

The MLRC Digital Review

Reporting on developments in digital media law and policy

by Jeff Hermes

* * *

Greetings, everyone!

By special dispensation from the powers-that-be, we're sharing this issue of the *MLRC Digital Review* not only with MLRC members but also with non-member attendees at our *Legal Frontiers in Digital Media* conference in San Francisco – which, if I've timed this right, should be taking place tomorrow (May 14th). That being the case, I thought I'd take the opportunity to explain what's going on in this article series.

First, hello! I'm Jeff, one of the deputy directors at the Media Law Resource Center. I'm an attorney with about fourteen years' experience in private practice representing media organizations and just about the same amount working for non-profit organizations that study and advance freedom of speech and other media rights. I've been with the MLRC since 2014, where my primary occupation is analyzing developments in the law at the intersection of tech and media. Among many other activities, I write this article series and work with my colleague Michael Norwick to produce our annual *Legal Frontiers* conference on digital media law.

I started the *Digital Review* because of the dizzying amount of news related to digital media law that flows through the MLRC every day. You might be familiar with our daily newsletter, the *MLRC MediaLawDaily* (aka the *Daily* or the "MLD"), which reports media law updates across a slew of sub-fields every business day. It struck me that while the *Daily* is fantastic at keeping folks up to date, the firehose of information can make it difficult to step back and to identify patterns and trends in the law.

So, with the naïve optimism of the tarot's Fool, and about as much concern for my personal safety, I embarked on a project to review on a (mostly) monthly basis the developments that the MLRC sees in digital media law. The hope was that the trends might start to emerge. Does it work? You be the judge. You can use this article to catch up on what's been happening, but I also hope you'll let it wash over you and try to pick up on recurring themes.

A lot of this material is sourced from the *Daily*, but a lot of it is not; I collect quite a bit of information that never makes it into the *Daily* due to space constraints. I cannot promise that this article's coverage is comprehensive; it only covers developments during the prior month that I have learned about by the date this article is published (obviously). I also reserve the right to

exclude items that are *de minimis* or of tangential relevance, but I lean towards inclusion rather than exclusion in equivocal cases. I abbreviate references to various courts using the MLRC’s standard abbreviation system from the *Daily*: N.D. Cal. is the U.S. District Court for the Northern District of California; Tex. Dist. is Texas’s state district court; and so on.

Developments are separated into eight major categories (Privacy, Intellectual Property, Platform Management, Other Content Liability, Infrastructure, Government Activity, Global, and Miscellaneous) and from there into sub-categories. However, these divisions are porous, and I will add and alter categories as shifting trends warrant a reorientation of coverage. Sometimes there’s nothing in a particular section in a particular issue. On the other hand, in some sections there is so much activity that I will resort to providing a link round-up. That is always true of the Global section, in which I collect international developments, and lately it’s been true of the Artificial Intelligence subsection, which includes developments relating to generative AI that do not fit neatly into one of the other categories, e.g., Copyright, Rights of Publicity, or Defamation. (By the way, you’ll find Rights of Publicity under Privacy, not IP. There are other quirky things like that you might notice, which are the way they are for what are best characterized as “reasons.”)

You will also see that the *Digital Review* is conversational in tone and seasoned with my own commentary on various developments. All views are my own, not those of the MLRC or its member organizations. Also, these articles can get quite long; this one, at approximately 9,000 words and over 300 linked cases, statutes, and news articles, is an unusually short one. To stave off madness, I’ve been known to entertain myself by hiding easter eggs in the links. To stave off *your* madness, I include a table of contents to help you jump directly to the sections about which you care, like so:

TABLE OF CONTENTS

I.	Privacy.....	3
II.	Intellectual Property.....	7
III.	Platform Management.....	10
IV.	Other Content Liability.....	12
V.	Infrastructure.....	14
VI.	Government Activity.....	19
VII.	Global.....	20
VIII.	Miscellaneous.....	26

All right, I think that’s about it...read on!

* * *

I. Privacy

A. Anonymity/Pseudonymity

K-Pop group NewJeans [filed](#) an application in C.D. Cal. asking the court to compel YouTube to identify an account holder accused of defamation and insult under South Korean law. In D.N.J., a judge [ruled](#) that a defendant in a pornography copyright infringement case would not be allowed to proceed pseudonymously, despite their desire to prevent reputational harm associated with downloading such content.

B. Personal Information

Let's get the big news out of the way: [Congress passed and President Biden signed](#) the Protecting Americans from Foreign Adversary Controlled Applications Act, which bars the distribution, maintenance, or updating of “foreign adversary controlled applications” within the United States, unless the foreign owner of an app divests its interest in the app within 270 days (with a potential single extension for divestment beyond that date at the discretion of the president). This Act has been referred to as “the TikTok ban”; it [explicitly](#), but not solely, targets TikTok, and differs in other ways from the Montana ban currently being litigated.

Nevertheless, the federal law still raises serious [First Amendment issues](#), and TikTok is [prepared to challenge](#) the Act in court. Unusually, the Act specifies the U.S. Court of Appeals for the D.C. Circuit as the forum for any such challenges, which raises some interesting questions about how the appellate court will handle any required fact-finding. [LATE UPDATE: The petition for review [has been filed](#).] It is also worth remembering that TikTok is [not the only ByteDance-owned app](#) used in the United States, all of which would also be covered by the Act (and as to which the government's stated interests with respect to TikTok might or might not apply).

Whether the Act is a good idea, is, of course, another matter. There are [concerns that](#) it will undermine the international open internet by signaling U.S. approval for app bans by other governments, or otherwise [trigger](#) retaliation against U.S. tech by China, although [others have suggested](#) that it was not the U.S. that started a tit-for-tat with China. At the very least, China is [likely to block](#) TikTok's sale of its powerful content-recommendation algorithm, making the meaningful sale of TikTok under the federal Act's divestiture provisions a chimera. In the interim, U.S. lawmakers [keep using](#) TikTok themselves.

In the long run, however, perhaps even more significant will be a [bipartisan national data privacy bill](#) announced this month. The bill includes a right to opt out of particular uses of data, limitations on data gathering to that needed for specific products, and access, deletion, and portability rights for users. The bill would also [preempt state regulation](#) on the subject, an issue that has hung up prior proposals.

Speaking of data minimization requirements and state regulation that might wind up being preempted, the California Privacy Protection Agency issued an [enforcement advisory](#) this month detailing businesses' obligations under California law to limit the collection, use, retention, and sharing of consumers' personal information. On the opposite coast, Maryland's legislature [passed](#) its own comprehensive data privacy bill.

