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The URLs referenced in Bytes frequently link to newspapers and other current news sources. Be aware that these links may fail over time.

MICROSOFT PULLS YAHOO OFFER, REENTERS TALKS, DEALS WITH ICAHN'S THREATENED PROXY BATTLE

On May 3rd, Microsoft withdrew its bid for Yahoo, after consistent rejections. Before it withdrew, Microsoft raised the bid by \$5 billion to \$33 a share. Yahoo was holding out for \$37 a share, which would have cost another \$5 billion and was more than Microsoft was willing to spend. Microsoft CEO Steve Ballmer stated in a letter to Yahoo CEO Jerry Yang that Microsoft's offer was the best deal for Yahoo, but that some of Yahoo's recent strategies, particularly concerning Yahoo's relations with Google, were disconcerting. Microsoft also stated in its letter that it would not appeal directly to Yahoo shareholders through a hostile takeover. What Microsoft would not do, billionaire investor Carl Icahn would. Icahn decided to proceed with his own proxy bid, and wrote a letter to the Yahoo board stating that Microsoft's offer was its best option and that the board "acted irrationally" in rejecting the bid. After Icahn made his announcement, Yang prepared his troops by sending letters to his employees about the speculative proxy battle. On May 18th, Microsoft announced that it was re-opening talks with Yahoo, but not for a complete acquisition. The speculation remains, but the full report may be found at <http://www.infoworld.com/archives/t.jsp?N=s&V=95033&source=fssr>

U.K. TO BEGIN PASSENGER FACE SCANS AT AIRPORTS

On April 25th, The Guardian reported that beginning this summer, airline passengers in the U.K. will be screened through facial recognition technology instead of by human agents. The machines supposedly do a better job than the human agents, and the U.K. Home Office announced an implementation plan beginning this summer with complete phase-in by 2014. There was concern about how many people would be rejected because of the technology, and how the people who are rejected would react. The Guardian article may be found at <http://www.guardian.co.uk/business/2008/apr/25/theairlineindustry.transport>

The Home Office Plan may be found at <http://www.ips.gov.uk/NIS-delivery-plan-2008.pdf>

BALLMER GIVES HOPE, BUT MICROSOFT SAYS NO XP EXTENSION

On April 24th, XP lovers everywhere were given hope when Microsoft CEO Steve Ballmer suggested at a Belgian event that Microsoft might not stop selling Windows XP on June 30th as planned. According to the Associated Press, Ballmer commented, "If customer feedback varies, we can always wake up smarter." But Microsoft dispelled the rumor rather quickly, and issued a statement that stated it would stick to the June 30th deadline as originally planned. Some exceptions to the XP switch are for low cost computers and computers in developing nations because Vista's requirements are too much for the inexpensive computers. The full InfoWorld report may be found at http://www.infoworld.com/article/08/04/24/No-change-in-Windows-XP-plan-despite-B-allmer-comment-Microsoft-says_1.html

FBI WANTS TO MONITOR INTERNET FOR ILLEGAL ACTIVITY

On April 23rd, at a House of Representatives Judiciary Committee hearing, FBI Director Robert Mueller called for extensive surveillance of all Internet traffic. An initial plan indicated that the FBI only wanted to monitor traffic that came from government websites, but Mueller's comments made

clear that the FBI wanted more extensive monitoring. Mueller stated that the plan balanced individual rights with the need to stop illegal Internet activity. Mueller's plan raised issues of whether this monitoring would violate the Fourth Amendment prohibition against unreasonable search and seizure, and what type of illegal activity it would apply to. The plan came up in questions posed by Representative Darrell Issa from California, and a transcript of the exchange may be found at http://www.news.com/8301-13578_3-9927552-38.html

GOOGLE SUED OVER AMBIGUITIES IN ADVERTISING PROGRAM

On April 22nd, Kabateck Brown Kellner filed a lawsuit in U.S. District Court for the Northern District of California against Google, claiming that Google defrauded customers with its AdSense program. The lawsuit alleges that a feature of the program charged customers for ads they did not want. The program allows customers to fill in the amount they would pay for an ad and charges based on that amount. The problem occurred when customers left a box blank, and Google charged them for the ad anyway, even though customers meant not to buy the ad by leaving the box blank. Further information may be found at <http://www.informationweek.com/news/internet/google/showArticle.jhtml?articleID=207401388>

