

The MLRC Digital Review

Reporting on developments in digital media law and policy

by Jeff Hermes

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Greetings, everyone. By the time you read this, we'll probably have a new president-elect (subject to legal challenges, recounts, and so on). I hope you survived election night week and that, whomever you voted for, you still have hope for the future.

We also have a new associate justice on the Supreme Court. While I know the circumstances of Justice Barrett's confirmation are a sore spot for many, for the purposes of the MLRC we'll focus – as always – on what she brings to the Court with respect to First Amendment protections of speech and press.

There's not a lot to go on from the confirmation hearings. I'm not particularly thrown by [her refusal to opine on Sullivan](#) in response to a question from Sen. Klobuchar, or [her whiff](#) on enumerating the five freedoms of the First Amendment in response to a pop quiz from Sen. Sasse (she missed the right to petition the government for redress of grievances). However, [the follow-up exchange with Sasse](#) suggesting that Barrett should have been aware that the five freedoms are conceptually related and mutually interdependent was interesting. Her response to a question from Sen. Tillis that Congress rather than the courts [should take the lead in adapting copyright law](#) in response to technological development was unsurprising.

There's also, unfortunately, not a lot to go on from her decisions below, at least as far as press-related cases go. [Tony Mauro](#) and the [Reporters Committee](#) each reviewed what little there is. Suffice to say that RCFP so far has come up with [only one decision](#) she joined that even glancingly dealt with any traditional press issues, and that one was a case not involving media parties: In a family dispute, the Seventh Circuit rejected an intrusion/private facts claim, an emotional distress claim, and a defamation claim (the last one on the basis of an Illinois privilege for statements made to law enforcement).

That leaves us with speculation based on her history as a follower of Justice Scalia, which could cut any number of ways in the First Amendment and IP contexts. So, for now, we're waiting and watching what Justice Barrett does. I know that most of us are going to be waiting to see what, if anything, she winds up doing with respect to the election and a host of other issues, but know that the MLRC is still here keeping an eye on the First Amendment.

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I. Privacy

A. Anonymity

A magistrate judge in C.D. Cal. [ordered Twitter to unmask user @whyspertext](#), the person or persons who alleged gave fake FBI records to Fox News and launched the conspiracy theory around the death of DNC staffer Seth Rich. The user's identity is sought to aid discovery in a libel suit over reporting regarding Rich.

Anonymity was also rejected in a different context in another libel lawsuit in E.D.N.Y., where a magistrate judge held that a plaintiff allegedly targeted in the #TheyLied campaign against sexual harassment [could not proceed in court under a pseudonym](#).

B. Personal Information

The Supreme Court [denied cert](#) on appeal of a [controversial decision](#) from the Illinois Supreme Court upholding the constitutionality of the state's revenge porn law.

The U.S. government's effort to block WeChat hit a double wall this month, with a [magistrate judge in N.D. Cal. holding](#) that additional evidence presented by the government did not establish that the ban was narrowly tailored and the [Ninth Circuit refusing](#) to lift a preliminary injunction against the ban.

In another of the burgeoning number of cases against strip clubs over the unauthorized use of models' photographs in advertising, a [judge in D. Ariz. ruled](#) that false light and invasion of privacy claims were untimely (applying the single publication rule to internet content). However, an Arizona right of publicity claim was timely due to a longer limitations period, and the court found that there were no disputed facts blocking summary judgment for the plaintiffs.

California Gov. Newsom [granted extensions](#) to the employee and B2B exemptions under the California Consumer Privacy Act; the exemptions now sunset on January 1, 2022. Meanwhile, almost five dozen privacy experts have [come out against California Prop. 24](#), arguing among other things that the measure was developed through a non-transparent process, would completely upend progress made toward compliance with the CCPA, and lock the legislature out of fine-tuning the law with respect to an incredibly complex system of balanced interests. (Spoiler for November: [It passed.](#))

C. [Children's Privacy](#)

Nothing to report this month.

D. [Biometrics](#)

A judge in N.D. Ill. has [remanded a BIPA lawsuit](#) against Clearview AI back to state court, holding that the plaintiffs sufficiently limited their pleadings so as to avoid stating Article III standing. The net result, said the court, was that the claims might be viable in state court but that the federal court had no jurisdiction. This maneuver wins my [Connect Four Award](#) for the month.

