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High Court Nominee Roberts Well Known in Communications Circles

While his conservative leanings have taken center stage, U.S. Supreme Court nominee John Roberts is better known among Washington communications attorneys for his involvement in a variety of telecom and media issues as a judge on the U.S. Appeals Court, D.C., and a Hogan & Hartson lawyer. Attorneys said Roberts is well-liked by people on both sides of the political spectrum, although communications issues don't lend themselves to political divisions.

In Sept., 2003, while on the panel that heard Verizon's battle to avoid identifying computer users suspected of copyright infringement, Roberts grilled a Verizon attorney about the illegality of using copyrighted material. "Is there any legitimate purpose" for individuals making 600 copyrighted works available via file sharing networks," Roberts asked during the oral argument (WID Sept 17/03 p1). Roberts and 2 other judges issued an opinion in *RIAA v. Verizon* 2 months later saying Verizon needn't comply with RIAA subpoenas to identify suspected peer-to-peer file sharers (WID Dec 22/03 p1). The decision said subpoenas that fall under a section of the Digital Millennium Copyright Act may only be issued to an ISP that's engaged in storing infringing materials or facilitating infringing activity.

Electronic Frontier Foundation (EFF) Legal Dir. Cindy Cohn said the RIAA decision was more about statutory interpretation than copyright infringement, so the outcome of that case doesn't give a clear picture of Roberts' stance on IP issues. "What it does tell you is that he's someone who reads statutes very closely and is going to hew very closely to what the laws say," Cohn said. A reading of the case's transcripts indicates Roberts was "very engaged in the issues at oral argument and, importantly, also appeared to understand the technology and wasn't afraid of the technological questions," EFF Staff Attorney Corynne McSherry told us. EFF is also looking into his relatively short judicial record and his briefing background for clues on how he feels about privacy and First Amendment issues -- but thus far they haven't uncovered much, she said.

“That Judge Roberts ruled against us in a case involving the interpretation of a statute would not impact our views on his nomination,” RIAA CEO Mitch Bainwol told us: “We will look at any nominee from a broad perspective, not on the basis of any single case.” The question relevant to the industry is whether a nominee shows respect for property rights and constitutional freedoms, he said. “While we haven't had a chance to do a thorough review of his record, the answer at first blush seems to be yes,” Bainwol said.

In the only FCC-related case that attorneys say reflected Roberts’ “strict constructionist” views, he wrote the 2003 order upholding the FCC’s decision to require tuners in digital TVs. The case centered on whether the FCC had authority under the 1962 All Channel Receiver Act to institute the tuner requirement, and the court ruled it did. Roberts also was on appeals court panels dealing with such detailed issues as a bidder’s challenge to the FCC’s auction rules, competitive access to ILEC transport facilities, reselling AT&T 800 service, a Verizon request for forbearance authority from Sec. 271 unbundling requirements and wireless tower construction.

Communications attorneys consistently referred to Roberts as a “brilliant” or “excellent” attorney. “No one does better oral arguments,” said an attorney remembering Roberts as a deputy solicitor gen. under the first President Bush. Another described Roberts as having “an amazing legal mind that sees through issues.” He’s also “kind of a nice guy,” she said. “I thought several weeks ago that if the Administration wanted someone who was conservative but who no one could question about qualifications or personality, it would have to be John Roberts, a communications attorney said. “He has a lot of friends in the legal establishment,” he said.

As a conservative, Roberts’ views on the roles of the states could pose an interesting situation for video franchising, a communications attorney said. “He could support stronger rights for the states than the FCC,” the attorney said. Former FCC Chmn. and attorney Richard Wiley, who knows Roberts through bar association activities, said he would be surprised if Roberts wasn’t confirmed: “He has great judicial temperament.” -- *Edie Herman, Andrew Noyes, Tania Panczyk-Collins*

'Explosive' Interest

Public-Root Said to be the Next-Generation of Internet Addressing

ICANN's domain name system (DNS) is an 8-track tape player about to be overtaken by MP3, the developer of a new alternate root told *Washington Internet Daily* Wed. Unlike ICANN's cumbersome -- and controversial -- TLD-approval process, Public-Root (P-R), an international, nonprofit federation of independent root operators, is building an addressing regime in which TLDs will be available quickly and inexpensively, said Marty van Veluw, managing dir. of Unified Identity Technology (UNIDT), the Dutch company that will develop and market the new TLDs. Far from being a threat to ICANN, he said, the new system exists alongside it, resolving all ICANN and country-code TLDs as well as those of other alternate roots such as New.net.

P-R arose because of the tremendous demand for TLDs, said van Veluw. The new TLDs -- which van Veluw said would never duplicate existing ones -- will be corporate (.saab, .coke) and public (.movies, .voip, and the like). Whoever purchases a particular TLD will decide what 2nd level domain names (car.forsale, for instance) will be available at what price. Applying for a new TLD is simple, and, compared with ICANN's \$50,000 fee, inexpensive at \$4,000. Trademark owners must prove ownership before securing their mark.

P-R's architecture permits more-accurate navigation, van Veluw said. Searches are still routed from an Internet Protocol address to a particular domain name, but clearly denominated company and public-portal TLDs make location easier and more standardized. Someone searching for contact information for a particular company can go straight to that web page (mail.unidt) instead of having to first locate the corporate site and then click on the "contact" link, he said: "We're going to burn [domain names] into everyone's brains" to streamline searches.

The targeted addressing regime could prove a boon to mobile companies and users as well, van Veluw said. It will take less time to reach websites, cutting call charges. And because it resolves all TLDs in all public roots, P-R is, in effect, a bigger phone book.

P-R operates a root-server system with 13 master servers strategically located around the world, and its design complies with all Internet Engineering Task Force specifications, officials said. It's already compatible with Internet2 and IPv6, and could offer e-mail with spam filters and internationalized domain names as early as the end of this year, van Veluw said. P-R is keen to roll out multilingual domains because that's what industry wants, he said -- of the 500 million people online every day, only 100 million are English speakers.

