

What's in a Domain Name?

Registration by Any Other Name Would Still Create Legal Issues

Clouds, Mobile & Internet Domains – What Me Worry?



Presented by

Joseph I. Rosenbaum

Partner & Chair

Global Advertising Technology & Media Law Practice

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It's All About the Information!!!



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Convergence = Confusion



The Web-enabled Internet, coupled with the emergence and convergence of innovative digital technology such as

Social Networks

Mobile Platforms

Cloud Based Computing

continues to challenge our legal & regulatory systems, creating confusion and consternation

Privacy vs Surveillance

Ownership vs Control

Employee vs Consumer

Medium vs Message



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Convergent Digital Technology is Transforming



**Trademark and Service Mark Protection
into
Brand and Reputation Management**

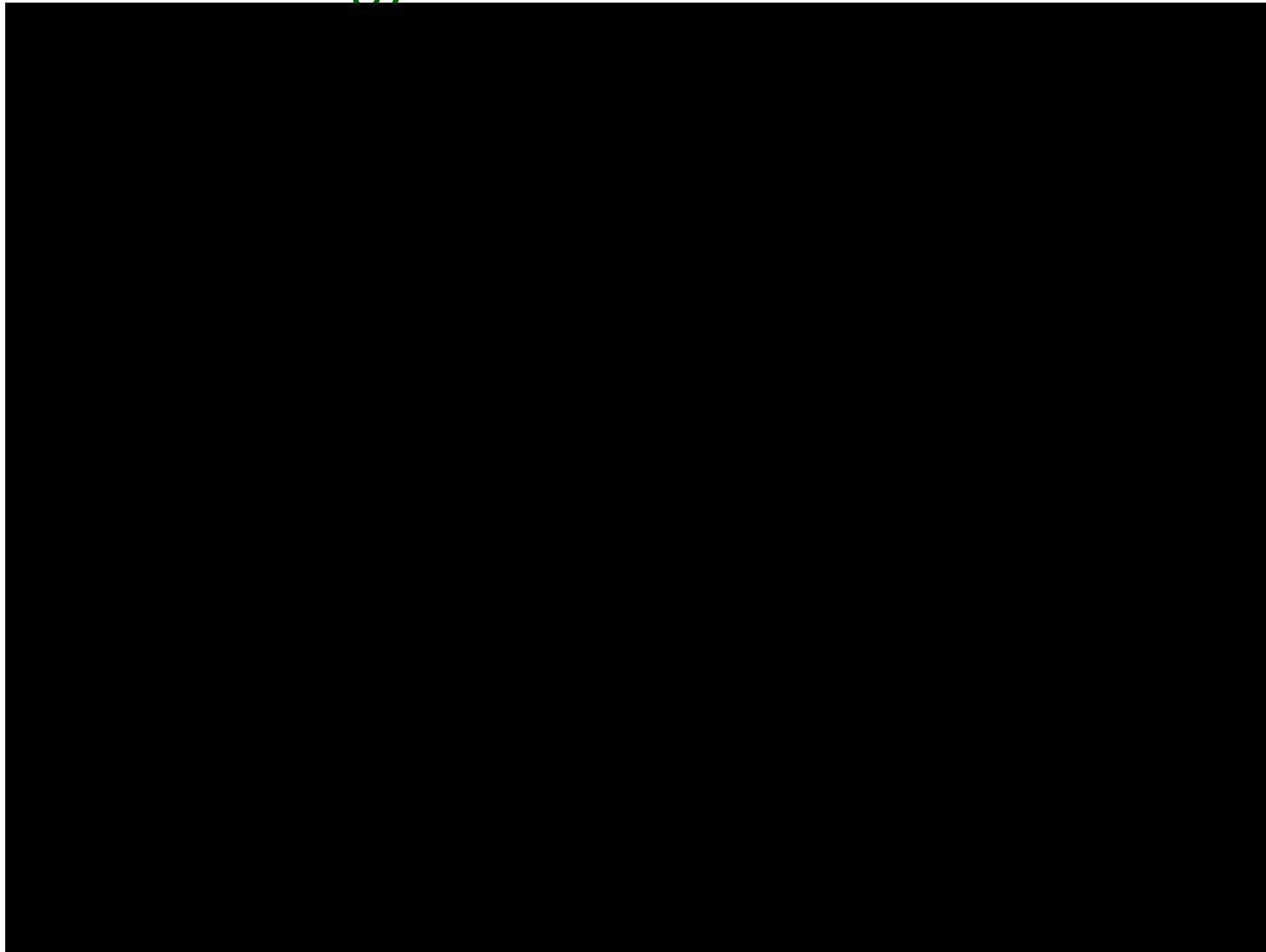
**Copyright Protection
into
Artistic Expression and Innovation**

**Search, Context & Location Behavior
into
Surveillance, Privacy and Data Protection**



Not the First Time in History

New Technology Has Created Confusion



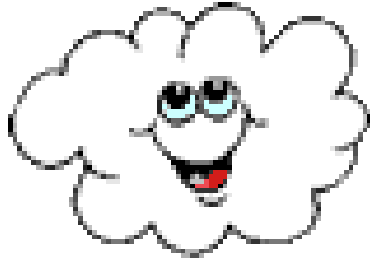
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Earliest Recorded Help Desk Interaction

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Cloud Computing

“Dynamically scalable virtualized information services delivered on demand over the Internet.”

Yankee Group: “Clouds in 2010: Vendor Optimism Meets Enterprise Realities, Yankee Group Research, Inc.