Turning to the courts, the Ninth Circuit [denied](#) petitions for panel and en banc hearing on affirmance of Meta Platforms' \$90 million settlement of claims over tracking of Facebook users' internet browsing when logged out of the service. Meanwhile, in D.D.C., Meta and the FTC [agreed to stay](#) litigation over the Commission's attempt to modify a 2020 privacy settlement while potentially relevant constitutional issues regarding agency authority are considered by the Supreme Court in *SEC v. Jarkesy*.

We've got a number of updates in N.D. Cal. in privacy cases involving Google. In a case over gathering of data from users of Google Chrome's "Incognito" mode, Google has [agreed](#) to delete a vast amount of such data as part of a proposed settlement. A judge [denied](#), without prejudice, a motion to certify a plaintiff class in a lawsuit alleging privacy violations in connection with Google's ad auction system. Another judge [granted](#) preliminary approval to a \$350 million settlement with investors arising out of a leak of user data from defunct social media platform Google Plus. And a third judge [approved](#) a final \$62 million settlement over Google's location tracking practices.

In pixel tracking cases, we've got a new [lawsuit](#) against streaming platform Plex in N.D. Cal., a [decision](#) on a motion to dismiss allowing some privacy-related claims to proceed against a healthcare services company in D. Mass. but trimming others, a similar mixed [decision](#) in D. Minn. against a hospital operator, a new [lawsuit](#) against American Express in S.D.N.Y., and two hospitals [asking](#) the Massachusetts Supreme Judicial Court to rule that the commonwealth's Wiretap Act does not apply to pixel data collection.

Finally, the Federal Communications Commission [fined](#) T-Mobile, AT&T, and Verizon a total of \$196 million this month for sharing customer location information with third parties without authorization, the culmination of an investigation almost five years old.

C. Children's Privacy & Safety

The Supreme Court [denied](#) an [application](#) for a stay of a split decision from the Fifth Circuit, which had overturned a district court injunction against the enforcement of Texas' age verification law for websites carrying adult content. Expect a petition for cert seeking full review in due course. Meanwhile, the operator of webcam site Chaturbate [agreed](#) to pay Texas \$675K to settle allegations that it failed to comply with the law's requirements.

Texas is just the [tip of the iceberg](#) with age-gating laws, of course. Alaska's House just [passed](#) a law banning social media access for children under 14 and requiring age verification for pornography sites, Georgia Gov. Brian Kemp [signed](#) a bill requiring parental consent for minors to open social media accounts and requiring the upload of photo ID to access sites offering "material harmful to minors," and Maryland's legislature [passed](#) a law forbidding platforms from tracking users under 18 or using addictive techniques to keep minors on their services. Bucking the trend, however, Arizona Gov. Katie Hobbs [refused to sign](#) an age verification bill in the mold of those above, citing First Amendment problems with the legislation.

In Congress, the Senate is [set to mark up a bill](#) to limit social media access for minors, the Kids Off Social Media Act, which in its current iteration bans children under 13 from social media, bans algorithmic content recommendation for teens under 17, allows schools to block social media (good luck), and hands enforcement over to the FTC. Meanwhile, Congress [passed](#) and forwarded to President Biden a bill to strengthen and to reform the operations of the National Center for Missing and Exploited Children, the non-profit to which platforms are required to report child sexual abuse material and which works with law enforcement to investigate these cases; the bill also expands tech's reporting obligations to include crimes related to trafficking, grooming, and enticement of children. NCMEC is in desperate need of an overhaul, as a [report](#) from the Stanford Internet Observatory explains, so something like this was probably necessary (at least, if you don't look too hard at the Fourth Amendment tap-dance underlying mandatory reporting to a non-governmental entity for the explicit purpose of transmission of information to the feds). [LATE UPDATE: President Biden [signed](#) the bill.]

The FTC has [declined without prejudice](#) a request from the Entertainment Software Rating Board to approve the use of facial geometry tools to verify that an adult is providing requested permissions under COPPA, in the expectation of a forthcoming report from the National Institute of Standards and Technology evaluating the technology.

A judge in N.D. Cal. [trimmed but did not dismiss entirely](#) claims that gaming platform Roblox facilitated children's exploitation by third-party online casinos by the sale of its "Robux" in-game currency. In the same court, Mark Zuckerberg succeeded in having claims against him personally [dismissed](#) in the consolidated social media addiction/personal injury cases. A new [lawsuit](#) in S.D. Ga. accuses major video game developers of intentionally addicting children to their products to increase profits. And two Native American tribal nations [sued](#) major social media companies in California state court alleging that their services contributed to disproportionately high rates of suicide among their youth.

To conclude this section, I thought I'd include [this interesting article](#), which reviews the research into whether social media really does have an adverse effect on the mental health of teenagers. Seems like figuring that out would have been a good idea before all of the legislation, but of

course that's not how these things work; the process goes moral panic → legislate → declare victory → ignore actual effects of law → seek reelection.

D. Rights of Publicity

In one of the numerous strip club ROP lawsuits over the unauthorized use of models' likenesses to promote clubs online, a group of models who filed suit in W.D. Wash. [obtained](#) a \$95,000 default judgment plus an award of fees and costs.

The Senate Judiciary Committee [heard testimony](#) this month on proposed legislation – the NO FAKES Act – that would impose liability for creating or knowingly hosting or distributing unauthorized digital replicas of real people. There was significant debate over whether the bill conforms to the First Amendment, with discussion of carve-outs and exemptions, but my problem with the law is that it's starting from the premise that technology is generally a problem and working backwards as opposed to identifying the interests allegedly being harmed and developing responses to those particular injuries.

Or, to put it another way, the proponents of the bill decided there's a problem but didn't want to bother defining it, so they've painted with a broad brush and are now playing whack-a-mole with the First Amendment issues. Seriously, when you find yourself in that position, you should just realize that you're failing the narrow tailoring test and start over. However, I do appreciate this statement from Sen. Chris Coons, who is spearheading the bill: "The First Amendment will, of course, apply to this bill whether we say it does or not."

Very true, very true.

E. Biometrics

Colorado has [expanded its biometric privacy law](#) to include brain activity data gathered via an emerging wave of devices with neural interfaces.

F. Manipulated Media

Laws to ban the creation of deepfake nudes [continue to move forward](#) in state legislatures, including [recent activity](#) on a bill in California.

Meanwhile, the former athletic director of a Maryland high school was [arrested](#) for using generative AI to create deepfake audio files to make it seem like the school's principal had used racist and antisemitic language in closed-door meetings, leading to a wave of harassment and the principal being removed until the truth was sorted out.

G. Hacking, Scraping & Data Breach

We've got more in-house drama at Truth Social this month, with a [lawsuit](#) in S.D. Fla. alleging that a board member of the social media platform's owner hacked the computer systems of an executive of the special purpose acquisition company that facilitated the platform's going public.