The new operation will be overseen by the Internet Names Authorization & Information Center (INAIC), which describes itself as "an international public service agency organized and dedicated to the maintenance of public information resources that facilitate the coordination and resolution of global Top-Level Domains (TLDs) through the Public-Root server system." There, a 7-member board will approve, create and delegate new TLDs and ensure that all TLDs in the DNS and P-R resolve. Neither INAIC nor P-R intends to "govern" anything, van Veluw said. P-R adheres to ICANN's goals of DNS stability, competition, private bottom-up coordination and representation but adds new core principles of decentralization and user control, he said. INAIC also runs the Global TLD Whois directory service.

Van Veluw came to UNIDT from the airline communications arena. His interest in P-R arose out of frustration over the lack of success of .aero, the ICANN-approved TLD of the Societe Internationale de Telecom Aero-nautiques. When P-R approached him, he agreed to invest in updating its systems and crafting a marketing and sales plan for new TLDs. UNIDT's hq is in Amsterdam; there's a satellite office in Istanbul and talks are underway for others in Singapore and in the Americas.

P-R isn't the first alternate root initiative, but it's the first to sell TLDs rather than domain names, van Veluw said. Its success depends on whether ISPs agree to point to P-R TLDs and mobile operators have internal domain name systems capable of resolving them, he said.

The plan was to introduce the new regime to Dutch and Turkish ISPs at the same time, but Turkey, faced with "explosive" interest in the new TLDs, was forced to jump the gun. This month, the Turkish Informatics Society and UNIDT announced an alliance for the sale of the new domains, and van Veluw said he's now in talks with 20 countries' ISPs and other service providers to do the same. Tues. (July 26), a major European ISP is expected to announce it will begin resolving P-R domains in the Netherlands, he said.

The announcement that Turkish ISPs would resolve P-R domains prompted a breathless headline July 3 on ICANN Watch: "Turkey Abandons ICANN." That couldn't be further from the truth, van Veluw said. This isn't about ICANN, he said -- it's about the market. -- *Dugie Standeford*

Privileged Pamphleteers

Bloggers Status in Shield Legislation Disputed by Senators, Lawyers

In deciding who should be covered by proposed reporters' shield legislation, Congress should avoid "credentialism," or protecting only reporters for established media outlets, said U. of Chicago Law Prof. Geoffrey Stone in a Senate Judiciary hearing Wed. Stone was responding to Sen. Cornyn's (R-Tex.) question whether bloggers, or "an individual that has taken the initiative" to report something, should be covered.

Federal codification of reporters' privilege has failed in part from the difficulty in defining a journalist, ranking member Leahy (D-Vt.) noted at the hearing outset: "With bloggers now participating fully in the 24-hours news cycle, we might face similar challenges in defining terms today." *N.Y. Times* columnist William Safire estimated 9-10 million people were blogging, saying journalism shouldn't "profess to be a profession" and "the lonely pamphleteer has the same rights as the *N.Y. Times*."

Rep. Pence (R-Ind.), who testified for his Free Flow of Information Act (HR-3323) co-sponsored with Rep. Boucher (D-Va.), earlier told *The Washington Post* his shield bill wouldn't apply to bloggers but only online reporters for newsgathering organizations. Boucher told us he and Pence are "on the same page" with regard to denying the shield to bloggers and nonprofessional writers online. Such protection would "potentially open it up to every-

one," given the ease in setting up a blog, and allow bad guys to reveal anything with no legal consequences. "That just is not workable... The privilege is for journalists," he said. Pence couldn't be reached for comment.

HR-3323 counts as "covered" entities that are engaged in "news gathering or the dissemination of news" -- via print, broadcast, cable, satellite, electronic and "other means" -- or those that act on behalf of such entities. Boucher said the possible conflict with nonprofessional writers seeking coverage is "the least of our problems," since the Justice Dept. came out against the bill. Deputy Attorney Gen. James Comey, scheduled to testify, informed the committee shortly before the hearing he wouldn't be there, Chmn. Specter (R-Pa.) said.

Safire and others testifying qualified their support for nonprofessional news media, saying courts should consider certain criteria for evaluating whether someone reporting online should be protected under legislation. Safire said "regularity" could be a test: Do you publish "once a year, once a week or daily?" Another test could be whether the online writer is in "the business of gathering news," he added. "It's a tough line to draw," he said, but previous practice and case law can guide jurisprudence and "good faith legislating." Noting 31 state -- plus D.C.'s -- shield laws have varying standards for who qualifies for protection, First Amendment lawyer Floyd Abrams called a federal definition a "difficult but not impossible task." Courts have been reluctant to define who is a minister or priest, but developed "commonsense definitions" based on religious practices, which is plausible for online writers, he said.

Stone said the focus on journalists is misplaced because the privilege exists for the benefit of anonymous sources with useful information, regardless of the recipient's status. The well-established attorney-client privilege has the same underlying purpose, he added. Cornyn called the definition problem "something we need to explore a little bit further," adding "anonymity also has the risk of creating nonaccountability [and] irresponsibility." Professional journalists abide by an ethical code that doesn't necessarily extend to online amateurs able to report anonymously, he said. -- *Greg Piper*

MEPs on the Move

European Leaders Talk Telecom, Technology with U.S. Officials

Data security, U.S., technology developments and telecom policy and Internet governance were key topics for Members of the European Parliament (MEPs) working Washington this week. Traversing Capitol Hill and federal agencies, delegates spent 3 days gabbing with a parade of political power brokers -- sometimes seeing eye-to-eye, sometimes befuddled by the U.S. system -- but always stressing the need for more U.S.-Europe collaboration on communications issues.