Yes, I just dated myself. As an additional puzzle: My birthday is in October, and the second digit of my age is now twice the first. Given that I saw the linked video above on original broadcast, how old am I?

E. [Manipulated Media](#)

Nothing to report this month.

F. [Hacking, Scraping & Data Breach](#)

[Federal charges have been filed](#) in D.N.J. against two individuals accused of hacking the accounts of NFL and NBA players, whose online credentials were sold or used for extortion. Meanwhile, [six Russian hackers](#) accused of carrying out massively destructive operations have been indicted in the Western District of Pennsylvania.

Facebook [sued two companies](#) in California state court alleging that they unlawfully scraped data from various services including Facebook and Instagram.

Sen. Ron Wyden sent up a red flag this month about the [security of foreign-controlled browser extensions](#). For a moment when I read the headline of the linked article, I flashed back to the old days when we worried about [foreign-controlled ccTLDs](#); oh, those innocent days.

G. Other Intrusion

The [Ninth Circuit held](#) that AT&T failed to form a valid arbitration agreement with a plaintiff who alleged that robocalls to his cell phone violated the TCPA. On the other hand, a judge in M.D. Fla. held that [spending a minute reading and disposing of a junk fax](#) received by email does not demonstrate Article III injury.

II. Intellectual Property

A. Copyright

The Supreme Court finally heard the [pandemic-delayed argument in *Google v. Oracle America*](#), on the copyrightability of APIs. The panel, down to eight following the passing of Justice Ginsburg last month, questioned Google's attorney closely on whether the claimed need to use Oracle's code justified its use without a license and whether a ruling for Oracle would expand the realm of copyrightable elements of software and overextend Oracle's control of the market.

The [operator of a Russian stream-ripping service](#) has petitioned the Supreme Court for cert of a Fourth Circuit ruling holding that his activities are subject to the jurisdiction of U.S. courts.

The D.C. Circuit [denied a petition](#) for en banc review of a recent opinion that reversed a Copyright Royalty Board ruling on streaming royalties.

A plaintiff in N.D. Cal. [scored a \\$317K default judgment](#), plus fees and costs, on a § 512(f) claim over fraudulent DMCA takedown notices. So yes, if the defendant fails to show and you've got a sufficient record, it is possible to win a likely uncollectable judgment in a 512(f) case. Meanwhile, an amended § 512(f) claim [survived a motion to dismiss](#) in C.D. Cal., in a dispute between former bandmates where the plaintiff claims that the defendant's counternotice to YouTube was bogus. And in D. Conn., [a stream-ripping site sued the RIAA](#) under § 512(f) for notices that got the site delisted by Google.

Also in C.D. Cal., [print-on-demand service Pixels.com failed to dispose](#) of a photographer's claims on summary judgment, with the court questioning the site's "automated" processes and its relationship with the vendors who fulfilled orders as well as its eligibility for the DMCA safe harbor. Meanwhile, music streaming service Pandora [failed to get rid of another Flo & Eddie claim](#) on a renewed anti-SLAPP motion, with the court holding that the musicians' state law copyright claims were not preempted by the Music Modernization Act.

In D.D.C., three educational associations [dropped a lawsuit](#) against free online legal resource Public.Resource.Org over the site's inclusion in its database of the associations' proprietary test administration standards (which had been incorporated into the law of several U.S. jurisdictions).

In S.D.N.Y.: A judge [denied reconsideration](#) of her ruling that Instagram’s assorted terms and conditions do not convey an express sublicense to embed third parties’ content; a group of six photographers [sued BuzzFeed](#) over its allegedly unauthorized use of their photos of the George Floyd protests; and the owner of news website The Legal Advocate [sued a New York law firm](#) for allegedly stealing stories for its own news site (there’s a hot news claim in there too).

Let’s see, what else...in W.D. Tex. we’ve got a weird lawsuit over claimed copyrights in [emoji with diverse skin tones](#), and a new criminal indictment in W.D. Wash. against a group that allegedly sold illegal devices to allow [major video game consoles to play pirated games](#).

