

# VFI Executive Briefing

## A weekly roundup of technology news

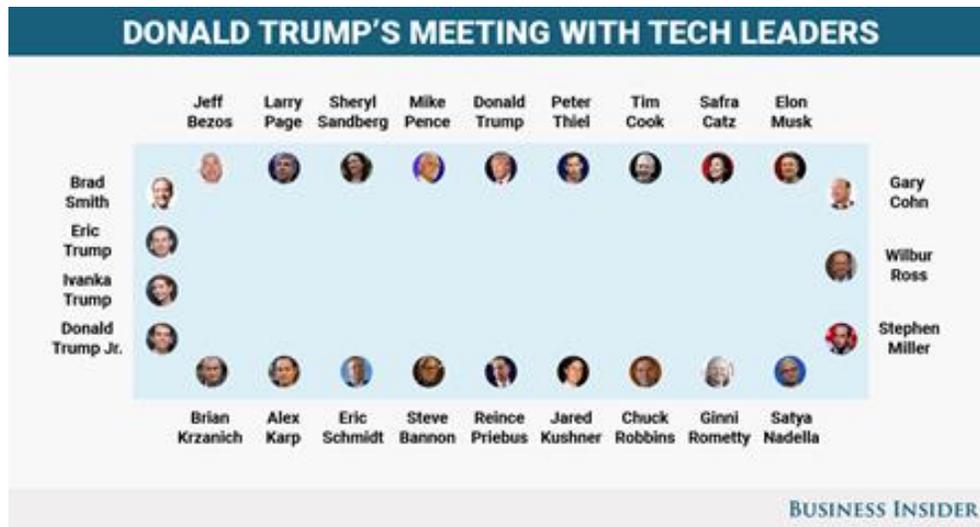
### December 12 – 16, 2016

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## SPECIAL COVERAGE – President-Elect Trump Meeting with Technology Executives

On Wednesday, technology executives, including Microsoft CEO Satya Nadella and Microsoft President Brad Smith, met with President-Elect Donald Trump in New York. Included is the seating chart courtesy of Business Insider. The articles below summarize the before and after of the meeting including suggested topics to cover and what was discussed.



- **New York Times** [When Trump Meets Tech Leaders, Jobs Will Be on the Agenda](#)
- **Washington Post** [What Silicon Valley execs plan to tell Trump this week](#)
- **MIT Technology Review** [Three Touchy Questions for Tech Leaders to Ask Trump](#)
- **Electronic Frontier Foundation** [EFF to Tech Leaders: Stand With Users and Tell Trump We Need Strong Encryption, Internet Freedom](#)
- **The Verge** [Trump tells tech leaders to call him directly if they need anything](#)
- **Politico** [Silicon Valley tries to make peace with Trump Tower](#)
- **Vox** [Silicon Valley has good reason to make nice with Donald Trump](#)
- **Reuters** [Trump and Silicon Valley elite seek to smooth over frictions](#)
- **The Seattle Times** [Tech execs from Microsoft, Apple, Amazon and others have much to teach Trump](#)

## ARTICLE SUMMARY

### **Wired** [The Election Is Over. The Probe Into Russian Hacks Shouldn't Be](#)

FROM CLIMATE CHANGE denial to pizza-parlor pedophile conspiracy theories, 2016 has thoroughly shaken the groundwork of facts that Americans agree on. But there's at least one story that the US can't afford to let slide into the muck of conspiracy theories, fake news, and truthiness: whether the Russian government hacked America's election. On Wednesday, Congressmen Elijah Cummings (D-MD) and Eric Swalwell (D-CA) introduced a bill to create an independent commission to investigate Russian government involvement in the digital attacks that shook the presidential election this year. It's an extensive list.

### **IPWatchdog** [Congress Can Save Software Patents by Repeating One of Its Successes](#)

Innovation, just like the businesses that it creates, cannot thrive in an environment of uncertainty. Unfortunately, the Patent Office and Federal courts—the very legal institutions that are supposed to secure stable and effective intellectual property rights for innovators and their creations—have created a precarious situation for software patents leading to a substantial degree of uncertainty for the high-tech industry. On the anniversary of the Computer Software Copyright Act, we should keep in mind that Congress can and should step in to remove the uncertainty and ensure that software innovation is sufficiently well protected.