The visitors included 7 MEPs from the U.K., Germany and Hungary, plus a cadre from the European Internet Foundation (EIF), counterpart to the U.S. Congressional Internet Caucus (CIC), which hosted the visit. They met first with FTC Chmn. Deborah Majoras and Comr. Jon Leibowitz Mon. to talk about recent security breaches and proposed fixes. Most European countries haven't seen the high-profile ID theft cases and lapses in public and private sector databases experienced of late in the U.S., officials said. Conservative MEP Malcolm Harbour said the overseas data broker industry simply isn't as big as that in the U.S.; European entities holding personally identifiable data on citizens must register with the govt. "There are no pressing calls for legislation in the way we understand there are here," he said.

"Traditions around data protection are rather different -- not to say that we're complacent about it," Harbour said. In fact, following the U.S. turmoil, European directives on the topic are getting more attention, he said. One issue that needs scrutiny is inconsistency among national regulatory and enforcement structures, Harbour noted, saying new EU member states lag noticeably. Liberal Democrat MEP Bill Dunn said since the European Parliament lacks jurisdiction over a unified govt., "it's still 25 quite separate nationalities."

Another reason data security dilemmas aren't as prevalent in European countries is that English, not Greek or Lithuanian for example, is "the world's language," Dunn said. Thieves and scammers typically target rich Western countries, not those that are "less well off," he said.

After meeting House Consumer Protection Subcommittee Chmn. Stearns (R-Fla.), the group asked for a copy of his data protection bill, now in draft, EIF Co-Chmn. Erica Mann added. If EP leaders deem it necessary, she said, politicians will "make sure we find an approach that will follow more closely with the European policies. If it's something we need to pick up, we'll do this when we get back to Brussels."

Then the MEP/CIC delegation moved on to the FCC to talk telecom and VoIP. Issues linked to VoIP providers' universal service obligations are only beginning to emerge in Europe, officials said. Telecom stakeholders are pushing the European Commission to revise a 1998 universal service directive that requires EU countries to make sure everyone has access to a fixed-line phone. That debate probably will peak next year when the commission starts a review of the EU Framework for Electronic Communications.

The FCC is eyeing ways to calculate Universal Service Fund contributions, but European regulators aren't yet talking about alternatives by which their carriers can fulfill such obligations. "The market is driving that forward," Harbour noted. Europe has a single, technology-neutral framework for voice telephony -- a model that "has seemed to be able to deal with that in a reasonably satisfactory way," he said.

McCarthy was perhaps the harshest critic of U.S. handling of universal service, saying: "Sometimes in regulation you shouldn't have to have an incident to mandate service." The complexity American regulators face results from the "unstable framework that exists here," she added: "I don't really understand how you could have different rules for the same services -- it's same service so fundamentally we got rid of that [controversy] with our technology neutral model... Here is a chance for the U.S. to look at what we're trying to do... Here you have a bit of a mixed bag [and] issues fall between the stools."

MEPs also spoke with FCC staffers about the lengthening list of telecom mergers, trying to understand the U.S. govt. approach to weighing potential dominance in markets, barriers to entry and competition issues, McCarthy said. The European lawmakers, who recently passed a comprehensive telecom package, admitted the balance between states' rights and FCC jurisdiction creates a complex regulatory equation, wondering aloud whether some emerging telecom quandaries wouldn't be handled best under the legacy regulatory structure.

Of a UN report on Internet governance released Mon. (WID July 19 p1), MEPs said their main goal is ensuring Web stability and security, regardless of some govt. calls for an international body to oversee the Internet. They predicted a heated debate on Internet governance at the Nov. World Summit on the Information Society in Tunis, noting substantial "good will and effort from the U.S. side" preceding the event. Some countries will look to the EU to play "honest broker" to get greater recognition from the global Internet governance community, officials said. "The prevailing view across the European Union is that we want to sustain ICANN as being an independent and international driver," Harbour said, noting a willingness to engage a wider range of stakeholders: "What we don't want to see is the Internet fragmented into a series of closed loops with single points of entry whereby the larger nations could have control over a single gateway." The Internet's "pluralist nature" must be preserved, he added.

The group also met with Commerce Dept. representatives on RFID and data retention, and with Justice Dept. computer crime experts and cybersecurity advocates on Capitol Hill. U.S. policy-makers, led by Internet Caucus Advisory Committee Co-Chmn. Goodlatte (R-Va.) and Boucher (D-Va.), plan a similar annual trip to Brussels in Feb. -- *Andrew Noyes*

Wide, Wireless World

Streamlined Security Needed Before Threats Endanger Wireless Technology

Technology has produced a "brave new world where farmers don't reap only crops" -- "pharmers" also harvest crucial consumer data, raid PCs, cripple computer networks and exploit wireless systems' security weaknesses, NTIA Dir. Michael Gallagher said Wed. at a summit on cyberthreats. The good news is that misdeeds haven't diminished the public appetite for wireless communication, he added.

WiFi cards, widely available under \$50, are a standard feature on new laptops. Telecom accounts for \$784.5 billion of the \$11 trillion U.S. economy, where strongest growth is in wireless business, he added. Still, to cement wireless technology's place in the market, consumers must trust networks; to keep trust, networks must be more secure. Hardware and software makers, policymakers, law enforcement officials and users share the duty to "protect the integrity of wireless devices," Gallagher said.

Separating hype from reality is the first step consumers and enterprises must take to achieve comfort with wireless security's rapid advances, said Gartner Vp-Internet Security John Pescatore. Wireless security management should be "baked in" to network access controls and vulnerability management strategies to avoid a siloing effect among security tools, he said. "Use of WLAN does not have to reduce security level of networks, but it will if you let it," Pescatore said.

Through 2008, 90% of WLAN security incidents will arise from misconfigured and unprotected systems -- not hackers, Gartner predicted. This makes crucial keeping the bad guys out and letting the good guys in, he said. While most focus today is on enterprise systems, the next 5 years hot spots and home LANs will be the major conduits for damaging attacks, Pescatore told the crowd: "It never fails to amaze me how people do not understand wireless technology... so safety features need to be built into technology when thinking about how consumers and households will use it."