AND
With IPv6 there is a
unique, static IP address for every device

Cloud Rainmakers



MOSSEO
the hosting cloud

amazon.com



Joyent



3tera

Q-layer



GOGRID beta
A ServePath Company



Path



MOSSEO
the hosting cloud



force.com
platform as a service

Microsoft



VERIO
An NTT Communications Company

linode.com
...discover your roots



heroku

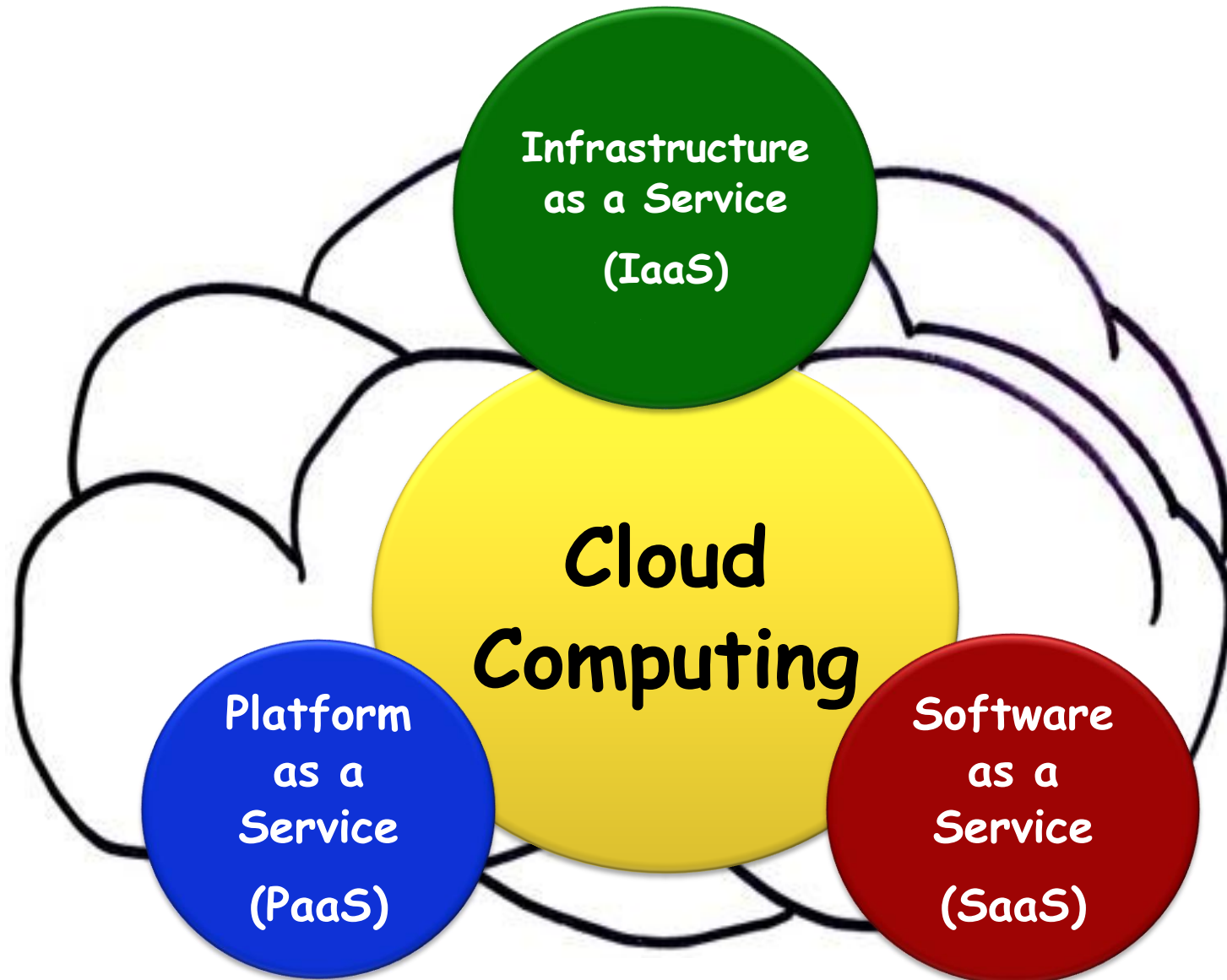


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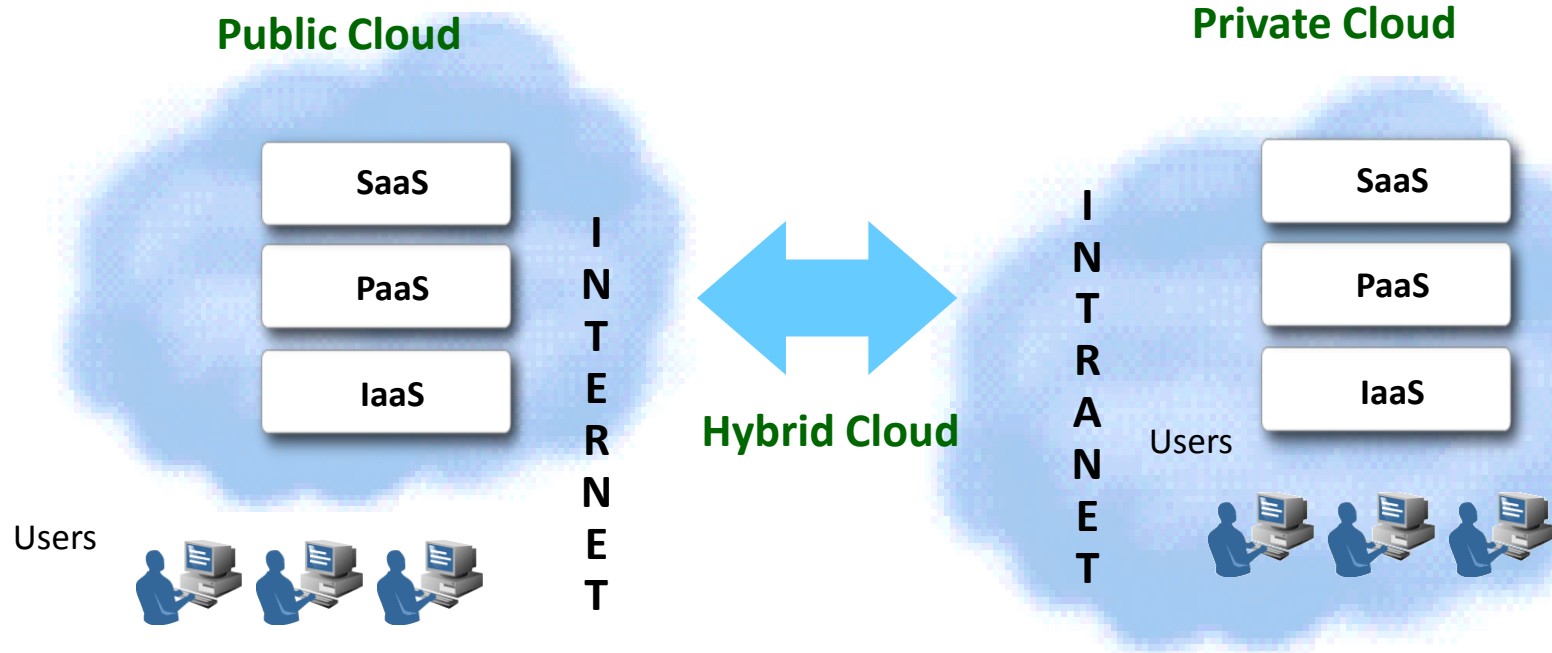
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Cloud Formations



Public Clouds

- Faster & cheaper to get started (e.g., dev & test)
- Economies of scale
- Simpler to manage
- OpEx

Both offer

- High efficiency
- Elastic capacity
- High availability

Private Cloud

- Greater control over IT environment and processes
- Easier to integrate
- Lower costs long term
- CapEx & OpEx



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- Open for use by general public
 - Exist beyond firewall, fully hosted and managed by the vendor
 - Large scale infrastructure available on a rental basis
 - Fully customer self-service
 - Service Level Agreements (SLAs) are advertised
 - Requests are accepted and resources granted via web services
 - Customers access resources remotely via the Internet
 - Accountability is e-commerce based
 - Web-based transactions
 - “Pay-as-you-go” and flat-rate subscription
 - Customer service, refunds, etc.