### **Washington Post** [Donald Trump's pick for labor secretary has said machines are cheaper, easier to manage than humans](#)

Fast food executive Andrew Puzder, who President-elect Donald Trump is expected to tap as labor secretary, has advocated replacing some human workers with machines as a way for businesses to reduce costs associated with rising wages and health-care expenses. While machines require regular maintenance and can sometimes malfunction, Puzder said, they are also easier to manage than humans and don't pose the same legal risks. "They're always polite, they always upsell, they never take a vacation, they never show up late, there's never a slip-and-fall, or an age, sex, or race discrimination case," Puzder told Business Insider in March.

### **The Hill** [Senate fails to confirm FCC commissioner after lengthy battle](#)

Jessica Rosenworcel will be forced step down from her post as commissioner at the Federal Communications Commission after Congress finished its last legislative session of the year on Saturday without confirming her. Rosenworcel, who is a Democrat, will step down in January when her term ends. Congress's inaction will leave the commission's panel in a partisan stalemate with two Republican commissioners — Ajit Pai and Mike O'Rielly — and two Democratic commissioners — Chairman Tom Wheeler and Mignon Clyburn — until the Senate confirms a new commissioner, likely a Republican.

### **Engadget** [Google begins releasing its secret FBI subpoenas](#)

Back in October, Google stated that the FBI lifted a gag order, allowing them to officially

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disclose they'd been served one National Security Letter (NSL), a type of secret subpoena, by the FBI. This was news because every company is restricted from revealing more than a very broad range of NSLs it has received. But a 2015 Congressional act requires the government to periodically check whether each request's non-disclosure agreement is still necessary. After several of these limits were lifted, today Google confirmed and released several NSL requests to shed light on what kind of user information the FBI requests in the name of national security.

#### **Washington Post** [The FCC could soon be paralyzed in a partisan stalemate](#)

With its final open meeting of the year coming up Thursday, the nation's top telecom regulator could be deadlocked in a 2-to-2 partisan stalemate by week's end due to the U.S. Senate's failure to appoint Jessica Rosenworcel, a Democrat, to the Federal Communications Commission. Rosenworcel serves as one of three liberals on the five-member panel, but must leave the FCC on Dec. 31. The Senate adjourned last Friday without confirming Rosenworcel, prompting reports that the nomination had failed. If Rosenworcel departs as expected, it would leave the FCC with two Democrats and two Republicans — a tie that could mean no new action from the agency until President-elect Donald Trump nominates his own pick to fill Rosenworcel's open seat.

#### **The Verge** [Google just dodged a privacy lawsuit by scanning your emails a tiny bit slower](#)

Yesterday, Google tentatively agreed to a series of changes in the way it collects data from Gmail, as part of a proposed settlement in Northern California District Court. If the court approves the settlement, Google will eliminate any collection of advertising data before an email is accessible in a user's inbox. The result likely won't be noticeable to users, but it represents a real change to the way Google's systems work, brought about after a voluntary settlement rather than a legal ruling. The case, called *Matera vs. Google*, began in September 2015, when plaintiffs alleged the email scanning violated California and federal privacy law, calling it "the twenty-first-century equivalent of AT&T eavesdropping on each of its customers' phone conversations, or of the postal service taking information from private correspondence."

#### **Washington Post** [Elon Musk and the chief executive of Uber are now advising Donald Trump](#)

The heads of Uber and Tesla are taking on strategic advisory roles with President-elect Donald Trump. Travis Kalanick, the chief executive of Uber, and Elon Musk, the chief executive of Tesla, will "meet with the president frequently" and offer their expertise to Trump as part of his Strategic and Policy Forum, Trump officials said. The announcement came hours ahead of a major meeting between Trump and tech executives Wednesday. Musk is expected to attend, along with top execs from Apple, Facebook, Google and a handful of other companies. Wednesday's meeting marks the first time Trump will have met with senior leaders of an entire industry. Kalanick was invited but reportedly will not be attending, because of travel.