Out-of-the-box default settings on devices worsen the situation. Business and home users should put more emphasis on protecting content when operating outside enterprise boundaries -- as with on-the-go WiFi-enabled laptop usage -- he said, adding that users should "carry your security policy around with you."

The "consumerization" of wireless innovation also should be on businesses' radar. "If there's a technology that users think will give them value, its going to sneak into your enterprise," Pescatore said, citing examples of administrators who said their offices didn't support wireless -- whereupon a scan by analysts showed that wasn't so. In some cases, employees had brought the technology on board without IT professionals' knowledge. In others, WiFi signals from nearby sources were leaking into the enterprise. "If you can buy it at CompUSA or Best Buy, you need to worry about it," Pescatore warned. A number of technologies are in the wings -- from expansion of Bluetooth to 802.15 and RFID -- so "intrusion prevention is a matter of when, not if," he said.

Gartner's theoretical threat calendar for wireless technology also has evolved, Pescatore said. In 2002, analysts believed they would see threats among mobile devices far sooner than they have. Mobile phone spam, for example, is not yet a sweeping problem in the U.S. but it is in Japan and the U.K. And America's not safe for long. Before 2007, forces will converge to make malware as common on mobile devices as on the Internet, he predicted. To thwart this, the market needs more smart phones that are software-programmable and allow executables. Last year, smart phones accounted for less than 10% of the shipping base; this year the figure's about 30%, Pescatore said. Less operating system diversity also is needed. Since different devices run on Linux, BlackBerry and Microsoft platforms, finding solutions for malware is more complex.

"Now is the time to be preparing how you'll protect against malicious software," Pescatore said. Those efforts must incorporate lessons learned from the Internet. The main security mistake made with the Internet was trying to rely on end-user software to catch vulnerabilities instead of building safeguards into the infrastructure, he said. Technologists are learning that "in the cloud, removal of executables" can prevent malicious content from reaching consumer devices, Pescatore said. -- *Andrew Noyes*

No Dramatic Headlines

Visa, Chamber Effort Targets Business Understanding of Data Security

Stronger data security and less payment fraud are goals of a campaign by Visa USA and the U.S. Chamber of Commerce, the groups said Wed. They will sponsor seminars in 9 cities starting in Aug. to help firms understand requirements for handling customer data, learn to reduce card-related fraud and know where to find more information. They were joined at the press conference by representatives of other allied groups.

The goal is a “culture of privacy and information security,” said Commerce Dept. Chief Privacy Officer Dan Caprio. Since hackers and thieves are “unrelenting in their attempts,” data security and fraud reduction efforts are “a journey, not a destination.” Council of Better Business Bureaus (BBB) Senior Vp Steve Cole said “mundane, routine and practical solutions” will dominate the efforts: “Real needs are not the stuff of dramatic headlines.” Steve Ruwe, Visa USA exec. vp-operations & risk management, said merchants and payment providers have their own responsibilities: “The only way we’re going to stay ahead of tomorrow’s fraud threats is if the payments industry and the merchant community work together.”

Visa’s recent anti-fraud efforts include advanced authorization security, which stops fraud at point-of-sale, and e-commerce service Verified by Visa. The company hopes to cut \$150 million in fraud from the system, Ruwe said. Visa’s fraud rate is now 5¢ per \$100 in sales, a “pretty good track record so far,” he added. Asked if Visa’s new program to provide cardholder names to merchants for improved direct-mail efforts could boost risks of identity theft, Ruwe downplayed the possibility. “This is information that is also in other environments,” and the data will stay “within the Visa firewall, if you will.”

Local chambers of commerce will host the 9 seminars with representatives from Visa and the Chamber. Members of Congress from each district where seminars are staged have been invited to attend. Seminars will occur in Springfield, Mo.; Charlotte, N.C.; Vancouver, Wash.-Portland, Ore.; Sacramento; L.A.; Columbus; Arlington-Dallas, Tex.; Albany, N.Y.; and Wilmington. -- *Greg Piper*

VoIP Cordless Phone Debuts

Wireless Network Security Automated in Latest Linksys Products

An automated process for wireless network security, a portable WiFi hotspot finder, a cordless phone for Internet telephony and a Windows Media Center wireless extender are among 802.11g networking products shipping next week from Cisco subsidiary Linksys. The firm's also working on products for next-generation 802.11n wireless, now undergoing standardization, Linksys executives told *Washington Internet Daily* at a product demonstration Wed.

SecureEasySetup (SES) technology from Linksys lets users set up and add security to wireless networks with a push of a button. The company's adding the SES feature at no extra cost to selected products in its Wireless-G and Wireless-G with SpeedBooster lines, Vp-Engineering & Product Mktg. Malachy Moynihan told us.

By pushing the router’s on button and another on the wireless device they want to attach to the network, users can establish their wireless networks and activate WiFi Protected Access (WPA) security. Activated, SES creates a secure, private connection between devices, automatically configures the network's Service Set Identifier (SSID) and enables WPA security. Automatic configuration eliminates a manual "passphrase" or key entry usually required to set up and enable WPA -- a security standard developed to protect home and small business wireless networks from unauthorized use.

"Traditionally, secure installation of a wireless network has been a complicated and time-consuming task," Moynihan said. "We hope technology such as SecureEasySetup is adopted as a standard used by all Wi-Fi equipment manufacturers, so any networked device can be added simply to a home a network." Owners of older Linksys products can add the SES feature as a software button at no charge by downloading firmware from the Linksys website.

For road warriors, Linksys will offer its Wireless-G Travel Router with SpeedBooster (WTR54GS, \$99.99). The compact mobile router lets users easily set up a wireless network in a hotel room or through a hotspot, such as in an airport or coffee house. To help find hotspots, the company also will offer its WUSB54G WiFi Finder (\$99.99).

