

Session III

Globalism of Privacy and Information Security
Common issues under normal global economic environment,
privacy protection and information security after world financial panic

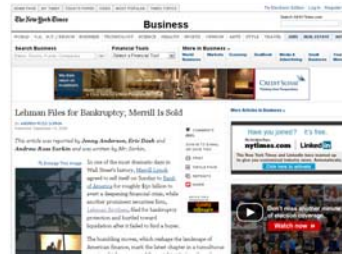
12 November 2008

Organizer: Takato NATSUI
Law professor at Meiji Univ., Hayabusa-Asuka Law Office

Copyright © Takato Natsui 2008, all rights reserved.

Introduction

- Financial Crisis



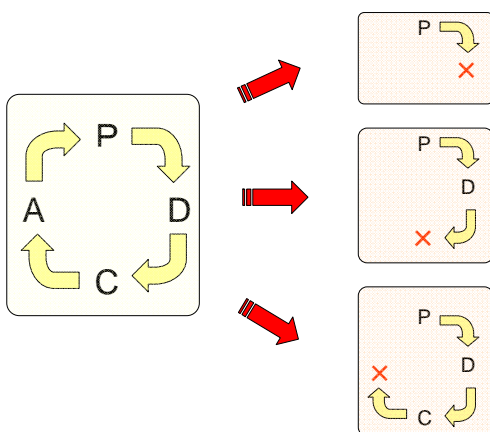
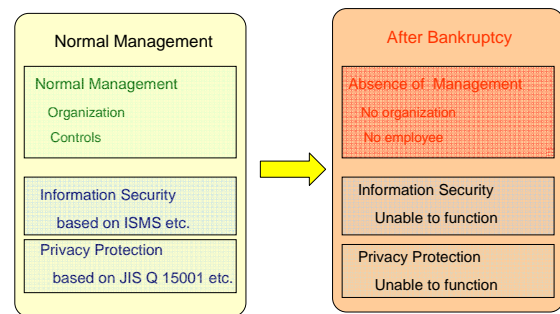
New York Times September 14, 2008
<http://www.nytimes.com/2008/09/15/business/15lehman.html>

Fundamental Elements for Management Systems

- Existence of
 - Management Body
 - Organization
 - Management Plan
 - Controls
 - Methods
 - Objects (Information Assets, Personal Data etc.)
- Possibility of Management
 - Operation
 - Performance
 - Audit

Influence

Privacy protection and Information Security



Presentations and discussions

- Presentation
 - Mr. Robert Gellman
 - Mr. Yoshio Araki
 - Mr. Taro Komukai
 - Madame Toshiko Sawada
- Discussions
- Summing up

Three Dilemmas for American Privacy Policy

- Mr. Robert Gellman
 - Privacy and information policy consultant in Washington, D.C.
 - Former member of the U.S. Department of Health and Human Service's National Committee on Vital and Health Statistics (1996-2000)
 - Robert Gellman: Privacy and Information Policy Consultant
<http://www.bobgellman.com/>

7

The Globally Integrated Enterprise

- Mr. Yoshio Araki
 - Chief Privacy Officer (CPO), IBM Japan, Ltd.
 - Chairman of directors board, NPO Personal Information Protection Knowledge-man Meeting
 - IBM Japan
<http://www.ibm.com/jp/ja/>

8

International Personal Information Protection in APEC

- Mr. Taro Komukai
 - Lecturer, Nihon University
 - Lecturer, Toyo University
 - Researcher, Tokyo University, graduate school of Information
 - InfoCom Research Inc. (ICR)
<http://www.icr.co.jp/>

9

Personal Information Protection on Borderless Electronic Commerce - International Relationship of Trust Mark -

- Madame Toshiko Sawada
 - Director, NPO EC Network
 - Former researcher, Next Generation Electronic Commerce Promotion Council of Japan (ECOM)
 - EC Network
<http://www.ecnetwork.jp/en/>