The FTC began [issuing refunds](#) this month to customers of the Ring video doorbell this month, resolving a complaint from last year that Ring failed to secure customer videos and accounts against hackers and employee misuse.

Finally, Minnesota's House [passed](#) a bill that would ban scraping user-generated content for AI training without the user's consent. Just pray that no one realizes that you, dear reader, are constantly scraping third-party content, creating copies stored for an indefinite duration for unspecified reasons, and remixing it using neural network technology to create new material that might or might not look anything like the training content. [You're doing it right now.](#)

H. Other Privacy Issues

Nothing to report this month.

II. Intellectual Property

A. Copyright

We'll start this section with a [surprising ruling](#) out of the Tenth Circuit involving the defendant's unauthorized use of the plaintiff's product photos for the purpose of criticism. Fair use, you might think, and so did the district court. But the Court of Appeals affirmed on a different ground, namely that the plaintiff failed to show that the alleged infringement resulted in copyright-related harm (e.g., increased profits to the defendant). Prof. Tushnet speculates that the Court of Appeals might be skittish about a transformative use analysis after *Warhol*, which, yeah.

Stephen Thaler's quest to obtain judicial recognition that intellectual property rights can inhere in the creations of artificial intelligence continues, with his [reply brief](#) in the D.C. Circuit arguing that he should be considered the author of the machine-generated image "A Recent Entrance to Paradise."

A photographer and two cartoonists [filed](#) a putative class action in N.D. Cal. against Google over its alleged use of copyrighted images to train its generative AI tool Imagen. In the same court, a judge [trimmed some claims](#) (mostly granting leave to amend) in a copyright/trade secret case against TikTok arising out of copying of software facilitated by a former employee of the plaintiff who allegedly brought the plaintiff's IP to TikTok.

In C.D. Cal.: Two podcast producers [settled a case](#) brought by George Carlin's estate over an AI-generated sound-alike of Carling performing a new comedy routine, agreeing to yank the routine from the internet and not do anything of the kind again without permission; Riot Games [settled](#) a case over alleged rip-offs of its video games by a Chinese game publisher; and the designer of a measuring-cup cube, who posted 3D-printing files under a non-commercial/no derivatives Creative Commons license, had a copyright claim against a commercial user [dismissed](#) for failure to register but his breach of contract claim based on the CC license continues.

In N.D. Ga., ISP Cox Enterprises [sued](#) its insurers to compel coverage in connection with the recent massive judgment against Cox in a music copyright case over infringement by Cox's subscribers.

We've got some activity in the AI cases pending against Microsoft and OpenAI in the Southern District of New York. The judge in the Authors Guild lawsuit [rejected](#) an attempt by authors who sued in N.D. Cal. to intervene in the New York case. [Microsoft](#) and [OpenAI](#) filed separate motions to dismiss in the case brought by The Intercept, which focused on the defendants' alleged removal of copyright management information. Finally, we've got a [newly filed lawsuit](#) brought by eight newspapers in Alden Global Capital's portfolio, which has a bit of a defamation hook through dilution and business disparagement claims based on the alleged attribution of false information to the plaintiff newspapers.

Elsewhere in S.D.N.Y., a judge [shot down](#) ISP Frontier Communications' clever(-ish) argument in a subscriber infringement case that the Supreme Court's discussion of secondary criminal liability in *Twitter v. Taamneh* applied to the analysis of secondary liability in copyright cases. In the same court, a photographer [settled](#) one of the cases against model Bella Hadid over her posting of a photo to Instagram.

A jury in N.D. Ohio [ruled](#) in favor of video game maker 2K Games in an infringement action brought by a tattoo artist over copies of his work appearing on digital versions of NBA basketball players in the "NBA 2K" game franchise. Apparently, the jury was swayed by 2K's implied license defense.

A TikTok user was slammed with a [judgment](#) in N.D. Tex. in excess of \$802K, plus an order to split future royalties, for his infringement of a Japanese composer's work in a track that proliferated online. And in W.D. Wash., a judge [stayed](#) a copyright action against video game distributor Valve over claims that it distributed games infringing the plaintiff's film, in order to obtain a determination from Copyright Office if it would have rejected the plaintiff's registration based on knowing omissions in the plaintiff's application.

Generative AI remains a key focus of copyright regulatory efforts, including:

- the Register of Copyrights [defending](#) the Copyright Office’s recent guidance requiring applications for registration to disclaim AI-created elements of a work;
- the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet holding a [hearing](#) on whether rules around authorship and inventorship need to be updated;
- a new [bill](#) from Rep. Adam Schiff that would require generative AI companies to disclose all copyrighted works included in their training data (which is [likely impossible](#)); and
- the DOJ [supporting](#) a 1201 exemption for white-hat hacking digital security measures around AI models to test them for bias and discrimination.

In other legislative news, the House Judiciary Committee [voted](#) to advance the Protecting and Enhancing Public Access to Codes Act – a bill that, despite its title, would undercut public access to privately-created codes incorporated by reference into public laws. You might recall the D.C. Circuit decision involving Public.Resource.Org that holds that posting such codes online for free to educate the public about the law is a fair use; this bill would limit such availability where it “substantially disrupts” the ability of the code creators to earn revenue.

We’ve also seen a [resurgence of interest](#) at the Motion Picture Administration in legislation that would allow the blocking of entire websites in order to shut down copyright infringement via those sites. That, er, [didn’t go so well the last time](#), but the MPA is promising a narrower approach than in 2011’s Stop Online Piracy Act and Protect Intellectual Property Act (a/k/a SOPA/PIPA).

Finally, we can now announce that the singularity is here. At least, the legal singularity, as the entire field of digital media law collapses into the following sentence: [AI-generated lawyers](#) are now sending bogus DMCA notices to trick websites into linking back to the fake attorneys’ “clients” to improve the hoaxers’ search engine optimization.

Are we done here? I think we’re done here.

B. Trademark

Aaaanywaaay....a movie/actor database lost its lawsuit against Bank of America over the latter’s use of the mark “ERICA,” with the Tenth Circuit [affirming](#) a district court decision on the basis that the plaintiff’s mark “E.R.I.C.A.” was not used in direct association with services that overlapped the defendants’. The case is also interesting as a cautionary tale for anyone who wants to build trademark rights in a random female name for an AI-based digital assistant.

C. Patent

The Federal Circuit [affirmed](#) an International Trade Commission ruling on cross-appeals by Sonos and Google in their long-running dispute over audio technology, leaving in place a ruling that excluded some Google products from the market but permitted others. The Federal Circuit also [affirmed](#) a PTAB holding in an inter partes review initiated by Netflix that struck most of the claims of an Avago Technologies digital media patent as obvious.