The travel router has a built-in power supply and wireless signal antenna, plus a WAN port for connection to a cable or DSL connection, and an Ethernet port for connecting another wired device or PC. Users simply plug the router into the wall with a built-in retractable 2-prong power adapter, and establish either a wired or wireless connection to the Internet access offered by the hotel or other venue. The mobile router also lets multiple PCs share a single wireless Internet access account, giving colleagues or friends access to a wireless internet service at locations such as hotels, airports or coffeehouses.

Travelers in unfamiliar areas can locate a WiFi signal with the pocket-sized WUSB54G and plug it into a notebook PC's USB port to make a connection. The device scans for hot spots; its LCD screen displays signal strength, security conditions, and whether the wireless signal is 802.11b or .11g. It's powered by an embedded lithium ion battery that recharges through the PC rather than draining the laptop's battery.

Linksys will add a new product category to VoIP Internet telephony with its CIT200 cordless phone. Instead of being tethered to a PC on a headset, users can make PC-to-PC calls with a PC hundreds of yards away, Moynihan said. The phone communicates with the PC through a USB dongle on the PC. Its cordless operation uses the European DECT standard to send and receive in the 1.8-1.9 GHz band, for greater range and less interference than other cordless phones, Moynihan said. The CIT200 ships later this year at a price to be determined.

Linksys also is entering home entertainment electronics market with its WMLV54G Windows Media Center Extender (\$250). The set-top box, developed with Intel, enables users to stream AV content wirelessly from a Windows Media Center PC to a TV elsewhere. Software on the PC supports the industry standard Digital Transmission Content Protection, Moynihan said.

Also in the works at Linksys are products for the upcoming 802.11n wireless protocol, whose specs are being standardized by the IEEE. The 802.11n system will offer greater range and throughput than the current .11g -- 108 GHz at 40 Mbps compared with 54 GHz at 20-30 Mbps, Moynihan said. Although some vendors are offering "pre-N" products, Linksys won't offer products until the spec is completed, he said. -- *Stephen A. Booth*

Worth Hundreds of Billions?

Sky's the Limit for Skype Services, Partnerships, Growth, Say CEO, Investor

STANFORD, Cal. -- Skype aims quickly to become no less than the "dashboard" or platform for all kinds of services -- "anything from games to enterprise resource management to Web services," a Skype board member, venture capitalist Tim Draper, said here Wed.: "Skype is the communications channel for the rest of the world for the rest of our days."

With its model of free base voice service and openness to developers and other partners, the VoIP provider is on a path to "eclipsing Yahoo and Google and Microsoft," and a putative \$250 million buyout offer from Yahoo would be "off by 3 orders of magnitude" -- a value of hundreds of billions -- an exuberant Draper told the AO2005 2005 Innovation Summit of the AlwaysOn Network and Stanford Technology Ventures Program. Skype CEO Zennstrom said Skype would "absolutely not" accept such an offer. Zennstrom and Draper addressed the conference from Tallin, Estonia, site of a Skype board meeting, in the first public demonstration of the firm's new video-conferencing service, VoiceCall with Conference Room.

Draper's firm, Draper Fisher Jurvetson, put about \$10 million into Skype early on, and moderator Tony Perkins recalled that in recent years Draper had been instrumental in selling Overture and other start-ups to Yahoo.

Broadband providers and other companies "have a choice of embracing it or shunning it," Draper said of Skype. Those that turn away will become "dinosaurs who fall off a cliff," whereas others "will succeed in the new world." Zenn-

strom, who founded P2P company Kazaa, "has already taken one industry down" -- alluding to the record labels and file-sharing -- "and he's moved on to the next one." But "all the big Internet companies are potential threats," Zennstrom said. Microsoft, particularly, has succeeded in "leveraging" its large "installed base... so ultimately that is a big threat to us."

Skype is eager for more collaborations with broadband providers, device makers other than Motorola and Siemens, feature and service developers and Web marketing affiliates such as community sites and blogs, beyond today's count of 4,500, Zennstrom said. He said he can't publicly describe a Motorola phone for Skype or say when it's coming.

Most cable companies Skype has contacted haven't liked the sound of offering voice at no extra charge, Zennstrom said, but farther-sighted Hutchison Telecom in Hong Kong, a Skype partner, realized that benefit would make its broadband more marketable. Meanwhile, users have started employing the technology far differently than they do phones, leaving the software on constantly as "an open communications channel," he said. Zennstrom indicated he has a much broader vision than the company has realized, and it involves at least integrating text messaging and "presence" like instant-messaging buddy lists provide, along with video.

"A great business model for us is probably a terrible business model for a telecom company," Zennstrom said. Skype offers communications services through software, which means scant capital spending, and free voice attracts many users at low or no acquisition costs, he said. The company's plan is to profit by selling "value-added services" to a fraction of users, and it has 500,000 customers for its paid SkypeOut, SkypeIn, voicemail and Wi-Fi offerings, Zennstrom said. "We say we want to decrease ARPU," Zennstrom said.

Zennstrom said he doesn't worry much about port blocking by telecoms that provide broadband. Competitors would exploit the limitation, and telcos would need to "invest heavily in packet inspection network equipment" because "it's quite difficult to detect Skype traffic," he said. The worst case would be a cat-and-mouse game, Zennstrom said.

Skype wants to make its service available as broadly as possible, beyond PCs, Zennstrom said. It's now available over Windows Mobile, and the firm is looking at Symbian and Linux Mobile, he said. "Palm is probably not the highest priority," because its operating system "is not that great for real-time voice" and the number of users isn't great. But switching the Palm OS to Linux "probably will make it better," Zennstrom said.

