Will Your Law Firm Accept Bitcoin?

By Christopher Hopkins, Chair, Law Practice Technology Committee

In this economy, it has become commonplace for clients to seek alternative fee structures for their legal bills. Most law firms have resorted to accepting credit cards, payment plans, reduced rates, flat fee arrangements or even Paypal. Coupled with the fact that potential clients can be anywhere around the globe and seek your assistance via the Internet, a client may seek to pay your hourly rate in "bitcoin."

How would you value your legal work in something other than dollars? Bitcoin is an alternative, electronic currency which began as a fringe concept two years ago but has drawn recent attention from The Atlantic, The Economist, New York Times, and USA Today. If you recall the struggle to define "Twitter" five years ago, explaining bitcoin is another mind-expanding riddle from the Internet which, in time, might become a household name.

Unlike Twitter, however, a discussion of bitcoin involves some understanding of currency, Internet security, and finance law. Like dollars, bitcoin is its own currency. But unlike dollars, bitcoins are not paper money but, instead, long strings of code exchanged between computers. According to its inventor, bitcoin is a "purely peer-to-peer version of electronic cash [which] would allow online payments to be sent directly from one party to another without going through a financial institution." The exchange system has no hub but is simply a connection of nodes on the Internet which verify transactions via a two-step public and private key signature system (in cryptological terms, it involves an irreversible hashing algorithm). The inventor boasts that security is baked into transactions thus creating a "system for electronic transactions without relying on trust."

Bitcoin is not a bank account, Paypal, frequent flyer miles, Facebook Credits or even Xbox Points. It is a free-standing, virtual, de-centralized money system which lives on the Internet without reliance upon any nation's economy or government. It is not currency based upon gold (neither is the US dollar) but a collective fiat based currency with a fixed supply: in other words, bitcoin has value based upon what people claim it is worth and there can only be a maximum of 21 million bitcoins. Critics contend that bitcoin offers no advantages over the dollar or yuan but may hold some promise in emerging, unstable countries. For the non-economic minded, it is hard not to bring this back to dollars. You can buy bitcoins on a trading market website, Mt Gox, which, like the stock market, reflects the current value of bitcoin based upon US dollars (in July 2011, bitcoins were trading around $14 each).

At this early stage, it appears that the bitcoin algorithm is an admirable security tool. In June 2011, however, bitcoin transactions were temporarily halted when it was reported that an account was stolen and a massive sell-off led to a system wide "bank run." Nonetheless, this can happen with real life money (e.g., identity theft to Madoff schemes) and, at least with online transactions, there are stopgap measures. In bitcoin's case, the error was caught and, within days, the market was reset.

Two problems exist with bitcoin: perception and the law. Bitcoin's murky origin is an unpublished "white paper" written under a pseudonym which was anonymously distributed. The bitcoin trading post, Mt Gox, exists offshore (purportedly in Japan) and is reasonably outside the grasp of the U.S. government if something goes awry. From an investment standpoint, that is not a reliable foundation for steadfast currency. Then again, Internet gambling seems largely unreliable yet people spend unchecked millions of dollars every year. Bitcoin advocates arise from the tech and libertarian crowds and they enjoyed a quick hit of attention when Wikileaks turned to bitcoin for donations after its Paypal account was frozen. However, extensive boasting about tax-free and government-free transactions from the bitcoin populous may hinder its mainstream adoption.

It was also a problem that, as bitcoin was only beginning to become recognized, the Mt Gox system crashed in June 2011. Around that same time, attention was drawn to a website, Silk Road, which sells illegal drugs and happens to accepts bitcoin. Two U.S. Senators seized the opportunity to gain some tech-credibility by writing a public letter to the Department of Justice expressing concerns about illegal Internet drug sales purchased with virtual money. If bitcoin is ultimately seen as a tool of illegal Internet trade, it may never gain traction. That said, the former head of eBusiness for Citigroup opened a bitcoin network, Ruxum, in July 2011 which may improve bitcoin's reputation as a reliable investment.

The second problem with bitcoin is whether it is legal. Once again, Internet innovation can be a confounding application of written law and the question of whether bitcoin is an illegal private currency may lie ahead of us. The Electronic Frontier Foundation had accepted bitcoin donations for several months but removed the option under concerns that, "Bitcoin raises untested legal concerns related to securities law, the Stamp Payments Act, tax evasion, consumer protection and money laundering, among others." Advocates claim it is simply permissible bartering as long as the transactions are reported.

So will your law firm accept bitcoin? Perhaps it is a marketing angle: two law firms have already announced that they accept bitcoins (http://bit.ly/kb5RBU).

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