10

Discussions

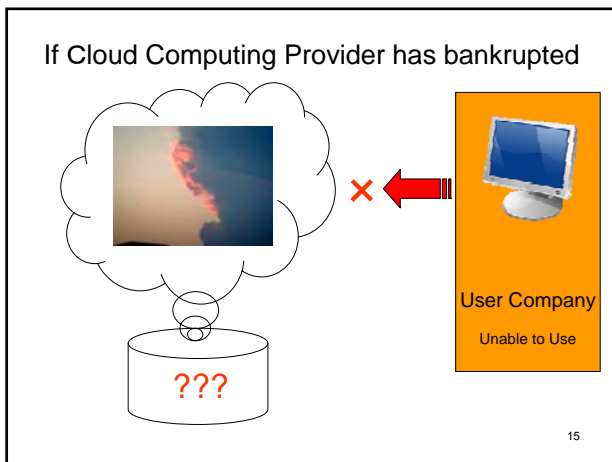
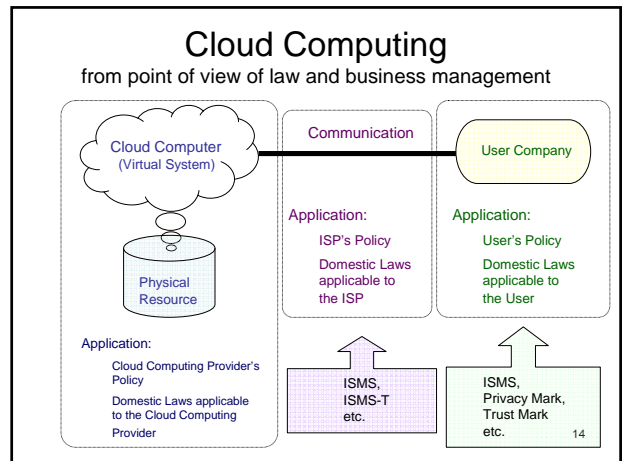
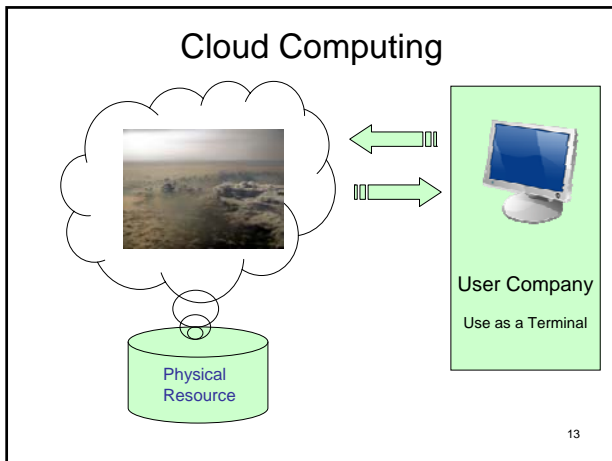
- Part 1: Common issues under normal global economic environment
- Part 2: Privacy protection and information security after world financial panic
- Summing up

11

Common Computing through Network Systems in the near future

- Ubiquitous
 - Terminal Equipments or PC may be
 - Radiofrequency Devices may be
- However...
 - Concentration and Virtualized Outlooks
 - Huge ISPs, Cloud Computing Provider etc.
 - Monopoly
 - Google Search etc.
 - Impossible to Control and Audit correctly for everyone
- Crisis of Privacy Protection and Information Security may take place

12



- ### Summing up
- Recognition
 - Legal Issues
 - Policy Issues
 - Resolution
 - Legislation
 - Reconstruction of Business Managements
 - Risk Management
 - Crisis Management
 - Perspectives
 - Acknowledgement
- 17

