

BUSINESS LAW SECTION OF THE FLORIDA BAR
COMPUTER AND TECHNOLOGY LAW COMMITTEE

The Florida Bar, Business Law Section Annual Labor Day Retreat, 2022

Friday September 2, 2022 – 3:00 PM – 4:00 PM

In-Person and Virtual ([Registration for Zoom link](#))

CLTC: Hot Topics

1. Federal Privacy Law Updates:

- a. **The American Data and Privacy Protection Act (ADPPA)** - moved out of (and approved in) the US House Committee. Status -
<https://www.congress.gov/bill/117th-congress/house-bill/8152/actions>
- b. **Kids Online Safety Act and Children and Teens' Online Privacy Protection Act** - moved out of (and approved in) the corollary Senate Committee. Press Release -
<https://www.commerce.senate.gov/2022/7/commerce-committee-approves-2-bills-and-4-nominations-including-bipartisan-children-s-online-privacy-legislation-and-ostp-nomination>
- c. **Federal Trade Commission** - advance notice of proposed rulemaking (ANPRM) on “commercial surveillance and data security” - Notice seeks comments -
https://www.ftc.gov/system/files/ftc_gov/pdf/commercial_surveillance_and_data_security_anpr.pdf Federal Register -
<https://www.federalregister.gov/documents/2022/08/22/2022-17752/trade-regulation-rule-on-commercial-surveillance-and-data-security>

2. **Ogletree v. Cleveland State University**, Case No. 1:21-CV-00500, 2022 WL 3581569 (N.D. Ohio Aug. 22, 2022) - [Opinion](#) - Ogletree, a student at Cleveland State University, filed suit alleging that using his camera briefly to scan the test taker's surroundings for potential impermissible study aids or notes violated his rights when a proctor asked him to conduct a room scan of his bedroom before starting a remote test. The court concluded that Mr. Ogletree's privacy interest in his home outweighs Cleveland State's interests in scanning his room, and determined that Cleveland State's practice of conducting room scans is unreasonable under the Fourth Amendment.
3. **Modernatx, Inc. v. Pfizer Inc., et al.**, Case No. 1:22-cv-11378, in the United States District Court for the District of Massachusetts - [Complaint](#) - [Press Release](#) - Moderna sues Pfizer and BioNTech for mRNA patent infringement.
4. **USA v. Da Corte et al.** - DOJ charges three individuals with defrauding banks and cryptocurrency exchange of more than \$4 million. Individuals purchased cryptocurrency, transferred the crypto to other accounts, and then claimed that the transactions were unauthorized and had the transactions reversed. [News Release](#). [Indictment](#).

5. **Camacho v. Control Group Media Co., LLC**, 21-CV-1954-MMA (MDD), 2022 WL 3093306 (S.D. Cal. July 18, 2022) - Plaintiff alleges that people search website (InstantCheckmate.com) misappropriated plaintiffs' identities without consent for a commercial benefit. Defendants moved to compel arbitration, moved to strike class allegations, and moved to dismiss. Court denies the three motions. On August 11, the court stayed the action pending interlocutory appeal.
6. **Twitter Inc. v. Musk et al.**: Musk ordered to hand over his data scientists' analysis of Twitter's full stream of user traffic. However Twitter was also directed to provide Musk with more than 9,000 Twitter accounts examined in a "historical snapshot" used to audit user traffic in 2021 Quarter 4. This comes as an ex-Twitter security chief went public with a multiagency federal whistleblower complaint accusing Twitter of a wide range of security lapses, including the development of a software to avoid counting spam or automated "bot" tweets and accounts on its site. Musk has issued a subpoena to the ex-Twitter security chief. The five-day trial is scheduled to start October 17.
7. **April Guy-Powell et al. v. Applebee's Restaurants LLC et al.**: Class action biometric privacy suit filed against Protillo's, Applebee's, Chipotle, Blaze Pizza, Red Lobster, and other restaurant chains in Illinois state court, alleges that their use of automated voice ordering technology captures and uses customers' voiceprints without first obtaining informed consent. Alleges that the tech is designed to pick up and use customers' speech signals while they're placing orders or otherwise interacting with the system over the phone. Alleges that none of the restaurants have disclosed the specific reasons they're collecting and using their customers' biometric data. [Complaint](#).
8. **Federal Communication Commission** inquiries find that ten of the top 15 mobile carriers collect geolocation data and provide no way for consumers to opt-out. Companies including AT&T, Charter, T-Mobile, and Version generally cited the need to comply with law enforcement requests as well as FCC rules as their reason for being unable to allow consumers to opt-out of collection and retention. Carriers have misled consumers about how they use their geolocation data before. In 2020, the FCC proposed more than \$200 million in fines against several major carriers for selling customer location data to bail bond companies and other third parties. [FCC News Release](#).
9. **FTC v. Kochava, Inc.**, 2:22-cv-00377-DCN (D. Idaho) - Federal Trade Commission filed a lawsuit against Kochava, a location data broker for sale of geolocation information. Complaint alleges that location data from "sensitive locations" is/was being sold and could identify a specific consumer. Alleges that the sale of sensitive data is "unfair" because consumers cannot reasonably avoid the sale and the practice is not outweighed by countervailing benefits to consumers or competition. [Complaint](#).