Private Clouds



- Within the boundaries (firewall) of the organization
- Most functional advantages of public cloud but:
 - No reduction in operational costs
 - Still requires full management resources of and by the enterprise
- Granular control over resources
- More secure
- Resource utilization based on enterprise business demands
- Ideal for apps related to tight security and regulatory concerns
- Development and capacity planning requires hardware investments and in-house expertise
- Cost could be prohibitive and exceed public clouds - ability to amortize restricted/limited



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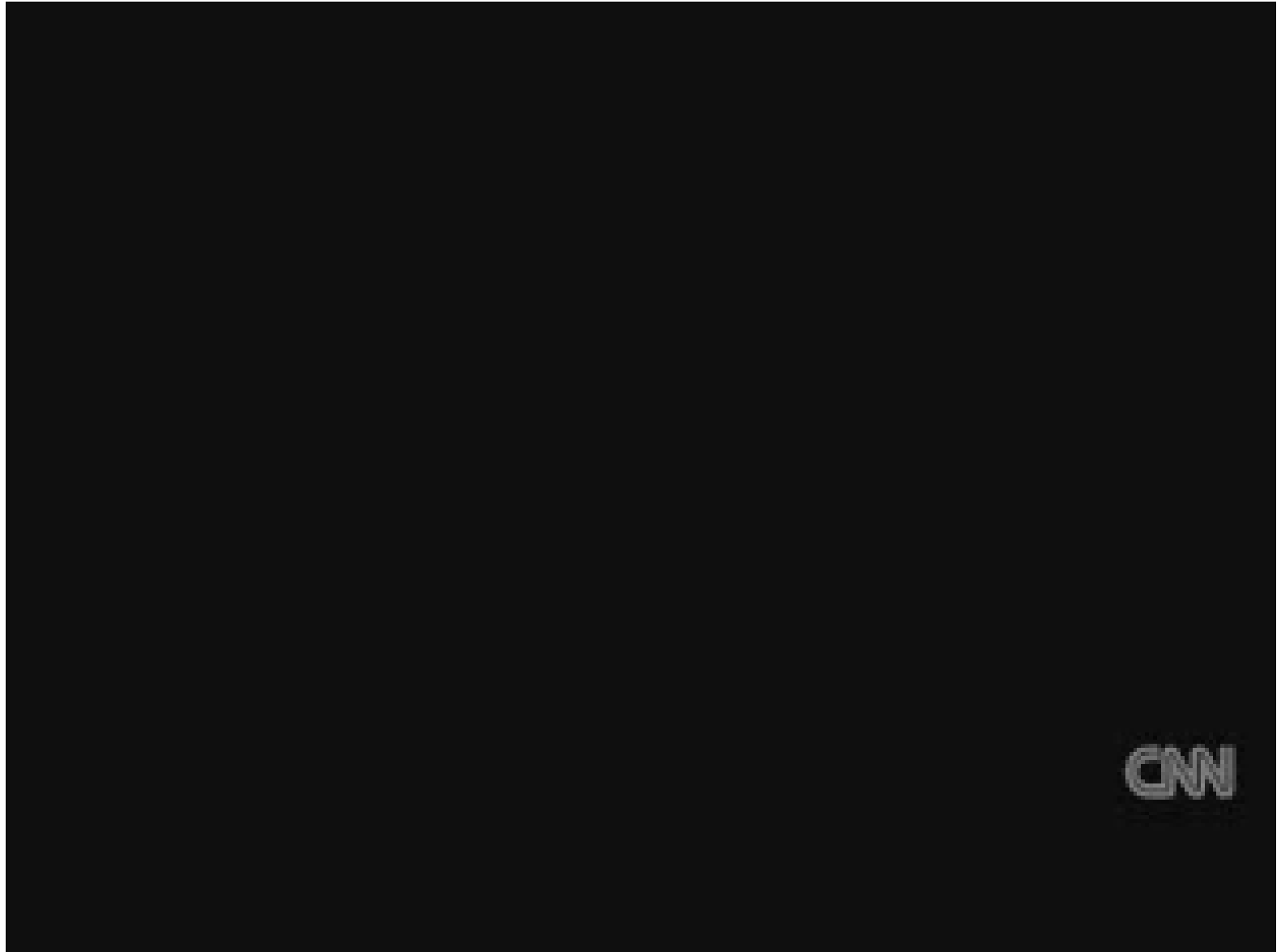
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- Hybrids more like derivative private clouds
- Users want private clouds to export the same APIs as the public clouds
- Data storage model is often key
- No good way to translate SLAs in cloud allocation chain
 - “Cloud Bursting” will only work if SLAs are congruent
- Customer SLAs allow applications to consider cost as first-class principle
- Buy required computational, network, and storage capabilities



CNN

What Me Worry?



Privacy & Data Security
Regulatory Compliance
Intellectual Property
Performance Metrics
Jurisdiction
Litigation & Government
Termination
Tax
Business Continuity
Insurance

Antitrust – Competition
Pricing
Shared Applications
Shared Infrastructure
Shared Data Resources
Competitive Issues
Enforcement Issues
&

The 800 Pound Gorilla in the Room:

Interoperability

Availability & Access



Jurisdiction

- Whose law governs?
 - Applications? Content? Input? Output? Content?
- Data Protection & Privacy Laws?
- Consumer Protection Laws?
- Due Process; Subpoenas; Government Access
- Export Control?
- Can Contract Law Dictate Where My Data Resides?
- Conflicts of Law



Regulatory Requirements

If applications (processes), infrastructure operational capabilities and resources and/or data is subject to regulatory requirements (e.g., HIPAA, GLB, PCI DSS, FISMA, SOX, Data Breach/Identity Theft; Security Regulations, Dodd-Frank, FINRA, etc.), then:

- How do I ensure compliance in a cloud environment?
- Who is responsible for breaches or violations: By statute (jurisdiction); By contract? By treaty?
- Will I be able to monitor compliance? Access an audit trail?
- Am I permitted to move the applications, infrastructure resources and/or data trans-border?



Governmental & Third-Party Litigation Access

- Is the provider required to notify you upon receipt of a subpoena, search warrant, regulatory inquiry or other lawful request for your information? (Some subpoenas forbid such notification).
- Will the cloud provider seek to narrow an overly broad ‘fishing’ inquiry?
- Will the cloud provider seek a protective order to prevent or limit disclosure?
- In the event of litigation, how are litigation holds enforced? What procedures ensure data is segregated and retained?
- How are e-discovery requests handled? How would metadata be protected? How is information searched for and retrieved?
- Which party bears the costs associated with processing data for discovery purposes?



Privacy and Data Security

Federal: Multiple sector-specific privacy laws

- Education information – FERPA
- Medical information – HIPAA, the HITECH Act
- Financial data – Gramm-Leach-Bliley (“GLBA”)
- Disclosure to law enforcement agencies – USA Patriot Act
- Electronic communications – ECPA
- E-Discovery – Federal Rules of Civil Procedure (“FRCP”)

State: Data-breach, SSN, health and financial privacy, etc.

International: Personal data within EU – The European Union Data Protection Directive; Data laws of non EU-States (i.e., Australia, Canada and now, Mexico); Data Transmission Across National Borders

Contract: Confidentiality; Payment Card Industry (“PCI”) Data Security Standards; DAA and other self-regulatory or contractual privacy standards

Internal Policy: Audit: Provider Qualifications (SAS 70 / ISO 27001)



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Key Contract Issues

- Disclaimer of warranties; Limitation of liability.
- Force Majeure.
- Regular Maintenance / Scheduled Down-Time.
- Third Party Beneficiary Rights.
- Insurance – Yours? Theirs?
- Remedy for breach of SLA.
- Remedies/Recourse for negligence? Breach of contract?
- Remedies for SLA Failure
- Pricing Models
- As Is/As Available.
- Indemnification obligations.
- Confidentiality obligations.
- Location of data; application; processes.
- Provider's sub-contracting rights; Assignment.
- Choice of Law.
- Interoperability/Interface Standards – You? Others?
- Standardization – Interoperability
- Competition

Does business interruption (“BI”) insurance cover cloud outages and data loss?