The curve of Skype client-software downloads -- now over 137 million -- is far steeper than that of the early Hotmail, another company Draper's firm invested in, Draper said. He said companies can find giant global markets much faster than in the past because technology has spread so widely. Asia -- with about 27% of users -- the U.S. and Europe have the most Skype users, Zennstrom said. Penetration is highest in Taiwan, followed by Scandinavia with its many early adopters, he said. "Now is the time to add the meat to the bones" in the form of a vast array of services Skype's network can provide, Draper said.

Zennstrom wouldn't answer questions whether the company is taking in \$6-10 million revenue annualized, or spurned a \$100 million buyout offer from Yahoo: "We're not commenting on any financial figures and we're not commenting on any rumors." Draper said: "I'd love to have more money in Skype, but Skype is doing very well on its own. They don't need our money." The company doesn't need much capital because it's not the kind of high-growth start-up with great fixed expenses and strong competition, he said.

The FCC exempted Skype from its Oct. deadline for VoIP E-911, Zennstrom said. He passed up a chance to say the company would comply anyway, by emphasizing the company is working with the Internet Engineering Task Force, Pulver.com's Global IP Alliance and others toward emergency communications far broader than voice. That would benefit someone with a burglar in the house, for instance, who doesn't dare use a phone but could send a text message, Zennstrom said. -- *Louis Trager*

'San Andreas' Rating Changed**Sex Scenes in PC Game Turn Out to Be Embedded, Not Created from 'Mod'**

The Entertainment Software Rating Board (ESRB) will change the rating of *Grand Theft Auto: San Andreas* from M (Mature) to AO (Adults Only), having concluded its investigation into the controversial "Hot Coffee" downloadable modification to the Take-Two Interactive game. Sen. Clinton (D-N.Y.) last week asked the FTC to investigate whether a hacker inserted recently-discovered sexually graphic scenes wholesale into the game through the "mod," or whether they were hidden and unlocked (WID July 15 p5).

"After a thorough investigation, we have concluded that sexually explicit material exists in a fully rendered, unmodified form on the final discs of all 3 platform versions of the game," ESRB Pres. Patricia Vance said. But the material can only be accessed via the downloading of a software patch, created by an independent 3rd party without Rockstar's permission, Vance said. "Considering the existence of the undisclosed and highly pertinent content on the final discs, compounded by the broad distribution of the 3rd-party modification, the credibility and utility of the initial ESRB rating has been seriously undermined." Therefore, she said retailers were told to cease all sales of the game in its present form.

Rockstar agreed to take 2 ESRB-mandated corrective actions: (1) Offer retailers the option of either re-stickering existing inventory with an AO rating, or exchanging all unsold inventory for new versions of the game that has the hidden content removed and the original M rating intact. (2) Make a downloadable patch available to all consumers who have previously purchased the PC version of the game, which will make the modification that unlocks the material inoperable.

In a separate statement, Take-Two CEO Paul Eibeler said the ESRB's decision "to re-rate a game based on an unauthorized 3rd-party modification presents a new challenge for parents, the interactive entertainment industry and anyone who distributes or consumes digital content." As a result of the re-rating of the game, Take-Two said it had to lower its earnings estimate for the 3rd fiscal quarter ending July 31 to \$160-\$170 million in sales and a loss per share of 40-45¢ to provide reserves for the value of the title's current N. American retail inventory. The company said it also had to lower its estimate for the fiscal year to \$1.26-\$1.31 billion in sales and \$1.05- \$1.12 in diluted earnings per share.

Before the announcement, the Parents Television Council asked Take-Two and its Rockstar Games label to voluntarily recall the game, following the mod's Internet release. PTC noted that the explicit content also seems to be available for the PlayStation2 version. -- Jeff Berman

Capitol Hill

The Senate Health, Labor, Education & Pensions Committee marked up the Wired for Health Care Act (S-1418) Wed., sending the bill on for a floor vote. The bill is co-sponsored by 20 senators, including committee Chmn. Enzi (R-Wyo.) and ranking member Kennedy (D-Mass.). The markup largely served to rubber stamp the bill before it goes before the full Senate, said a committee staffer. The bill aims to set IT standards and cut health care costs, Kennedy said. The bill aims at improving federal use of health information technology by requiring standards for IT interoperability, ensuring privacy protection and creating a National Coordinator for Health IT. It also helps private health providers by (1) providing IT grants to cash-strapped providers, (2) helping to fund regional IT networks, and (3) creating a certification program for private networks. Proper IT standards will save \$140 billion a year, Kennedy said, and save individual families \$700 on insurance policies. "In our health care system, medical errors are all too common and coordination of care is often poor," Kennedy said. He also cited the

rising costs “crushing our health care system” as a target of the bill. Information Technology Industry Council (ITI) Pres. Rhett Dawson said he’s confident the bill will pass, given its bipartisan backing. “After this package becomes law... we’ll all look back and wonder how our doctors and hospitals ever got by without this new technology,” he said. The bill is actually the combination of a bill introduced by Enzi and Kennedy and another by Sens. Frist (R-Tenn.) and Clinton (D-N.Y.)

