

VFI Executive Briefing

A weekly roundup of technology news

August 1-5, 2016

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HILL UPDATE

Nothing new this week.

SPECIAL COVERAGE

The EU-US privacy shield data protection program went into effect this week:

- **Microsoft On The Issues** [Microsoft signs up for Privacy Shield](#)

Today (1 August 2016), Microsoft signed up for the EU-U.S. Privacy Shield. As one of the first companies, we have submitted our Privacy Shield certification to the U.S. Department of Commerce and we expect it to be approved in the coming days. Going forward, any data which we will transfer from Europe to the United States will be protected by the Privacy Shield's safeguards.

- **The Hill** [Privacy shield attracts strong company support](#)

The Hill published an op-ed by Victoria Espinel, president and CEO of BSA | The Software Alliance, promoting corporate support for the agreement and its privacy protections.

- **InfoWorld** [Privacy Shield certifications begin trickling in](#)

The U.S. Department of Commerce is not just rubber-stamping applications to join the new Privacy Shield data protection program: 24 hours after companies began certifying their compliance, the administration's website still listed no approvals. Microsoft was among the first businesses to certify that it complied with the new rules for transferring European Union citizens' personal information to the United States when the Commerce Department's International Trade Administration began accepting applications on Monday.

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ARTICLE SUMMARY

Reuters [Apple asks U.S. Supreme Court to rule against Samsung over patents](#)

Apple Inc (AAPL.O) on Friday asked the U.S. Supreme Court to clear the way for the iPhone maker to secure hundreds of millions in damages from Samsung Electronics Co Ltd (005930.KS) in a case over smartphone design patents. The world's top smartphone rivals have been feuding over patents since 2011, when Apple sued Samsung in a northern California court alleging infringement of the iPhone's patents, designs and trademarked appearance.

CIO Dive [What happens when tech innovation moves faster than Congress?](#)

CIO Dive published an article highlighting the current state of ECPA reform and issues brought about by the 30-year old law. The outlet briefly references Microsoft's non-disclosure lawsuit as an example of a conflict caused by the outdated nature of ECPA.

The Hill [Privacy shield attracts strong company support](#)

The Hill published an op-ed by Victoria Espinel, president and CEO of BSA | The Software Alliance, promoting corporate support for the agreement and its privacy protections.

NBC News [Where Hillary Clinton, Donald Trump Stand on Tech Issues](#)

When it comes to the issues dear to Silicon Valley, technology-minded voters may not find the perfect match in either Hillary Clinton or Donald Trump. "She wants to take us back to the 1990s and he wants to take us back to the 1890s — and tech wants to be in the 2050s," said Bradley Tusk, CEO of Tusk Ventures, a political strategy firm that works with tech companies.

Wired [America's Electronic Voting Machines Are Sitting Ducks](#)

THIS WEEK, GOP presidential candidate Donald Trump openly speculated that this election would be "rigged." Last month, Russia decided to take an active role in our election. There's no basis for questioning the results of a vote that's still months away. But the interference and aspersions do merit a fresh look at the woeful state of our outdated, insecure electronic voting machines.

The Verge [Murder victim's phone unlocked with paper fingerprint after 3D printing fails](#)

Researchers who attempted to unlock a murder victim's phone using a 3D-printed replica of one of his fingers were forced to use an alternative method last week, after the models produced were found not to be accurate enough to gain access. The team from Michigan State University was asked by police to gain access to the phone, which was eventually unlocked with a 2D image of the dead man's fingerprints, enhanced manually to fill in gaps in the original image, and rendered on conductive paper.

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CNET [Your phone's battery now betrays your privacy](#)

Software that lets websites check the battery life of your mobile devices could also be compromising your privacy. Privacy researchers have pointed out before that the HTML 5 battery status API, a web standard intended to allow sites to serve up low-power version to phones running out of juice, could also be used to identify specific phones by their battery usage fingerprint, reported the Guardian on Tuesday.

The Hill [Dem party hack shows neither side is serious about cybersecurity](#)

The news that the Democratic National Committee (DNC), the Democratic Congressional Campaign Committee (DCCC) and the Hillary Clinton Campaign were hacked — ostensibly by hackers associated with the Russian government — started trickling out just before the start of the Democratic convention. These developments could not have come at a worse time for the Democrats. The messy revelations stemming from these breaches threatened to upend the convention itself. They cost the DNC chairman her job and forced the resignation of the DNC's CEO.