Tough Contract Questions

Does the provider's contract:

- Afford a unilateral right to limit, suspend, or terminate the service (with or without notice; for any reason or no reason).
- Disclaim or severely limit liability relating to service quality & availability – the essence of provider's obligations.
- Ensure no one other than your company has access to the data, even if hosted on a shared server?
- Require provider to frequently monitor its server to confirm data is properly segregated?
- Permit provider to deny access as a self-help remedy based on actual or alleged default?
- Permit the provider to access, redistribute, reformat, alter or otherwise affect or take some action with respect to programs, applications, content, data – what if the provider is both a host and a programming/ web development supplier?



Hey, You, Get Off of My Cloud

Review termination provisions for:

- Reasons for Termination
- Notice requirements
- Transition services, if any
- Termination / wind-down costs
- Return of data and other materials, programs, documentation, etc.
- Provider's deletion/retention of data (does confidentiality survive?)
- Is provider permitted to terminate use/access anytime, for any reason?
- What's your exit strategy, if you need one?
- Data Format/Data Transfer/Data Disposal / Data Return / Data Backup
- Transition Assistance
- Encryption Complications





Breaking Up is Hard To Do

Sec. 12.5 Salesforce.com Master Cloud Subscription Agreement
(Last Updated: January 31, 2009)

“Upon request by You made within 30 days after the effective date of termination of a Purchased Services subscription, We will make available to You for download, a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.”



The Silver Lining



- Access to computing and data storage services (hardware and software);
- On-demand delivery over a network, independent of device and location – “pay as you go” pricing.
- Shared resources dynamically scalable, virtualized and available with minimal service provider intervention.
- A metering system that segments computing and storage resources into appropriate blocks.
- Users pay for the service as an operating expense without incurring significant initial or recurring capital expenditure.
- Reduced need for in-house computer and staff resources.
- Reduced expenditures for acquiring, maintaining and upgrading equipment, software, and infrastructure.
- Optimize redundancy/disaster recovery.





**Government regulation, perhaps akin
To FCC or PTT type interexchange, availability and data
regulation, as well as tax considerations are likely to emerge.**

**Telecom providers will close
the gap between public and
private cloud environments**

**Cloud providers and
infrastructure builders will
invest in security and
compliance management**



**Clouds are inherently multi-jurisdictional, interoperable and
subject to varied governmental legislation, regulation and
judicial oversight.**

The Rise of Mobile



Mobile devices combine the utility of fixed telephones, the Web-enabled Internet, desktop and laptop computers, credit and debit cards, game consoles, library, radio and TV functionality, storage devices and we've only just begun



Because of its multi-functional characteristics and reach, and because mobile devices continue to cannibalize some or all of the features and functions of an unparalleled number of other applications and inventions, these devices will impact our lives in more ways than we can imagine. . . .

The Rise of Mobile



Mobile Phone Functionality Reaches New Heights



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Everything ~~Goes~~ Has Gone Mobile



Web Technology, GPS, RFID, Bluetooth, QR Codes,
Augmented Reality and Virtual Reality Further Blur
Traditional Legal & Regulatory Distinctions

- User Search & Input
- Geo Targeting - Location, Location, Location
- Coupling Location with Context
- Coupling Location with Behavior
- Location Sharing Capabilities
 - Among Users
 - Among Devices
- Social Networking Coupled with Location Sharing
- Surveillance Capabilities



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As of January 2007:

- 800 million cars, 850 million personal computers, 1.3 billion landline phones, 1.4 billion credit cards and 1.5 billion TV sets. Mobile phones in use? 2.7 billion, estimated at 6 billion by the end of 2013;
- 800 million email users; 1.8 billion SMS text messaging users.
- 2.7 billion phones in use, even taking 10% as multiple subscriptions, about 36% of the planet's population carries a mobile phone.
- In 2006 about 950 million mobile phones were sold worldwide and of those, at that time, about 66% had built-in cameras; 30% had MP3 players and 80% had color screens. All could access the web (at least via WAP) and exchange SMS text messages; over 66% were high speed (at least GPRS/ EDGE/CDMA2000 1xRTT) and 20% of were 3G phones. 4G is currently being deployed and global (dual GSM/CDMA) capable phones being sold at staggering rates.

In 2011: Apple sold more iPhone, than it had sold Mac computers over the last 17 years

Mobile Is



- Personal – always attributable to an individual
- Pervasive – one screen unites everything
- Instant – here and now
- Local – it goes where you go

First thing you check when you wake,
last thing you check before going to bed!

Within reach over 80% of every day ! !

92% of owners cannot get through a typical day
without using their mobile phone

Source: The Mobile Life, YouGov Survey 2006

Why do you think they call it a ‘sell’ phone ?



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Demographics are Changing



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Gaming	Deals	Search & Community
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‘Checking in” motivated by value exchange:
Deals, information, interaction, bragging rights



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We've Seen Mobile Services



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Now social climbing?



Given that studies consistently show consumers trust other consumers – their peers – more than advertisers (and government) when it comes to product and service recommendations, does it come as any surprise that ‘influence’ peddling has now been extended to consumers.



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Hotels.com

The screenshot shows the Hotels.com mobile website. At the top, it says "Hello, COURTNEY MINETREE". Below this, there's a "Quick Reference" section with a "Mobile, Hotel, Rent & Breakfast" card. The card lists details for a stay in Los Angeles, CA, from September 24 to 28, 2010. It includes a "Check-in" button and a "Check-out" button. Below the card, there's a "Weather" section with a "Weather Forecast for Los Angeles, CA" and a "TEMPERATURE" section with a "TEMPERATURE" button. At the bottom, there's a "Questions or Problems?" section with a "Call our Customer Care Center" button and a "Email Customer Care" button. The footer includes the "Registrar Summit" logo and the "ReedSmith" logo.

A key element of the program includes a **unique phone number tied directly to specific emails...**

When someone clicks a link in the email, the phone number that appears at the top of **all subsequent web pages on the site** is this **special call center number** specific to that email.



OMG! Ads Trgt TiVo Usrs + Txtrs



Unilever

Marketers Try Text-Message Lingo

Unilever's OMG Moment

“Brace yourself, big marketers are getting hip to text-message lingo. In ads that begin in two weeks for a new line of Degree deodorant for teen girls, Unilever is highlighting "OMG! Moments.”

