

The Federal Lawyer in Cyberia

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The Cloud Revisited: The Debut of Google Drive™

In the April 2012 issue of *The Federal Lawyer*, I examined and commented on Dropbox™ and on similar services and discussed the ethical implications for lawyers of using “cloud-based” storage systems. (If you don’t know what the “cloud” is, either you didn’t read my column, or you just haven’t been paying attention to all the “cloud buzz” that’s been floating around for the past year or so. In either case, you’re in trouble. Go back three spaces and do not pass GO.)

Since my earlier column hit the streets (and your desk), Google™ has jumped into the cloud storage marketplace without a parachute. It has, with considerable hoopla, launched a new cloud-based service known as Google Drive™ that gives its customers online storage that can rival that of a hard drive.

The availability of Google Drive has been rumored and anticipated for more than six years. Now it is here. The ad copy from Drive’s new website reads as follows: “Google Drive is everywhere you are—on the web, in your home, at the office and on the go. So wherever you are, your stuff is just ... there.

Ready to go, ready to share.” (See drive.google.com/start#home.)

Drive offers 5 gigabytes of free storage to any registered user, along with powerful search features that can even find text inside images. Users desiring more storage can purchase 25 gigabytes for \$2.49 per month and even more for higher fees.

“[Y]ou can store practically everything for next to nothing,” says the Drive website exuberantly.

Google has said that its service will promote online usage with features that promote the creation of ether-based documents and the sharing of photographs. Sundar Pichai, a Google senior vice president who is in charge of this initiative, was recently quoted in the *San Francisco Chronicle* as saying, “Drive is something we intend to be at the center of our users’ online experience.” That is indeed a breathtakingly powerful statement coming from a source like Pichai. He went on to say that Google sees Drive as “a primary place for people to go to create and collaborate and live in the cloud across devices and across applications and have their important data available to them seamlessly.” Again, this is a powerful statement from a man who might boastfully say

(were he given to boasting) that he is an architect of our digital future.

One of the features that Drive shares with some of the other cloud-based storage companies like Dropbox is that its folders can be placed on multiple computers, including those that run Windows™, McIntosh™, or Android™ operating systems, creating compatibility across platforms. (Google has said that it intends to add Apple iPhone™ and iPad™ compatibility to its service soon.)

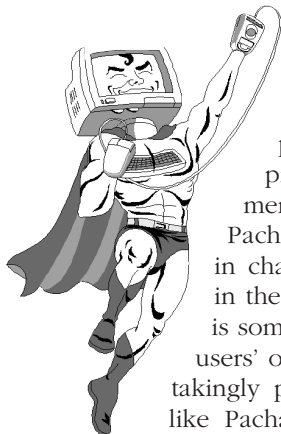
With the dominant brand that Google has built in the online search business, it is not surprising that the company intends to distinguish itself from the rapidly forming online storage pack by making files stored on Drive extremely searchable. Drive users will be able to search the contents of their files in traditional Google fashion, using good old-fashioned non-Boolean keywords. But Drive will go well beyond your first-level expectations, and it is only getting started. The search word you choose to use could be any word related to the file. For example, the word could be the title of the file, or it could be a term used in the text contained in the file, or it could be a term that appears in a scanned document that occupies file space.

Cyberian lawyers will immediately be able to envision marvelous ways of using such powerful search capability in their work.

But not so fast, said Google-detractor lawyers within a couple of days of Drive’s launch (which occurred toward the end of April). Reports began to surface almost immediately on Internet technology blogs that the “terms of service” box that users were mindlessly signing would grant Google “a worldwide license to use, host, store, reproduce, modify, create derivative works (such as those resulting from translations, adaptations or other changes we make so that your content works better with our Services), communicate, publish, publicly perform, publicly display and [“whew”] distribute such content.”

According to an Associated Press story published in the *San Francisco Chronicle* soon after the licensing agreement became the topic du jour in the blogosphere, “Google is facing suspicion in confusion as it tries to persuade people to entrust personal documents, photos and other content to the companies new online storage service.” The story went on to report that—

[F]ears about Google Drive undermining intellectual property rights mounted. Some interpret-



ed the legalese to mean that if an author stores a novel on the service, ... Google suddenly owns the work and can do whatever it likes with it.

The new [Google Drive] services policy was troubling enough for *The New York Times*, the 3rd largest US newspaper, to send out a note discouraging the roughly 1000 room employees from storing files on Google Drive until there is a better understanding of the intellectual property issues and how the service works.

As it turns out, the worries are probably unfounded.

Google says the language is actually standard legalese that gives the Company the licensing rights it needs to deliver on services that users' request.

The conclusion that the above story reached—that the worries are probably unfounded—is probably true. But, as some others have commented, the very fact that issues like this are being raised should give those who have privacy interests at stake reason to pause. Some of the back-and-forth chatter in the blogosphere regarding all of this, whether it be the chatter of lawyers or not, is very enlightening and may assist you as you move toward the cloud (or decide not to do so). One of the best resources available as you move toward the adoption of a strategy can be found at the reliable website run by Ziff Davis, a publishing company that has both feet in the technology sector. Visit ZDNet's discussion of the options in a blog by a very solid tech reporter, Ed Bott, and review the plusses and minuses of each of the leading competitors by using a thread that includes an almost bewildering array of both cloud enthusiasts and those who fear the cloud, at www.zdnet.com/blog/bott/dropbox-skydrive-google-drive-which-one-is-right-for-you/4918?tag=nl.e539.

Even though most of the current buzz is centering on Google Drive, as I indicated in this column on the topic of cloud storage in the April 2012 issue of *TFL*, there are a number of contenders in the marketplace. Not to be ignored is the Microsoft™ product known as SkyDrive™.

Conclusion

In my earlier column, I callously failed to note that Apple's iCloud™ storage system was the last service to be introduced live and on stage by Apple's late co-founder, Steve Jobs. As you know, Mr. Jobs resigned shortly thereafter due to his failing health. Apparently, he believed that the cloud—and with it, cloud storage—would be the next big thing. Certainly that in and of itself is sobering. See you next month in Cyberia. **TFL**

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The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the editorial board. Articles and letters to the editor in response are welcome.



Congratulations to FBA Board of Directors member Michael J. Newman, who has been sworn in as a U.S. magistrate judge for the Southern District of Ohio. Judge Newman is also the judicial profiles editor for *The Federal Lawyer*.

Judge Newman at his swearing-in with his wife, Rachel, and triplet daughters Anna, Brigid, and Clare.