New York Times [China, Not Silicon Valley, Is Cutting Edge in Mobile Tech](#)

Snapchat and Kik, the messaging services, use bar codes that look like drunken checkerboards to connect people and share information with a snap of their smartphone cameras. Facebook is working on adding the ability to hail rides and make payments within its Messenger app. Facebook and Twitter have begun live-streaming video. All of these developments have something in common: The technology was first popularized in China.

Mashable ['Netflix tax' imposed in Pennsylvania, and it might be just the beginning](#)

Watch out: The "Netflix tax" is coming. At least in Pennsylvania. The state legislature there recently extended its 6 percent sales tax to digital downloads and subscription services like Netflix and Hulu. Though it's called the Netflix tax, colloquially at least, the fee will also apply to streaming and downloads for music, e-books and apps. Digital versions of newspapers, magazines and the Bible, will be exempt.

The Hill [Report: FBI was silent on Russian threat in warnings to DNC](#)

The Federal Bureau of Investigation was quiet that the threat was Russian espionage when it warned the Democratic National Committee it should watch for unusual network activity last fall, reports say. Reuters cites anonymous sources that say the FBI left the DNC in the dark as to the actual nature of the threat, even as they asked for more information about the nature of suspected attacks. "It would have definitely been useful to know," said Mikko Hypponen, chief research officer at F-Secure, a company that released foundational research into Russian state attacks.

Forbes [The Microsoft Warrant Case: Unintended Consequences of the Second Circuit's Ruling](#)

Forbes published an op-ed by Brian Jacobs, former Assistant U.S. Attorney for the Southern District of New York, warning that the Second Circuit decision in Microsoft's warrant case could lead to unintended domestic implications. Jacobs warns that the Court's ruling provides a foundation that service providers

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could use to challenge warrants issued under the Stored Communications Act seeking data stored in the U.S.

Bloomberg BNA [Microsoft, Ireland and a Level Playing Field for U.S. Cloud Companies](#)

Bloomberg BNA published an op-ed by Paul M. Schwartz, professor of law at the University of California Berkeley School of Law, analyzing the Second Circuit ruling in Microsoft's overseas warrant case and detailing his recommendations for how to clarify and improve legal requests for data stored abroad. Schwartz advocates for a system in which the law does not demand more of domestic companies than international companies in regulating requests for information stored abroad.

The Intercept [Microsoft Pitches Technology That Can Read Facial Expressions at Political Rallies](#)

On the 21st floor of a high-rise hotel in Cleveland, in a room full of political operatives, Microsoft's Research Division was advertising a technology that could read each facial expression in a massive crowd, analyze their emotions, and report back in real time. "You could use this at a Trump rally," a sales representative told me. At both the Republican and Democratic conventions, Microsoft sponsored event spaces for the news outlet Politico. Politico, in turn, hosted a series of Microsoft-sponsored discussions about the use of data technology in political campaigns.

Wired [DNC Breach Rallies Hackers To Clinton's Side in Vegas](#)

HILLARY CLINTON DOESN'T usually get much love from the hacker elite. This is a presidential candidate, after all, whose idea of securing classified emails was to keep them on a server in her basement, and when asked if she'd "wiped" that computer, responded "with a cloth or something?" But in an election year when her opponent is Donald Trump—and a group of very active Russian cyberspies whom Trump has publicly encouraged—Clinton has scored a surprising first: a hacker fundraiser.

The Hill [Dems ask Cruz to hold hearing on Trump's Russian hacking remarks](#)

A pair of Senate Democrats is pushing Sen. Ted Cruz (R-Texas) to hold a hearing on Donald Trump's call for Russia to obtain and leak Hillary Clinton's personal emails. Sens. Chris Coons (D-Del.) and Sheldon Whitehouse (D-R.I.) sent a letter to Cruz Wednesday calling the GOP presidential nominee's remarks "dangerous and irresponsible." "We ask that you conduct an oversight hearing to determine whether existing federal criminal statutes and federal court jurisdiction sufficiently address conduct related to foreign entities that could undermine our elections," they wrote.

Federal News Radio [DHS considers adding election system as critical cyber infrastructure](#)

"We should carefully consider whether our election system, our election process, is critical infrastructure, like the financial sector, like the power grid," DHS Secretary Jeh Johnson said during an Aug. 3 breakfast with reporters hosted by the Christian Science Monitor. "There is a vital national interest in our election

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process, so I do think we need to consider whether it should be considered by my department and others as critical infrastructure.”