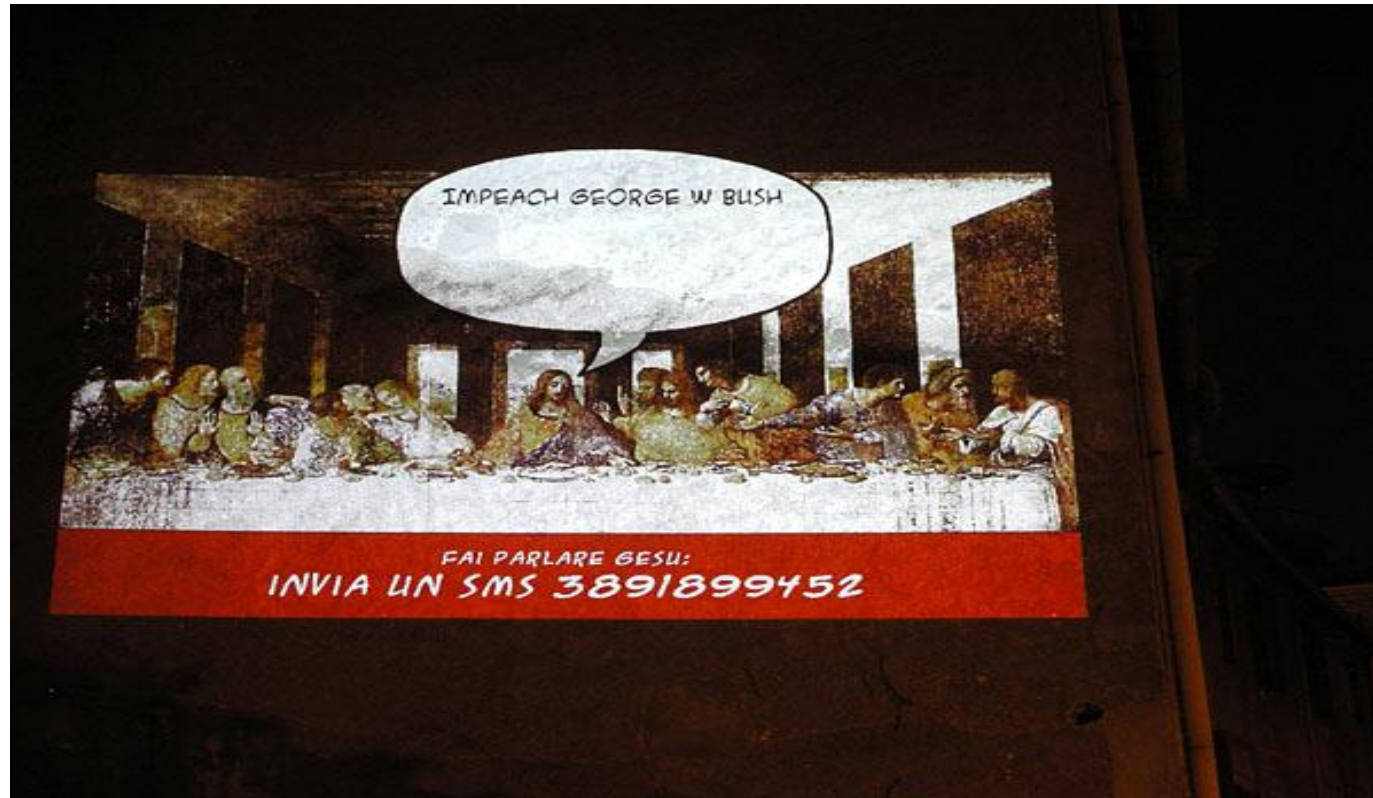
The Wall Street Journal, April 3, 2008



Nike erected a large, interactive billboard in Times Square and passers-by could use their cell phones to text in their own custom design and receive a free pair of Nike IDs.

Individuals went nuts when they saw their own shoes posted live on the Jumbotron in front of them. Nike gave away 3000 pairs of shoes in this promotion and participants were just as excited by their design on the billboard as **they were by the free footwear**





SMS as graffiti: You send your text message to a central system and the messages are then projected onto buildings (interior or exterior) in specific shapes or formats. The text messages appeared in speech bubbles.

QR Tagging



QR Codes turn your phone into a bar code scanner. These codes can not only be used on retail merchandise tags and clothing imprints but also on billboards, print and even web-based advertising



With pago you can now send digital cash mobile to mobile.

Get started right here. We'll send a pago message directly to your mobile, and you could win pago cash.

1. Activate your infrared or Bluetooth and change your settings to 'Visible', 'Shown To All' or 'Find Me'.



2. Point your infrared port at the circle above and wait to accept the pago message.



Finland's roadside toilets:

now accessible **only** by SMS

Posted Feb 5th 2008 1:05PM by [Darren Murph](#)

People traveling through Western Finland will need to take out their handsets to relieve themselves in select public restrooms.

They will require restroom visitors to text "Open" (in Finnish, of course) to let themselves in.



And of course, the 'Apps'



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Customer service as marketing

Direct consumers to purchase



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Yeah, There's an App for that...



Virtual Reality



H&R Block
Virtual World Advisors



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Augmented Reality



Vuzix Goggles



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Lonely Planet mobile city guide apps overlay place-of-interest information on pictures seen through travelers' cell phone cameras.



“We got three million downloads in 24 hours across the apps we gave for free, and the halo effect in to the paid apps was absolutely phenomenal—our paid downloads went through the roof.”

Lonely Planet



Mobile Legal Landscape



Rise of Consumer

- Integration
- Engagement
- Power

Digital Distribution Platform

- Unique Privacy Regulations

Threat of Regulation & Legislation

- Anecdotal Evidence
- Overlapping Jurisdiction
- Dynamically Evolving Technology

Changing Perceptions of Privacy

- National
- Social
- Cultural
- Age Demographics

Intellectual Property

- Confusion
- Dilution

Threats to Privacy

- Who You Are
- Where You Are
- What You Are Doing
- When You Are Doing It
- And With Whom?

What is Private?

- My 'Space'?
- Information About Me?
- Sharing Information About Me?
- Use of Information About Me?

Marketing to Children and . . .

FURTHER BLURRING DISTINCTIONS BETWEEN INFORMATION, ENTERTAINMENT AND ADVERTISING, AS WELL AS BETWEEN ADVERTISERS, CONSUMERS, FAMILY MEMBERS, EMPLOYEES & INVESTORS



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Which Rules Apply To Mobile?



- Federal Trade Commission Act
- Federal Communications Commission
- State Consumer Protections, Unfair and Deceptive Acts or Practices, Privacy, Breach & Identity Theft Statutes
- The Controlling the Assault of Non-Solicited Pornography and Marketing Act (“CAN-SPAM Act”) and the corresponding Federal Trade Commission (“FTC”) rules
- The Telephone Consumer Protection Act of 1991 (“TCPA”) and the corresponding FCC rules
- Do-Not-Call Rules
- Customer Proprietary Network Information (“CPNI”) rules
- Industry Guidelines (*e.g.*, ANA, IAB, MMA, DMA, AAAA, CARU, CTIA).



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Example: The TCPA

(Telephone Consumer Protection Act)



TCPA prohibits making “any call...using any automatic telephone dialing system or an artificial or prerecorded voice...to any telephone number assigned to a...cellular telephone service” or to use “any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement.”

