
- Contractual and regulatory advice (including crossborder) as regards people and *employee monitoring* and related *electronic surveillance*.
- Drafting and negotiation of the *most common types of commercial agreements* for business entities and entrepreneurs, such as shareholders agreements, stock option plans, employment contracts, earn-outs, consulting, sale, agency, marketing, distribution, franchise, supply, licensing, R&D, joint venture, and technology transfer.

Selected publications

- *Smart contracts – de la théorie à la pratique*, Berne (2021).
- *Les conflits entre actionnaires de sociétés anonymes; enseignements pratiques pour la rédaction de conventions d'actionnaires*, Lausanne (2016).
- *Le "privilège de liquidation" en cas de revente des titres : affaire de notaire ou affaire d'actionnaires ?*, Lausanne (2015).
- *De la protection des données personnelles à la sécurisation des données connectées*, Livre anniversaire du Marathon du droit - Chapitre de la protection des données, Genève (2015).
- *Internet, médias sociaux, applications : terrains propices à la déloyauté commerciale ?*, in *Défis du droit de la concurrence déloyale (Challenges of Unfair Competition Law)*, Genève (2014).
- *Conventions d'actionnaires et PME – Quelle utilité ?*, L'Expert-Comptable suisse (2014).
- *Swiss Chapter*, The International Free and Open Source Software Law Book, Open Source Press (2nd edition, 2014).
- *Protection des données : kit du praticien*, Revue de l'avocat 09/2014.
- *Commentaire des Articles 39a à 39c et 69 LDA (Propriété intellectuelle) (Commentary of Articles 39a to 39c and 69 Swiss Copyright Act)*, Commentaire Romand, Bâle 2013.
- *Contrat de développement de logiciel*, Recueils de contrats commerciaux: Modèles commentés selon le droit suisse (*Software Development Agreement, Collections of commercial contracts*), Bâle 2013.
- *Couvrir les risques de l'administrateur (Directors' Liability and Indemnification under Swiss law)*, Cedidac no 89, Lausanne 2012.
- *Le management dans un processus de MBO – Enjeux, conflits d'intérêts et particularités contractuelles (The management in an MBO process – Issues, Conflicts of Interests and contractual specificities)*, L'Expert-Comptable Suisse (ECS) 6–7/2011, pp. 457-462.
- *Le conseil d'administration au service des actionnaires majoritaires – Risques, conflits d'intérêts et best practices en cas de cession d'actions (The board as an instrument of the majority shareholder – risks, conflicts of interests and best practices in case of share deals)*, RSDA 5/2010.
- *Sociétés anonymes privées en crise: l'actionnaire majoritaire démuni face au minoritaire? Réflexions critiques sur la protection renforcée du minoritaire en cas d'assainissement (Crisis management in joint stock companies: the majority shareholder powerless vis-à-vis the minority shareholder ? Critical thoughts on the reinforced statutory protection of minorities in case of restructuring)*, GesKR 2/2010.
- *Les contrats informatiques (Information technology services agreements)*, Publication du Centre d'études juridiques européennes, Zurich 2009.
- *Commentaire des Articles 772-803 CO (Droit de la société à responsabilité limitée / LLC law)*, Commentaire romand, Bâle 2008.
- *L'équilibre des pouvoirs dans le cadre de la révision du droit de la SA – Réflexions à partir des nouvelles règles sur la rémunération, l'organisation, la transparence et la gestion des conflits d'intérêts au sein du conseil d'administration (Corporate checks and balances in the revised law of joint stock companies – Thoughts on the executive compensation, the governance, transparency and rules of conflicts of interests at the board level)*, RSDA 2/2008.

- L'organisation du conseil d'administration, la transparence et la gestion des conflits d'intérêts selon le projet de révision (*Organisation of the Board of Directors, transparency and handling of conflicts of interests according to the draft new law*), CEDIDAC no 76, Lausanne 2008.
- Capital-risque et financement par étapes: de nouvelles perspectives suite à la révision du droit de la Sàrl? (*Venture Capital and Staged Financing: new perspectives under the revised LLC law ?*), Zurich 2007.
- Chapter on Governance, ICC Legal Handbook on Global Sourcing Contracts, ICC Publishing no. 663, Paris 2007.