9TH CIRCUIT HOLDS REASONABLE SUSPICION UNNECESSARY FOR LAPTOP SEARCH

On April 21st, the U.S. Court of Appeals for the Ninth Circuit held that U.S. customs officers have the right to search laptop computers at the border without reasonable suspicion. The defendant, Michael Arnold, was on his way back from the Philippines when he was randomly stopped as part of a security screening. A customs officer searched Arnold's laptop and found child pornography. Arnold argued that this search violated his Fourth Amendment protection against unreasonable searches and seizures. The Ninth Circuit disagreed, and held that the search of Arnold's laptop was no different than any other border searches allowed without reasonable suspicion. The full opinion may be found at [http://www.ca9.uscourts.gov/ca9/newopinions.nsf/6D5D931898D8168188257432005AC9B8/\\$file/0650581.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/6D5D931898D8168188257432005AC9B8/$file/0650581.pdf?openelement)

NJ SUPREME COURT REQUIRES SUBPOENA TO RELEASE ISP RECORDS

On April 21st, the New Jersey Supreme Court held that Internet service providers could not release any personal information about their subscribers without a valid subpoena. The court stated that the New Jersey state constitution gives more protection against unreasonable searches and seizures than the U.S. Constitution. The case involved a woman who was accused of retaliation against her boss by changing the employer's access codes on a supplier's website. The police found the woman's identity through an Internet "fingerprint" left by her IP address. The court held that since an indictable offense was at stake, a grand jury subpoena was necessary before the record of the IP address could be turned over. The full opinion may be found at <http://lawlibrary.rutgers.edu/courts/supreme/a-105-06.doc.html>

RIAA FILES LAWSUIT AGAINST PROJECT PLAYLIST

On April 28th, Reuters reported that the Recording Industry Association of America filed suit against Project Playlist, an online music provider. Project Playlist allows its users to post their playlists on social networking sites, and allows the users to share music for free. The complaint alleges that this distribution is copyright infringement. The RIAA is seeking unspecified damages and to enjoin the website from offering customers free music. The full story may be found at <http://www.reuters.com/article/technologyNews/idUSN2849315720080428>

MYSPACE WINS JUDGMENT AGAINST SPAM KING FOR \$230 MILLION

On April 28th, the U.S. District Court for the Central District of California entered a default judgment against "spam king" Sanford Wallace in favor of social networking site MySpace.com. MySpace filed suit in March 2007 against Wallace, saying that he launched a phishing scam to access MySpace profiles. The scam set up false accounts, and then contacted users under the false

accounts to try and lure the users to his websites. Wallace failed to appear in court, failed to provide a deposition, and failed to respond to document requests. On May 12th, the court ruled that all of Wallace's failures entitled MySpace to \$230 million, as Wallace's failures to act were made in bad faith and were never explained. An initial news story about the default judgment may be found at http://www.news.com/8301-10784_3-9930977-7.html

COURT DEALS RIAA SETBACK IN PIRACY CASES

On April 28th, in the U.S. District Court for the District of Arizona, Judge Neil Wake denied an RIAA motion for summary judgment. In the case, a husband and wife were accused of copyright infringement for allegedly using Kazaa to make copyrighted files available for download. The court rejected the RIAA's "making available" argument, stating that merely making the file available was not enough. Rather, the defendant must actually distribute an unauthorized copy of the work before it is copyright infringement. The full decision may be found at http://www.ilrweb.com/viewLRPDF.asp?filename=atlantic_howell_080429Decision

AMAZON.COM SUES OVER NY INTERNET SALES TAX LAW

On May 2nd, the *New York Times* reported that Amazon.com filed suit in protest of New York State's new law requiring online retailers to collect sales tax on shipments to the state. The lawsuit raises the issue of whether online retailers should have to collect taxes on behalf of the state - traditionally, only companies with a physical presence in the state have had to collect taxes. Amazon has many affiliates, and the law provides that if even one affiliate is from New York, Amazon has to collect sales tax on everything sold in the state, not only for its New York affiliates. Amazon claims the statute is overly broad and violates the equal protection clause of the Constitution because it was targeted at Amazon. The full article may be found at <http://www.nytimes.com/2008/05/02/nyregion/02amazon.html?partner=rssnyt>

