

VFI Executive Briefing

A weekly roundup of technology news

January 16 – 20, 2017

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ARTICLE SUMMARY

IDG [Microsoft's standing to sue over secret U.S. data requests in question](#)

IDG reported on Judge Robart's minute order to Microsoft and the Department of Justice directing them to be prepared to defend their positions during Monday's hearing in Microsoft's secrecy lawsuit. Robart instructed both parties to be prepared to address their arguments regarding whether companies can assert Fourth Amendment claims on behalf of their customers.

The National Law Review [FTC and DOJ Update Antitrust Guidelines for the Licensing of Intellectual Property](#)

On January 13, 2017, the Federal Trade Commission (FTC) and the Antitrust Division of the US Department of Justice (DOJ) issued updated Antitrust Guidelines for the Licensing of Intellectual Property (the Guidelines). The revised Guidelines follow nearly half a year of consideration and public commentary. According to the FTC, the updates were "intended to modernize the IP Licensing Guidelines without changing the agencies' enforcement approach with respect to intellectual property licensing or expanding the IP Licensing Guidelines to address other topics." In that vein, the modest updates to the Guidelines affirm that the antitrust agencies still believe that IP issues do not require an altered analysis and that the licensing of intellectual property is generally procompetitive."

Forbes [Why Cybersecurity Should Be The Biggest Concern Of 2017](#)

Some experts predict that by 2020 there will be 200 billion connected things. Cars, planes, homes, cities, and even animals are being connected. We are putting software everywhere. This is changing the way we live and how we behave and interact with the world around us. As technology becomes more and more deeply integrated into our lives, we become more and more dependent on it. But this dependence makes us vulnerable if technology fails. Think about what happens when you're on the road and your smartphone runs out of battery. It may feel like the end of the world; you cannot access your GPS, your contacts, or anything else. In such moments, you realize how dependent you are on technology.

Recode [Donald Trump is getting a second Twitter account Friday: @POTUS](#)

Donald Trump will be sworn in as the 45th president of the United States on Friday, and he'll immediately inherit loads of power and responsibility. Oh, he'll also inherit a second Twitter account. Starting Friday, @POTUS, the official Twitter account created by The White House and reserved for the sitting president, will change hands from Barack Obama's team to Trump's administration. Included in the exchange: @POTUS's 13.6 million followers. That means that if you currently follow @POTUS under the Obama administration, you'll continue to follow the account as it moves under Trump's control. The stream of tweets will be wiped clean so Trump and his team can start fresh.

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New York Times [Clearing Out the App Stores: Government Censorship Made Easier](#)

There's a new form of digital censorship sweeping the globe, and it could be the start of something devastating. In the last few weeks, the Chinese government compelled Apple to remove New York Times apps from the Chinese version of the App Store. Then the Russian government had Apple and Google pull the app for LinkedIn, the professional social network, after the network declined to relocate its data on Russian citizens to servers in that country. Finally, last week, a Chinese regulator asked app stores operating in the country to register with the government, an apparent precursor to wider restrictions on app marketplaces.

Wired [Trump's Data Firm Snags RNC Tech Guru Darren Bolding](#)

BRITISH NEWCOMERS CAMBRIDGE ANALYTICA EARNED serious bragging rights—and more than a few enemies—as the data firm that helped engineer Donald Trump's victory in its first US presidential election. Now it's poaching the Republican National Committee's chief technology officer, Darren Bolding, in a quest to become the analytics outfit of record for the GOP. Bolding, who in November, 2015, became the RNC's third CTO in as many years after building his career as an engineer in Silicon Valley, will assume the title of CTO at Cambridge, where he will build products for commercial and political clients. "We want to be able to scale up what we're already doing, since there's been quite a lot of interest from the commercial and political space," he says.

Wired [Outgoing FCC Chairman Tom Wheeler: Net Neutrality's Not Dead](#)

REPUBLICANS HAVE BEEN fighting to overturn the Federal Communications Commission's net neutrality rules since before they were even passed in 2015. They may finally get their wish. The party will soon control the White House, both houses of Congress, and the FCC itself. But on the eve of his resignation as chairman of the FCC, Tom Wheeler, who ushered in the rules, says it's not too late to save net neutrality. "Vigilance to protect things that we enjoy today must be our watchword," said Wheeler in a speech at the Aspen Institute in Washington, DC, today. The Obama appointee plans to resign his post on Inauguration Day.

