

VFI Executive Briefing
A weekly roundup of technology news
January 9 – 13, 2017

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HILL UPDATE

The Hill [House passes bill aimed at helping startups](#)

The House on Tuesday passed a bipartisan bill aimed at making it easier for startups to get capital from wealthy "angel investors." The measure passed by a vote of 344-73. The House previously passed the bill last year, but it did not receive a vote in the Senate. The bill would make it easier for angel investor groups to host "demo days" where startups showcase their products. It would direct the Securities and Exchange Commission to exempt demo days hosted by colleges, nonprofits and angel investor groups from requirements for general solicitations of capital.

Geekwire [Hearing hints at clashes over immigration, pot and cyber issues with Jeff Sessions as attorney general](#)

Geekwire's coverage noted Sen. Jeff Sessions comments on lawful access issues as part of its recap of his confirmation hearing. [TechCrunch](#) noted Session's ongoing support for government surveillance, as well as his comments about working with on Congress on law enforcement access to overseas data, which the outlet detailed is connected to Microsoft's warrant case.

Politico Pro [Tech Whiteboard: Sessions promises cooperation on international data bill](#) (subscription needed)

Politico Pro reported on comments about the International Communications Privacy Act made during the confirmation hearing of Attorney General-nominee Jeff Sessions. In response to a question from Sen. Orrin Hatch about his stance on the legislation, Sen. Sessions stressed that there is a need to understand new technology, but that he believes in "the great principles of the right to privacy and the ability of individuals to protect data."

USA Today [Mike Pompeo, Trump's choice for CIA director, lists Russia as threat](#)

USA Today noted CIA Director-nominee Mike Pompeo comments on encryption and surveillance during his confirmation hearing. When pressed by Sens. Ron Wyden and Martin Heinrich, Pompeo stated that he believes a "U.S. person's use of strong encryption would not be sufficient by itself to establish probable cause that the person is an agent of a foreign power." [The Washington Post](#) has a video clip of the exchange.

The Hill [Net neutrality critic in driver's seat on GOP tech policy](#)

Rep. Marsha Blackburn (R-Tenn.) was tapped Friday to chair a key technology subcommittee, putting her in the driver's seat on Republican efforts to pare back the controversial net neutrality rules. As chairwoman of the House Commerce Subcommittee on Communications and Technology, Blackburn will

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have a prominent role in deciding Republicans' stance. Blackburn has long been an outspoken critic of the rules passed by the Federal Communications Commission in 2015, having called them a “Trojan horse for government takeover of the internet.”

Politico [Polis, Yoder Reintroduce Email Privacy Act](#)

Politico reported that Reps. Jared Polis and Kevin Yoder will reintroduce the Email Privacy Act. [In a statement](#), Rep. Polis states that the bill “will update, and bring our archaic laws into the 21st century, and protect Americans’ Fourth Amendment privacy rights.”

Computerworld [DHS should have a cybersecurity unit, says panel chairman](#)

“DHS needs focus and resources, and they are doing a decent job, but could be doing a lot better with the help of Congress,” said U.S. Rep. Michael McCaul (R-Texas) in comments to reporters at the National Press Club. “It’s not a Republican or Democratic issue.” [...] More generally, McCaul said the DHS – as a civilian agency – needs to work more urgently to assist the private sector in defending the nation’s critical infrastructure, including communications, the electric grid and nuclear energy.

ARTICLE SUMMARY

Morning Consult [Four Reasons Why Trump’s Pick for the Next USPTO Director Matters](#)

As President-Elect Donald Trump continues to assemble his cabinet and administration, one of the most important selections he can make is the next director of the U.S. Patent and Trademark Office. Considering the complexity and magnitude of some of the issues defining the IP landscape right now, it’s clear the next USPTO director will shape the future of America’s role in the world as a global leader and hub for innovation. In shaping that future, the next Director must tackle four key challenges.

