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"Computing In The Cloud"

by: Rader, Fishman & Grauer
Partner, Charles Bieneman -

You are going to be hearing a lot about cloud computing over the next few years. More and more of us have clients or work for companies that use some form of cloud computing, and some law firms themselves use it, too.

Naturally, more legal issues are arising from this form of doing business.

But what exactly is cloud computing? And what should you know about it?

Click [here](#) for the full article.

Class Curriculum & Copyright-

With schools back into full swing, it is not too early to start learning about intellectual property rights and responsibilities. The Recording Industry Association of America (RIAA) offers a program to educate parents and kids alike about intellectual property, especially in connection with copyright and in particular music. The RIAA offers class materials for teachers, parents and kids. See full story [here](#).

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Demand for Patents Falls According to WIPO-

The demand for patents is falling this year after holding up in 2008, according to the United Nations intellectual property agency. However, international patent applications from developing countries such as China are rising as its enterprises and universities become familiar with the international patent system. The story can be viewed [here](#).

Skype Founders File Lawsuit Against eBay-

A company owned by the founders of Skype has filed a copyright infringement suit against the Internet phone service and parent eBay Inc., an action that could crimp eBay's plans to sell Skype for about \$2 billion to a group of private investors. Joltid Ltd., filed the suit in the U.S. District Court of Northern California. The complaint alleges Skype violated an agreement over the use of critical peer-to-peer communication technology that Skype licenses from Joltid for use in its software. The story can be viewed [here](#).

France's Tough Stance on Internet Piracy -

The so-called Three-Strikes option may be back on the table, which would put strong measures into effect to combat piracy on the Internet, in particular illegal file-sharing. The bill still awaits final approval. If approved, the bill imposes stiff measures including fines, removing Internet access rights by offenders and even incarceration. For details click [here](#).

In re Bose Corporation: Court of Appeals for the Federal Circuit Overrules Medinol Fraud Standard -

On August 31, 2009, the United States Court of Appeals for the Federal Circuit (CAFC) reversed the finding of the Trademark Trial and Appeal Board that Bose Corporation committed fraud when renewing its registration for the WAVE mark when the mark was not actually in use on all of the goods in the registration. This case overruled the Medinol decision by holding that "a trademark is obtained fraudulently under the Lanham Act only if the applicant or registrant knowingly makes a false, material representation with the intent to deceive the PTO." *In re Bose Corp.*, Appeal No. 2008-1448 (Fed. Cir., August 31, 2009).

The CAFC determined, by equating "should have known" with intent to deceive, the Board had "erroneously lowered the fraud standard to a simple negligence standard." *Id.* at *6. The court went on to state that mere negligence is not sufficient to infer fraud or dishonesty, and gross negligence does not itself justify an inference of intent to deceive. *Id.*

This decision signals a strong limitation on the strict rule of fraud under Medinol and its progeny. See document [here](#).

Bose Fraud Standard Applied to Recent Trademark Trial and Appeal Board Case -

On September 20, 2009, the Trademark Trial and Appeal Board applied the fraud standard as set forth in Bose, requiring applicant-counterclaimant to amend its fraud-based petition for cancellation, stating the "knew or should have known" allegation is insufficient. Fed. R. Civ. P. 9(b) requires that the pleadings contain explicit rather than implied expression of the circumstances constituting fraud. *King Auto., Inc. v. Speedy Muffler King, Inc.*, 667 F.2d 1008, 212 USPQ 801, 803 (CCPA 1981). See document [here](#).

Other News -

- [Can a duck "quack" be Intellectual Property?](#)
- ['That's Hot!' Paris Hilton Wins 'Hallmark' Decision at Ninth Circuit](#)
- [Judge Sides With Veoh in Copyright Case](#)
- [Microsoft dodges \\$358 mil patent verdict](#)
- [McCurry's Wins Battle Against McDonalds](#)
- [Advisor Backs Google in Trademark Case](#)
- [USA is Still Best Place for IT Business](#)

Firm News -

- **Loren H. Uthoff has joined Rader, Fishman & Grauer in Bloomfield Hills, Michigan.** Mr. Uthoff has significant intellectual property law experience acquired primarily while employed in the Patent Law Department of Eaton Corporation, a Fortune 200 diversified industrial manufacturing company.
- **RFG Partner Charles Bieneman** recently led an informative discussion on one of the latest IT trends, "**Cloud Computing**" at the Michigan State Bar IT Law Section's annual meeting. Mr. Bieneman is the current Treasurer of the MI State Bar IT Section.

- **RFG Partner Mary Margaret O'Donnell** recently spoke about "**Behind-the-Scenes Trademark Use on the Internet: Keywords, Adware, Spyware, and More**" at an American Bar Association, Section of Litigation webinar. The webinar was held on September 15, 2009. For more information or to obtain a CD of this webinar click [here](#).
- **RFG Partner Kristin Murphy** will speak on "**How to Conduct Successful Initial Interviews with IP Clients**" at the Intellectual Property Practice Management for Lawyers and Paralegals seminar on October 6, 2009. See [details](#).

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