B. Trademark

A battle over a trademark in “Reply All” for podcasting has [reached the Second Circuit](#), with Spotify’s Gimlet Media defending a lower court’s decision that its use of the mark was not confusing.

Prof. Tushnet comments about this next one, “A fundamentally commercial cause of action can be a bad tool to address even bad noncommercial behavior.” A [judge in C.D. Cal. ruled](#) that a jerk who impersonated a talent agency in order to solicit nude pics from women for his private use did not amount to a commercial use that infringed the agency’s trademark. I leave it as an exercise for the reader to come up with a claim that would give the agency standing.

In E.D. La., a judge [confirmed the obvious](#) in a case against the creator of a YouTube video, namely, that critical statements about the plaintiffs’ products are not confusing. And in D. Md., [GEICO sued a news website](#) for TM infringement and dilution over a feature under the GEICO name that allowed users to access insurance quotes from GEICO competitors (but not GEICO itself).

C. Patent

The Supreme Court [denied cert](#) in *Thomas v. Iancu*, a software patent case.

TikTok and its parent ByteDance [sued competitor Triller in N.D. Cal.](#), seeking a declaration of non-infringement with respect to a Triller patent for synchronizing audio and video.

A [new lawsuit in D. Del.](#) accuses Facebook and its subsidiaries of infringing a patent in a feature that allows users to easily reply to a single individual participating in a group chat. Another [suit in W.D. Tex.](#) accuses Microsoft’s smash-hit game Minecraft of infringing a patent on tech that allows users to interact in virtual spaces.

D. Trade Secrets/Misappropriation/Conversion

Nothing to report this month.

III. Platform Management

A. Section 230

So, as it turns out Justice Thomas has opinions about Section 230, which he [shared in a statement](#) accompanying the Court's denial of cert in *Malwarebytes, Inc. v. Enigma Software Group USA*. His thoughts were not cabined to the relatively narrow issues of the case (which dealt with interpretation of § 230(c)(2)); rather, without the benefit of briefing, he spent ten pages taking issue with the breadth of lower courts' interpretation of § 230(c)(1).

It was to my mind bizarre and untimely, and I've got an article coming up in the next MediaLawLetter comparing the statement to Thomas's broadside against the actual malice rule in *McKee v. Cosby*. If you want folks parsing the merits of his comments, we've got [Prof. Volokh](#), [Prof. Rozenshtein](#), and [Prof. Goldman](#).

FCC commissioner Michael O'Rielly, whose term was not renewed by President Trump after he dared to challenge the wisdom of Trump's order that the Commission regulate free speech on social media, [has announced](#) he will not be looking for a way to hang on to his seat. Nathan Simington, who helped to write Trump's social media executive order and has been nominated to fill O'Rielly's seat, has a [confirmation hearing scheduled](#) for November 10.

Meanwhile, FCC Chair Ajit Pai is taking a more positive view of rulemaking in this space than he had previously, stating that the Commission [will move forward with rulemaking](#) to "clarify" Section 230. (Query whether this will be a priority [after the election results are in](#).) FCC General Counsel Thomas Johnson has [published an opinion](#) that the Commission has the authority to regulate in this space, although [others have questioned](#) how an ability to regulate edge services can possibly be consistent with the Pai FCC's earlier opinion that the Commission lacked authority to regulate the internet access providers in the middle.

While we're on the topic of the consequences of the social media executive order, a judge in N.D. Cal. held that a direct legal challenge to the order [failed for lack of standing](#), inasmuch as it had little or no direct effect. Again, the exercise of soft power eludes First Amendment review.

We've covered the judiciary...we've covered the executive...let's turn to the legislature and all those reform bills. In the Senate, Sen. Graham fast-tracked the "[Online Content Policy Modernization Act](#)" for markup; that's the one that mashed up the CASE Act with Graham's earlier "Online Freedom and Viewpoint Diversity Act." There's Sen. Manchin's new "[See](#)

[Something Say Something Online Act,](#)” which for some reason would use Section 230 reform to fight the opioid epidemic. And there’s Sen. Kennedy’s [“Don’t Push My Buttons Act,”](#) which would deny 230 protection to any site that tracks its users or provides an algorithmically generated feed.