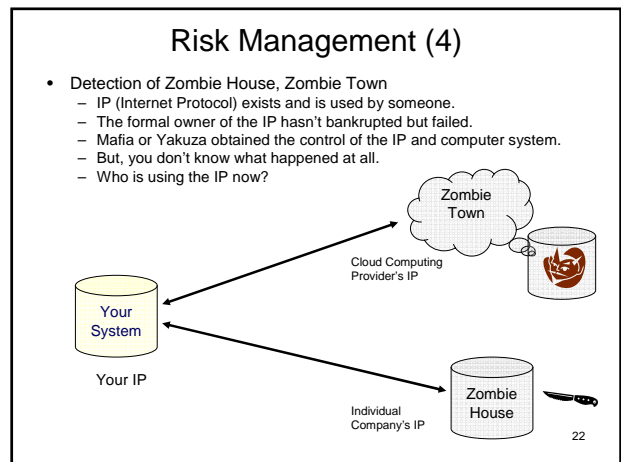
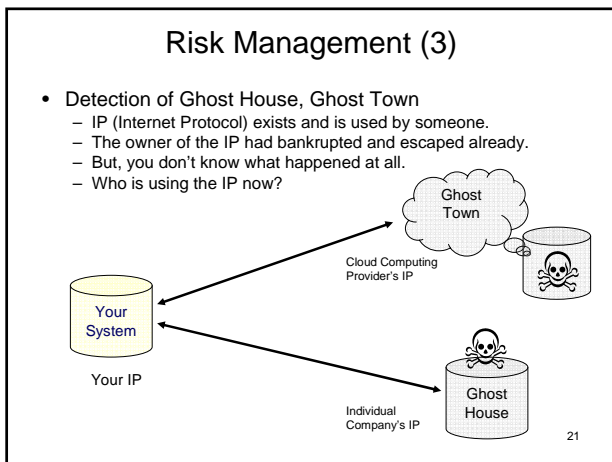
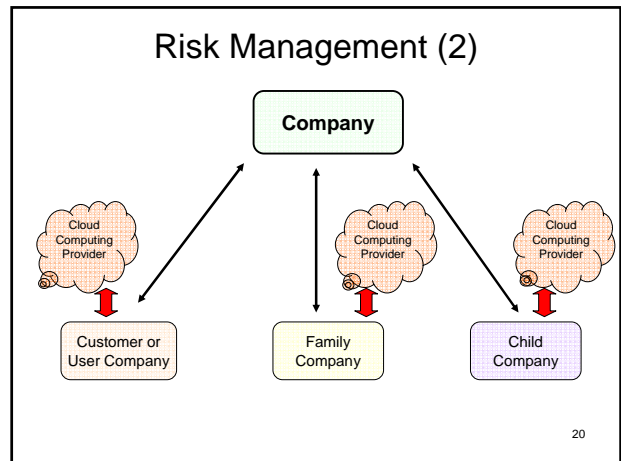
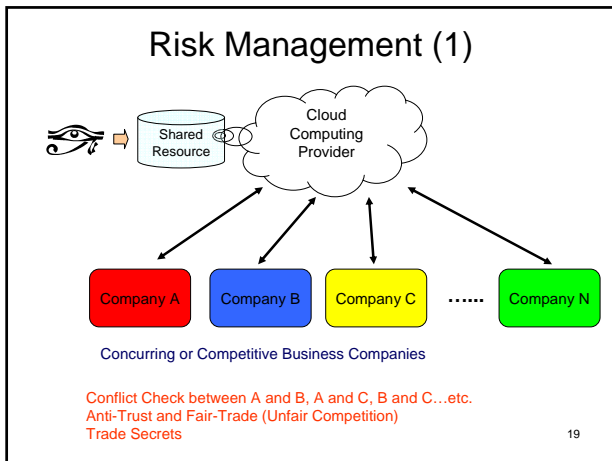
A Primly Lesson for Artificial Intelligence Programming

mortal (X) :- man (X); woman (X).

also

mortal (X) :- corporation (X).

18



- ### Risk Management (5)
- **Effective Scope** of Policies
 - User Company' Policy can not be enforceable to the Cloud Computing Provider
 - **Mirror or Copy** of Important Computer Data of Customer Company, Family Company and Child Company
 - Detecting a **Signal of Crisis**
 - **Development of effective measures** to assess and confirm the level of privacy protection and Information security of the Cloud Computer, including technological standards, management systems and enforceable contracts, in accordance with adequate policies
 - **Cooperation** of Chief Information Security Officer (CISO)
 - Safety Network by Chief Information Security Officer (CISO)
 - Mutual Assistance of CISO
 - **Emergency Response Service Provider**
 - Access Control, Reservation of Important Computer Data, Notification
- 23

- ### Crisis Management
- **Absence of Business Entity in fact**
 - The government may not perform any control on the business entity
 - Administrative control may not function normally
 - **Absence of Management Body in fact**
 - Absence Chief Executive Officer (CEO)
 - Absence of effective judgment
 - Absence of Risk Management
 - Absence of Chief Information Security Officer (CISO)
 - Absence of Information Security
 - Absence of Chief Privacy Officer (CPO)
 - Absence of Personal Data Protection
 - **Who can response such a mortal Situation?**
- 24

Legislation in domestic level

- Amendment of **Bankruptcy Act**
 - Bankruptcy trustee has to reserve and manage personal data on behalf of a bankrupt person or company in accordance with Personal Information Protection Act.
 - Except of total transfer of personal data to the third party case (including merge case), bankruptcy trustee has to remove every personal data completely and inform the fact to every person whose personal data had been collected by the bankrupt person or company.
 - Every cost for the reservation and management of personal data should be treated as priority credit in the bankruptcy procedure.
- New enactment of **Personal Data Reservation Act**
 - Application to simple closing of company, Escape of management and employee, or similar cases
 - Privacy commissioner has an authority and adequate procedures to reserve, retain and control any personal data which might be collected and managed by such business entities
- Fundamental amendment of **Data Protection Law**
 - To response to the absence of management body of personal data or when the management body lost.