FormTek [Corporate Espionage: Cyber Attacks in the Manufacturing Industry](#)

[A] report by IBM found that in 2015 manufacturers were the second most frequently targeted industry for cyber attack — the healthcare industry has the dubious honor of being in first place. Manufacturers have at risk their proprietary information, trade secrets, intellectual property and products. Aberdeen Research warned that “[the topic of network security] is becoming increasingly relevant in industrial plants. Factor in emerging trends in the business [such as bring-your-own-device (BYOD) and the Internet of Things (IoT)] and the touch points for potential security threats are increasing at exponential rates.”

Notable Quotes

- *“This [proposed U.S.-U.K. data sharing agreement] should be embraced by civil liberties groups, the business community—both global technology firms and their customers—and ultimately members of Congress. The United States has a unique opportunity to set the norms for cross-border data requests—and in so doing protect privacy, security, and US business interests alike. The alternative is a world in which foreign nations increasingly adopt data localization mandates, employ surreptitious means of accessing sought-after data, and unilaterally assert extraterritorial jurisdiction, without any of the privacy protections included in the draft legislation and without regard to the interests of the United States or US citizens.”*

- [Jennifer Daskal, law professor, American University, and Andrew Woods, professor of law, University of Kentucky](#)

- *“Right now, it’s hard to say if anything’s going to happen in terms of updating ECPA.”*

- [Kyle Daly, senior privacy and data security reporter, Bloomberg Law](#)

- *“Taken together, the issues are challenging the borderless view adopted by technology companies that what they’ve created in the U.S. will transfer seamlessly abroad. The technology industry has warned against the “Balkanization” of the internet, where a patchwork of regional laws creates different internet experiences based on location. Schrems doesn’t see that as such a bad thing -- likening it to McDonald’s changing its menu to appeal to local markets.”*

- [Adam Satariano and Stephanie Bodoni, reporters, Bloomberg](#)

- *“The lack of clarity in the [Second Circuit opinion in Microsoft’s warrant case] could make the opinion vulnerable to reversal en banc or on a further appeal to the Supreme Court, but for the time being, the Second Circuit’s conclusion that the invasion of privacy takes place where data is stored, combined with the opinion’s suggestion that the territorial limits expressed in Rule 41 are incorporated into the SCA, provides ammunition for service providers to challenge even those warrants that seek data stored here in the U.S.”*

- [Brian Jacobs, former Assistant U.S. Attorney, Southern District of New York](#)

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Social Highlights

- **@CarloPiltz:** [#PrivacyShield List now accessible: Who will be the 1st participant?](#)
[#privacy](#)
- **@DSMeu:** [What does the EU-US #PrivacyShield mean for Europeans & their data?](#)
[Watch @VeraJourova](#)
- **@FBI:** [#ICYMI: Dir. Comey spoke this week about #cybersecurity & encryption at @ICCSNY #ICCS2016](#)
- **@just_security:** [Congress should embrace DOJ's cross-border data plan, by @jendaskal and @andrewkwoods: #privacy](#)
- **@accessnow:** [Deeply troubling: 'China's surveillance ambitions' via @WSJ](#)
- **@CenDemTech:** [TODAY: "US companies needing to transfer EU customers' data across Atlantic can now sign up to #PrivacyShield:"](#)
- **@CIOonline:** [Privacy Shield certifications begin trickling in](#)
- **@IBTimes:** [Watching the watchmen: Privacy watchdog releases database of over 500 surveillance companies.](#)
- **@TechCrunch:** [EU-US Privacy Shield open for sign ups from today](#)
- **@VeraJourova:** [EU-U.S. #PrivacyShield up and running from today](#)
- **@CIOonline:** [Privacy Shield certifications begin trickling in](#)
- **@Fusion:** [Recent hacks should make Democrats favor encryption](#)
- **@Independent:** [You don't care about your privacy. Here's why you need to](#)
- **@kashhill:** [After DNC hack, Democrats should stop demonizing end-to-end encryption](#)
- **@FastCoNews:** [Before the police killed Korryn Gaines, Facebook deactivated her account](#)
- **@BroderickGreer:** [There is a specific portal that allows police to remotely deactivate a victim's Facebook account](#)
- **@NYLawJournal:** [Police had the right to access a suspect's cellphone GPS data without a warrant, the Second Circuit finds #privacy](#)