Judicial interpretation prohibits marketers from sending messages to wireless devices using an automatic telephone dialing system (“auto-dialer”) without “prior express consent”

Significant Private Enforcement



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Satterfield vs. Simon & Schuster (9th Circuit; CA)

Consumer became registered user of Nextone services and checked the “yes” box indicating she had read and agreed to company’s Terms and Conditions permitting marketing offers from Nextone and its “affiliates” and “brands”;

Consumer received text message “pwd by Nextone” on behalf of Simon & Shuster.



Consumer filed class action claiming violation of the Telephone Consumer Protection Act (TCPA) and the Ninth Circuit found:

- Text messages are considered “calls” under a reasonable construction of the TCPA;
- Under TCPA, an auto-dialer includes equipment with the “capacity” to generate random or sequential numbers, whether or not that capacity is in use;
- There was no “express prior consent” as required by the TCPA where customers agreed to receive messages from an “affiliate” or “brand” and the messages sent were from a company with no corporate relation to the sender and were not part of any brand associated with sender;
- The court held that following a message with the phrase “powered by [Sender]” was insufficient to “brand” the message as coming from the sender or constitute an “affiliate”.



59595 – NBC's "Deal Or No Deal" Play At Home

Play along with the show from the comfort of your home for a chance to win \$10,000. Simply watch "Deal Or No Deal" on NBC and then **text your chosen case number to 59595**, before the case is opened. The winner will randomly be chosen from those that correctly picked the Lucky Case. You can enter up to ten (10) times per show. **There is a charge of \$0.99 per entry or enter online for free.**



Herbert et al. v. Endemol USA, Inc. (CD California)

SMS Class Actions Filed Against Networks and Carriers

Class actions launched against promotions incorporated into popular shows *American Idol*, *Deal or No Deal*, *1 vs. 100*, *Lucky X*, *The Hell's Kitchen*, *America's Got Talent*, and *The Apprentice*.

- Enter for free on website entry method; or
- Enter via premium text messaging – 99 cent charge per entry (plus standard text message rates).

Representative actions filed under California's Business and Professions Code as well as class actions in Georgia, Connecticut and Massachusetts.

Allegation: charging a fee to enter without receiving anything of *bona fide* substance in return = illegal lottery

Herbert et al. v. Endemol USA, Inc.

(California Class Action Petition)



- District court denied defendants' motion to dismiss finding that the claims asserted viable causes of action under California's statute;
- Defendants have asked the 9th Circuit to certify the issue to the Supreme Court of California as a matter of first impression; and
- Ninth Circuit decision pending.



Mobile Has a History of Effective Regulation



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No Discussion of Cloud Computing, Mobile Technology or Web-Enabled Internet Domains Would Be Complete These Days Without Mentioning Privacy and Data Protection

Traditional Privacy Rights

- Intrusion on solitude or private affairs;
- Public disclosure of embarrassing private facts;
- Publicity placing one in a false light;
- Appropriation of name or likeness for commercial advantage.

Government-Industry Partnership

Enforcement Cooperation or Confusion?



❖ Federal



NIST



❖ State



❖ Self Regulation



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In 1993...



On the Internet, nobody knows you're a dog.

Peter Steiner, published by *The New Yorker* on July 5, 1993



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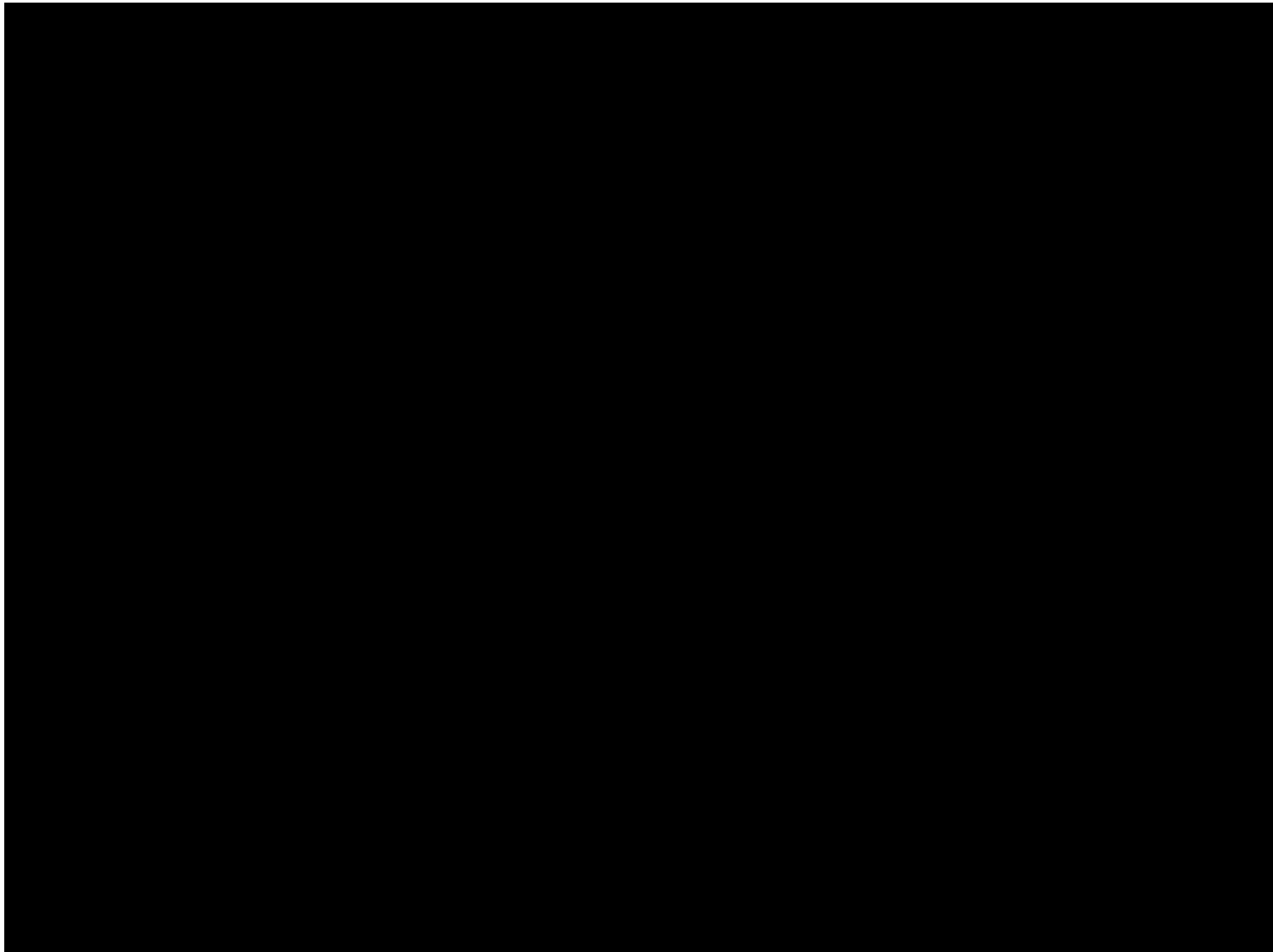


- What is Collected? From Whom? When? How?
 - Aggregate; Non-Identifiable; Personally Identifiable;
- How Will Information Be Maintained? Shared? Used?
- Who Will Have Access? When? For What?
- Federal Laws (CAN-SPAM; GLB; HIPAA; SOX, FTC, FCC)
- State Laws (Privacy; Publicity; Data Breach)
- Disclosures (Where? When? How?)
- Consent (Opt Out? Opt In? Assent – eSign)
- Rights (Revoke; Modify; Parents & Children)
- Modifications to Policy (Effective Date; Materiality)

Game Changing: Information or Control of the Information



<http://www.youtube.com/watch?v=0Kp03f5Iu0w>



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How Quickly Our Expectations of Privacy Can Change



1988: In the battle to block Robert Bork from the Supreme Court, someone leaked his video rentals. In response, Congress banned video stores from disclosing titles of films people rent.