In N.D. Cal., a digital media recommendation patent allegedly infringed by TikTok [vanished](#) like the Cheshire Cat after meeting *Alice*. In D. Del., a lawsuit against Meta Platforms over video technology patents was trimmed, with the court [knocking out](#) one of the patents in suit under *Alice*. A judge in N.D. Ill. realized that SAD schemes [don't really work](#) in patent cases, where 35 U.S.C. § 299 requires that all defendants infringe with “the same accused product or process,” and ordered all misjoined parties severed or dismissed. And in W.D. Tex., a jury [found](#) that Roku did not infringe either of two video streaming patents.

D. Trade Secrets/Misappropriation/Conversion

Nothing to report this month.

III. Platform Management

A. Section 230

The Ninth Circuit [heard argument](#) this month in consolidated cross-appeals by Google, Apple, and Meta from rejection of a 230 defense to claims arising out of the availability of casino game apps through their respective platforms.

A judge in S.D.N.Y. [ruled](#) that Section 230 protects distributors of third-party software against civil liability under a federal law prohibiting the sale of “devices” used to disable vehicle emissions controls. A Colorado appeals court [ruled](#) that Section 230 protected Trumps Donald and Eric against defamation claims over the content they retweeted.

Prof. Goldman [opines](#) that Section 230, if asserted, might not protect Donald Trump from contempt orders arising from his retweeting in his New York state hush money trial. Finally, the House Energy & Commerce Committee [held a one-sided hearing](#) to hear from three critics of Section 230, including one who [went way off the rails](#).

B. Elections & Political Advertising

The Second Circuit [heard oral argument](#) this month on appeal from the conviction of a man for interfering with the 2016 presidential election by posting fake ads stating that people could vote for Hillary Clinton by text message.

Instagram and Threads creators are [protesting](#) a new default setting on those platforms that limits political content from those a user is not following.

With the *Murthy* decision pending, increased Republican pressure on academic disinformation researchers, and federal agencies still skittish about talking to platforms about false content, [other groups are](#) attempting to step into the gap to respond to election-related misinformation.

C. Content Moderation

The Supreme Court [denied cert](#) in another dismissed account blocking case, *King v. Meta Platforms*, this month, while the Ninth Circuit added [another ruling](#) to its consistent list of decisions against plaintiffs in jawboning cases. The Ninth Circuit also [affirmed](#), in a consolidated memorandum, lower court rulings in three cases against plaintiffs who sued social media sites for allegedly promoting terrorism.

The judge in the trial of former executives of Backpage.com in D. Ariz. [flipped](#) the better part of the jury verdicts against the defendants, vacating their convictions on a slew of money laundering and prostitution charges.

In a somewhat curious turn of events, X Corp. [received](#) an investigative request from the U.S. House into its suspension of accounts of Brazilian politicians and journalists in response to confidential Brazilian court orders. (For more background, see the articles linked under International – Brazil, below.) The House Judiciary Committee then [publicly released](#) the sealed Brazilian orders after X turned them over to Congress “[t]o comply with its obligations under U.S. law.” Call me a cynic but, given that Musk had earlier vowed to publish the orders despite their being sealed, I kind of wonder whether Musk called a pal in the House to give him some cover for disclosing the orders through a little Capitol Hill two-step.

Meanwhile, Sen. Tim Kaine (D-VA) [called on the FTC](#) to investigate Google and Meta for their alleged refusal to search out and remove proactively videos depicting the murders of two journalists, while Rep. Jim Jordan, head of the House Judiciary Committee, has [threatened](#) major advertisers under antitrust laws for their refusal to advertise on Truth Social. Jim, I hate to break it to you, but it doesn’t take industry collusion to decide not to advertise on Truth Social.

The federal Bureau of Prisons wants to block incarcerated people from social media (including banning third parties from posting on prisoners’ behalf), a proposal that has [drawn First Amendment objections](#) from the ACLU and the Knight First Amendment Institute.

Minnesota’s House [passed](#) a bill this month that would place limits on social media interactions with “burner” accounts, require that users have access to a range of tools to control how content is presented, and compel platforms to disclose information about their algorithms and other platform management activity.

Meta responded to an Oversight Board criticism that its AI-generated content policy was incoherent and confusing by [overhauling its rules](#) to stop blocking of harmless AI content and to use more widespread labeling of AI-created material. On a related note, the Oversight Board [agreed](#) to take up two cases involving questions about how Facebook and Instagram should handle AI-generated sexual deepfakes. The Oversight Board has also [announced](#) that it plans to reduce its staff, but whether that will affect its ability to handle cases is anyone's guess.

Finally, I'll include [this story](#) simply because it's pretty rare that we hear about a foreign website blocking content inside the U.S. because of our restrictions on speech.

D. Terms of Service & Other Contracts

The Ninth Circuit [upheld](#) the enforceability of an arbitration clause in a "Game of Thrones" mobile app to which users agreed via what the court called a "sign-in wrap." And in E.D. Va., the court [enforced](#) an arbitration clause against a woman who brought a putative class action against the developer of popular mobile game Candy Crush over alleged misrepresentations regarding a contest.

IV. Other Content Liability

A. Defamation

The Seventh Circuit [held](#) that a professor had failed to prove an intentional infliction of emotional distress claim against another professor, who posted online in support of students making #metoo allegations, on the basis that the posts were not extreme or outrageous under Illinois law. There was no defamation claim against the defendant professor, although the plaintiff successfully sued the #metoo student on defamation and emotional distress theories.

The Ninth Circuit [affirmed](#) the dismissal of a Tesla investor's claim against a fan of Elon Musk whom the investor alleged defamed him in a series of tweets at Musk and Tesla's behest. The court held that the district court did not err in finding that the tweets were not factual statements.

The Tenth Circuit [held](#), in the case of a podcaster accused of defaming a Dominion employee with conspiracy claims about the 2020 election, that Colorado's anti-SLAPP law did not vest the federal Court of Appeals with jurisdiction over an interlocutory appeal.

The Eleventh Circuit issued what Prof. Volokh [calls](#) a "minor third-order-procedure decision" in a defamation case over OpenAI. The decision directs the district court to explain its decision on an attorneys' fees award following a remand of the substantive case to state court.

A jury in N.D. Ga. [awarded](#) a state revenue investigator over \$750K in damages in her defamation suit against a former reality TV star, now imprisoned for tax fraud, over a series of attacks on social media. A judge in D.N.J. [dismissed](#) a defamation claim filed by lawyer with a

YouTube channel against a critic, finding that the critic's choice of Twitter for a forum contributed to his statements being interpreted as opinion rather than fact.

The Anti-Defamation League received split decisions this month over its online posts, with a suit by Louis Farrakhan in S.D.N.Y. over accusations of being antisemitic [running aground](#) on the basis of opinion while a suit by a conservative political event organizer in N.D. Tex. over comments that he was an antisemitic QAnon influencer was [allowed to continue](#) on the basis that the accusation of antisemitism was factual.