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#### **The Hill** [Commerce survey: Cyber researchers fear legal repercussions](#)

A Department of Commerce survey shows that 60 percent of cybersecurity researchers fear legal repercussions for reporting security vulnerabilities they discover to a product's manufacturers. The Commerce Department's National Telecommunication and Information Administration's survey came through its role in a multi-stakeholder working group focused on increasing industry adoption of programs to allow researchers to report vulnerabilities — often called coordinated disclosure programs

#### **Forbes** [Why Patents Should Be Part Of Every Startup's Risk Mitigation Strategy](#)

Founders who want to start a company face daunting odds. There are a lot of statistics, but the consensus is that 90% of startups fail within three to five years. See e.g. Ron Berman, et al., Startup Genome Report (March 2012). With odds like these, young companies need to do everything they can to mitigate risks they face in their early days. Most start-ups tend to spend nearly all their time thinking about how to make a great product and get people to buy it. That makes complete sense, but in my experience too many start-ups overlook the need to protect their intellectual property -- a costly and sometimes even fatal mistake. Startups sometimes refrain from pursuing patents and other intellectual property due to limited funds.

#### **The Verge** [White House suggests Putin authorized DNC hack and helped to elect Trump](#)

The Obama administration today joined the throngs of anonymous intelligence officials in saying Russian President Vladimir Putin had to have been involved in the cyberespionage operation to undermine the US election, the Associated Press reports. Not only does the White House say Putin was likely involved, but it also asserts that the Russian leader probably directly authorized the hack of the Democratic National Committee. The statements, from White House press secretary Josh Earnes, also suggest the goal was to help elect Donald Trump, who Earnes added must have known about Russia's involvement.

#### **Washington Post** [FCC Chairman Tom Wheeler is stepping down, setting the stage for a GOP majority on Trump's first day](#)

The nation's top telecommunications regulator said Thursday that he will step down at the end of President Obama's term, paving the way for President-elect Donald Trump to nominate a successor when he takes office in January. Tom Wheeler, the Obama appointee who has led the agency for three years, was the driving force behind a number of sweeping regulations that aimed to inject competition into the telecommunications sector. Wheeler's signature battle with conservatives over net neutrality ultimately mandated that cable and telecom companies should abide by some of the same rules when providing Internet service as when providing phone service.

#### **Courthouse News** [Florida Court Denies Protection for iPhone Passcode](#)

Courthouse News Service reported on a ruling by [Florida's Second District Court of Appeals](#) declaring that a defendant on trial for video voyeurism could be forced to provide the

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passcode to unlock his iPhone. Police obtained a warrant to search the device, but the defendant refused to provide his passcode to police. The court reasoned that compelling a person to provide a passcode to unlock their device is a viable order akin to compelling the production of physical evidence such as a sample of blood or handwriting.

#### **Data Protection Report** [US Commission on Enhancing National Cybersecurity: Action Plan for the President-Elect](#)

Taken as a whole, the report is a detailed, nonpartisan roadmap for the incoming administration. It identifies many of the key concerns facing the digital economy, and provides specific, actionable guidance on achieving those milestones. The Commission concedes, however, that achieving those objectives will require a massive federal undertaking.

#### **Reuters** [U.S. to disclose estimate of surveilled Americans by early 2017: letter](#)

Reuters reported that a bipartisan group of 11 lawmakers sent a letter to Director of National Intelligence James Clapper detailing that the U.S. intelligence community has committed to publicly disclose the estimated number of the U.S. persons whose electronic communications have been ensnared under Section 702 surveillance. According to the outlet, the estimate could be made public as early as January 2017.

