

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

The Florida Bar, Business Law Section Winter Meeting, 2023

Monday, January 16, 2022 – 2:00 PM – 3:00 PM

Virtual ([Registration for Zoom link](#))

## **CLTC: Hot Topics**

1. **Ireland fines Meta \$414 million** - Putting an end to two separate complaints lodged in May 2018, Ireland's Data Protection Commission hit Meta Platforms Ireland Ltd. with a €390 million (\$414 million) fine for unlawfully failing to allow Facebook and Instagram users to freely choose whether they wanted to receive targeted advertising on the platforms. The Irish regulator concluded that Meta violated Article 6 of the GDPR by effectively forcing Facebook and Instagram users to consent to the processing of their personal data for behavioral advertising by enshrining this practice in a contract that users must agree to in order to use the services rather than obtaining their affirmative consent. Meta has three months to legalize its data-targeting model. See <https://www.dataprotection.ie/en/news-media/data-protection-commission-announces-conclusion-two-inquiries-meta-ireland> and <https://www.politico.eu/article/instagram-fined-e405m-for-violating-kids-privacy/>
2. **Seattle School District No. 1 v. Meta, et al.** - The largest school district in Washington State sues social media companies for exploiting children and contributing to the youth mental health crisis - *Seattle School District No. 1 v. Meta Platforms, Inc., Facebook Holdings LLC, Facebook Operations LLC, Meta Payments Inc., Facebook Technologies LLC, Instagram LLC, Siculus Inc., Snap Inc., TikTok Inc., ByteDance Inc., Alphabet Inc., Google LLC, XXVI Holdings Inc. and YouTube*, Case No. 2:23-cv-00032 - Link to Complaint - <https://storage.courtlistener.com/recap/gov.uscourts.wawd.317950/gov.uscourts.wawd.317950.1.0.pdf>
3. **Meta limits youth ad targeting** - removing options from ad targeting, giving more control over types of viewed ads. See <https://about.fb.com/news/2023/01/age-appropriate-ads-for-teens/> and <https://about.fb.com/news/2023/01/providing-safe-experiences-for-teens/>
4. **District of Columbia v. Google LLC** - Google agrees to pay \$9.5 million to end claims filed by the D.C. Attorney General's Office that it surreptitiously tracks users' locations after they believe they've disabled the feature, settling the lawsuit one month after announcing it would pay \$391 million to end similar claims lodged by 40 states. Along with the fine, Google has agreed to implement pop-up notifications to inform users who have their location history services enabled about the type of data the company is collecting and how to disable the services. See <https://oag.dc.gov/release/ag-racine-announces-google-must-pay-95-million>
5. **Fair Housing Act applies to Meta** - DOJ and Meta settle, Meta agrees to change its advertisement delivery system to prevent discriminatory advertising in violation of the

FHA. See

<https://www.justice.gov/opa/pr/justice-department-and-meta-platforms-inc-reach-key-agreement-they-implement-groundbreaking>

6. **Supreme Court** cases to watch

a. Current Cases:

- i. **Gonzalez v. Google** - is Google shielded under Section 230 from claims that it aided and abetted terrorist by allegedly promoting their content? See <https://www.scotusblog.com/case-files/cases/gonzalez-v-google-llc/>
- ii. **Twitch v. Taamneh** - what responsibility, if any, platforms have to crack down on material under anti-terror laws. See <https://www.scotusblog.com/case-files/cases/twitter-inc-v-taamneh/>

b. Potential Future Cases:

- i. Texas and Florida laws which seek to bar platforms from restricting content based on users' viewpoints - Distributed for conference of January 20, 2023 - See <https://www.scotusblog.com/case-files/cases/netchoice-llc-v-moody/> and <https://www.scotusblog.com/case-files/cases/netchoice-llc-v-paxton/> and <https://www.scotusblog.com/case-files/cases/moody-v-netchoice-llc/>
- ii. California Age-Appropriate Design Code Act - online safety law that would require digital platforms to vet whether new products may pose harm to children before rolling them out and to offer stronger privacy settings to younger users by default. Complaint filed on December 14, 2022 - [https://netchoice.org/wp-content/uploads/2022/12/NetChoice-v-Bonta\\_-\\_Official-AB-2273-Complaint-final.pdf](https://netchoice.org/wp-content/uploads/2022/12/NetChoice-v-Bonta_-_Official-AB-2273-Complaint-final.pdf)

7. **State of Wisconsin v. Steven W. Bowers**, 2021AP1767-CR, 2022 WL 17984985 (Wis. Ct. App. Dec. 29, 2022) - holding that people have a Fourth Amendment right to the privacy of their Dropbox account. "Bowers had a reasonable expectation of privacy in the contents of his Account. Although it was established using Bowers' county e-mail address, Bowers paid to create the private Account, the Account was password protected and accessible through Bowers' private devices, and the Account was not stored on county property. In addition, although Bowers' Account was held by Dropbox, an independent entity, Bowers did not grant a third party access to his password or the Account when sharing the case files. Thus, law enforcement engaged in a search of Bowers' Account within the meaning of the Fourth Amendment. Further, while law enforcement had probable cause to search the Account for evidence of Bowers' alleged misconduct in office, we conclude that no exigent circumstances justified a warrantless search of the Account." Link to opinion -

<https://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=606172>

8. **Are we approaching the Singularity? What happens when AI can pass the bar exam?** - The highly anticipated version 4 of ChatGPT ( <https://openai.com/blog/chatgpt/> ) is expected to pass the bar exam with a perfect score. This means that the traditional

bar exam will be presented to the software as if it were a human student, and the software will answer the exam questions as if it were a student - even the essay questions. If ChatGPT has access to a primary legal library, then it can conceivably write legal memorandums, motions, and contracts. When combined with deepfake technology, it could show up in zoom hearings, make oral arguments, and file briefs. Lawyers will be reviewing AI-generated documents and challenging the authenticity of evidence. Lawyers will be needed to stress test data lakes, algorithms, and argue about ethical AI. And lawyers will have to know how to effectively “prompt” these engines to achieve greater efficiency in their practice. What will be the role of argument simulation in settlement negotiations? Will we be able to detect AI written material? See GPTZero, an attempt to determine whether ChatGPT was used. <https://gptzero.me/> How much will a lawyer’s ethical duty of technology competence change?

9. **ChatGPT x Microsoft** - Microsoft is preparing to launch a version of its Bing search engine that uses the artificial intelligence behind ChatGPT to answer some search queries rather than just showing a list of links. Microsoft hopes the new feature, which could launch before the end of March, will help it outflank Google. Microsoft is considering incorporating ChatGPT into Microsoft Office. See <https://news.microsoft.com/source/features/innovation/from-hot-wheels-to-handling-content-how-brands-are-using-microsoft-ai-to-be-more-productive-and-imaginative/> and <https://www.theinformation.com/articles/microsoft-and-openai-working-on-chatgpt-powered-bing-in-challenge-to-google>