

# The Exponential Speed of Innovation: Is IP Driving Your Business?



# The Exponential Speed of Innovation: Is IP Driving Your Business?



The Mobility of Social Media: Changing the  
Landscape on Protection of IP, Data Security  
and Privacy



# The Exponential Speed of Innovation: Is IP Driving Your Business?



- Rebecca Borden, SVP Associate General Counsel, CBS Corporation
- Noni Ellison-Southall, Senior Counsel, Turner Broadcasting Systems, Inc.
- Jeff Greene, Chair, Trademark, Copyright & Advertising Practice
- Cathy Lueders, Senior Business Leader, Managing Advisors Counsel & Trademark Counsel, MasterCard Worldwide
- Peter McLaughlin, Senior Counsel, Privacy Practice
- Britton Payne, Associate, IP Litigation Practice
- Regina Thomas, Assistant General Counsel, AOL Inc.



# Mobility of Social Media

4

## ■ Social Media

- Communication as Interactive Dialogue
  - Facebook, YouTube, Twitter, FourSquare, Tumblr, Google+
- Widespread use
- Social media portals now everywhere

## ■ Mobility

- Portable devices
  - Smart phone, tablets, gaming devices
- New places
  - Appliances, cars, motion sensors, scanners anywhere
- The “Cloud”
- Augmented Reality

# Mobility of Social Media

5

- *Questions: What Social Media do you use?*
  - Facebook / personal profile site
  - Linked In / professional networking
  - FourSquare / location-based
  - Meetup / coordinating RL events
  - Yahoo! Answers / StackExchange / community Q&A
  - YouTube / video sharing
  - Tumblr / photo blogging
  - Twitter / short-form communication
- Which kind of social media do you deal with most as part of your job?

# The Exponential Speed of Innovation: Is IP Driving Your Business?

6

## Application of Existing Licenses to New Technologies in Business to Business Relationships

It seems like every day brings a new technology. Some will be passing novelties, but some will permanently change the way content is distributed and used. Legal departments are expected to offer counsel on technologies they may never have heard of -- sometimes after the company has gone ahead and used them.



# New Technologies

7

## ■ Panel Discussion

- Scrape and Reformat
- Enhanced Viewing
- Augmented Reality
- Location-based notification -- broad definition of transactional email – CAN-SPAM compliance

# New Technologies

## ■ *Takeaways*

- Be wary of appearance of endorsement as content is repackaged in new forms
- Educate yourself – things move pretty fast
- Work with marketing to determine what potential legal issues are worth spending legal budget
- Fair use can be both sword and shield, but unreliable for either purpose
- New tech two-step: (1) support first adopters, (2) directly adopt successful
- CAN-SPAM applies to more than traditional email

# The Exponential Speed of Innovation: Is IP Driving Your Business?

9

## Data Privacy Issues

Hackers get more sophisticated, companies gather more data from their customers, and new technologies create more revenue streams for monetizing user data. On the one hand, consumers want their data kept private, on the other hand, they want the benefits that can only come from sharing their data. For attorneys, data privacy is a moving target.



## ■ Panel discussion

- Privacy as core business amid new uses
- Managing privacy issues in new technologies
- Cloud computing privacy issues
- What counts as private information?

## ■ *Takeaways*

- Good privacy protection may be a marketing plus
- Transparency in use of customer data will help avoid
  - Litigation
  - Regulation
  - Bad publicity
  - Financial loss
- Vet your cloud providers carefully: look for “liability”

# The Exponential Speed of Innovation: Is IP Driving Your Business?

12

## Online Copyright Enforcement of Unauthorized Uses

Copyright enforcement is a significant part of in-house counsel practice for a content creator and distributor. When your company owns content or distributes it under license, that content needs to be protected. There are incredible opportunities with new distribution channels, but of course, each of them comes with its own challenges from would-be infringers. Emerging technologies can enable copyright infringement, but they can also enable enforcement against copyright infringers. In a time of limited budgets and exploding possibilities for infringement, in-house counsel makes important decisions on how to allocate their enforcement budgets.



# Online Copyright Enforcement

13

*You found a link. How long will people pay attention?*

- The mean half life of a link:
  - Twitter: 2.8 hours
  - Facebook: 3.2 hours
  - ‘Direct’ sources (email or IM): 3.4 hours.
  - YouTube: 7.4 hours
- User attention moves fast
- On the social web, it’s what you share, not where you share it

# Online Copyright Enforcement

14

## ■ Panel Discussion

- Degree of monitoring for infringers
- When to request a takedown
- Public posting of cease and desist letters

## ■ *Takeaways*

- Automated technology can help find infringers quickly
- Can be hard to determine who is a pirate and who is a legitimate user
- Outside vendors can assist with aspects of enforcement
- Partnerships with emerging platforms to shut down infringers
- More ISPs are offering automated enforcement tools for content owners

# Online Copyright Enforcement

16

## ■ *Takeaways*

Expect that cease and desist letters will be publicly posted:

- Consider market factors as much as legal factors
  - Don't let the tone of the letter alienate legitimate customers
  - Public discussions on substantive accusations may result from or accompany letters
  - Sympathetic infringers may not get letters
- ## ■ Phone calls instead of letters can alleviate this problem

# The Exponential Speed of Innovation: Is IP Driving Your Business?

17

## Social Media Policies and Behavior

Social media is as ubiquitous as the Internet, and has gone mobile through Twitter and new mobile device apps. Every company needs a policy to address its employees' posting to social media that reflects the values of the company.



## ■ Panel Discussion

- Social media policy for official corporate presence
- Social media policy for employees
- Copyright enforcement in social media

## ■ *Takeaways*

- Keep employees informed of the policy
- Address FTC concerns for disclosure in reviews
- Update periodically to account for new social media outlets
- Safe harbor does not generally require monitoring, which may implicate privacy concerns
- Outside vendors will compile potential employees' social media profile