#### **InfoWorld** [Band of Big Brothers: Meet Trump's spy team](#)

InfoWorld published an article highlighting criticisms from numerous privacy advocates, publications and public officials regarding President-elect Trump's choices for key national security positions. The article highlights concerns that incoming national security leaders, including Ret. General Michael Flynn and Senator Jeff Sessions, will expand domestic and international surveillance programs.

## Notable Quotes

*President-elect Donald Trump's criticism of encryption technology and interest in expanding government surveillance have technologists and civil libertarians deeply concerned. As an ethical hacker, my job is to help protect those who are unable, or lack the knowledge, to help themselves. People who think like hackers have some really good ideas about how to protect digital privacy during turbulent times."*

– [Timothy Summers, director of innovation, entrepreneurship, and engagement, University of Maryland College of Information Studies](#)

*"Media Sonar reports that its software has played a role in how police have responded to crime, identifying locations associated with drug networks and identifying witnesses—a common justification for purchasing the software among law enforcement agencies, in addition to disaster response and the protection of visiting dignitaries, according to emails and other*

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*documents reviewed by the Daily Dot. The software primarily uses Twitter's public data to provide police with a spying service that, the company boasts in its budgetary proposals, can help officers and investigators "[avoid the warrant process](#)" in identifying an individual's social media profiles."*

– [David Gilmour and Dell Cameron, reporters, The Daily Dot](#)

*"Since the election of [Donald Trump](#), who did not offer even lip service to the importance of the Constitution or constitutional limits on government, Obama has showed little interest in curbing government power before he leaves office. We should infer that both parties apparently support the overreach of the surveillance state, a fact that should concern Americans."*

– [Ed Krayewski, associate editor, Reason](#)

*"Technology companies should look for ways to assist law enforcement by helping agencies understand what data is available under the law and how to interpret it. At the same time, the President-elect and Congress should explore ways to bolster the technological capacity and resources of our public safety officers and give them additional tools."*

– [Chris Finan, former Obama administration cybersecurity official](#)

*"Instead of trying to contravene the privacy laws of this nation, our governments would better serve society by investing their funds into technical advancement that will allow the police to search these phones through lawful means, as opposed to investing their taxpayers' moneys into litigation aimed at diminishing our privacy laws."*

– [Marina Medvin, principal, Medvin Law Plc](#)

*"The same technologies that are being used to connect us, to tie us together, to let you listen to this right now, are also being used to make records about your activity... Recording the activities of someone creates vulnerabilities for them."*

– [Edward Snowden](#)

*"These measures will ensure that law enforcement has the appropriate authority to pursue investigations while also protecting civil liberties and computer security. Congress should also explore how the United States can help set international standards for lawful government hacking to promote greater cooperation among law enforcement globally to better combat cybercrime."*

– [Daniel Castro, vice president, and Alan McQuinn, research analyst, Information Technology and Information Foundation](#)

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*"In some areas, he [President-elect Donald Trump] can expand surveillance without the approval of Congress or the courts. Such action could sharply curtail privacy without public debate or accountability. Presidents have a great deal of unilateral power over surveillance. Indeed, President Obama's attorney general and director of national intelligence have imposed many of the current restrictions on FBI and NSA practices."*

– [William Bendix, assistant professor of political science at Keene State College and Paul Quirk, professor of U.S. politics at the University of British Columbia](#)

*"...I do hope that somebody will focus on [the issue of encryption] and understand that this is not an issue that can be ignored. This is an issue that has to be dealt with, and it's an issue of public safety, and it's frankly going to get to be more and more acute as time goes by, as more and more devices and sites are inaccessible to law enforcement."*

– [Leslie Caldwell, assistant attorney general for the Criminal Division, Department of Justice](#)

*"These are massive hubs for information collection and monitoring and surveillance of individuals. The information they collect is often about innocent people...It's really even more important now than ever that the companies have strong policies in place and that they have the right auditing and enforcement to make sure those rules are followed"*

– [Nicole Ozer, technology and civil liberties policy director, American Civil Liberties Union](#)

*"When it comes to surveillance powers, [Senator Jeff Sessions]'s more catholic than the Pope... He wants to grant more authorities with fewer limitations than even the law enforcement or intelligence communities are asking for"*