Just Security [The Supreme Court, the Trump Transition, and the Future of the Constitutional “Border”](#)

Just Security published a blog post by University of Texas professor Steve Vladeck highlighting pressing legal situations and Supreme Court cases involving questions around the rights of non-U.S. citizens and the reach of U.S. law across physical borders. Vladeck briefly references Microsoft’s warrant case as an example of the uncertainty around the role of U.S. law when it comes to cross-border data flows.

The Hill [What the new administration should be doing with patents](#)

It’s 2017, there’s a new Congress and a new administration. What should they be doing with respect to patents? It seems likely that with the big changeover, patents might not get a lot of attention in the first half of the year. Still, there are some things the new government can do, or not do, going forward. It is true that patent troll litigation dropped in 2016, but according to a recent RPX report, nearly all of that drop is due to fewer lawsuits against very large, well-funded companies. Patent trolls seem to be shifting their focus to smaller businesses that can’t afford to defend themselves effectively. Trolls’ venue of choice continues to be the Eastern District of Texas, as I’ve written about a number of times.

New York Times [N.S.A. Gets More Latitude to Share Intercepted Communications](#)

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WASHINGTON — In its final days, the Obama administration has expanded the power of the National Security Agency to share globally intercepted personal communications with the government's 16 other intelligence agencies before applying privacy protections. The new rules significantly relax longstanding limits on what the N.S.A. may do with the information gathered by its most powerful surveillance operations, which are largely unregulated by American wiretapping laws. These include collecting satellite transmissions, phone calls and emails that cross network switches abroad, and messages between people abroad that cross domestic network switches.

Washington Post [The head of the FTC announces she is stepping down](#)

Federal Trade Commission Chairwoman Edith Ramirez said Friday in an interview that she will soon step down as head of the country's most powerful consumer watchdog, after serving more than three years in the role and another three years before that as a commissioner. Ramirez is expected to serve in her current post until President-elect Donald Trump appoints a chair of his own, and plans to depart the agency completely on Feb. 10. Analysts expect the sole Republican currently serving at the FTC, Maureen Ohlhausen, to step in as the FTC's next chairwoman.

New York Times [Data Could Be the Next Tech Hot Button for Regulators](#)

Wealth and influence in the technology business have always been about gaining the upper hand in software or the machines that software ran on. Now data — gathered in those immense pools of information that are at the heart of everything from artificial intelligence to online shopping recommendations — is increasingly a focus of technology competition. And academics and some policy makers, especially in Europe, are considering whether big internet companies like Google and Facebook might use their data resources as a barrier to new entrants and innovation.

New York Times [Uber Extends an Olive Branch to Local Governments: Its Data](#)

The ride-hailing company Uber and local governments often do not play well together. Uber pays little heed to regulation while city officials scramble to keep up with the company's rapid deployment and surging popularity. But now, with a new data-focused product, Uber is offering a tiny olive branch to its municipal critics. The company on Sunday unveiled Movement, a stand-alone website it hopes will persuade city planners to consider Uber as part of urban development and transit systems in the future.

The Hill [EU proposes to include online messaging services under telecom privacy rules](#)

A European Commission proposal put forth on Tuesday would require online messaging services to ask customers for their consent before collecting personal information for targeted ads, Reuters reported. Services like WhatsApp, Gmail and iMessage would also have to ensure that their customers' conversations would remain private. The proposal would extend a rule that currently only covers telecommunications companies to apply to online services that allow users to send messages and make calls. But the rules would also allow the online services to use information collected by cookies to place targeted ads and create new features, which those companies are currently prohibited from doing in Europe.

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New York Times [Medicaid's Data Gets an Internet-Era Makeover](#)

Jini Kim's relationship with Medicaid is business and personal. Her San Francisco start-up, Nuna, while working with the federal government, has built a cloud-computing database of the nation's 74 million Medicaid patients and their treatment. Medicaid, which provides health care to low-income people, is administered state by state. Extracting, cleaning and curating the information from so many disparate and dated computer systems was an extraordinary achievement, health and technology specialists say. This new collection of data could inform the coming debate on Medicaid spending.

