



# BENDING **THE RULES**

The director of BLIP and the innovation catalyst for CUBE says **lawyers need to think more creatively to succeed in the digital age.**

**PROFESSOR JONATHAN ASKIN** cites four periods in U.S. history when young lawyers helped set the new world order: after the American Revolution in the 1780s, during the development of the New Deal in the 1930s, during the civil rights movement in the 1960s, and now in the digital age. Askin believes lawyers have a rare opportunity today to frame the legal and policy structures for a completely new social, political, and cultural landscape.

Askin speaks from experience. For nearly 20 years, he's been a leading practitioner at the intersection of law and technology. After the passage of the Telecommunications Act of 1996, he worked with the Federal Communications Commission (FCC) to advance the newest and most transformational innovation of the time: the Internet. His task was to design rules that would open markets to competition and enable the growth of the Internet. "We worked hard," Askin said. "We stayed late every night and worked on weekends, and thought we were doing something revolutionary."

by Jen Swetzo

His hard work paid off. Soon after Askin became a senior attorney at the FCC, the Association for Local Telecommunications Services hired him first as its general counsel and then as its president. After a few years there, advocating for the first generation of competitive telecom startups, he branched out beyond policy advocacy and started representing startups such as Vonage, Free World Dialup, and Skype that were exploring the new world of Internet communications. He found himself working less in Washington, D.C., and spending more time with clients in New York City and other global centers of commerce and industry. Askin also kept his hand in the political arena, serving as the chair of the Internet Governance Working Group for Barack Obama's 2008 presidential campaign.

Askin began teaching telecommunications at Brooklyn Law School as an adjunct professor in 2006 and became a full-time faculty member in 2008. That same year, he founded what is now one of the most sought-after clinics on campus: the Brooklyn Law Incubator and Policy Clinic (BLIP). Initially conceived as an intellectual property clinic, BLIP held bigger potential in Askin's mind. He envisioned it as a comprehensive, student-run law firm that could handle the full spectrum of a startup's legal needs. "IP means intellectual property as a component," Askin said. "But it also means information policy, Internet protocol, and innovative practice." Last semester, BLIP students provided free legal services to more than 100 clients.

At the Law School, Askin serves as the "innovation catalyst" for the Center for Urban Business Entrepreneurship (CUBE). He is also a visiting professor at the Centre for Commercial Law Studies, Queen Mary University of London; a fellow at the Columbia Institute for Tele-Information; an adjunct professor at Columbia Law School; and a founder and advisor to iLINC, a network of legal support clinics for the European startup community. In the spring of 2016, Askin will also be a visiting professor at MIT with plans to further bridge the scientists and technologists of MIT and the law students of Brooklyn.

Askin challenges students to follow his lead, stretching the way they think about the law and using it to help businesses in the digital age succeed on a global scale. He recently spoke with *Brooklyn Law Notes* about his love for Brooklyn, people who don't say no, and hackers.

### **What led you to academia?**

The seed for teaching was planted long ago by my dad, who is also a law professor and a clinician. I remember him coming home from work and saying, "I can't believe they pay me to do this." So I knew from a young age that this sounded like a pretty great gig. I suppose, in hindsight, the 5-year-old in me knew what was right for the 40-year-old in me. It just took me a while to realize it.

During my career, I've been a government lawyer, a trade association lawyer, a consumer advocate, a private industry lawyer, and even a civil rights attorney briefly.

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I've always wanted to dabble in everything and know everything. Being part of the faculty here at Brooklyn Law School lets me do that. I really believe that no place holds a candle to Brooklyn right now—it's the melting pot of creativity and innovation.

### **What's so special about Brooklyn?**

Innovative ideas are coming out of Brooklyn because we have the most diverse community in the world—a range of cultures, backgrounds, training, and skills—and we're all living on top of each other. We're all sort of bouncing ideas off one another. When everyone is bouncing ideas off one another, there's a lot of noise, but you find some good music.

### **Why is this environment beneficial for lawyers?**

Lawyers have to cross every t and dot every i, but the digital world will not stop changing, and lawyers have to change with it. I strive to imbue in my students some of the hacker ethos you see in the tech world—the conception that if you hit a roadblock, you need to pivot. Move. And do something novel and virtuous. We need to hear and to say “no” less often. We need fewer “yeah, but” lawyers and more “why not” lawyers in this “why not” world, meaning people who can think creatively and find ways to navigate the law rather than put an anchor down and halt progress.

### **The BLIP clinic is extremely popular with students. How did it evolve?**

We created BLIP as a full-service law firm for startups so that students could understand the entire spectrum of legal needs in the tech world. The bulk of our work is transactional, but we have to be prepared for anything, including potential litigation, which means understanding policy and politics and the general business needs of our clients.

Between 24 and 30 students are selected to participate in the clinic each semester. Those students form teams based on their interest area (be it government, art, media, or science, for example), and then each team selects their clients from our pool of more than 200 small businesses.

This year, one team will be devoted to patent work because we were recently admitted to a pilot program for the U.S. Patent and Trademark Office. That means we can now file a patent for our clients over the course of one semester (something that typically takes well more than a year).

No matter their interest area, the students in BLIP must find a way to use technology to improve the law—or a way to use the law to improve the trajectory of a tech venture. That’s the core of what I want to teach students: how the law and technology can work together to ease, expedite, and ensure progress and innovation. That’s also the mantra of CUBE.