Information managers from 3 federal agencies discussed their data-sharing policies Wed. at a House Regulatory Affairs Subcommittee hearing. Information managers from the U.S. Fish & Wildlife Service, Environmental Protection Agency (EPA) and Health & Human Services Dept. (HHS) testified on those agencies' implementation of the Information Quality Act (IQA), which lets citizens challenge an agency's information. Less than 100 challenges have been filed since the law's 2002 inception, said Chmn. Miller (R-Mich.). Of those, the EPA has drawn 30, said EPA CIO Kimberly Nelson. HHS had 22 requests, said HHS Deputy Asst. Secy. for Sciences & Data Policy James Scanlon. The Fish & Wildlife Service received 11 requests, said Asst. Dir. for External Affairs Tom Melius. Nelson and Scanlon said the IQA process works and will keep improving as agencies gain experience. However, nothing in the IQA process forces agencies to implement corrections in a timely fashion, said Jeff Ruch, Exec. Dir. of Public Employee for Environment Responsibility (PEER). Dissemination of information from environmental agencies has never been worse and federal employees complaining about incorrect information "have better chances of winning the Powerball lottery" than getting problems redressed through channels laid out in the IQA, Ruch said. Wake Forest U. law professor Sidney Shapiro agreed that the IQA is flawed, but for different reasons. There's no need for the IQA because there was no substantial problem with federal data quality when the bill was enacted, he said. U.S. Chamber of Commerce Vp William Kovacs criticized EPA data quality efforts but said the IQA is a good tool to ensure federal information is correct. -- *TW*

Details of a bill aimed at preserving the U.S. lead in innovation and R&D were released Wed. at a Capitol Hill press briefing. The bill follows Council on Competitiveness (COC) blueprint for innovation-led growth. COC members joined Sens. Ensign (R-Nev.), Lieberman (D-Conn.), Allen (R-Va.) and Salazar (D-Colo.) to unveil the bill, which would up federal support for the Technology Talent program. That program offers competitive grants to colleges and universities to find ways to encourage students to major in science, technology, engineering and mathematics. “The number of jobs requiring technological training is growing at 5 times the rate of other occupations,” Lieberman said: “The average number of students studying and entering these fields is declining and the average age of the U.S. science and engineering workforce is rising. The future of U.S. competitiveness depends on filling our science and engineering pipelines with the best and brightest students.”

Agencies

The FTC reached settlements with 4 of 7 companies it charged with exposing “unwitting customers to graphic sexual content” in improperly labeled e-mail. The settlements total \$1.159 million in civil penalties. The Commission’s Adult Labeling Rule and CAN-SPAM Act require commercial e-mailers of sexually explicit material to include “sexually explicit” in the subject line and keep graphic images out of the “initially viewable” part of an opened e-mail. They also must contain an opt-out mechanism and postal address; none of the companies complied, the FTC said. All defendants were accused of paying others to send the e-mails. The defendants that settled must closely monitor their affiliate marketers’ practices. Settling companies were BangBros.com, MD Media, APC Entertainment, and Pure Marketing Solutions in cooperation with Internet Matrix Technology. They paid \$50,000-\$650,000 in penalties. The Justice Dept. filed suit against the other 3 companies, TJ Web Productions (U.S. Dist. Court, Las Vegas), Cyberheat (Tucson) and Impulse Media (Seattle). Microsoft helped the FTC’s investigation by analyzing domains associated with porn spam messages against the spam Microsoft catches in “trap accounts.”

The Justice Dept. launched its National Sex Offender Registry this week. The database connects 22 state registries and provides information on sex criminals to the public (WID May 23 p1). Officials want all

48 states with public sex offender registries included in the database by fall. Ore. and R.I. don't publish sex offenders' names on the Web. Despite DoJ's efforts to streamline existing databases, several lawmakers have introduced bills in recent months to revamp the system used by citizens to learn if a sex offender resides nearby. Users could search for sex offenders nationwide on a single website under a bill introduced last month by House Judiciary Committee Chmn. Sensenbrenner (R-Wis.). The Child Safety Act of 2005 pulls provisions from several existing bills by other members. The nationwide website provision comes from HR-95, sponsored by Reps. Gillmor (R-O.) and Pomeroy (D-N.D.). The new bill also includes several provisions from Rep. Foley's (R-Fla.) HR-2423, which would require states to maintain sex offender search websites and notify each state to which offenders relocate (WID July 1 p2).

International

A working prototype of "electronic paper" has been developed by the Thin Film Centre at Scotland's Paisley U., *The Scotsman* said. The flexible plastic could be used to read downloaded newspapers or sync with updated content throughout the day, as with an RSS feed. The material reflects light off a white background, cutting eye strain, and could see use for rich media such as interactive posters and greeting cards, Thin Film Centre chief Frank Placido said. The prototype was developed with Dupont-Teijin Films and Plastic Logic.

Luxembourg's govt. pledged to extend its financial support for the Development Gateway Foundation (DGF), with €1.2 million total the next 3 years. The money will advance the group's mission of putting the Internet to work for the benefit of developing countries, officials said Wed.

Ness Technologies and EDS Israel won a \$120 million IT outsourcing contract from the First International Bank of Israel (FIBI), Ness said. EDS Israel, employing Ness as a sub-contractor, will assume responsibility for FIBI's IT dept., including all its employees and infrastructure. The contract is the largest outsourcing contract in Israeli banking history, Ness said.

Ja Jabber, Viper Networks' Caribbean distribution outlet, rolled out its Carribean Net Talk VoIP service, Viper said. The service gives residential subscribers unlimited calls to the U.S., the U.K. and Canada for \$29.95 a month. Business service will be offered later for \$49.95, Viper said.

Telecom Italia is testing Internet service over TV in Rome, Milan, Bologna and Palermo, AFX News reported. The free trials are precursors to a fall rollout expected to extend commercial service to 21 cities. Customers can receive the service, which includes movies, news and sports, through a box linked to TVs and Telecom Italia's 4 Mbps ADSL service.

Security

"A coordinated, national-level cyber awareness program" is needed for K-12 education, said Cyber Security Industry Alliance (CSIA) Exec. Dir. Paul Kurtz. In a report released Wed., CSIA said "no clear leader" existed in the field of cybereducation, and "duplicating content and direction" between several cyberawareness websites and groups will confuse parents and educators. Materials must be "as dynamic as the multimedia currently holding our children's attention," like "slick computer games," the report said. The White House, Homeland Security and Education Departments., with the National Cyber Security Alliance (NCSA), should take the lead in a Cyber Awareness Program (CAP), funded by federal and state govts., public and private corporations, charitable foundations and parents. The NCSA's website, StaySafeOnline.info, could be one of a few branded websites for CAP content, the report said.