Financial Times [Trump strategy threatens US competitiveness, says trade tsar](#)

Donald Trump's threat to force companies to locate factories in the US risks undermining American competitiveness in the long term while his plans to rip up a vast Pacific Rim trade pact would hand China a strategic victory, the outgoing US trade tsar has warned. Mike Froman, architect of President Barack Obama's ill-fated push for the Trans-Pacific Partnership with Japan and 10 other economies, told the Financial Times that Mr Trump's vow to abandon the deal risked driving more US allies into China's embrace. The move would also amount to the US forgoing its place as a Pacific power, he said. Mr Froman also said too many people were underestimating the risks of the president-elect's threats to impose tariffs on US and other companies that produce goods overseas for the US market.

Wired [If Trump Wants a 'Hacking Defense' Strategy, He Should Just Use Obama's](#)

IN HIS FIRST press conference as president-elect, Donald Trump said Wednesday that the United States is too vulnerable to cybersecurity threats, and that he plans to work with defense and intelligence officials to release a "major report on hacking defense" within 90 days of taking office. To do so, he'll need a much firmer grasp on "the cyber" than he's demonstrated so far. As the Obama administration already showed with its own comprehensive cybersecurity plan, there's no such thing as a quick fix. With cybercrime on the rise and the near-constant disclosure of new data leaks, it's not controversial to say that cybersecurity is of paramount importance.

New York Times [Peter Thiel, Trump's Tech Pal, Explains Himself](#)

Let others tremble at the thought that Donald J. Trump may go too far. Peter Thiel worries that Mr. Trump may not go far enough. "Everyone says Trump is going to change everything way too much," says the famed venture capitalist, contrarian and member of the Trump transition team. "Well, maybe Trump is going to change everything way too little. That seems like the much more plausible risk to me." Mr. Thiel is comfortable being a walking oxymoron: He is driven to save the world from the apocalypse. Yet he helped boost the man regarded by many as a danger to the planet.

Ars Technica [Giuliani announces he'll be Trump's czar for the cyber thing](#)

On Fox News' morning show Fox & Friends, former mayor (and frequent proxy for Donald Trump) Rudy Giuliani announced that he would be coordinating a cybersecurity advisory group for the Trump administration. Giuliani's bona fides for this role apparently spring from his time as chair of the "Cybersecurity, Privacy and Crisis Management Practice" at the New York law firm Greenberg Traurig, a position he assumed a year ago. However, it's not clear that Giuliani has ever had any direct experience in cybersecurity law or policy. Giuliani previously was a partner in a Houston-based international law firm Bracewell (formerly Bracewell & Giuliani) for over 10 years, and he ran his own security consulting firm based on his mayoral experience and credibility from New York City's measures taken after the

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September 11, 2001 terror attack. But Giuliani is really counting on private industry to provide all the answers.

Reuters [U.S. appeals court revives antitrust lawsuit against Apple](#)

iPhone app purchasers may sue Apple Inc over allegations that the company monopolized the market for iPhone apps by not allowing users to purchase them outside the App Store, leading to higher prices, a U.S. appeals court ruled on Thursday. The 9th U.S. Circuit Court of Appeals ruling revives a long-simmering legal challenge originally filed in 2012 taking aim at Apple's practice of only allowing iPhones to run apps purchased from its own App Store. A group of iPhone users sued saying the Cupertino, California, company's practice was anticompetitive.

Huffington Post [‘Hacktivists’ Increasingly Target Local And State Government Computers](#)

“Some take this as being harmless and think it’s another form of protest,” said Doug Robinson, executive director of the National Association of State Chief Information Officers (NASCIO). “But it can be highly disruptive. It’s criminal trespassing.” Robinson said he has seen a “significant growth” in the number and severity of hacktivist attacks on state and local governments in the past five years. For the public, it can mean being unable to log on to government websites to get information or conduct business. And for taxpayers, it can mean having to pick up the tab for staff time and additional technology needed to combat such attacks.