Over in the House, there’s Rep. Jordan’s [“Protect Speech Act,”](#) which tosses the “Online Freedom and Viewpoint Diversity Act” in a blender with the DOJ’s proposals to revise Section 230 and hits purée. There’s the [House version of EARN IT](#), courtesy of Reps. Garcia and Wagner. There’s Rep. Budd’s [House analogue to Sen. Hawley’s “Limiting Section 230 Immunity to Good Samaritans Act.”](#) And finally, there’s Reps. Malinowski and Eshoo’s [“Protecting Americans from Dangerous Algorithms Act,”](#) which would treat platforms as the speakers of algorithmically selected user speech for the purposes of claims under 42 U.S.C. § 1985 and the Anti-Terrorism Act.

Mark Zuckerberg, Sundar Pichai and Jack Dorsey were hauled before the [Senate Commerce Committee](#) for a hearing that was nominally about Section 230, but [turned out to be](#) yet another chance for Republican senators to beat up on Twitter (primarily) about its moderation choices. Zuckerberg [notably did say](#) that Congress should update Section 230, noting transparency concerns in particular.

In the meantime, Section 230 continues to quietly do its job, blocking two account termination/suspension cases against [Facebook](#) and [Twitter](#), respectively.

B. Elections & Political Advertising

The most controversial move by platforms this month with respect to the election was probably the decision by Facebook and Twitter to [limit the spread of the Hunter Biden laptop story](#). Facebook slowed recommendation of the content while fact-checking took place, while Twitter blocked the related content entirely on the basis of its policy against sharing of “content obtained through hacking that contains private information.” Twitter later [backed off that policy](#), limiting it to material posted by hackers or those acting in concert with them. That’s probably a good thing, given [how much journalism could get squelched by the prior rule](#).

The whole episode fanned the flames of the [content moderation debate](#) and claims of [anti-conservative bias](#). Senator Hawley and the RNC [filed complaints with the Federal Election Commission](#) – the same FEC that President Trump and Senate Republicans have ensured cannot assemble a quorum to act on any such complaints. Meanwhile, Senate Republicans are bringing Zuckerberg and Dorsey back in November to yell at them again, [this time before the Senate Judiciary Committee](#).

For my money, the whole episode illustrates why holding platforms to pre-established moderation guidelines is a sucker’s game. Twitter’s rule was overbroad, but ultimately what

we're talking about here is editorial discretion. I defy any newsroom to write a universally applicable set of guidelines that control what content is and is not fit to print. There are always unexpected situations and cases at the margins, instances that require ad hoc exceptions and uncertain areas. There has to be discretion to prevent the spread of content without needing to ensure that the decision meets some impossible standard of internal consistency.

In other news:

- Twitter has agreed to [pay a fine of \\$100,000](#) for violation of Washington state's law regarding retention of records relating to political advertising.
- Facebook and Twitter removed posts [wishing for Trump to succumb from covid-19](#); they also [suppressed Trump's post](#) claiming the disease is "less lethal" than the flu.
- [Facebook](#) and [Google](#) are halting political ads after the polls close.
- Facebook has taken steps to [block Russian content](#) designed to undermine Democratic support.
- Facebook also [shut out a pro-Trump "troll farm."](#)
- Facebook has [removed more than 100,000 posts](#) attempting to "obstruct voting"
- Twitter [briefly locked Trump's account](#) after he shared an NY Post columnist's email address.
- Twitter [placed prominent notices at the top of user feeds](#) warning them about election disinformation.

Finally, the Berkman Klein Center at Harvard [maps out the disinformation campaign](#) regarding allegations of mail-in ballot fraud in the 2020 election, revealing interesting findings about the roles played by traditional and social media.

C. Content Moderation

[Facebook, Twitter and YouTube](#) are taking more steps against QAnon content. YouTube channel owners swept up in the purge have [sued Google](#) in the Northern District of California.

A LinkedIn user whose account was restricted for alleged terms of service violations lost his First Amendment lawsuit in S.D. Tex. against the site because...well, [you know how this sentence ends, don't you?](#)

The Texas Supreme Court [granted review](#) in three lawsuits involving claims of child sex trafficking across the site.