### **What has been the impact of CUBE at the Law School?**

Over the past few years, CUBE has really evolved—thanks to a team effort across campus. The center adds a great deal of support and infrastructure and funding to our innovative programs; it enables us to have a more expansive presence in the school, Brooklyn, and the city. For example, we frequently host events through CUBE that introduce our students to a wide variety of lawyers and businesspeople who might run a startup or established high-tech firm. Two years ago, we introduced the CUBE Innovators Competition (see page 12), which has become a launching pad for entrepreneurial students. It’s essentially a legal hackathon that occurs over the course of a year as opposed to 48 hours. CUBE has been a game-changer for us and a practical way for students to see meaningful disruptions at the intersection of law and technology.



**Professor Askin speaking at a CUBE event**

### **What is a legal hackathon?**

It’s the idea behind Legal Hackers which is something that BLIP students created. Over time, they’ve built a truly global movement of lawyers, policymakers, technologists, and academics who find creative solutions to some of the most pressing issues at the intersection of law and technology. They try to spot issues and opportunities where technology can improve the practice of law, and where the law can adapt to rapidly changing technology.

This network grew out of something I did when I first started teaching: I’d take students to tech hackathons, which were usually weekend-long events where coders

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got together to collaborate and problem solve. We’d attend as lawyers and when we saw the demos, we’d usually say, “that’s good, but it’s against the law,” or “you didn’t protect this right or this interest,” or “that violates this regulation.” We were the naysayers at the revolution. It was infuriating to me.

So we changed our outlook. Let’s make this happen, we’d say, regardless of what the law says. More important, we began to host our own hackathons, where we could frame the debate and serve as project managers. Project management is a perfect component of legal training because its main function is to find how all the constituent pieces fit together.

When the students who participated graduated, they ran with the idea—creating local chapters of Legal Hackers in U.S. cities like D.C., New York, and Seattle as well as overseas in Amsterdam, London, and Stockholm. Now we’ve even done virtual global hackathons, thanks to a partnership with the MIT Media Lab, where an idea starts in Tel Aviv, then goes to Berlin, London, New York, and San Francisco.

### **Why are these hackathons important?**

Most of our hacks have been designed with an eye toward improving legal or business processes, although I am always proud when the students and hackers tackle broader social justice issues. A few years ago, for example, during one of our hackathons, three BLIP students decided they

wanted to create a platform to combat revenge porn, which means posting naked photos of someone else on a website, typically after a breakup, without their permission. It seemed like the First Amendment would allow people to post these images—unless the subject of a pornographic photo could claim copyright. So we had to figure out how they could do that.

Through the hackathon, we realized that the Digital Millennium Copyright Act has a process by which you can take down photos. The BLIP students then created a free and easy online platform called Take My Photo Down, through which someone can say: I'm the subject of this photo, it's a selfie, take it down. And this platform provides a letter they can send the offending website, and if that site doesn't remove the photo, there's a cause of action to sue. The same concept could be applied to "doxing," which is when defamatory or private information (such as Social Security numbers or bank account numbers) is posted online. We also hope to roll out the revenge porn concept and platform for people who want to remove their mugshot from a website, for streamlined expungement of juvenile criminal records, and for Freedom of Information Act requests.

#### **What legal issues interest you right now?**

I'm closely following the battles brewing in patent law and policy—over just how free and open inventions and ideas should be in the world. You want to encourage innovation by making sure people can derive value from it, but you also want to encourage innovation by letting the ideas get out there into the world as quickly as possible. For me, it comes down to a matter of balancing those two interests: making sure that the creator of the idea can derive legitimate value, while also making sure the ideas can flow as freely as possible.

On a related note, BLIP students also recently launched FirstToDisclose.org, a site that aims to allow inventors to claim ideas as their own while still sharing the ideas freely with the world. The America Invents Act said the first person to file a patent at the patent office gets the patent, rather than the person who was first to invent it. So, along with MIT, we're building a site that allows people to immediately disclose their idea to the world. After that, the inventor has arguably a year before he or she has to file a patent. But more important, he or she is telling the world "this idea already exists and it's mine," thereby precluding others from claiming a patent on the invention.

I'm also enamored by almost every new area in which technology is disrupting society, be it crypto-currency, digital manufacturing, equity crowdfunding, or so-called sharing economy services, to name just a few. These are all areas my students and I continue to explore as we try to figure out new legal frameworks and business models.

#### **Given the global nature of your work, how do you handle international questions that arise?**

iLINC is a European network of law incubators that we developed two years ago, which grew out of my concern that most of our NYC-based clients aren't strictly local companies; they want to do business everywhere—that's the nature of most Internet-based startups. But how could we find them legal resources in Europe? Ideally, we wanted a clinic like mine in Amsterdam, in Berlin, and in Hong Kong that we could ask for help. So that's what we created. Now, through iLINC, we have a group of 28 law schools throughout Europe that are building clinics like BLIP. We frequently collaborate with them, and we're trying to expand throughout the United States as well. Conversely, because we have built this network in Europe, we are their go-to counsel and U.S. landing strip when the startups of Europe have questions about U.S. law or want to enter U.S. markets.



**Professor Askin with BLIP students at the WeWork Lab, a coworking space and incubator in Dumbo, Brooklyn**

#### **What's next for you?**

I'd like to continue bridging our European network with an emerging U.S. network to create this "network of networks" of tech lawyers and startup entrepreneurs, where we can all learn from one another. It's really all about global domination, or at least global collaboration.

During my upcoming sabbatical, I plan to focus on using the law to better society and promote technological ventures. After that, I'm looking forward to getting back to teaching and running BLIP. The students' passion is contagious and I think my passion is contagious, and it becomes this virtuous cycle, where we're all committed to changing the world and doing something amazing. Every time a student or a young businessperson comes up with a cool idea and we get to help that person realize it by offering legal counsel and guidance, it's rewarding. Nothing is more rewarding for me than that. ■