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HILL UPDATE

The Hill [Senate bill would require the administration to define 'cyber war'](#)

Two senators want a firm definition of what constitutes an act of war in cyberspace. A bill introduced by Sens. Angus King (I-Maine) and Mike Rounds (R-S.D.) would require the administration to develop a policy to determine when a cyberattack rises to the level of warfare. “By requiring the administration to define what constitutes an act of war in the cyber domain, this legislation would help our government be better able to respond to cyberattacks and deter malicious actors from launching them in the first place,” King said in a Tuesday statement.

IDG [Privacy advocates want protections for US residents in foreign surveillance law](#)

Recapped the Senate Judiciary Committee hearing on the reauthorization of the FISA Amendments Act. During the hearing Senator Chuck Grassley called for continued “robust” oversight of the law, noting however that no review has ever found any instance of “intentional violation.” Privacy advocates, including Elizabeth Goitein, co-director of the Liberty and National Security Program at the Brennan Center for Justice, warned that the 702 database can be used as a backdoor to obtain information about Americans without a warrant.

Politico [Grassley tees up email privacy bill](#)

Senate Judiciary Committee Chairman Chuck Grassley is planning to add the Email Privacy Act to the committee’s business agenda next week. The piece notes that this could set up a potential vote on the bill next month.

Gadgets & Technology News [Defend Trade Secrets Act signed into law \(on May 11th\)](#)

Trade secrets - such as customer lists, formulas and manufacturing processes - were the only form of USA intellectual property lacking protection under federal civil law. Supporters of the bill, including some of nation's largest corporations and business and trade associations, say state laws weren't made with a digital world in mind and don't provide sufficient protection.

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SPECIAL COVERAGE

Microsoft became the first IT company in history to participate in a UN Security Council Session. Steve Crown, Vice President and Deputy General Counsel, Microsoft represented the company on the topic of “Open Debate on Countering Terrorist Narratives.” Article links below.

- [United Nations orders plan for tackling online terror propaganda](#)
- [Security Council requests UN panel to propose global framework on countering terrorist propaganda](#)
- [UN ponders ways to effectively counter terrorist propaganda](#)

ARTICLE SUMMARY

The National Law Review [The Defend Trade Secrets Act of 2016: What Trade Secret Owners Need to Know](#)

On May 11, 2016, President Obama signed into law the Defend Trade Secrets Act of 2016 (“DTSA”), one of the most important trade secret laws in decades. The DTSA creates a federal civil claim for trade secret misappropriation and gives trade secret owners the ability to request law enforcement’s seizure of stolen trade secrets without advance notice to the wrongdoer — an extraordinary remedy unparalleled in any other current federal law. State trade secret protections remain available, and will parallel the additional federal rights created by the DTSA, which include enhanced damage provisions for willful and malicious misappropriation. Passage of the DTSA demonstrates the critical importance of protecting trade secrets and is likely to result in far more federal court litigation involving high stakes and “bet the company” disputes at a time when misappropriation and theft of trade secrets are on the rise.

New York Times [Police and Tech Giants Wrangle Over Encryption on Capitol Hill](#)

WASHINGTON — Cyrus R. Vance Jr., the district attorney of Manhattan, visited Washington late last month to argue his case on a pressing issue: encryption. In a string of meetings with members of Congress, Mr. Vance told central lawmakers that encryption needed to be diminished during criminal investigations. During a 45-minute session with Senator Angus King, an independent from Maine who is on the Senate Intelligence Committee, Mr. Vance said his office had 230 iPhones that might contain crucial information for cases but were useless because Apple refused to help the police break the encryption on the devices.

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Washington Post [Companies are betting on a new way to protect your identity: the selfie.](#)

The selfie is about to get serious. Already ubiquitous at parties and for capturing Instagram-worthy landscapes, the act of raising a phone to your face and finding the perfect photo angle could take on a whole new role in people's finances. Some banks, tax agencies and tech companies are making the selfie an integral step for people checking their bank accounts, shopping online and filing tax returns.

The Hill [Copyright 'notice and takedown' system needs fixing](#)

Internet streaming is fast becoming the most popular way to access music and movies. Yet a massive amount of online piracy continues to cause substantial harm to copyright holders. Infringing audio and video content can also be accessed readily through search engines and on user-uploaded websites. To combat online copyright infringement, Congress passed the Digital Millennium Copyright Act (DMCA) in 1998. The statute established a "notice and takedown" system as a means of removing copyright-infringing content from the internet.

Wall Street Journal [Yelp, Google Hold Pointers to Fix Governments](#) (subscription required)

When Kaspar Korjus was born, he was given a number before he was given a name, as are all babies in Estonia. "My name is 38712012796, which I got before my name of Kaspar," says Mr. Korjus. In Estonia, much of life—voting, digital signatures, prescriptions, taxes, bank transactions—is conducted with this number. The resulting services aren't just more convenient; they are demonstrably better. It takes an Estonian three minutes to file his or her taxes.