D. Terms of Service & Other Contracts

Nothing to report this month.

IV. Other Content Liability

A. Defamation

A news website based in Virginia [sued a Canadian news site](#) in E.D. Va. over allegations that the U.S. site was part of a Russian attack on Canada's former prime minister.

With an election coming up, it's unsurprising that we've got a bunch of new lawsuits crossing political lines. U.S. Senate candidate Mark Kelly [sued a right-wing website](#) in Arizona state court over its publication of photos that it alleged were Kelly in a Hitler costume. Meanwhile, a conservative pundit [sued USA Today and a fact checker](#) in Delaware state court over allegations that she had spread misinformation about the pandemic. And in Missouri state court, the conservative news site Gateway Pundit [sued St. Louis Treasurer Tishaura Jones](#) over a comment on Twitter that a prayer service the site sponsored was an "alt-right/KKK rally."

The California Court of Appeal held that the state's anti-SLAPP law applied to [gossip on a podcast](#) about the ex-husband of a cast member on Real Housewives of Orange County, but that the plaintiff had demonstrated sufficient merit for the case to continue. A Nevada judge [granted a Las Vegas blogger's anti-SLAPP motion](#) in a case over its report of a rumor that the Sahara Las Vegas was going to close.

What else...oh, in New York, we've got a [suit filed by F-Factor diet creator Tanya Zuckerbrot](#) (I'm sorry, I've got visions of [fractal Mark Zuckerbergs right now](#)) against an Instagram influencer and critic.

B. Commercial Speech

A web commerce platform won summary judgment on a [seller's Lanham Act false advertising claim](#) in N.D. Cal., with the court ruling that the alleged harm was to the plaintiff as a consumer and not as a competitor. A suit filed in D. Colo. by home service professionals [against online platform HomeAdvisor](#) was trimmed but still continues; the case involves allegations that the site misrepresented the quality of its customer leads. And a judge in D. Del. [denied a motion to transfer to California](#) a false advertising lawsuit over the alleged use of Instagram by a vaping company to disparage a rival.

C. Threats, Harassment, and Incitement

An [Ohio appellate panel ruled](#) that the family of a man whose killer posted a disturbed statement to Facebook before the murder had no claim against the site for failing to notify authorities.

V. Infrastructure

A. Accessibility

Two very different examples of “accessibility” issues this month. First, a [bipartisan House bill](#) would limit the authority of the President to “control or shut down communications networks, including the internet.” Second, a judge in N.D. Cal. [bounced an amended complaint](#) in a case against Facebook alleging that the site’s advertising tools have been used to exclude women and older users from receiving information about financial services, finding a failure to plead actual injury.

B. Antitrust

The long-awaited [DOJ antitrust lawsuit against Google](#) has finally landed in D.D.C., with eleven states joining the DOJ to allege that the company unlawfully leveraged its market share for search services to stifle competition. More analysis [here](#) and [here](#), and Brookings has a discussion of [what kinds of remedies](#) might fit the DOJ’s complaint (which is notably vague on what it is asking the court to do). Google’s response to the complaint is [due December 19](#).

Seven other states that weren’t part of the DOJ complaint [have announced](#) that their investigations are continuing, but that a complaint could be a matter of weeks away and that the states would seek to consolidate with the DOJ case. There are some murmurings that this complaint [could focus on advertising tech](#), and some small Google competitors in this space have reported that the company is [starting to be more cooperative](#).

In other news, the FTC [received a confidential staff recommendation](#) this month as to whether to pursue an antitrust complaint against Facebook. And a [Democrat-led report from the House](#) recommended that Apple, Amazon, Google, and Facebook be broken up and sought massive reforms to antitrust law; the subject companies [reacted to the report](#) with denials and, in some cases, borderline derision.

C. Net Neutrality

The [amici have weighed in](#) on the fight to save California’s net neutrality law in E.D. Cal., with heavy hitters from academia and policy shops lining up on both sides of the case.

On the federal level, the FCC [reconfirmed the Restoring Internet Freedom Order](#) after it was ordered by the D.C. Circuit to consider certain factors affecting the agency's decision.