A potentially damaging threat to AOL and Microsoft instant messaging programs has emerged, the IMlogic Threat Center warned Wed. IM.Dynu is considered a medium risk for AIM and MSN programs. The worm redistributes itself by passing text and a URL. The text and URL change often, analysts said. This blended threat infects computers and links to download other known worms, officials said.

Industry Notes

The IEEE 802.16 Working Group has about a "50-50" chance of finishing by next month standards for eagerly anticipated mobile WiMax wireless broadband, the group's chairman told us. After speaking to a local IEEE group Tues. night in San Ramon, Cal., Chmn. Roger Marks said August completion depended on the working group's dealing by Thurs. with many comments on and criticisms of draft specifications, and was subject to action late Fri. by the group's Exec. Committee. But at the latest the 802.16e mobile specifications should be done by the unit's Sept. meeting, said Marks, a National Institute of Standards & Technology engineer. "Mobile gets everyone excited," he told the meeting. The group this week also is chartering a new unit to work on a repeater specification, he said: "Part of the idea is to use indoor repeaters and not have to go through walls with it." 802.16 offers global standards, something telecom historically hasn't produced and "something you don't have in cellular," Marks said. The specifications describe "what most people think 4G is going to look like," he said. In ITU and other international forums "a number of people are pushing 802.16 as the next wave," Marks said. "You see the word 'hype' attached to 802.16," and patron Intel is pushing the technology as "the biggest thing since the Internet itself," he said, "but a lot of people are very aggressive in their projections" of actual opportunities. WiMax, which is "complementary" to cellular data services, is something mobile carriers themselves can add to their repertoires, Marks said. "We probably would have been better served if we could have gotten these standards in place a few years ago, but I think there's still a lot of pent-up demand." -- *LT*

No more than 3 of 10 Americans are sure what phishing, podcasting and RSS feeds are, a Pew Internet & American Life survey found. Phishing was the most recognized term, with 29% having a "good idea" what it meant. Podcasting and RSS feeds received 13% and 9% recognition. Those "not really sure" what the terms constituted 55-65%, and 15-26% had never heard the terms. Strong majorities (68-88%) had a "good idea" what cookies, spyware, firewalls and spam were, closely followed by adware (52%). Online men, younger Internet users and college graduates were more likely than others to be familiar with the terms.

A new United Telecom Council (UTC) report stresses the importance of implementing the N. American Electronic Reliability Council (NERC) Cyber Security Standards while they're voluntary. While still being finalized by the industry, the standards provide "an excellent foundation for utilities in framing security compliance," UTC said Wed. Although perfect security for cybersystems is impossible, the pending suite of standards put electric utilities in a better position to prevent, recover and respond to breaches, the group said. Experts cited in the report emphasized the criticality of using the standards as a basis for protection and implementation of tighter controls on various systems, especially Supervisory Control & Data Acquisition (SCADA) systems. The document also examines a critical vulnerability frequently overlooked by utilities -- security breaches caused by current or former employees. Major hurdles to implementing cybersecurity tools include the cost and manpower required to put the standards in place, UTC said. But the cost of postponing implementation could lead to greater expenses in time, money and reputation should there be a significant breach, officials said.

EBay profits rose 53% year-over-year to \$291.6 million in the 2nd quarter, eBay said Wed. Revenues rose 40% year-over-year to \$1.086 billion. International net revenue growth outpaced that in the U.S., rising 51% to \$418.8 million, vs. 27% growth to \$423.6 million. Users bidding on, buying, or listing items on eBay in the past 12 months grew to 64.6 million, a 34% increase year-over-year.

Yahoo's net income in the 2nd quarter was \$755 million, up from \$113 million from the same period last year, Yahoo said. Total revenue in the quarter grew to \$1.25 billion, a 51% increase from \$832 million a year ago.

Revenue excluding marketing fees paid to Yahoo partners was \$875 million, less than the \$882 million analysts expected, the Associated Press reported. Marketing services revenue accounted for \$1.1 billion of the total, Yahoo said. "We are pleased with our second quarter growth results as they clearly underscore 2 fundamental business model strengths: excellent growth and great balance," said Yahoo CFO Susan Decker, citing strong revenue growth, growth in profitability and free cash flow that reached \$300 million, a 55% increase from last year. Yahoo's operating income after depreciation and amortization was \$261 million.


Google will open a product R&D center in China, it said. Former Microsoft Corporate Vp Kai-Fu Lee will lead the center and Google's Chinese operations. The center, expected to open in the 3rd quarter, will join other Google engineering offices in locations ranging from Google's home in Mountain View, Cal. to Zurich.

Microsoft will acquire FrontBridge Technologies, a secure e-mail services provider. Dave Thompson, Exchange Server Group corporate vp, called FrontBridge's services "the perfect complement to Exchange." The acquisition is a key part of Microsoft's strategy to help customers comply with mandatory regulations such as Sarbanes-Oxley and the Health Insurance Portability & Accountability Act (HIPAA). FrontBridge has offices in L.A., London, Paris and Winnipeg.

Travelocity Europe finished its acquisition of Lastminute.com for roughly \$1 billion in shares and bonds, said Sabre Holdings, Travelocity's parent company. Lastminute CEO Brent Hoberman will lead the combined company, and former Travelocity Europe Pres. Damon Tassone will be deputy CEO. Travelocity and Lastminute will share content with each other and with other Sabre travel-related companies, like Holiday Autos car rental service. Lastminute will be Travelocity's lead brand throughout most of Europe.

Internet People

Peter Carson, ex-Raychem, joins WebEx as vp-business development... Auburn U. Asst. Prof. **Andrew McLelland** chosen as SEC academic accounting fellow-corporation finance div... **Michael Hager**, ex-Freddie Mac, becomes Small Business Administration assoc. deputy administrator-Capital Access Office.

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