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Message from the President

By Jaime Millikin, AIS, CPIW - Dennis Miller Agency

I would like to thank all members of our association for their support of my leading the group for the next 2 years. I will do my best to represent you at all meetings.

As your president, I would like to welcome all returning members & all new members to Mid-Michigan Association of Insurance Professionals. We are small group dedicated to the insurance industry & a supportive force in our communities.

Although the association is taking its summer break we are planning & working hard to make our local association have a successful future for our members.

Have a wonderful summer vacation and I look forward to sending the next newsletter out in September.

Regards,

Jaime Millikin



Beginning in 2008, the MMAIP Experience is published bi-monthly and is delivered by email. If you would like to receive the newsletter, just send an email to MMAIPinsurance@yahoo.com and ask to be added to our mailing list.

Mid-Michigan Association of Insurance Professionals

is a local association, affiliated with the National Association of Insurance Women (Int'l) Membership is open to men and women who are employed in the insurance industry or students pursuing an education in the field of insurance, risk management, or actuarial studies.

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LEGISLATIVE UPDATES: Willful Infringement after *Seagate*

By Sanford E. Warren Jt. & William Kennedy Jr.
Akin Gump Strauss Hauer & Feld LLP
May 2008

WHAT IS WILLFUL INFRINGEMENT

The Court of Appeals for the Federal Circuit recently redefined willful infringement. Patent cases and appeals to patent cases are heard by the Federal Circuit. As such, the Federal Circuit creates much of the controlling precedent for patent cases. For a court to award damages on the basis of willful infringement, the patentee must show that the infringer was objectively reckless. The Federal Circuit explained this standard by stating:

A patentee must show by clear and convincing evidence that the infringer acted despite an objectively high likelihood that its actions constituted infringement of a valid patent.

This definition came about on August 20, 2007, the Federal Circuit ruled on willful infringement in its landmark decision, *In re Seagate Tech., LLC.*, 497 F.3d 1360 (Fed. Cir. 2007). In the decision the Federal Court overruled its own precedent and held that “proof of willful infringement permitting enhanced damages requires at least a showing of *objective recklessness*.”

Since this decision, the Federal Circuit has ruled on two additional cases in which it discussed willfulness.

BLACK & DECKER V. BOSCH

In *Black & Decker, Inc. v. Robert Bosch Tool Corp.*, No. 2007-1243, 2007-1244, 2008 U.S. App. LEXIS 207 (Fed. Cir. Jan. 7, 2008), the Fed. Cir. reviewed a case involving the “combination of a radio and a battery charger. The court discussed the possibility of a willfulness finding on remand and noted that “the district court...recognized that ‘Bosch had legitimate defenses to Black & Decker’s infringement claims.’” Further, the jury found two claims invalid as obvious, showing that the appellant also made a credible invalidity argument.” *Id.* At 18.

The Fed. Cir. applied these findings to the new objective standard of willfulness, and concluded that “both legitimate defenses to the infringement claims and credible invalidity arguments demonstrate the *lack of an objectively high likelihood* that a party took actions constituting infringement of a valid patent.” *Id.*

INNOGENETICS, N.V. v. ABBOTT LABS.

In *Innogenetics, N.V. v. Abbott Labs.*, 512 F.3d 1363 (Fed. Cir. 2008), the Fed. Cir., citing *Seagate*, upheld a district court’s judgment that overturned the jury’s verdict of willful infringement. The case involved a dispute over “diagnostic tools that not only detect but also classify Hepatitis C virus (HCV) genotypes in a biological sample.” *Id.* At 1368. Conclusively, the Fed. Cir. stated:

Our review of the record does not indicate how [defendant’s] development and sale of its genotyping products were at risk of an objectively high likelihood of infringement. Accordingly, we affirm the lower court’s grant of JMOL of no willful infringement. Id. At 1381.

In conclusion, resulting from the Fed. Cir. Ruling in *Seagate*, patent suits are particularly frightening for defendant companies because patent suits have the potential for astronomical damages.

WEB CONFERENCING AND THE INSURANCE INDUSTRY

By Andrew Berry
Newport Risk Services
April 2008

Web conferencing is a broad category which includes online meetings, Webinars, Web-based training, and online support. Most of these different tools use the same functionality but have been adapted for a particular use. The essence of the technology is the sharing of information via Web browser. One party is able to present documents or applications to a viewing party via the Web. The presenter controls what the recipient sees. Sharing is usually achieved by the audience being given access to see a presentation on the host's computer. Sharing can also be limited to a particular document or application that is running. It can also be extended to the entire desktop enabling a remote user to troubleshoot technical difficulties.

ONLINE MEETINGS

Online meetings are characterized by two-way communication between the meeting participants. As a result, all participants usually have the same level of functionality. Control of the information can be passed to any participant. Participants usually have audio & video capabilities.

This is the basic use of Web conferencing technology. It works best where there are a smaller number of participants involved in the meeting. This allows participation by all members of the meeting. Online meetings will never remove the need for in-person meetings, particularly since insurance is a relationship-driven industry. Online meetings are meant to enhance the level of interaction that can be achieved outside of the in-person meeting. Online meetings allow for the collaboration of individuals to happen more frequently, instantaneously, and at a minimal expense.

WEBINARS

A Webinar is intended for larger audiences, similar to an offline seminar meeting or conference. The majority of the communication is one way, from the presenter to the audience. Attendees have limited functionality compared to the presenter. Typically they can not be given the control of the presentation & are muted for audio. Questions & answers are typed in.