The Hill [Report: Facebook omitted conservative topics from trending list](#)

Contractors who worked as "curators" for Facebook's trending topics section, which can bring significant attention to news stories, regularly didn't include stories trending among political conservatives, according to a Monday report from Gizmodo. A former curator told Gizmodo that when he or she would log on, they would see that topics popular with conservatives were not included on the list. The contractor, a conservative, speculated that the person running the list "didn't recognize the news topic" or was biased against a conservative figure involved.

The Hill [Let's close the email privacy loophole now](#)

A joint op-ed from Sens. Patrick Leahy and Mike Lee urging the Senate to approve the Email Privacy Act. The Senators argue that since the legislation

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would still enable the use of subpoenas to acquire customer information, enacting it into law should be a “no-brainer,” noting that ECPA’s outdated provisions are an “affront to American values” and violate the Fourth Amendment.

Wired [Twitter May Have Cut Spy Agencies Off From Its Flood of Data](#)

AT TWITTER’S BEHEST, US intelligence agencies have lost access to Dataminr, a company that turns social media data into an advanced notification system, according to the Wall Street Journal. While that may sound like a win for privacy, it’s a bit more complicated in practice. The move leaves government officials without a valuable tool. Somewhat less clear is what sort of stand, if any, Twitter is taking.

Engadget [Congressional IT desk warns representatives of ransomware threats](#)

The technology service desk at the House of Representatives has sent out an email warning your state representatives to be careful which links they follow from their email inboxes. According to the email, which was forwarded to TechCrunch today, there has been an uptick in the number of ransomware attacks on the House network and the congressional IT folks will start banning access to YahooMail.

New York Times [Privacy Rules Shouldn’t Handcuff the S.E.C.](#)

AMERICANS rely on both criminal and civil law enforcement to bring wrongdoers to justice. The Securities and Exchange Commission is responsible for holding those who commit securities fraud accountable, including Ponzi con artists and insider traders who harm investors and defraud our markets. But a section of a bill passed recently by the House of Representatives would make it considerably easier for those who would steal hard-earned money from investors looking to save for their mortgage, retirement or children’s education.

Fortune [Groupon Goes To War With IBM Over Software Patents](#)

That didn’t take long. Two months ago, IBM filed a lawsuit against the daily deals website Groupon that accused it of infringing on some of its patents related to software created before the Internet boom of the late 1990s. On Monday, Groupon hit back with a countersuit that said IBM had improperly used Groupon’s technology in some of its own software products.

The Verge [Senate Republicans pile onto Facebook backlash in letter to Mark Zuckerberg](#)

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The US Senate Commerce Committee today opened an inquiry into Facebook employees' alleged manipulation of the site's news story selection. The committee has legislative oversight of numerous areas of American commerce, including communications and consumer-protection issues. Its chairman, Sen. John Thune (R-SD), signed a letter to Facebook CEO Mark Zuckerberg containing questions about the nature of the company's Trending Topics section following allegations, reported first by Gizmodo yesterday, that contract workers censored stories from conservative outlets.

Forbes [A World Without Patents](#)

Late last month, the United States Supreme Court heard oral arguments in the most consequential case you never heard of. On the surface, *Cuozzo Speed Technologies v. Lee* is about whether the Patent Office (PTO) can use a different standard in hearing challenges to a patent's validity after it's been granted than the standard used by the federal courts. It's also about whether the taking of a legal property right (a patent) ought to happen via an administrative hearing, without judicial review.

IPWatchdog [How Patents Can Have a Multiplying Effect on a Startup Company](#)

The best patents are those that multiply an investment and actually generate money on their own. Some companies have devolved into purely research and development companies that license technology. The integrated circuit industry has almost completely changed to this model, where integrated circuit chips are designed in house, but the fabrication is done exclusively at third party foundries.

The Hill [Congress probing use of social media in government background checks](#)

House lawmakers on Friday are slated to probe why federal agencies are not mining social media data to help conduct background checks on employees. Officials from the Office of Personnel Management, which is in charge of many federal background checks, and the Office of the Director of National Intelligence have been called to testify at the House Oversight Committee. Officials will likely give an update on a little-known Office of Personnel Management (OPM) pilot-program that is looking to use automated web crawlers to scour the internet for public information about the people it is running background checks on.

The Hill [Dem urges Airbnb to crack down on racial discrimination by hosts](#)

A California Democrat is urging Airbnb to take action against hosts who appear to be discriminating against minority customers. Rep. Eric Swalwell said that he hoped the company "will act against any host demonstrating a pattern of

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discrimination,” in a statement first reported on Wednesday night by BuzzFeed. Swalwell, who has been active on issues related to the on-demand economy, said the impact of bias was a “constant concern” for companies in the field, which include firms like Uber and Lyft.