25

Perspectives in International Level

- **Integration of Privacy Commissioner (Data Protection Agency)**
 - EU - Omnibus system
 - Privacy Commissioner (Data Protection Agency) system already implemented and operated
 - The United States - Sectoral system
 - Make chair agency and cooperation system of Agencies in relevant Sectors
 - Japan – Segment system or Pasticho system
 - Absence of Privacy Commissioner (chief responsible Minister is not Data Protection Agency)
 - Cooperation of chief responsible Ministers?
 - Reconstruction of the Personal Information Protection Act, similar laws and regulations
- Establishment of **single Contact Point** and **International Corporation**
 - Every nation should have a single contact point to converse with each other internationally, especially to avoid global collapse.
 - Similar examples might be the International cooperation on Antitrust, international cooperation against Cybercrimes etc.
- Establishment of **global Privacy Commissioner** (Data Protection Commissioner) as a neutral organization
- Punishment and Prosecution
 - Against crimes relating to personal data, including fraud, illegal selling of personal data, misuse of personal data
 - Establishment of International mutual assistance on police and prosecution

26

In the case of bankruptcy of Cloud Computing Provider

- The government has to perform an **international responsibility** and should:
 - own and nationalize the bankrupt Cloud Computing Provider
 - get every superior access authority to the system
 - control every information resource
 - reserve and make backup or copy of important data (including personal data, business information of user business entity)
 - perform adequate management
 - arrest and prosecute escaped managers
 - bring action for compensation of damages against escaped managers

27

Next issues to be examined

- Very large sized ISPs which:
 - Have numerous number of user companies
 - Provide Cloud Computer like computer services on the Internet, especially relating to e-Commerce by the user companies
 - Provide database service to manage personal data and important information which have been collected and stored by the user companies
 - Provide main accounting service for the user companies
- And user companies rely upon information resources provided by the ISPs entirely to perform their business
- If such ISPs will bankrupt....
- Please **Imagine Similarity** to the bankruptcy of Cloud Computing Provider

28

My Personal Belief

- Many Legal Issues on the Internet have not been resolved enough yet, including:
 - Identification and Certification
 - Intellectual Property Rights and Public Domain (Open Source or Public Source)
 - Personal Data Protection
 - Trade Secrets and other similar Secrets
 - Anti-Monopoly and Unfair Competition
 - Undesirable Commercial Activities (SPAM etc.) and Consumer Protection
 - Unlawful Contents Provider, Illegal Trading on the Internet
 - Cybercrimes, International Organized Crimes and their Prosecution
 - Lawful and reasonable Cooperation of Information Security Specialists and Law Enforcement Officials
- **New Global Scheme** should be established beyond and cooperate with traditional Management System Models, for the purpose of:
 - Quick Response to critical Crisis including Financial Crisis and Physical Crisis
 - Adequate and reasonable Control over Global and Complicated Network Services like as Cloud Computing
 - Avoid over specialized Legal Discussions relating to Jurisdiction and Application of Law
 - Construction of International Cooperation Network
 - Establishment of a good Balance between Private and Public, Private and Administration, and Commercial and non-Commercial
 - And, especially, Making a little bit **Better Future** for everyone who loves Freedom and Happiness.

29

Reconstruction of business management as Private recommendation

- Ever management has to recognize that use of cloud computing itself may be **critical risks** and causes of **mortal damages**
- Every business management system has to be reconstructed to:
 - **Re-assess** correctly main risks of cloud computing
 - **Have enough ability to response** urgent and critical environmental change, including world financial crisis
 - **Make and prepare adequate substitute** for keep a continuity of business and integrity of information
 - **Add reasonable risk management system** for crisis of cloud computing, including cases when any family companies or customer companies use cloud computing and rely upon cloud computing provider's service

30

*L'homme n'est qu'un roseau,
le plus faible de la nature,
mais c'est un roseau pensant.*

Pascal, *Pensee*



31