Lawfare [The Economic Case for Preserving PPD-28 and Privacy Shield](#)

Lawfare published a joint blog by Cameron Kerry, former general counsel of the Department of Commerce, and Alan Raul, former Vice Chairman of the White House Privacy and Civil Liberties Oversight Board, detailing economic and bipartisan reasons why the incoming Trump Administration should preserve existing agreements enabling global data flows. The duo urge the Trump administration to support the EU-U.S. Privacy Shield agreement and President Obama's 2014 [Presidential Policy Directive 28](#), arguing that they have been vital to restoring global trust in U.S. technology.

Electronic Frontier Foundation [EFF's 100-Day Plan](#)

The Electronic Frontier Foundation published a blog declaring how the civil rights group will protect people's privacy rights during President-elect Donald Trump's first 100 days in office. The blog details numerous campaigns and legislative activities the organization will lead, including efforts "supporting a warrant requirement for emails, pushing back on new government hacking powers, and calling for a sunset to national security."

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Irish Times [US government seeks to join Privacy Shield data privacy case](#)

The Irish Times published an article reporting that the U.S. government applied to be an independent intervening party in Digital Rights Ireland's case challenging the EU-U.S. Privacy Shield agreement. The article notes that Microsoft and the Business Software Alliance separately applied to intervene in the case.

The New York Times [Obama Updates C.I.A. Rules for Handling Americans' Information](#)

The New York Times reported that the Obama administration [imposed new privacy restrictions](#) on the CIA limiting its ability to gather and use information about Americans. Outlets noted that the changes will update rules that have been in place since the early 1980's and will adapt them to the digital age.

Notable Quotes

"In addition to other issues the court may raise at the hearing, the parties should be prepared to address whether case law holding that Fourth Amendment rights are personal rights that cannot be vicariously asserted bars plaintiff Microsoft Corporation from pursuing its Fourth Amendment claim on behalf of its customers and how that case law is to be reconciled with third-party standing doctrine."

– [U.S. District Judge James L. Robart](#)

"Transparency is the biggest issue and people need to be more aware of what information and intimate detail is being recorded and available to the government."

– [Esha Bhandari, attorney, American Civil Liberties Union](#)

"But while the changes may subject more Americans to warrantless surveillance, the last-minute timing of the announcement actually might have been designed to cut future privacy losses...firming up the changes before Trump takes office makes it harder for the incoming president to encroach even further on civil liberties."

– [Susan Hennessey, former attorney, National Security Agency](#)

"Fundamentally, what's happening is the technology is moving at warp speed, and there are more and more ways to get information on people, about their personal activities, but you have the law standing utterly still. What's often happening the police are trying to massage laws that were written at the time, in some cases when we didn't even have the internet or the concept of a telephone, or GPS, and massage them to fit these modern technologies."

– [Neema Singh Guliani, legislative counsel, American Civil Liberties Union](#)

"My sense is that people take the technology so completely for granted that they forget that it has the capacity to bite back...Most people are still quite naive about embedded technologies, and therefore tend to forget that it can compromise privacy."

– [Susan Brenner, law professor, University of Dayton](#)

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“Regardless of who occupies the White House, mass surveillance of Internet communications is unconstitutional. We are hopeful that even those who defended government surveillance under President Obama will rethink the wide set of surveillance tools that will be handed to the incoming Trump administration.”

– [Electronic Frontier Foundation](#)

“[Presidential Policy Directive 28] extended to citizens of foreign countries safeguards that require that surveillance of Americans be targeted carefully for defined and legitimate purposes. These safeguards essentially protect the privacy interests of innocent foreigners whose electronic communications are scooped up by the NSA merely as incidental collections to the agency’s actual targeting of malicious individuals.”

– [Cameron Ferry, former general counsel of the Department of Commerce and Alan Raul, former Vice Chairman of the White House Privacy and Civil Liberties Oversight Board](#)

“By using the power of the executive branch to enable warrantless surveillance of millions upon millions of Americans, Obama is not protecting the core values of our country, he is undermining them.”

– [Sascha Meinrath, founder, Open Technology Institute](#)

Social Highlights

- **@reason:** [One Final Expansion of the Surveillance State as Obama Heads for the Door](#)
- **@theintercept:** [Previously, the NSA would filter out irrelevant information and mask the names of innocent Americans before sharing.](#)
- **@EFF:** [Our civil liberties need an independent defense force. Read EFF's 100-day plan.](#)
- **@lawfareblog:** [Cameron Kerry: The Economic Case for Preserving PPD-28 and Privacy Shield](#)
- **@engadget:** [CIA reveals new guidelines for collecting data on Americans](#)
- **@nakashimae:** [Another 11th-hr move, this one at the CIA, imposing new privacy rules to limit use of data on Americans @gregpmiller](#)