CSO Online [Russia, China -- and the US -- are biggest geopolitical cybersecurity threats](#)

The U.S. and the four-other major English speaking countries -- the UK, Canada, Australia and New Zealand -- also make the top threats list. That doesn't necessarily mean that New Zealand is a major global cyber-threat, however. But these five countries are a major global force. "We wanted to include them because they are at the pinnacle of cyber capabilities both in espionage and destructive acts," Condra said. "And the U.S. has an overwhelming advantage over any adversary. And we didn't want to create the perception of bias."

Notable Quotes

“The change means that far more officials will be searching through raw data. Essentially, the government is reducing the risk that the N.S.A. will fail to recognize that a piece of information would be valuable to another agency, but increasing the risk that officials will see private information about innocent people.”

[Charlie Savage, reporter, The New York Times](#)

“Rather than dramatically expanding government access to so much personal data, we need much stronger rules to protect the privacy of Americans. Seventeen different government agencies shouldn’t be rooting through Americans’ emails with family members, friends and colleagues, all without ever obtaining a warrant.”

[Patrick Toomey, attorney, American Civil Liberties Union](#)

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“Oregon’s Ron Wyden pressed Pompeo on what limits he would accept on collecting information on U.S. citizens. Pompeo replied that the U.S. government should comb through information, such as social media posts, that people voluntarily share to help protect national security.”

[Tom Vanden Brook, reporter, USA Today](#)

“With a bipartisan congressional consensus building against backdoors, the focus will move significantly toward giving law enforcement and intelligence agencies more resources, tools and legal means for offensive hacking in order to access whatever encrypted data comes into their crosshairs.”

[Patrick O'Neill, reporter, CyberScoop](#)

“Sessions is still a prosecutor at heart. When there is a policy conflict between the interests of privacy and data security, he seems to instinctively come down on the side of the government.”

[Julian Sanchez, senior fellow, Cato Institute](#)

“Sessions should expect to hear from his own party, industry and civil society who feel that he shouldn’t turn the clock backward. The Senate Judiciary Committee should probe into his history and ask the tough questions surrounding privacy, encryption and surveillance.”

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

“The [Electronic Communications Privacy Act] does not adequately protect the Fourth Amendment rights of our citizens and we must make clear that the law requires the government to get a warrant in order to access private online communications. Our citizens deserve and expect no less. I look forward to swift passage of this bill, which the House approved last Congress by a vote of 419 – 0, and its enactment in the new Congress.”

[Rep. John Conyers](#)

Social Highlights

- **@arstechnica:** [NSA to share data with other agencies without “minimizing” American information by @MeganGeuss](#)
- **@guardian:** [Obama gives US intelligence greater access to warrantless data on foreigners](#)
- **@just_security:** [Another crucial piece from @steve vladeck: The Supreme Court, Trump, and the Future of the Constitutional "Border"](#)
- **@Snowden:** [Context: NSA's EO 12333 surveillance occurs without warrants or court approval. Now, domestic agencies get it raw.](#)
- **@zackwhittaker:** [Just in: Obama was asked to limit the NSA's spying powers before Trump takes office. Instead, he expanded them.](#)
- **@ameiliavance:** [In Microsoft-Ireland, if Microsoft had been given subpoena not warrant, case more clear cut - must turn over data-@jendaskal #privacypapers](#)

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- **@CyberScoopNews:** [Under Trump, Congress to push for funding that grows government hacking](#)
- **@ericgeller:** [Cornyn asks Sessions to "put the safety and security of the American people first" on encryption. Sessions: "I will."](#)
- **@KristynHyland:** [#Trump's Top Cop May Face #Privacy, #Encryption Speed Bump. via @bloomberglaw #Sessions #DOJ](#)