Selected lectures and presentations

- Swiss Board Member Academy Training – Back to the Basics (since 2015)
- Blockchain, Smart Contracts et cryptos – la décentralisation dans tous ses états, Séminaire Expert Suisse (2019)
- Electrochoc numérique : les nouvelles attentes des clients, Geneva (2019)
- CAS Digital finance, Data Controllers vs Data Processors, University of Geneva (2020)
- Business Xperience, Droit des start-ups, Sierre (since 2013)
- AI and IP, AML Days, EPFL, Lausanne (2018-2019)
- Exit for all, Ask the Expert, Venture Lab, Lausanne (2018)
- Risk mitigation and management strategies – legal framework and challenges, Geneva Cybersecurity Law and Policy Conference, Geneva (2018)
- Startup Financing – legal issues and negotiation strategies, CEDIDAC, Lausanne (2018)
- Legal standing and associated liability of robo advisors and AI in wealth management, BCDT Event Series, Geneva (2018)
- “On Chain” Technologies : Legal issues and first answers – ICO, Blockchain,..., Academy & Finance, Geneva (2018)
- Master in Business Innovation, IP & Growth, CREA Geneva (2018)
- How to protect a business model in the digital age ?, Innovaud, Gland (2018)
- The importance of the General Data Protection Regulation (GDPR) for Swiss companies, Comsoft Licensing Workshop, Lausanne (2018)
- Cybersecurity Day 2017, Legal issues linked to cyberthreats and cybersecurity legal exposure for Swiss companies, EPFL Lausanne (2017)
- Risks, opportunities and challenges in open source, HEC Lausanne (2017)
- Exit Strategies for Startups, EPFL Innovation Park (2017)
- Founders Circle – Scaling up the business: from Founder to CEO, VentureLab, Lausanne (2017)
- Software based startup: open source, valuation and financing, EPFL Lausanne (2017)
- Data Protection and Cybersecurity – a guide for Fintech, Fusion Accelerator, Geneva (2017)
- Creative Commons, l'avenir du droit d'auteur?, Société Genevoise de Droit et Législation, Genève (2016)

- [Quand et comment ouvrir intelligemment son capital?](#), Petit-déjeuner des PME et Start-up, Centre Patronal Vaudois, Paudex (2016)
- [Cloud Computing](#), Association of International Business Lawyers, Geneva (2016)
- [IBA European Startup Conference, Overview of current trends in the European start-up industry](#), International Bar Association, London (2016)
- [Un concentré d'actualités et d'échanges autour de la sécurité](#), Forum Navixia, Prangins (2016)
- [Droit d'auteur et logiciels; LCD](#), Institut de la Propriété Intellectuelle, Berne (2016)
- [Cybersecurity and data privacy - a fintech essential](#), Workshop Fintech Fusion, Genève (2016)
- [Startup Board Members Academy](#), CTI, Lausanne (2015, 2016)
- [Launching your business...and beyond: essential legal checks](#), Workshop Fintech Fusion, Genève (2015, 2016)
- [IP & IT Contracts](#), Law in ICT & Utility Management, IIMT Executive Program, Fribourg (since 2014)
- [Data Protection in an International Framework](#), Law in ICT & Utility Management, IIMT Executive Program, Fribourg (2014-2019)
- [Journée "Marathon de formation continue"](#), Protection des données et cybersécurité, Ordre des avocats de Genève (2012-2018)
- [Open Source and Free Software 2015](#), Practising Law Institute, San Francisco (2015)
- [Quelles garanties pour l'humain dans la cyberadministration?](#), Egov Innovation Day, Lausanne (2015)
- [La protection des données, un enjeu sensible pour les PME suisses](#), CyberSecurityAlliance (APPSEC), Yverdon (2015)
- [Du Big Data au Smart Data](#), Event Big Data, EPFL Lausanne (2015)
- [Free and Safe in Cyberspace](#), Open Media Cluster, Brussels (2015)
- [Internet L@w - "Social Media and the Law"](#), Internet Law Summer School, Genève (2014-2018)
- [La circulation de l'information au sein du conseil à l'ère des nouvelles technologies: nouveaux risques](#), Swiss Board Institute - 4ème édition de la "Journée suisse du Conseil d'administration", Lausanne (2015)
- [Keynote - Entrepreneurs in Switzerland](#), CTI Entrepreneurship - soirée Alumni, Lausanne (2015)
- [Wearable computing: une interactivité humaine repensée](#), TechnoArk Conference, Sierre (2015)
- [Complying with the laws of online communication in 2015: is it possible and does it matter?](#) Geneva Communicators Network (2015)
- [Contrats et PME](#), CPOrg, Chambre vaudoise du commerce et de l'industrie (2014, 2015)
- [Internet, médias sociaux, applications: terrains propices à la déloyauté commerciale ?](#), Défis du droit de la concurrence déloyale, Journées du droit de la propriété intellectuelle, Uni Bastions, Université de Genève (2014)
- [Swiss South African venture leaders](#), VentureLab (2014)