– [Julian Sanchez, fellow, CATO Institute](#)

*"The U.S. intelligence community has committed to providing as soon as next month a public estimate of the number of U.S. persons whose electronic communications are ensnared under a surveillance authority intended for foreign espionage, according to a bipartisan group of congressional lawmakers' letter that Reuters saw."*

– [Dustin Volz, reporter, Reuters](#)

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## Social Highlights

- **@FortuneMagazine:** [Twitter pulls data access for police surveillance tools](#)
- **@jimkillcock:** [This is how @ukhomeoffice will compel UK companies to keep your data insecure forever. Serve notice and they the surveillance state. #IPAct](#)
- **@mitchellreports:** [.@KellyannePolls: @CarlyFiorina could fit the role of Director of National Intelligence #AMR @MSNBC](#)
- **@OrinKerr:** [Montreal court allows seize-first, search-later for computer warrants under Canadian constitution. English op:](#)
- **@OrinKerr:** [Warrant needed to search abandoned phone, Fl. Ct. App. says. Under Riley, special rule for phones. 2 cts disagree.](#)
- **@Salon:** [A hacker's guide to being cyber-safe in the Trump era](#)
- **@SopanDeb:** [NYT reporting that Fiorina might be up for Director of National Intelligence:](#)
- **@TonyRomm:** [Fiorina seemed opposed to bulk collection of phone data, sat the fence on encryption. Impt. bc she is presumed in running for DNI](#)
- **@althiaraj:** [Tech execs to Liberals: Don't make online surveillance even worse via @HuffPostCanada](#)
- **@BrennanCenter:** [Twitter blocks Media Sonar's access to data stream it used to help police track #BlackLivesMatter protesters](#)
- **@EFF:** [Tech leaders heading to Trump Tower must stand firm on encryption, Internet freedom:](#)
- **@enisa\_eu:** [#ENISA's view on #encryption: The use of backdoors is not the solution. Check out ENISA's opinion paper](#)
- **@hrw:** [Beijing Adds Veneer of Legal Legitimacy on Censorship by @sophieHRW](#)
- **@lawfareblog:** [Peter Margulies: Surveillance's Future: A Pragmatic Take from the Center for a New American Security](#)
- **@marcodellacava:** [As U.S. spy chief, Fiorina would support backdoors via @jswartz](#)
- **@DigitalTrends:** [EU report condemns law enforcement backdoors in consumer electronics](#)
- **@JennaMC\_Laugh:** [FBI has asked for electronic communication transactional records from Google as recently as 2015:](#)
- **@just\_security:** [New disclosures about National Security Letters illustrate limits of most recent reforms - @YaleLawSch's @HBWHBWHBW](#)
- **@politico:** [Tech titans will meet with the president-elect who disparaged their industry via @TonyRomm](#)
- **@Snowden:** [Every day, lives and films are put at risk by an industry whose cameras don't #SaveSafely. It's time for a change.](#)
- **@Carnegie\_Europe:** [.@ChertoffGroup's Michael Chertoff: How do nation-states manage data that knows no borders? #CyberTrust](#)
- **@EFF:** [Op-ed by EFF's @jamiel Lewi: Expanding government hacking authority without any safeguards was a mistake.](#)
- **@ericgeller:** [I talked to the assistant AG for DOJ's Criminal Division about cybercrime, botnets, ransomware and encryption:](#)
- **@lawfareblog:** [Adam Segal: China, Encryption Policy, and International Influence](#)
- **@ACLU\_NorCal:** [Fusion centers across the country are now cut off from accessing Dataminr - which can monitor protests & journalists.](#)

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- **@DigitalTrends:** [Twitter limits data access for law enforcement surveillance hubs](#)
- **@dnavolz:** [U.S. to disclose estimate of Americans spied on under Section 702 as soon as next month, lawmakers say cc: @Snowden](#)
- **@NakedSecurity:** [Backdoors 'punish the wrong people', EU security body warns](#)