VA SUPREME COURT WILL RE-HEAR FIRST FELONY SPAM CONVICTION

On April 28th, the Virginia Supreme Court agreed to re-hear specific issues in the case of Jeremy Jaynes, the first felony spam conviction in the nation. The Court agreed to hear arguments on whether Jaynes could challenge the law as unconstitutional in general, even if the law was constitutional in its application to him. Jaynes was sentenced to nine years in jail, and is considered one of the worst spammers in the world. For example, Jaynes sent 46,500 e-mails through AOL servers over a three-day period in 2003. The decision to rehear the case may be found at <http://www.courts.state.va.us/opinions/opnscvwp/1062388s.pdf>

FACEBOOK TO ADD MORE SAFEGUARDS FOR YOUNG USERS

On May 8th, forty-nine states and the District of Columbia agreed on safeguards to protect young users on the social networking site Facebook. Facebook will make over forty changes to the site, with the main goal of protecting young users from sexual predators and online bullies. Some of the changes include: keeping alcohol and tobacco ads away from users too young to buy those products, removing groups with inappropriate comments, reviewing requests to change ages, banning convicted sex offenders from the site, and limiting older users' ability to search for users under 18 years old. The press release from the Connecticut Attorney General may be found at <http://www.ct.gov/ag/cwp/view.asp?A=2795&Q=414828>

MPAA WINS \$110 MILLION FROM TORRENTSPY

On May 7th, U.S. District Judge Florence Marie Cooper handed down a huge victory for the motion picture industry by ruling against TorrentSpy, a popular index of BitTorrent files, until it was shut down in March. Now TorrentSpy owes damages of \$110,970,000 – which is 3,699 films and shows at \$30,000 for each infringement. The MPAA hopes the decision sends a message to other file sharing sites, while TorrentSpy plans to appeal the damages decision. The full MPAA press release may be found at http://www.mpaa.org/press_releases/torrent%20spy%20default%20judgement%205%206%2008%20final%20_2_.pdf

MCAFFEE FINDS PRICE LIST FOR STOLEN BANK DATA

On May 7th, Francois Paget wrote on McAfee Avert Labs blog that she found a price list criminals use to obtain stolen bank account information. The information that could be purchased included credit card numbers, bank account log-ins, and other data that had been stolen from unsuspecting consumers. The list also included a guarantee that if a person bought an account, and could not log in within 24 hours, a replacement account to break into would be provided. The full blog post may be found at <http://www.avertlabs.com/research/blog/index.php/2008/05/07/you-have-to-pay-for-quality/>

FBI WITHDRAWS NATIONAL SECURITY LETTER AFTER LAWSUIT

On May 7th, the FBI withdrew a National Security Letter (NSL) that was issued to digital library Internet Archive in November of 2007. NSLs are information requests that are served on phone companies and Internet service providers, and come with a gag order that prevents the recipient from disclosing that it has received the request. When Internet Archive was served with the letter, it produced publicly available information and also filed a lawsuit challenging the letter based on the reauthorized version of the USA Patriot Act, which protects libraries from NSL requests. Along with withdrawing the NSL, the FBI also withdrew the gag order, so the Internet Archive and its legal counsel, the Electronic Frontier Foundation, and the American Civil Liberties Union could speak out about the incident. NSL use expanded after 9/11, which raised privacy concerns because the letters do not need judicial approval through a search warrant. This is the third instance of withdrawal of a NSL, as the ACLU has challenged two others, which resulted in withdrawal as well. An article from the EFF with links to the court documents may be found at <http://www.eff.org/press/archives/2008/05/06>

AUDIT FINDS HUNDREDS OF STATE DEPARTMENT LAPTOPS MISSING

On May 2nd, the Congressional Quarterly reported that hundreds of State Department laptops are unaccounted for according to a recent audit. Just because the laptops are unaccounted for does not mean they were lost or stolen, but until all of them are accounted for, they are considered "missing." Even more disconcerting is that as many as 400 of the laptops belong to the Anti-Terrorism Assistance Program, which is the part of the State Department that oversees computer network security, including laptops. The audit shows a discrepancy in record keeping at the State Department, and raises concerns that classified information could be missing. The full CQ article may be found at <http://www.cqpolitics.com/wmspage.cfm?docID=hsnews-000002716318>