- Rencontre Romande Formation et Entrepreneuriat, Institut Entrepreneurship Management, Champéry (2014)
- Legal aspects of cloud, Open World Forum, Paris (2014)
- Prévention et gestion des incidents sous l'angle légal, 7ème Forum de sécurité Navixia, Prangins (2014)
- Formation pour l'examen de conseil en brevet, Institut Fédéral de la Propriété Intellectuelle (2014)
- Stratégies d'internationalisation pour startups – Aspects juridiques choisis, Switzerland Global Entreprise / Venture Execution (2014)
- Le top 5 des délits impliquant l'email : spam, phishing et autres escroqueries. Comment réagir ?, 5 à 7 de la commission internet de l'OAV (2014)
- Formation sur les Creative Commons, Wikimedia, Lausanne (2014)
- Réseaux sociaux: faits, mythes et meilleures pratiques, Conférence LIFT (2013).
- ICT – Recht und Praxis Cloud Computing, Zurich (2013).
- View from Switzerland on fighting Cyber Crime, Kudelski Security, Clusis, Cheseaux-sur-Lausanne (2013).
- Standards in the ICT Industries – Time for Change ?, Standards : IP and competition, Université de Neuchâtel (2012).
- Launching your own business, Merck Serono Entrepreneurship Partnership Program (2012).
- Réseaux sociaux et stratégie RP – Aspects juridiques, Swiss Institute for Public Relations (2012).
- Venture capital Financing – Legal issues and practical tips, VentureLab classes (since 2011).
- L'assemblée dans les sociétés anonymes privées et les Sàrl, Aujourd'hui et demain, Association Genevoise de droit des affaires (AGDA) (2011).
- Data: Whose is it ?, Monaco Media Forum (2011).
- Aspects juridiques des médias sociaux, Formation SAWI (Centre suisse d'enseignement du marketing, de la publicité et de la communication) spécialiste en médias sociaux et communautés en ligne (2011).
- Le phénomène Wikileaks et l'ordre juridique suisse, Société Genevoise de Droit et Législation (SGDL) (2011).
- Les accords d'indemnisation entre la société et le Conseil d'administration, Université de Lausanne (2011).
- Advanced negotiation tactics in IT and BP outsourcing agreements, EMBA IIMT, Fribourg (since 2002).
- The Red Hat et al. vs BBL Case, European Open Source & Free Software Law Event (EOLE), Torino (2010).
- Equity financing for medtech start-ups, EPFL (2009).
- Workshop on IP and software issues for the IT community, American University in Prishtina, Kosovo (2009 and 2010).
- Open Access, University libraries and Copyright issues, Bern (2009).