One of the lawsuits brought by a disgruntled "bad date" over commentary in the private online group "Are We Dating The Same Guy?" was stricken in Cal. Super. this month pursuant to California's anti-SLAPP law. On the other hand, a California state judge [denied](#) a motion to strike comedian Kevin Hart's defamation, privacy, and tortious interference claims against a YouTuber over commentary that Hart faced "charges" with respect to a 2017 sex tape; however, Hart's extortion claims and claims by Hart's company were stricken.

In N.Y. App., the single publication rule as applied to online content [doomed](#) an arrestee's lawsuit against the New York Post (which had other defects as well). And in Tex. Dist., Fox News, a pair of conservative podcasters, an Infowars host, and others are facing a new [lawsuit](#) over reports using the plaintiff's photograph to depict a neo-Nazi mass shooter with the same name.

B. Commercial Speech

The Supreme Court [denied cert](#) on Elon Musk's petition for review on his failed First Amendment challenge to a settlement agreement with the SEC requiring his tweets about Tesla to be vetted by an attorney.

The Ninth Circuit [ruled](#) in a securities class action that a kids' entertainment company's statements about its relationship with a penny stock website were plausibly deceptive, in addition to other alleged misstatements on social media and beyond. In C.D. Cal., the FTC struck a [settlement](#) with video game lifestyle brand Razer for disgorgement of all of its profits derived from its false online marketing of filter masks as "N95 grade" during the pandemic. Which just goes to show, never buy lifesaving equipment from a lifestyle brand – though the masks did look cool in a Darth-Vader-at-a-rave way.

A judge in D.D.C. [enjoined](#) Ken Paxton from pursuing his "consumer protection" (yes, those are sarcasm quotes) investigation into Media Matters for America in retaliation for its reporting on advertising on X, describing Paxton as "project[ing] himself across state lines and assert[ing] a pseudo-national executive authority." About time someone said it. Meanwhile, X Corp. has been [allowed to pursue discovery](#) in its own claims against Media Matters in N.D. Tex. while the latter's motion to dismiss is pending.

Investors in collapsed cryptocurrency exchange FTX have reached a [settlement](#) of claims against disgraced and convicted founder Sam Bankman-Fried in S.D. Fla. in return for his assistance in going after high-profile celebrity influencers who promoted FTX. Google [sued](#) two app developers in S.D.N.Y. over fraudulent apps that appeared to be investment platforms but actually reported non-existent returns while the developers pocketed users' money. And in E.D.N.Y., an Instagram influencer whose Ponzi scheme netted \$8 million was [sentenced](#) to seven years in prison and \$10 million in restitution.

Finally, California's AG [released](#) new final regulations governing online charitable fundraising.

C. Professional Speech

The Institute for Justice filed an [amicus brief](#) with the Third Circuit arguing that strict scrutiny applies to laws banning non-lawyers from giving legal advice, in the case of a non-profit that wished to give paid advice to its clients regarding veterans' disability benefits.

The Ninth Circuit [declined](#) to revisit an [unpublished panel decision](#) that a California law prohibiting the sale of digitally-generated land surveyor site maps by unlicensed surveyors did not violate the First Amendment.

D. Threats, Harassment, and Incitement

A lawyer suing a social media user for defamation in N.D. Fla. sought an anti-harassment order under Florida law directing the defendant to remove his allegedly defamatory posts, but the federal court [questioned](#) whether it had jurisdiction over a state law claim seeking purely injunctive relief. The plaintiff responded by [heading to Florida state court](#) to seek the injunction, only for the state judge to [reject](#) the petition on the merits.

In a development that likely presages similar cases in the wake of recent college protests, a former Cornell student has [pleaded guilty](#) in N.D.N.Y. to posting online threats last October against Jewish students. Meanwhile, a white supremacist was [sentenced](#) in E.D.N.Y. to 44 months for online threats against a journalist.

V. Infrastructure

A. Accessibility, Affordability & Discrimination

The Second Circuit [upheld](#) a New York's Affordable Broadband Act, which compels broadband providers to offer \$15 plans to low-income households. Meanwhile, the FCC [formally adopted](#) the "nutritional label" rules about broadband price disclosures whose progress we've been watching for quite a while now.

B. Antitrust

A coalition of developers of COVID tracking and cryptocurrency apps [petitioned](#) the Supreme Court for cert from a decision of the Ninth Circuit affirming the dismissal of antitrust claims against Apple against blocking of their apps from the App Store.

In N.D. Cal., a judge [denied](#) video game players' motion for a preliminary injunction against the integration of the operations of Microsoft and Activision Blizzard, given that a separate appeal by the FTC from a denial of a similar motion for an injunction is currently pending at the Ninth Circuit. In D.D.C., Meta [filed](#) its motion for summary judgment on the FTC's antitrust claims over the company's acquisition of WhatsApp and Instagram. In D.N.J., the DOJ's antitrust action against Apple will have a [new judge](#) after the first assigned judge recused himself. In S.D.N.Y., a judge [refused](#) to allow a class of Amazon buyers from another antitrust case against Amazon in W.D. Wash. to intervene and to seek dismissal of the New York case. And in Cal. App., a panel [affirmed](#) Apple's win against state antitrust and unfair competition claims filed by players of Fortnite, holding that, absent monopolization or collusion with outside parties, there is no antitrust injury in a private corporation making internal decisions as to the people with whom it will do business.

C. Net Neutrality & Data Throttling

Yes, at long last, after years of delay due to failure to appoint a fifth FCC commissioner, the Commission has finally [voted](#) to restore net neutrality principles, and has [executed](#) a memorandum of understanding with the FTC reasserting the FCC's oversight role over broadband. This new version of net neutrality [doesn't preempt](#) current state laws on the topic.

The big question, of course, is whether any of this matters. The Supreme Court might decide that the new rules [exceed the FCC's explicit authority](#) under the so-called "major questions doctrine," and then of course there's the [possibility of a Trump presidency](#) that would flip control of the Commission back to the Republicans.

D. Domain Name System

Nothing to report this month.

E. Taxation & Compelled Payments

The [battle in California](#) with respect to the California Journalism Protection Act is ramping up, with Google [experimenting](#) with blocking some California news outlets' material for some California users in anticipation of mandatory payments for providing links to that material. The experiment has (predictably enough) [rankled state legislators](#), and the primary organization championing the CJPA has [asked](#) state and federal regulators to investigate whether the move violates antitrust and consumer protection law (with respect to which, one might consider the last

item under Antitrust, above). Google’s move can [hardly be considered a surprise](#), however, given that this is a natural business response to the law and pretty much what has happened in other countries where link taxes were imposed.