2008: A federal judge hearing a \$1 billion copyright complaint by Viacom ordered YouTube to turn over online records (computer addresses) used to watch videos. The judge dismissed privacy concerns as "speculative"

[P.S. The judge graduated law school before the photocopier was invented!]

"You have zero privacy anyway. Get over it."

Scott McNealy, Chairman, Sun Microsystems

"The privacy you're concerned about is largely an illusion. All you have to give up is your illusions, not any of your privacy."

Larry Ellison, CEO, Oracle



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C is For Cookie: The Big Mythtake



Cookies can only be set and read by the same domain

- A cookie set on mail.yahoo.com can be read by my.yahoo.com
- A cookie set on yahoo.com cannot be read by washingtonpost.com

Web coding language (HTML) allows for multiple domains to be shown in a browser on a single webpage

- An ad is usually served on a primary site by a hosted third-party provider, such as Atlas or DoubleClick
- This ad gets shown on a site like nytimes.com through a seamless “window” that is actually a view into an Atlas/DoubleClick “webpage”
- Other than ads, content from third parties, including news wires, widgets, stock information, etc, can be displayed in the same way
- When the third-party ad/content shows up in the browser, the third-party domain can read its own cookies, even though the browser location bar says the webpage being visited is another domain

(<http://www.washingtonpost.com> vs. <http://www.doubleclick.net>)



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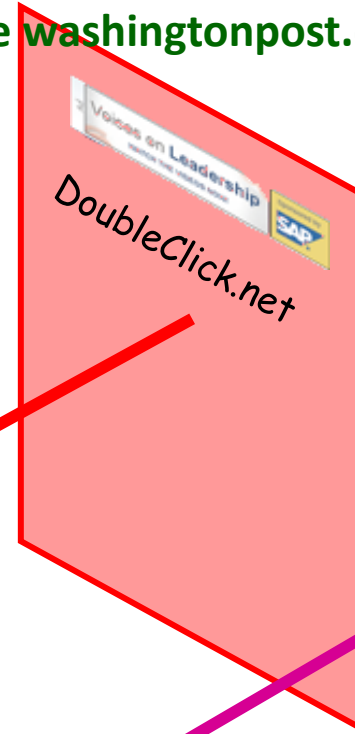
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Cookies: Pay No Attention to the Code Behind the Curtain



“Holes” in the washingtonpost.com are filled with ads. These ads are actually on other “sites” and that is how cookies from other sites can be set/read on the washingtonpost.com



BUT – Most Secure Sites Use Server-Based Login Software



Sites that require logins, including web mail, news content, banking, etc., can track almost all user activity and link it directly to any user-entered profile data.

This software cannot be stopped from tracking user activity by having the browser block cookies.

Data collected by logged-in environments also cannot be shared with other domains through a browser.

“Privacy” Appears Paradoxical



People SAY they cherish privacy as a right and principle.

BUT in their daily lives, they often act in ways that allow, even encourage, others to monitor and track them, to know their preferences, exactly where they are and what they are doing.

People express generalized anxiety about the consequences of inappropriate personal information disclosure: to businesses; to people they don't know; to computer hackers; to data mining and companies that analyzed their information in order to display ads based on the information obtained . . .

BUT in their daily lives, they often disclose information virtually indiscriminately to strangers, both individual and commercial, and most people aren't actually sure that any actual harm has occurred.



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In 2012



On the Internet, everybody knows you're a male beagle who prefers dry dog food, sneaks onto the master's bed watching cable, wearing a specially designed, hypo-allergenic flea collar.



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What Does Privacy Mean Today?



References to privacy are consistently and persistently used to refer to everything from true privacy, to data protection, digital search, video cameras, wireless access, open ID and browser data collection, surveillance, data matching, data mining, profiling, geo-targeting, behavioral data gathering, cookies, web beacons, invisible GIFs, web bugs, online and mobile, transactional activity, data sharing, processing, identity theft and compromised databases, to name the most obvious.

In the exchange of value, real or perceived by the consumer, privacy has become synonymous with the right to exploit the value of information about that individual, her or his relationships, activities, behaviour and preferences,

whether or not personally identifiable and whether or not sensitive or confidential.



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We Now Use the Term

‘Privacy’ To Mean Many Things



Anonymity/Pseudonymity: A persona, but ostensibly neither data nor behavior identifiable with the real individual behind the persona.

Confidentiality: Control over the use of information; protection from the collection, sharing and abuse of information about them.

Security: Protection from disclosure, impersonation and identity theft in ways that can cause harm.



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Pizza Palace '30 Minutes or it's Free'





