



DECEMBER 2023

A GNLU CENTRE FOR LAW AND TECHNOLOGY INITIATIVE

Monthly Newsletter - TechTalk



Gujarat National Law University



Welcome to the GNLU Centre for Law and Technology Newsletter! Serving as the conduit to the dynamic intersection of science, technology, and the law, our mission is to provide updates on the latest developments, promote academic excellence, and empower legal professionals to navigate this ever-evolving landscape. Join us in bridging the gap between these crucial fields and shaping the future of legal practice in our interconnected world.

↓ Enclosed in this newsletter are the following highlights:

Updates on law and technology, showcasing the latest developments in this ever-evolving field. Our curated content might just spark your next research topic idea. Stay informed and stay inspired and keep reading!

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EPIC GAMES WINS LANDMARK ANTITRUST BATTLE AGAINST GOOGLE'S PLAY STORE

In a significant legal victory, a federal jury in San Francisco ruled that Google violated antitrust laws, favoring Epic Games and other developers on its Play mobile app store. The nine-person jury unanimously sided with Epic Games on all 11 questions in the month-long trial, marking a pivotal moment in their three-year legal conflict. The jury found that Google maintained a monopoly in the smartphone app store market, engaging in anticompetitive conduct that harmed Epic Games. This verdict could have far-reaching implications, potentially reshaping the rules governing how businesses generate revenue on Google's Android operating system. If Judge James Donato determines that remedies are necessary, Google might be compelled to adjust its Play Store rules, allowing competing app stores and facilitating developers in avoiding the commissions collected from in-app purchases.

Throughout the trial, Google contended that it faced competition from Apple's App Store, a more dominant player in the United States, asserting that operating an Android monopoly was impossible. The outcome provides a boost to Epic Games' ongoing efforts to diminish the dominance wielded by Google and Apple in the mobile app ecosystem. Notably, Epic Games had previously faced a similar case against Apple two years ago, with a less favorable outcome. Both sides are presently attempting to appeal that ruling to the U.S. Supreme Court. In filing the case against Google in 2020, Epic sought to retain a larger share of revenue from in-app purchases and introduce a competing app store on the Android platform. The verdict is a noteworthy development for Epic Games in its broader mission to challenge the control exerted by major tech companies over the mobile app industry. The legal battle against Google coincided with the company defending itself in another antitrust trial in Washington, D.C. The Department of Justice, along with numerous states, accused Google of unlawfully maintaining a monopoly in search and advertising. The outcome of this landmark antitrust case, expected next year, could have significant implications for the tech industry's power dynamics. On the Play Store, Google imposes fees on app makers, charging a 15% fee for customer payments related to app subscriptions and up to 30% for in-app purchases within popular apps downloaded from the store. Google contends that 99% of developers qualify for a fee of 15% or lower on in-app purchases. The final decision on the remedies for Google's conduct will be determined by Judge James Donato early next year.

Google Agrees to \$700 Million Settlement

In a continued legal saga, Google has consented to a \$700 million settlement and additional commitments, addressing allegations of stifling competition against its Android app store. The settlement terms, disclosed late Monday, follow a federal court jury's recent rebuke of Google for deploying anti-competitive tactics in its Play Store for Android apps. The settlement with state attorneys general includes a substantial \$630 million allocated to compensate U.S. consumers affected by a payment processing system within the Play Store, which allegedly led to inflated prices for digital transactions. The Play Store, akin to Apple's iPhone app store, imposes commissions ranging from 15% to 30% on in-app purchases. State attorneys general argued that these commissions inflated prices and stifled competition. The \$630 million compensation fund aims to refund affected consumers automatically, offering various options to receive their share. An additional \$70 million from the settlement will cover penalties and costs imposed on Google by the states.