A Colorado state judge has [ruled](#) that Netflix streaming services are not tangible property subject to the state’s sales tax.

F. Wire & Wireless Deployment

The FCC has for the time being [rejected](#) imposing Universal Service Fund fees on broadband services, recognizing that responsibility for these fees would most likely be passed along to consumers. The Universal Service Fund, if you’re not familiar with it, subsidizes the rollout of broadband services to underserved areas and helps to provide discounts to low-income households.

G. Artificial Intelligence

Government & Voluntary Regulation

- [Feds appoint “AI doomer” to run AI safety at US institute](#), *Ars Technica*
- [Critics question tech-heavy lineup of new Homeland Security AI safety board](#), *Ars Technica*
- [NIST launches a new platform to assess generative AI](#), *TechCrunch*
- [EU and US set to announce joint working on AI safety, standards and R&D](#), *TechCrunch*
- [N.Y. Bill Would Require Users to Swear They Won't Use Generative AI to Produce "Offensive, Harassing, Violent, \[or\] Discriminatory" Speech](#), *Volokh Conspiracy*
- [Why Generative AI is Doomed](#), *Technology & Marketing Law Blog*
- [Getty Images CEO Calls for Industry Standards Around AI](#), *Hollywood Reporter*
- [Tech Companies Promise to Try to Do Something About All the AI CSAM They’re Enabling](#), *404 Media*
- [The little-known AI group that got \\$660 million](#), *Politico*
- [AI chatbots refuse to produce ‘controversial’ output – why that’s a free speech problem](#), *The Conversation*

Legal Industry

- [N.D. Ill.: Don't Cite ChatGPT as Authority in Legal Filings](#), *Volokh Conspiracy*
 - [Order: Wojcik v. Metlife](#)
- [N.Y.: Artificial intelligence in NY's courts? Panel will study benefits – and potential risks.](#), *Gothamist*
- [Washington state judge blocks use of AI-enhanced video as evidence in possible first-of-its-kind ruling](#), *NBC News*
- [Deepfakes in the courtroom: US judicial panel debates new AI evidence rules](#), *Ars Technica*
- [ChatGPT Will Come for Partners' Work in Contract Law, Says Prof](#), *Bloomberg Law*
- [Conservative US judge says AI could strengthen 'originalist' movement](#), *Reuters*

News Industry

- [Publishers give on-site search a long-needed upgrade in the form of AI chatbots](#), *Digiday*
- [AI is already reshaping newsrooms, AP study finds](#), *Poynter*
- [Axios Sees A.I. Coming, and Shifts Its Strategy](#), *New York Times*
- [Newsweek is making generative AI a fixture in its newsroom](#), *Nieman Lab*
- [The Washington Post is developing an AI-powered answer tool informed by its coverage](#), *Technical.ly*
- [How I Use AI To Help With Techdirt \(And, No, It's Not Writing Articles\)](#), *Techdirt*
- [Jim VandeHei on AI-Proofing News and Defying 'Twitter Nerds'](#), *New York Magazine*
- [The Financial Times and OpenAI strike content licensing deal](#), *Financial Times*

Entertainment Industry

- [SAG-AFTRA Seeks to Write AI Protections Into California Law](#), *Variety*
- [How SAG-AFTRA's AI Road Map Works In Practice](#), *Hollywood Reporter*

- [Nicki Minaj, Billie Eilish, Katy Perry and other musicians sign letter against irresponsible AI](#), *TechCrunch*
- [How Hollywood’s Most-Feared AI Video Tool Works — and What Filmmakers May Worry About](#), *Hollywood Reporter*
- [Netflix doc accused of using AI to manipulate true crime story](#), *Ars Technica*
- [As AI-Created Photorealistic Images Proliferate, Documentary Producers Draw Up Guidelines](#), *Hollywood Reporter*

Technical Developments & Challenges

- [A.I. Has a Measurement Problem](#), *New York Times*
- [For Data-Guzzling AI Companies, the Internet Is Too Small](#), *Wall Street Journal*
- [How Tech Giants Cut Corners to Harvest Data for A.I.](#), *New York Times*
- [What to Know About Tech Companies Using A.I. to Teach Their Own A.I.](#), *New York Times*
- [Anthropic researchers wear down AI ethics with repeated questions](#), *TechCrunch*
- [AI-generated songs are getting longer, not necessarily better](#), *The Verge*
- [Using AI to detect AI-generated deepfakes can work for audio — but not always](#), *NPR*
- [Snap plans to add watermarks to images created with its AI-powered tools](#), *TechCrunch*
- [Google considers charging for AI-powered search in big change to business model](#), *Financial Times*
- [In Race to Build A.I., Tech Plans a Big Plumbing Upgrade](#), *New York Times*

H. Blockchain, Cryptocurrency, & NFTs

A Nebraska man was [indicted](#) this month in E.D.N.Y. for cryptojacking the processing and storage resources of two cloud providers to power his cryptocurrency mining efforts. “Cryptojacking,” as used here, refers to unlawful efforts to gain access to another’s electricity, hardware, storage, or computing capacity to offset the significant costs and resource demands of mining cryptocurrency.

VI. Government Activity

A. Data Surveillance, Collection, Demands, and Seizures

After significant debate and uncertainty, [Congress passed and President Biden signed](#) a two-year extension of Section 702 of the Foreign Intelligence Surveillance Act. While it seemed for a while that the law would be allowed to sunset in response to recent abuses, or at least get scaled back, instead the law is now broader than ever; now, any “service provider who has access to equipment that is being or may be used to transmit or store wire or electronic communications” may be compelled to assist the government with its investigations (with a small number of exceptions). There are some new limits on, and/or authorizations required for, searches with respect to U.S. citizens, U.S. officials, political candidates, political organizations, media organizations, journalists, and religious groups, but nothing like a warrant requirement.

On the other hand, the “Fourth Amendment is Not for Sale Act,” which would require the government to obtain a warrant before buying data from data brokers that it would have needed a warrant to collect directly, [passed](#) the House this month and is before the Senate.

The CIA has [invoked](#) the state secrets privilege in a motion to dismiss claims in S.D.N.Y. by visitors to Julian Assange’s refuge at the Ecuadorian Embassy in London that the Agency accessed data from their cellular devices.

We’ve recently learned that Michigan prosecutors [executed](#) search warrants at Google and X, seeking material related to accounts associated with the people behind a “fake electors” scheme connected to the 2020 presidential election.

B. Encryption

The 9th Circuit [held](#) that compelling an arrested person to use their fingerprint to unlock a phone is not “testimonial” as relevant to the Fifth Amendment’s prohibition on compelled self-incrimination.

C. Biometric Tracking

D. Domain Seizure

E. Social Media Posts & Blocking

Nothing to report in these sections this month.