- D. [Domain Name System](#)
- E. [Taxation](#)
- F. [Wire & Wireless Deployment](#)
- G. [Artificial Intelligence & Machine Learning](#)

Nothing to report in these sections this month.

- H. [Blockchain & Cryptocurrency](#)

The SEC won summary judgment in a case over [Kik Interactive's cryptocurrency Kin](#), with a judge in S.D.N.Y. ruling that Kin was a security under the SEC's purview and not currency.

Tech entrepreneur John McAfee was [arrested in Spain](#) on charges of tax evasion and fraud, and now faces extradition to the United States. The charges include claims that McAfee failed to disclose that he had been paid more than \$23.1 million in cryptocurrency for promoting ICO token sales.

VI. [Government Activity](#)

- A. [Data Surveillance, Collection, Demands, and Seizures](#)

The Nation reports that it obtained documents from ICE pursuant to a FOIA request that reveal that [the agency targeted journalists and social media users](#) in retaliation for questioning or challenging ICE's role in Trump's America.

- B. [Encryption](#)

The NSA is reportedly [stonewalling inquiries](#) from Sen. Wyden about whether it continues to cut agreements with tech companies to place backdoors in their products. And if you're wondering what happened to that whole issue of cops not being able to break into locked phones, well, apparently it's [no longer really a challenge](#).

- C. [Biometric Tracking](#)
- D. [Domain Seizure](#)

Nothing to report in these sections this month.

E. Content Blocking & Prior Restraints

The [Minnesota Court of Appeals](#) held that a “harassment restraining order” banning the target from “mak[ing] false or defamatory statements about [victim], including to the public, to [victim's] employer, or on-line” had to be limited to statements that are knowingly false and defamatory. Getting a very retro feel from that hyphen in “on-line” by the way.

The Nevada Supreme Court [granted a writ of mandamus](#) flipping a preliminary injunction in a defamation case over social media posts, identifying it as a prior restraint.

F. Online Access to Government Information

Nothing to report this month.

VII. Global

A. International

At [a hearing this month](#), two judges of the D.C. Circuit expressed serious doubt that the head of the U.S. Agency for Global Media had authority to replace the leadership of the independent non-profit Open Technology Fund. A judge of D.C. Superior Court [went beyond doubt](#) in a related case, granting summary judgment ordering restoration of the removed Board of Directors. And if you’ve been wondering what these cases have been doing in International over the last few months, remember that the Open Technology Fund is the U.S. organization tasked with developing technology to protect freedom of speech and press internationally.

B. Europe

The CJEU [ruled this month](#) that national security does not justify mass surveillance without running through the usual tests of proportionality, etc., in order to protect privacy, data control, and free speech rights.

The European Commission’s [next major regulations of digital media](#), the Digital Services Act and Digital Markets Act, are due to be introduced within the next federal weeks. The new laws are expected (inter alia) to revise Europe’s content moderation principles to include greater transparency requirements and to increase responsibility for illegal content, and to restrict self-preferencing for services and other monopolistic behavior. The EU Parliament is also in favor on greater regulation of [behavioral advertising and microtargeting](#).

C. Australia

Following the U.S. DOJ's lawsuit against Google, Australia's competition authority is [considering a similar case](#). It isn't the only country thinking about following the DOJ's example...

A plaintiff [scored a \\$54,000 defamation win](#) in the Australian Capital Territory Magistrates Court over the unauthorized publication on Facebook of her intimate photo accompanied by disparaging comments.

The government of the Northern Territory [blacklisted the NT Independent news site](#) from press conferences and other distributions of government information, stating that it did not view the site as an independent and reputable news outlet. The move provokes widespread criticism.

A popular true crime podcast was [cited by a justice in New South Wales](#) as a basis for delaying the murder trial of a man suspected of killing his wife, who disappeared in 1982. Meanwhile, podcasts have formed a [key part of a defamation case](#) filed against the Daily Mail in Federal Court, with the Mail scouring podcast appearances by the plaintiff sports presenter to demonstrate the truth of allegations that she used racist language.

D. Belgium

Belgium's [data protection authority ruled](#) that the consent framework for ad trackers developed by the European branch of the Interactive Advertising Bureau does not conform with the GDPR. Whoops.