As part of the settlement, Google has committed to making changes facilitating easier access for consumers to download and install Android apps from alternative sources beyond its Play Store for the next five years. The company will reduce security warnings, or "scare screens," when users opt for alternative choices. App makers on the Android platform will gain more flexibility to offer alternative payment options to consumers, providing increased freedom from the Play Store's commission system. Moreover, apps will be able to promote lower prices for consumers opting for alternatives to the Play Store's payment processing. Washington DC Attorney General Brian Schwalb hailed the settlement as a victory for millions of U.S. Android users who, for too long, faced anticompetitive practices, limiting choices and inflating prices. Google's Vice President of Government Affairs and Public Policy, Wilson White, presented the settlement as a positive move for Android, emphasizing choice, flexibility, and security. While state attorneys general celebrated the settlement as a win for consumers, it fell short of satisfying Epic Games, the driving force behind the antitrust lawsuit. Epic Games, maker of the popular Fortnite video game, rejected the settlement in September, opting to proceed to trial. Although Epic had lost key claims in a similar trial against Apple in 2021, a recent federal jury's unanimous verdict against Google's anticompetitive practices vindicated Epic's stance.

The trial's outcome raises the prospect of Google facing further financial penalties and making significant changes to its Android app ecosystem. U.S. District Judge James Donato, who presided over the Epic Games trial, will determine these changes next year and must also approve Google's Play Store settlement with the states. Beyond the Play Store settlement, Google confronts a more substantial legal threat in an antitrust case involving its dominant search engine, with closing arguments scheduled for early May. This case, filed by the Justice Department, poses significant implications for Google's overarching digital ad empire generating over \$200 billion in annual sales. The evolving legal landscape indicates that Google faces continued challenges in navigating antitrust concerns, potentially shaping the future dynamics of the tech giant's operations.

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EU LAUNCHES FORMAL INVESTIGATION INTO ELON MUSK'S X OVER CONTENT MODERATION ISSUES

The European Union has initiated a significant regulatory move against Elon Musk's social media platform, X, formerly known as Twitter. The investigation, prompted by concerns about the platform's failure to counter illicit content, disinformation, and lack of transparency in advertising, marks a pivotal moment in EU regulation since the implementation of the Digital Services Act (DSA) last year. X's content moderation policies were scaled back after Musk's acquisition, resulting in a surge of incendiary content and a subsequent decline in advertising support. The EU, utilizing the authority granted by the DSA, aims to scrutinize X's business practices, ensuring compliance with regulations regarding hate speech, misinformation, and divisive content. The investigation, starting without a specified deadline, may include interviews with external entities and requests for additional evidence from X. If found guilty of violating the DSA, X could face fines up to 6% of its global revenue. The EU's focus extends beyond English-language content moderation, expressing concerns about X's efforts in languages other than English, especially with upcoming elections in 2024.

Elon Musk's overhaul of X, including dissolving its trust and safety council and welcoming back banned users, has led to a rise in antisemitic content, hateful posts, and engagement with pro-Kremlin accounts. The Institute for Strategic Dialogue reported a doubling of antisemitic posts in English, and the European Commission noted a 36% growth in engagement with pro-Kremlin accounts. The investigation also examines X's methods to address false information, specifically questioning the adequacy of the Community Notes feature. EU regulators will scrutinize the visibility granted to X users who pay for authentication, symbolized by a blue check mark. Musk's advocacy for free speech and X's withdrawal from the EU's voluntary code of practice against disinformation add layers to the investigation. The outcome will test the EU's ability to compel major internet platforms to modify their behavior in alignment with regulatory standards.

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APPLE SECURES TEMPORARY REPRIEVE IN SMARTWATCH IMPORT BAN AMIDST PATENT DISPUTE