F. Prior Restraint

At a hearing in N.D. Cal. this month, a judge [considered](#) whether David Daleiden (of the Center for Medical Progress) was in contempt of a court injunction for posting clips from secretly-

recorded footage of National Abortion Federation meetings to social media. The matter was complicated by the fact that the clips were sourced from an open hearing in Congress.

Over a journalist's First Amendment challenge, a New Jersey appellate panel [affirmed](#) the constitutionality of New Jersey's "Daniel's Law," which prohibits the publication of, inter alia, the home addresses of judges, prosecutors, and police officers. The court held that the specific home address of New Brunswick's police chief is not a matter of public concern, but I'll be damned if I can remember a case holding that a content-based prohibition on speech is exempted from strict scrutiny if a court determines that it applies to a matter of private concern.

I know that in the rapid flow of developments around Donald Trump's hush money trial in N.Y. Sup. that this is old news, but I wanted to record for posterity that Judge Merchan [expanded](#) the scope of the gag order on Trump after the former president attacked the judge's daughter on Truth Social. (We'll have more on the contempt orders and all that jazz next month; see also Prof. Goldman's comments on the gag orders, § 230, and retweeting under Section 230, above.)

G. Online Access to Government Information

Nothing to report this month.

VII. Global

A. International

- ["Fake news" legislation risks doing more harm than good amid a record number of elections in 2024, Nieman Lab](#)

B. Europe

- [CJEU: Meta could face further squeeze on surveillance ads model in EU, TechCrunch](#)
 - [Opinion of Advocate General: Schrems v. Meta Platforms Ireland](#)
- [Adtech giants like Meta must give EU users real privacy choice, says EDPB, TechCrunch](#)
- [EU opens probe of TikTok Lite, citing concerns about addictive design, TechCrunch](#)
 - [ByteDance gets 24 hours to show EU a DSA risk assessment for TikTok Lite, TechCrunch](#)
 - [TikTok pulls feature from Lite app in EU over addiction concerns, TechCrunch](#)
- [ChatGPT's 'hallucination' problem hit with another privacy complaint in EU, TechCrunch](#)

- [As AI accelerates, Europe’s flagship privacy principles are under attack, warns EDPS](#), *TechCrunch*
- [Alternative browsers report uplift after EU’s DMA choice screen mandate](#), *TechCrunch*
- [Shein to face EU’s strictest rules for online marketplaces](#), *TechCrunch*
- [EU to investigate Meta over election misinformation before June polls](#), *The Guardian*
 - [EU probes Meta for killing tool that enables real-time election monitoring](#), *Ars Technica*
- [European Law Enforcement Officials Declare Encryption Must Be Broken To Ensure Public Safety](#), *Techdirt*
 - [EU watchdog questions secrecy around lawmakers’ encryption-breaking CSAM scanning proposal](#), *TechCrunch*
- [TikTok ban in EU is ‘not excluded,’ von der Leyen says](#), *Politico*

C. Aruba

- [Caribbean nation of Aruba backs itself up to Internet Archive](#), *Ars Technica*

D. Australia

- [Digital ‘death knocks’: is it fair game for journalists to mine social media profiles of victims and their families?](#), *The Conversation*
- [Musk decries Australian 'censorship' of X terror posts](#), *Reuters*
 - [Elon Musk is mad he’s been ordered to remove Sydney church stabbing videos from X. He’d be more furious if he saw our other laws](#), *The Conversation*
 - [Australia’s prime minister calls Elon Musk an ‘arrogant billionaire’](#), *Washington Post*
 - [Australia Tries To Censor the World](#), *Reason*

E. Belarus

- [Belarus Jails Blogger Aliaksandr Ignatsiuk for 6 Years on Defamation, Extortion Charges](#), *Kyiv Post*

F. Brazil

- [X challenges Brazil's 'forced' order to block certain accounts](#), *Reuters*
 - [Brazil Supreme Court justice opens inquiry into Elon Musk, escalating dispute over misinformation](#), *CNBC*
 - [What to Know About Elon Musk's Battle With a Brazilian Judge Over Speech on Social Media](#), *Time*
 - [X reverses course, tells court it will comply with rulings](#), *Reuters*

G. Bulgaria

- ['Mushroom Websites' Spread A Deluge Of Disinformation In Bulgaria](#), *Radio Free Europe/Radio Liberty*

H. Canada

- ['Ground is shifting' for social media giants, says federal justice minister pushing Online Harms Act](#), *CBC*
- [When Facebook blocks news, studies show the political risks that follow](#), *Reuters*
- [Ex-Chilliwack school trustee Barry Neufeld loses defamation suit](#), *Vancouver Sun*

I. China

- [China orders Apple to remove Meta apps after "inflammatory" posts about president](#), *Ars Technica*
 - [Apple's censorship in China is just the tip of the iceberg](#), *Columbia Journalism Review*
- [Beijing tightens grip on social media giants](#), *BBC News*
- [Why China Is So Bad at Disinformation](#), *Wired*

J. Denmark

- [Publisher: OpenAI's GPT Store bots are illegally scraping our textbooks](#), *Ars Technica*

K. France

- [Brigitte Macron brings forward libel trial against woman who claims the French First Lady is a man after the ludicrous rumour made headlines around the world](#), *Daily Mail*
- [French Collection Society Wants A Tax On Generative AI, Payable To Collection Societies](#), *Techdirt*

L. India

- [New AI law to secure rights of news publishers](#), *Economic Times*
- [India's election overshadowed by the rise of online misinformation](#), *TechCrunch*
 - [India, grappling with election misinfo, weighs up labels and its own AI safety coalition](#), *TechCrunch*
 - [India election: AI deepfakes of Bollywood stars backing political parties swirl as voters grapple with information overload](#), *South China Morning Post*
 - [The booming business of AI war rooms during India's elections](#), *Rest of World*
 - [Social media platform X withholds some political posts in India after election commission order](#), *Reuters*
- [YouTube: India's next battleground for free speech?](#), *Deutsche Welle*
- [Gujarat High Court temporarily restrains Google from deleting data in man's account for upload of childhood photos](#), *Bar and Bench*
- [WhatsApp tells Delhi's High Court that the platform will exit India if it's forced to break encryption](#), *Times of India*
- [Indian government's cloud spilled citizens' personal data online for years](#), *TechCrunch*

M. Iran

- [Iranian Rapper Toomaj Salehi Sentenced to Death Over Music Criticizing Government](#), *Variety*

N. Iraq

- [Iraqi social media influencer Um Fahad shot dead by motorbike gunman in Baghdad](#), *CBS News*