E. Canada

Canada's Privacy Commissioner is [urging the federal government to update its data privacy laws](#) to deal with the massive growth in digital communication as a result of the pandemic. Meanwhile, a coalition of Canadian publishers wants the government to [allow them to engage in collective bargaining](#) with Google and Facebook.

F. China

China too is [considering antitrust action against Google](#), in this case with respect to the dominance of the Android mobile OS.

Speaking of mobile, China has directed companies offering mobile browsers in the country [to conduct a "self-examination and rectification"](#) in order to respond to the government's concern that "[f]or some time, mobile browsers have grown in an uncivilised way ... and have become a gathering place and amplifier for dissemination of chaos by 'self-media'." Heavens. The

mandatory self-examination is backed up, of course, by severe threats if the rectification does not result in sufficient rectitude.

G. Egypt

A [journalist was released](#) after temporary detainment on charges that she disseminated false news via social media; an investigation into the accusations is pending. Meanwhile, a satirical [blogger was released](#) after more than two years in detention on similar charges, though he remains on probation. Al Jazeera is still working on getting one of its journalists freed [after more than three years in prison](#).

H. France

The [Cour d'appel de Paris ruled](#) that an order by France's competition authority that Google must enter into talks with publishers and news organizations is enforceable.

Bar owners in Grenoble [have been arrested for failing to keep logs](#) of their patrons' WiFi use, under a 2006 law that treats public WiFi hotspots as ISPs for the purposes of data gathering on terrorist activity.

I. Hungary

A Hungarian court [invoked the GDPR](#) as a basis for enjoining a newspaper from disseminating an investigative report containing information that is publicly available online. That...can't be right.

J. India

[Indian startups](#) are apparently considering banding together to fight Android's dominance of the country's smartphone market, including forming a rival app store.

K. Ireland

Ireland's data protection authority has [launched two new probes](#) into Instagram's handling of children's information. Meanwhile, a Waterford resident has been charged with [violating the privacy of two minors convicted of murder](#) by posting the pair's photos to Twitter.

L. Israel

Israel's Privacy Protection Authority announced that companies can [no longer rely on the terms of the EU-U.S. Privacy Shield](#) pact with respect to data transferred from Israel to the United States. No, Israel's not in Europe, but the country's "adequacy" status under the GDPR with the European Union was implicated by the recent *Schrems II* decision.

M. Italy

Italy's antitrust enforcer is [jumping on the bandwagon](#), investigating Google's ad market dominance.

N. Japan

Tokyo police [arrested two men on charges of defamation](#) and related crimes for publishing "deepfakes" that swapped celebrity faces into pornographic videos. Japanese courts have [recently been debating](#) the meaning of defamation on social media.

O. Mexico

At a recent event, [the ambassadors of Mexico and the United States](#) to each other's countries discussed the role of digital and social media in the relationship between the two nations.

P. Netherlands

A court in Lelystad [closed the loop](#) on legal efforts to compel two Netherlands ISPs to block The Pirate Bay, requiring that the blocks affect proxy servers as well as TPB's primary domain.

Q. Nicaragua

Nicaragua now [has its own law](#) prohibiting the online distribution of false information that could cause "alarm, terror, or unease in the public," backed by prison terms of two to four years. And as with other recent laws of this stripe, the concern is that it will be used as a blatant tool for censorship.

R. Pakistan

TikTok is [back in Pakistan](#) after a brief ban over an alleged failure to moderate problematic content; however, it is effectively on probation, with the Pakistan Telecommunication Authority stating that a permanent ban would follow if TikTiok failed to actively moderate.

As they have elsewhere, #metoo allegations in Pakistan have triggered retaliatory defamation lawsuits, including the [criminal prosecution of nine women](#) for allegations of sexual harassment by a pop singer.

S. Russia

Edward Snowden has been [granted permanent residency](#) in Russia. Some part of me wonders if that's a euphemism.

Russia's infamous Internet Research Agency [manufactured a fake news organization](#) called the Newsroom for American and European Based Citizens in an attempt to influence U.S. voters, according to people familiar with an FBI probe into the scheme.

Apple and Amazon have [agreed to cooperate](#) with efforts to squelch apps that traffic in copyright infringement, as least according to Russian communications regulator Roskomnadzor.

