

CORPORATE LAW

NEWSLETTER

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Cloud Computing *by Robert E. Braun*

On October 29, 2009, the City of Los Angeles announced that it is outsourcing its e-mail services to Google, becoming the largest governmental body to outsource such a key computer function to an Internet-based provider. Before and since, companies large and small have elected to move key entity functions to services that are accessed through the Internet. This growing trend toward Internet-based computing services - commonly referred to as "cloud computing" - is one of the most significant developments in computing services. This is the first of a series of articles that will examine cloud computing as it impacts users of those services. This article will define cloud computing and discuss some of its benefits; future articles will review the business and strategic challenges of cloud computing, the legal challenges, and tips for addressing those challenges.



however, is different because companies use it to transfer essential business functions from in-house operations to Internet-based services.

Benefits of Cloud Computing

Users find cloud computing is attractive because of some clear benefits:

Cost Savings

First and foremost, promoters and adherents of cloud computing argue that it is less expensive than providing the same computing services in-house. While the per-unit costs of computer hardware and software — computers, servers, routers, operating systems and computer programs — have fallen over the years, it is still expensive to establish and maintain extensive computer systems that are necessary for businesses. Many users find that moving computing services onto the Internet moves those data center costs from the customer to the cloud computing vendor, including software and hardware acquisition, operating and maintenance costs. Even if the hardware and the software is no less expensive, outsourcing computer services allows companies to reduce real estate costs (through reduction in operating space), payroll, benefits and insurance costs. Many companies find the savings to be compelling.

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Creditors' Rights: California Now Allows Personal Property Judgment Liens to be Extended for More Than Five Years *by Richard A. Rogan*

You've gotten a judgment against that troublesome borrower who hides assets and plays games, but you are afraid that it will be many moons before you are able to collect. You know that one of the best ways to get this kind of person to deal with you is to get a statewide judgment lien against him. This is because that judgment lien will show up on his credit reports and effectively block him from getting a car loan or a credit card. Faced with the prospect of paying cash for a clunker, this borrower would rather pay you off than pay cash for a new ride. Fortunately, most borrowers are not like this, but there are a few, and you know the type!

Starting on January 1, 2010, California will finally bring its personal property judgment lien into parity with its real property judgment lien. Up until then, a California real property judgment lien had a life of 10 years and could not be renewed. But a judgment creditor could only get a lien on personal property for 5 years, and renewal was not available.

Somehow, the California Legislature passed, and the Governor signed a bill to amend Section 697.510 of the California Code of Civil Procedure that permits a judgment creditor to renew a notice of judgment lien filed with the California Secretary of State. In California, personal property judgment liens are created by filing a notice of judgment lien with the California Secretary of State in a manner similar

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Using cloud computing can be part of a plan to attract and retain key, motivated personnel.

What is Cloud Computing?

While there are many concepts of cloud computing, it generally refers to delivering computing services — whether software, storage capacity or other products and services — over the Internet. Cloud computing makes documents, e-mails and other data accessible from any personal computer or mobile device with access to the Internet. This is not really a new development — many things work this way already, from online search engines to e-mail and photo albums to calendars and shared documents. Most of us use the cloud every day, by accessing search engines, social networks and e-mail. Cloud computing,

SPOTLIGHT ON DISTRESSED ASSETS & REAL ESTATE
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Property Judgment Liens continued from cover

to filing a UCC-1 financing statement. Judgment liens are indexed in the same manner as security interests and have the same priority.

The practical effect of the new law is to allow a judgment creditor to file a continuation statement to extend a judgment lien. The process will be similar to what is now done to continue a financing statement for more than five years. In order to extend the validity of a personal property judgment lien, the

creditor will have to file a continuation statement in the final six months of the life of the judgment lien. There are no limits to how many times a personal property judgment lien can be extended.

As experienced workout professionals know, all too often securing a judgment is not the end but rather the beginning of collecting on a troubled loan. It is critical to record judgment liens promptly in counties where the borrower owns (or is likely to own) real property and to calendar the expiration of those liens so they can be renewed. Similarly, it is important to promptly file a notice of judgment lien with the California Secretary of State to create a statewide lien on personal property owned by the borrower. When AB 121 becomes effective on January 1, 2010, creditors will also have to calendar the expiration date of personal property judgment liens and remember to file continuation statements every five years.

It is a good idea to review all of your existing personal property judgment liens

now. If those liens expire after January 1, 2010, calendar the date and don't forget to file a continuation statement in the last six months before the lien expires.

The JMBM Special Assets Team has collected many judgments over the years. We know what it takes to uncover hidden assets and to protect the investment that our creditor clients have made in getting the judgment in the first place.

Year after year, day after day, workout professionals in the know rely on JMBM's Special Assets Team to handle problem commercial and real estate loans. Whatever problem loans you have, chances are, we've seen it. Give us a call. ■

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Economies of Scale

These savings are achieved in large part because of economies of scale - a vendor can offer the service for less than similar services on an in-house standalone basis. Cloud computing vendors can choose the most efficient locations for services, and share resources among multiple clients that would otherwise have to be replicated by each individual client. Vendors can also focus on utilizing their resources more efficiently. Inherent in this thought is that companies that limit their services to providing computing resources are experts; companies that use computers to support their core businesses cannot focus as clearly on a support service.

Reductions in Personal Staff

Along with economies of scale, customers of cloud services are able to reduce their technical staff. The technical personnel required to maintain the data center move

from the customer to the vendor, and while customers may still need desktop technical support, cloud computing vendors reduce this cost through remote tools, allowing the vendor to access workstations on-site to diagnose and resolve issues. It should be noted that reductions in personnel (without, presumably, a reduction in service) not only reduce direct personnel costs for salaries, benefits, office space and the like; the personnel issues related to having a data center move from the customer to the vendor can shift potential liability associated with a workforce.

Scalability

Particularly important in uncertain economic times, cloud computing is typically scalable. Customers can, with relative ease and speed, increase or decrease resources to reflect their needs. The cost of the cloud service typically fluctuates with the increases and decreases, subject to contract

restrictions. As a result, a customer does not have to maintain unused resources to meet fluctuating demands or to anticipate growth, and can eliminate unnecessary resources if business declines; cloud computing services can be contracted on an as-needed, when-needed basis, without requiring the client to create substantial infrastructure which may not be needed. And as companies grow, they can quickly add resources which allow them to take advantage of business opportunities and secure additional revenue, often at a marginally additional cost.

Mobile Workforce

Cloud computing accommodates mobile users and mobile applications quite effectively because it is accessible through the Internet, a factor that is particularly important as a workforce becomes more mobile. While much of the evidence is anecdotal, as companies seek ways to reduce costs, reducing their

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