O. Ireland

- [Internet watchdog unhappy with platforms' election plans](#), *RTE*

P. Japan

- [Japan lower house passes bill for swift removal of defamatory posts](#), *Kyodo News*
- [Japan Govt to Introduce Law Opening Up Apple, Google App Stores to Competition](#), *Yomiuri Shimbun*
- [Japan readies antitrust action against Google over search ads](#), *Nikkei Asia*
- [Google pressed to reform search ad practices in Japan](#), *The Mainichi*
- [Japan eyes launch of new dialogue framework on int'l AI regulations](#), *Japan Today*
 - [‘Social Order Could Collapse’ in AI Era, Two Top Japan Companies Say](#), *Wall Street Journal*
- [In a first, Japan doctors sue Google over negative reviews on firm's map app](#), *Japan Times*

Q. Netherlands

- [Another Dutch class action against Google for massively collecting Android users' data](#), *NL Times*

R. Norway

- [Craig Wright Drops Appeal Against Hodlonaut](#), *CoinDesk*

S. Pakistan

- [Social media platform X blocked in Pakistan over national security, ministry says](#), *Reuters*

T. Philippines

- [Philippines orders removal of Binance from Google and Apple app stores](#), *CNBC*
- [‘Foreign actor’ seen behind President Marcos audio deepfake](#), *Philippine Star*

U. Poland

- [Polish court orders Google to stop favouring its own price-comparison service in search results](#), *Notes from Poland*

V. Russia

- [Russian Court Rejects Google's Appeal Against \\$50-Million Fine Over Ukraine Content](#), *Reuters*
- [Russia blocks press freedom group's website](#), *VOA*
- [Russia arrests Forbes journalist over Bucha massacre posts](#), *Le Monde*
- [Russia Clones Wikipedia, Censors It, Bans Original](#), *404 Media*
- [Putin Orders Russian Tech Companies To Somehow Make Competitive Game Console In 3 Months](#), *Techdirt*

W. Spain

- [Copyright Nonsense Is Back? Spain's On Again, Off Again Telegram Block](#), *Techdirt*

X. Tunisia

- [Tunisian Journalist Critical of President Jailed for Defamation](#), *Bloomberg*

Y. Turkey

- [Meta to close Threads in Turkey to comply with injunction prohibiting data sharing with Instagram](#), *TechCrunch*

Z. Ukraine

- [Ukraine Asks Apple, Google to Cooperate in Crackdown on Military Gambling](#), *BNN Bloomberg*

AA. United Kingdom

- [UK's antitrust enforcer sounds the alarm over Big Tech's grip on GenAI](#), *TechCrunch*
 - [UK probes Amazon and Microsoft over AI partnerships with Mistral, Anthropic, and Inflection](#), *TechCrunch*

- [UK mulling potential AI regulation](#), *The Verge*
 - [UK government taking fresh look at AI regulation](#), *Computing*
- [Government should counter misinformation on TikTok - MPs](#), *BBC*
- [Scotland's hate crime law](#), *The Conversation*
 - [Scotland's hate speech law ignites culture war far outside its borders](#), *Washington Post*
 - [Free speech hotline launched in response to hate crime law](#), *The Times*
- [Watchdog reveals lingering Google Privacy Sandbox worries](#), *The Register*
- [UK outlaws awful default passwords on connected devices](#), *Ars Technica*
- [Google's Ad-Privacy Changes Fall Short, U.K. Regulator Says in Internal Documents](#), *Wall Street Journal*
- [Grindr users seek payouts after dating app shared HIV status with vendors](#), *Ars Technica*
- [British actor Hugh Grant settles privacy lawsuit against publisher of the Sun](#), *Reuters*
 - [Hugh Grant settles claim against Sun publisher due to risk of £10m legal costs](#), *PA Media*
- [Laurence Fox told to pay £180,000 in libel damages](#), *BBC News*
- [Dr Marten sues Temu over use of trademark on Google search](#), *City A.M.*

BB. Venezuela

- [Venezuela arrests YouTuber for 'terrorism' amid pre-election crackdown](#), *The Guardian*

VIII. Miscellaneous

Let's wrap this one up:

- D.C. Cir.: The court of appeals [upheld](#) an FCC ban on the sale of Chinese video equipment for use in surveillance of critical infrastructure but struck down an overbroad definition of "critical infrastructure" that "threaten[ed] to envelop ever-broadening sectors of the economy."

- C.D. Cal.: A jury [rejected](#) the claims of an LAPD officer who alleged that she was denied promotions in retaliation for her refusal to remove her pro-gun rights social media posts.
- S.D. Iowa: A blogger who was denied a press pass for the Iowa legislature on the basis that she was not “nonpartisan” obtained her pass and [an award of attorneys’ fees](#) after the state settled her lawsuit.
- W.D. Wash.: Washington State [obtained](#) partial summary judgment on liability against medical providers who violated the Consumer Review Fairness Act by using pre-service nondisclosure agreements to suppress negative online reviews.
- Cal. Super.: Two Los Angeles residents [sued](#) Google after its Maps app led them down a highway in South Africa known for violent attacks on tourists.
- Virginia has [enacted a law](#) that permits online-only news sites to publish legal notices.
- The Biden administration has [indicated](#) that it is considering dropping its case against Julian Assange, even as it [gave assurances](#) to the United Kingdom that Assange would not face the death penalty and could assert the full panoply of First Amendment protections.
- POTUS has [joined](#) Instagram Threads, marking what I believe is the first appearance of the chief executive in the fediverse.
- There was a [largely academic debate](#) this month about whether Donald Trump violated the Logan Act (which criminalizes direct communication between U.S. citizens and foreign governments regarding disputes with the United States) by posting to Truth Social a screenshot of a U.S. Senator’s 2024 sharing on X of a Trump 2018 tweet threatening Iran’s president. Sounds unlikely to me, but I also think *Holder v. Humanitarian Law Project* was a hot mess, so what do I know?
- Finally, a [new survey](#) of American adults reports that 78% of those surveyed believe social media companies have too much influence on politics, which is a bit rich given that the overwhelming trend of legislation these days is to crack down on social media. But given that the public political narrative is often driven by fearmongering about technology and those who develop it, it’s not surprising that the public has absorbed that mindset.

* * *

That’s about it for this issue – thank you for making it this far, especially if you’re a first-time reader! If you’re not an MLRC member and would like to continue receiving the *Digital Review*

(as well as access to the MLRC's many other events and resources), you can find more information about membership at <https://medialaw.org/why-join-mlrc/>. If you are a member, then you're already awesome, and thank you. And, either way, if you're attending the *Legal Frontiers* conference, please find me and say hello!

Jeff Hermes is a Deputy Director with the Media Law Resource Center. He takes the free and efficient functioning of the online marketplace of ideas extremely seriously. Any whimsy expressed herein is a by-product of excess processing capacity.