In a recent development, Apple has successfully obtained a temporary halt to the U.S. International Trade Commission's (ITC) import ban on certain Apple smartwatches following a patent dispute with medical-technology company Masimo. The tech giant won an emergency bid at the U.S. Court of Appeals for the Federal Circuit to pause the ban, which was imposed after the ITC ruled that Apple had infringed Masimo's patents. Masimo had accused Apple of unfair practices, including the alleged poaching of employees and theft of pulse oximetry technology, which Apple incorporated into its popular Apple Watch Series 6 in 2020. The ITC's order, implemented on December 26, prohibited the import and sale of Apple Watches equipped with technology for reading blood-oxygen levels. Notably, Apple has included a pulse oximeter feature in its smartwatches since the Series 6 model. Despite U.S. President Joe Biden's administration declining to veto the ban, Apple swiftly filed an emergency request to pause the order. The ban prompted Apple to temporarily halt sales of its affected models, including the Series 9 and Ultra 2 smartwatches in the U.S., though they remained available through various retailers. The legal battle between Apple and Masimo extends beyond the ITC decision. A mistrial in May resulted from a jury trial on Masimo's allegations against Apple in a California federal court. Furthermore, Apple has countersued Masimo for patent infringement in federal court in Delaware, characterizing Masimo's legal actions as a strategic move to pave the way for its competing smartwatch.

The recent decision by the U.S. Court of Appeals offers Apple a brief respite, allowing it to continue sales of the contested smartwatches while the legal process unfolds. However, Apple faces challenges as it seeks to overturn the ITC ruling. The company has appealed the ban to the Federal Circuit, emphasizing its strong disagreement with the decision and expressing the intent to return the affected smartwatches to U.S. customers as soon as possible. The ITC's refusal to grant a pause during the appeal process underscores the gravity of the situation for Apple. The ban's potential impact on the company's revenue is evident, given that its wearables, home, and accessory business, inclusive of the Apple Watch, contributed \$8.28 billion in revenue during the third quarter of 2023. Analysts predict that a protracted legal battle could extend the final verdict by roughly another year. The outcome will significantly influence Apple's smartwatch market share and could set precedents for similar disputes in the tech industry.

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04

GOOGLE SETTLES \$5 BILLION CONSUMER PRIVACY LAWSUIT OVER INCOGNITO MODE TRACKING

Google, a subsidiary of Alphabet, has reached a preliminary settlement in a class-action lawsuit accusing the tech giant of secretly tracking the internet activities of users who believed they were browsing privately. The plaintiffs alleged that Google's analytics, cookies, and apps allowed the company to monitor their behavior, even when using Google Chrome's "Incognito" mode or other browsers' "private" browsing mode. The lawsuit, filed in 2020 and covering millions of Google users since June 1, 2016, sought a minimum of \$5 billion in damages for violations of federal wire-tapping and California privacy laws. The scheduled Feb. 5, 2024 trial has been put on hold by U.S. District Judge Yvonne Gonzalez Rogers in Oakland, California, following the announcement of the preliminary settlement.

While specific settlement terms were not disclosed, the parties involved have agreed to a binding term sheet through mediation. A formal settlement for court approval is expected to be presented by February 24, 2024. Google and the lawyers for the plaintiff consumers have not provided immediate comments on the settlement. The plaintiffs argued that Google's tracking practices turned the company into an "unaccountable trove of information," exposing details about users' friends, hobbies, preferences, shopping habits, and potentially embarrassing online searches. In August, Judge Rogers rejected Google's attempt to dismiss the lawsuit, raising questions about whether Google had made a legally binding commitment not to collect users' data during private browsing. The judge cited Google's privacy policy and statements by the company suggesting limitations on data collection during private mode.

The case is *Brown et al v Google LLC et al*, U.S. District Court, Northern District of California, No. 20-03664.

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We understand that embarking on a journey to create impactful research papers can be both exciting and daunting. As you navigate through your academic pursuits, we're here to help illuminate your path and fuel your scholarly ambitions. This section presents a curated selection of broad research paper topics designed to spark your intellectual curiosity and inspire your next paper based on the latest developments of this month. Each topic represents an opportunity for exploration, discovery, and the potential to contribute to the ever-evolving landscape of law and technology. We believe that a well-chosen research topic is the cornerstone of a successful publication, and our aim is to empower you to make informed choices.

- *Smartwatch Technology and Patent Disputes: Apple vs. Masimo Legal Battle*
- *Consumer Privacy Lawsuit Against Google: Legality of Tracking in "Incognito" Mode*
- *EU's Digital Services Act: A Case Study of X*

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