T. Singapore

Singapore's prime minister [testified this month](#) in his defamation case against a man who used Facebook to share a story connecting the PM to a money-laundering scandal. Suspiciously, the defendant's lawyer was arrested on unrelated charges just before the trial...

U. South Korea

Aaaaand South Korea's Fair Trade Commission has announced that it [sees antitrust issues](#) with Google.

V. Spain

Spain wants to raise €6.8 billion by, among other things, introducing a [new 3% tax on digital services](#).

W. Thailand

An American tourist facing five years in prison in Thailand for a bad review of a hotel is [off the hook](#) after the hotel agreed to drop charges in exchange for a public apology. Travel tip: In Thailand, it's not worth it to complain about the corkage fee.

A Thai appellate court [flipped a verdict and two-year jail sentence](#) against a TV reporter convicted of defaming a chicken farm via Twitter.

Thai police [sought to impose restrictions on Telegram](#) in an effort to quell ongoing protests against the monarchy. The government also announced that it would [prosecute individuals](#) promoting the protests on social media, including by posting selfies taken at rallies.

X. Turkey

Turkey's law requiring foreign social media companies to have an office in the country [took effect on October 1](#). The law, which is intended to give the government property and bodies over which it can exercise authority, has been the [target of international condemnation](#). Facebook [announced](#) that it would not comply with the law, and Turkey was [quick to threaten](#) fines and bandwidth throttling.

Turkish President Erdogan [filed a defamation complaint](#) against a far-right Dutch MP over a cartoon of Erdogan that the MP shared on Twitter. That's...an interesting approach to diplomacy, to be sure.

Y. United Kingdom

A Sunderland man convicted of attacking his wife has been [banned from talking about her](#) on social media. Right-wing pundit Katie Hopkins [publicly apologized](#) for falsely tweeting that a mosque was linked to an attack on Metropolitan police officers in May, settling a defamation claim.

A [police investigation](#) into a YouTube user and a historian that he interviewed about slavery has been dropped. The interviewee had made comments denying that slavery could be equated to genocide.

The litigation over the phone hacking scandal shambles onward, with [new allegations](#) that the publisher of the Daily Mirror hired private investigators to target High Court and Court of Appeal judges. However, Coronation Street star Michael Le Vell will exit the morass after [reaching a settlement](#) with News Group Newspapers over the alleged hacking of his voicemail messages.

The House of Commons digital, culture, media and sport select committee [has announced](#) that it will look into music streaming services and how they treat artists.

Julian Assange's extradition hearing [came to an end this month](#), with blockbuster allegations that U.S. intelligence [discussed the possibility of poisoning Assange](#). A ruling on extradition has been scheduled for January 4.

Z. Vietnam

A [dissident writer and blogger was arrested](#) in Vietnam after speaking to U.S. representatives about human rights in connection with the US-Vietnam Comprehensive Partnership. Vietnam's own version of these repulsive "fake news" laws is [scheduled to go into effect](#) on December 1.

VIII. Miscellaneous

The Ninth Circuit held that an internet troll who liked to frequent spaces used by ISIS sympathizers and got caught up in an FBI sting [was not subject to a sentencing enhancement](#) in his prosecution for material support for terrorism just because he opened online accounts for some of the sympathizers. The court found that there was insufficient evidence that the defendant knew the accounts would be used to "intimidate or coerce government conduct."

Proposed classes of Alabama residents sued Apple and Google in separate lawsuits in N.D. Ala., [seeking refunds for apps](#) purchased through the defendants' respective app stores that, the plaintiffs claim, enabled unlawful gambling.

A student journalist at ASU has [sued the school in D. Ariz.](#), claiming that she was terminated from her position as the manager of the Walter Cronkite Blaze Radio station in retaliation for a tweet from her personal account regarding Jacob Blake, a black man shot by police in Kenosha, Wisconsin. ASU maintains that the journalist was not removed for the views she expressed.

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Well, that was a short issue, comparatively speaking. It's almost like all of the news outlets that we trawl for developments had something else on their minds, wonder what it could be.

Anyway, I'll sign off for now. I suspect there will be more next month as our usual sources catch up. Till then, be well, and thanks for reading!