Internet Name/Address Authentication versus Digital Natives

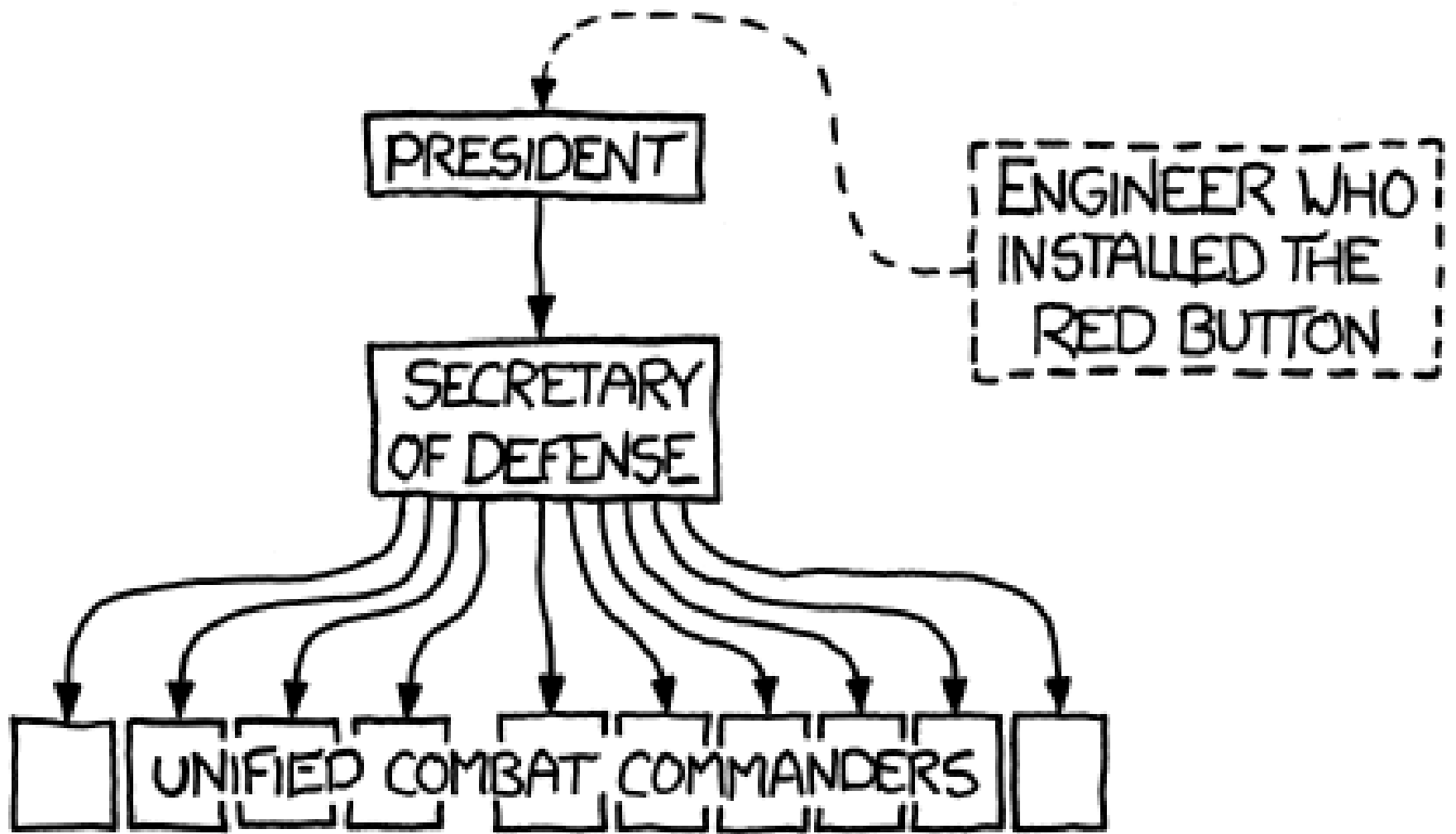
- Increasingly dangerous threat, made more robust by digital natives who know only online activities, have short attention spans when multi-tasking online and essentially look for speed and ease of use – “stand on line and vote”? “show you physical identification”? “you’re kidding, right”?
- How do you know the domain you are accessing is the real LinkedIn? How does Twitter actually know you are who you say you are?
- Today, cyber-warfare, increasingly at the nation-state level, is one of our biggest threats – but witness the growing power of individuals or groups off individuals using readily available, inexpensive computing;
- Imagine harnessing the power & virtually unlimited resources of cloud computing environments, the virtually unlimited mobility of wireless technology & the ease of anonymity or pseudonymity in an unreliable digital environment that is difficult, perhaps impossible, to fully secure.



ICANN Allows New Domain Names

- Devalue domain name marketplace;
- More options may be good; unlimited top level domains may not;
- Non-Roman scripts opens the Internet to phishing and email scams resulting from unfamiliarity with non Roman alphabets;
- Typo squatting and domain name speculation may increasingly deter the very users one wants to embrace the digital technology and increase security and authentications costs, time and effort for legitimate business;
- Currently ICANN only has a dispute mechanism UDRP which allows one to contest a registration post-fact based on trademark or international reputation – nothing technically prevents multiple parties from applying for .NYC , all of them legitimate;
- Even assuming ICANN develops and adopts purported ‘preventive’ procedures – is that the most effective, proper body to determine, adjudicate and enforce rules that now affect hundreds of millions of people, businesses and governments?

Setting the Stage



US NUCLEAR CHAIN OF COMMAND

A Rousing Chorus of Déjà Vu?

Ode To [Insert Favorite Mobile, Cloud, Domain Name Entity Here]



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Joseph I. Rosenbaum



Partner
New York

T: +1 212 702 1303
(New York)

F: +1 212 521 5450
(New York)

E: jrosenbaum@reedsmith.com

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Serving Clients in a Digital World

January 2007
Volume VI, Number 1

Legal Bytes

Advertisers Online and on the Frontline

New York's Attorney General has just settled actions against Priceline, Travelocity and Cingular Wireless for promoting products and services using "adware"—the first time a law enforcement agency has held an advertiser responsible for ads displayed through adware.

These settlements require the advertisers (and affiliates—presumably sales agents and promotional partners) to give consumers full disclosure of any adware (including adware bundled in other software); ensure advertising has a conspicuous, identifiable brand; obtain consent from the consumer to download and allow the adware to operate on the computer; and make it reasonably simple for a consumer

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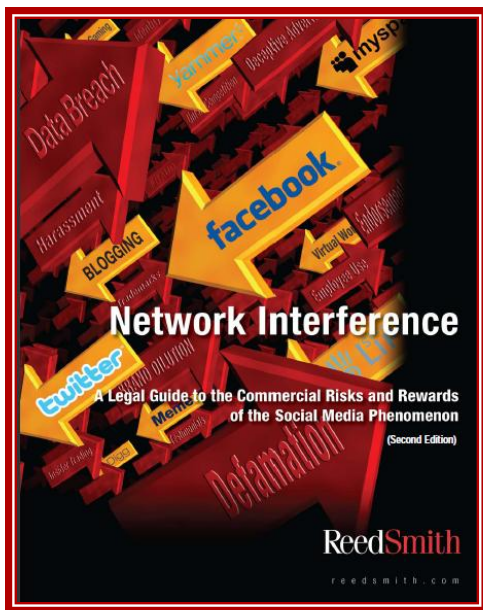
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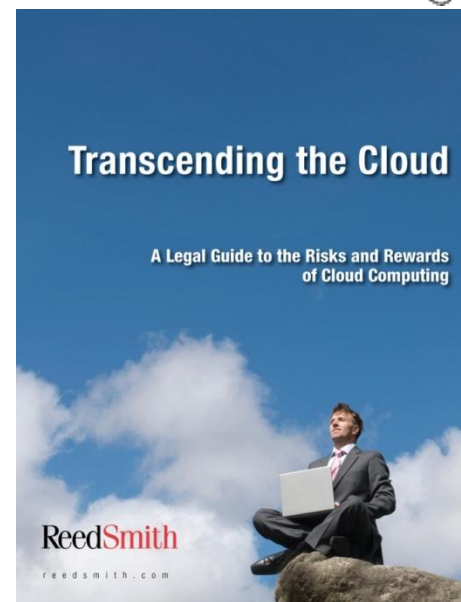
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Resources—More Information



www.reedsmith.com/networkinterference



<http://www.reedsmith.com/cloudcomputing>

Coming Soon:

Mobile Mayhem: A Legal Guide to a Wireless World

What I've Been Reading

An Army of Davids: How Markets and Technology Empower Ordinary People to Beat Big Media, Big Government, and Other Goliaths

Glenn Reynolds

Database Nation : The Death of Privacy in the 21st Century

Simson Garfinkel



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Thank You !



Questions??

Joseph I. Rosenbaum

Partner & Chair

Advertising Technology & Media Law Practice

T: 212 702—1303 M: 646 522-0083

jrosenbaum@reedsmith.com



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