

Technology Law and Electronic Media Update

February 13, 2013

President Obama Issues Order Calling for “Cybersecurity Framework” Standards for IT Industry. February 12, 2013. President Obama issued a Presidential Order that calls for the development of: “...a framework to reduce cyber risks to critical infrastructure (the “Cybersecurity Framework”). The Cybersecurity Framework shall include a set of standards, methodologies, procedures, and processes that align policy, business, and technological approaches to address cyber risks. The Cybersecurity Framework shall incorporate voluntary consensus standards and industry best practices to the fullest extent possible....” One can expect that an IT procurement contract will have to address whether (i) the customer has any involvement with “critical infrastructure” and (ii) if so, what requirements the customer or IT vendor have to comply with in order to meet the standards promulgated by the “cybersecurity framework.” It is suggested that IT customers plan for this moving target in their current bidding processes.

Federal Trade Commission Issues New Rules Under Children’s On-Line Privacy Protection Act (COPPA). January 17, 2013. The FTC concluded a rule-making under the provisions of COPPA with new rules, effective July 1, 2013, that apply to an expansive definition of “personal information.” The FTC has decided that a website operator is responsible for a child’s personal information obtained by third party on-line services that are integrated into the website. It has solidified its position that use of “persistent identifiers” e.g. tracking cookies, to track website users under the age of 13 is generally subject to prior “verified parental consent.” However, the FTC has refined some exceptions and safe harbors, including that some general audience sites can rely on the user’s self-reported age in order to avoid obtaining prior parental consent for all users. The regulations suggest that website designers must build COPPA personal information management processes into website design early in order to avoid having to redesign the site later. It is recommended that website operators conduct an audit of their uses of “personal information”, as broadly defined by the regulations, in order to determine if they comply.

“FIRST TO FILE” PATENT SYSTEM COMES INTO EFFECT ON MARCH 16! Starting March 16, companies have to file their patent applications during product development, not after commercial sale or deployment. If you have already publicized, sold or deployed a patentable invention in the past year, you will need to file on it prior to March 16, 2013 in order to preserve your right to a patent claim.

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