Washington Post [France might pass a law that makes it illegal to send after-hours work emails](#)

After-hours and weekend work emails may soon become illegal in France. A bill that prevents companies of 50 or more employees from sending emails after typical work hours passed the French lower parliamentary house earlier this week. The case against after-work emails is that they can cause high levels of stress among employees. "All the studies show there is far more work-related stress today than there used to be and that the stress is constant," said Benoit Hamon, a Socialist member of parliament, to the BBC. "The texts, the messages, the emails -- they colonize the life of the individual to the point where he or she eventually breaks down."

Bloomberg [EU's Vestager Considers Third Antitrust Case Against Google](#)

European Union antitrust chief Margrethe Vestager may open a third front in her battle with Google as she studies whether to escalate a probe into the Internet search giant's advertising services. Vestager, who has already sent complaints to the company over its Android mobile-phone software and shopping service, said she wants to reach a decision on the latest case within a “reasonable time frame.” "I hope that we can end that or come to a preliminary conclusion," Vestager said of the probe into Google's AdWords service. The investigation is separate from the other cases and "has its own rhythm," she said at an event in Brussels on Friday.

Ars Technica [Encryption is “essential tradecraft” of terrorists, FBI director says](#)

FBI Director James Comey is upping the ante on the government's war on encryption. During a news conference Wednesday, Comey not only said he expected more litigation over the issue, but he claimed that encryption was an "essential tradecraft" of terror groups like ISIS. The director's comments come as the nation finds itself in a crossroads over the encryption debate. Two high-ranking senators have proposed legislation that mandates the tech sector build backdoors into their products—harkening back to the days of the clipper chip proposal during the President Bill Clinton administration.

BuzzFeed [Manhattan District Attorney Wants To Put An End To Apple's Default Encryption](#)

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reported on comments from Manhattan District Attorney Cyrus Vance Jr. about encryption during a recent Council on Foreign Relations event. During the event, Vance argued that Congress, rather than the judiciary system, should resolve questions regarding encryption, noting that he is lobbying members of Congress to support decryption legislation. He mentioned that his office possesses 230 Apple devices inaccessible to law enforcement, and that gaining lawful access to encrypted devices should be “similar to other types of government searches.”

Notable Quotes

· *“We know that there are tens-of-thousands of terrorist internet accounts that refuse to die as one is taken down another quickly springs up in its place. The point is there is no single elegant solution. If there were, the industry would’ve adopted it. There is no silver bullet that will stop the terrorist from using the internet.”*

- [Steve Crown, Vice President and Deputy General Counsel, Microsoft](#)

· *Under the Email Privacy Act passed by the House, and the ECPA Amendments Act we introduced together in the Senate last year, law enforcement agencies would still be able to use subpoenas to acquire customer information, session-time records, and other non-content information that they may need to conduct an investigation. But the private content of our emails and other personal electronic files would be protected by the warrant requirement. Enacting this requirement into law should be a no-brainer. There’s nothing partisan about defending the right to be secure from warrantless searches and seizures. This is an American issue. All Americans deserve to have their Fourth Amendment rights protected both online and off, in both the real and virtual worlds. That’s why the supporters of this legislation span from Google to the ACLU to the U.S. Chamber of Commerce. Our bill has broad support from the technology industry, privacy advocates, civil libertarians, academics, and constitutional scholars from all parts of the ideological spectrum.”*

- [Sens. Patrick Leahy and Mike Lee](#)

· *“Post-Snowden, American-based information technology companies don’t want to be seen as an arm of the U.S. intelligence community.”*

- [Peter Swire, law professor, Georgia Institute of Technology](#)

· *“Section 702 is an important tool for our national security agencies. It is also extremely broad, allowing the government to collect communications without individualized warrants.”*

- [Sen. Patrick Leahy](#)

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· *“This program does not just target terrorists. This program targets anyone with foreign intelligence value. It could be a completely innocent businessman or anyone else out of the country who has that information. And so we have an American who is talking to someone who is potentially innocent of any wrongdoing.”*

- [David Medine, chairman, Privacy and Civil Liberties Oversight Board, on Section 702 of FISA Amendments Act](#)

· *“As the Commissioners of the SEC, it is our mission to protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation. A strong enforcement program is critical to protecting the integrity of our securities markets. Any effort to update ECPA can, and should, be done without harming the ability of the SEC to protect our nation's citizens from securities fraud. We would welcome the opportunity to work with Congress on solutions that protect investors and privacy interest.”*

- [Securities and Exchange Commission letter urging Senate to amend email privacy bill](#)

· *“What we’re doing is talking to political leaders. To try and convince them that they should address this with federal legislation. I think that has to be the solution. We now live in a world where we are not getting all the facts. Many of the facts are on smartphones, because criminals, just like you and me, have moved off paper and onto digital devices.”*

- [Manhattan District Attorney Cyrus Vance Jr.](#)