Webinars can be a tremendous marketing & educational tool. There is no comparable offline alternative. The Webinar allows a company to simultaneously reach its clients in their own working environment. With no travel time involved, Webinars are less disruptive for attendees than the offline alternative.

TRAINING & SUPPORT

Training modules accommodate both instructor-led classes delivered via the Internet and self-paced courses. Most standard online meeting capabilities will allow a user to deliver training courses online, including recording the class for attendees to take at their leisure. Training modules will provide more custom tools to structure & deliver training courses online. Support modules use the ability to provide remote access to a user's desktop for technical troubleshooting. Specific modules in these areas include ticketing of support requests with escalation procedures.

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THE PLAYERS

There are numerous vendors for Web conferencing, ranging from free solutions aimed at the individual user, to enterprise solutions for the large organization. The following are four of the leading players, each is backed by a leading publicly owned technology company.

1. **WEBEX:** This company was founded in 1996 and was one of the first entrants into the Web conferencing market. It has become the dominant player in the industry. Webex's core product is Meeting Center, which is used for online meetings. Training Center for educational courses, Sales Center geared to sales & prospecting activities, and Support Center for technical support.
2. **GOTOMEETING:** This is the online meeting product of Citrix Online, a division of Citrix Systems. It also has companion products for (GoToWebinar) and remote support (GoToAssist). Users share their desktop with attendees & control what is visible based on the documents and applications which they view.
3. **LIVE MEETING:** This is a hosted Web conference service provided by Microsoft, this firm also offers a server application, Office Communications Server, which can be deployed on a company's own servers. The standard edition covers meetings with up to 15 attendees, while the professional edition extends meetings for up to 1250 attendees, including for Webinars.
4. **ACROBAT CONNECT:** This product is part of the Adobe family and was first launched as Macromedia Breeze. It uses Adobe Flash Player as medium to display shared content rather than an applet download. Acrobat uses a fixed personal URL for the meeting room, meaning the room is always available at the same location.

The pricing of these products are fairly consistent. A monthly subscription for a meeting capabilities are in the range of \$25-40 per user and can include up to 15 attendees. Enterprise solutions typically start at \$375 per month & includes 5-10 user licences.

ISSUES TO CONSIDER

Before investing there are several criteria that should be considered:

- **USE** - prospective buyers should have a clear idea of the intended use.
- **DOWLOADS** - conferencing vendors claim that participants only require a browser & Internet connection however; most require a download of a small piece of software or applet.
- **AUDIO** - Teleconferencing costs can add significantly to the cost of the meeting. Many will charge a fee per user minute for integrated audio.
- **RECORDING** - ability to make recordings available for later viewing should be a considered benefit of webinars.
- **RELIABILITY** - it is imperative that nothing goes wrong with the hosted Web conferencing service.
- **PREPARATION & TRAINING** - you need to be comfortable with the technology.

Web conferencing is a growing trend, the insurance industry has not been a early adopter but it is increasingly evident there are areas for further use. Service providers need to differentiate themselves in this highly competitive atmosphere.

TIPS FOR MARKETING YOUR AGENCY: WHICH ADVERTISING MEDIUM IS RIGHT FOR YOU?

With today's fast paced, competitive society, more & more businesses are relying on the power of marketing to increase recognition & elevate their companies into public eye.

Some important questions to answer.

1. What product do you want to advertise?
2. What age group do you want to reach?
3. What type of clients are you soliciting?

Identifying these criteria from the start will help to develop a strategy for investing in advertising.

TELEVISION ADVERTISING

Most businesses want to advertise on television, making it the single most largest media outlet.

Advantages of television advertising include:

- A greater more diverse audience
- Targeted markets can be easily reached by proper ad placement
- Greater possibility for creativeness to incorporate sound, light, sight, color & motion to engage consumers
- Gives product near-instant validity and importance

Disadvantages of television advertising include:

- Cost of hiring an ad agency to plan & produce the commercial
- Cost of running the ad multiple times
- Consumers expect interesting, high-quality commercials; anything less could hurt your business
- Competition for viewer's attention

Despite these drawbacks, if you have the budget to incorporate TV advertising in your marketing strategy, it is worth doing.

NEWSPAPER ADVERTISING

Newspaper advertising is one of the best ways to advertise your agency; nearly all households receive a newspaper. It is a great way to grow agency recognition.

Advantages of newspaper advertising include:

- Ability to reach different demographics by placing ads in different sections of the newspaper
- Consumers expect to see ads in the paper-some even look for it
- Large variety of ad sizes to correspond with budgets

Disadvantages of newspaper advertising include:

- Newspapers are read & thrown out
- Small ads can look nonexistent
- Compete for reader's attention

OUTDOOR ADVERTISING

Outdoor advertising used to be contained to large signs & billboards, businesses have expanded outdoor advertising exposure to include benches, electronic signs, & public transportation systems. Outdoor advertising is not voluntary to the consumer as opposed to television & newspapers.

Advantages of outdoor advertising:

- Public can't throw out or turn off advertising resulting in a "captured audience"
- Frequency is achieved by the ad on a regular basis
- Proven to boost effectiveness of other types of advertising

Disadvantages of outdoor advertising:

- Outdoor advertising only capture a few seconds of consumer attention
- Messages have to be concise & interesting
- Purchase price could be more than budgeted for

Recognizing the benefits & challenges of advertising is the best way to minimize the risks of each advertising medium. Assessing these forms of advertising will help to determine your successful advertising of your business.

MMAIP Leaders

President	Jaime Millikin Dennis Miller Agency
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