COURT HOLDS NO FIRST AMENDMENT PROTECTION FOR FILE SHARERS

On April 28th, U.S. District Judge Colleen Kollar-Kotelly of the District of Columbia held that file sharing is not protected speech that is covered under the First Amendment. Arista Records brought a copyright infringement suit against Does 1-19, students at George Washington University accused of illegal file sharing. Arista subpoenaed the University, and the court rejected the students' argument that file sharing is protected speech that gives students the right to speak anonymously. The court found that file sharing is not actual speech. Kollar-Kotelly explained that alleged copyright infringement has very little First Amendment protection, and that the students' expectation of privacy was minimal. The court allowed the subpoena to stand and ordered the University to release the students' information. The full opinion may be found at https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2007cv1649-26

COURT ORDERS USE OF NEGATIVE KEYWORDS

On March 25th, the U.S. District Court for the Middle District of Florida ordered that a company use "negative keywords" in its online advertising to ensure that it was not associated with another company's trademark. The case involved Orion Bancorp who sued Orion Residential Finance (ORF) claiming ORF used the Orion term in violation of Orion Bancorp's trademark. ORF offered similar services to Orion Bancorp, and the court found that ORF had been using the term Orion without Orion Bancorp's consent. The court ordered ORF to refrain from using the name Orion,

Orion Residential Finance, and any similar terms. Further, the court ordered ORF not to use any online advertising keywords that could infringe on the trademark, and required the use of "Orion" in its online advertising purchases as a negative keyword. Google and Yahoo both offer areas for excluded words or negative keywords in their advertising programs. The full ruling may be found at http://pub.bna.com/eclr/07cv1753_032508.pdf

MICROSOFT COFEE TOOL HELPS POLICE WITH COMPUTER EVIDENCE

On April 29th, the *Seattle Times* reported that Microsoft had released a new tool last June to help law enforcement officers retrieve computer data more easily. The tool is called COFEE, short for Computer Online Forensic Evidence Extractor. The tool is a USB drive that follows different commands to help collect digital evidence more quickly. It can be used instead of seizing a computer in some circumstances, as it can look through the computer data for evidence. The device has raised privacy concerns if the device should get beyond the hands of law enforcement. The full story may be found at http://seattletimes.nwsourc.com/html/microsoft/2004379751_msftlaw29.html

ONLINE PRE-TRIAL PUBLICITY A GROWING CONCERN

On May 6th, the *National Law Journal* reported an increasing concern about pre-trial publicity on the Internet through lawyers' blogs or press releases. The main concern was that such online writings may taint the jury pool, along with damaging reputations of the opposing party. One example is a California juror who was dismissed after he admitted reading a blog covering a securities fraud case. The American Bar Association stated that it would not change its ethical rules regarding discussion of a case, because the current rule applies to all forms of communication, including online communication. The full National Law Journal article may be found at <http://www.law.com/jsp/legaltechnology/pubArticleLT.jsp?id=1202421138250>

STUDY FINDS SOFTWARE PIRACY COSTS INDUSTRY \$48 BILLION

On May 14th, the Business Software Alliance announced that piracy cost the software industry \$48 billion in sales in 2007. This was an \$8 billion increase from 2006, although about half the increase was attributed to the declining value of the dollar. The study reports that though 67 of 108 countries included in the report experienced a decline in piracy last year, worldwide piracy rates increased by 3%. The study also found that in emerging PC markets, the sales of legitimate software for those PCs were lagging behind, especially as Internet access increased. The report and statistics indicate that software piracy is still a major problem. The full report may be found at http://global.bsa.org/idcglobalstudy2007/studies/2007_global_piracy_study.pdf

STOLEN MAC HELPS CAPTURE THIEVES

On May 10th, the New York Times reported that a stolen Macintosh computer helped solve a burglary of a New York City apartment. The thieves stole many items, including TVs, iPods and DVDs, along with a laptop belonging to Kait Duplaga, an Apple store employee. The police were having trouble coming up with leads when Duplaga learned her computer was being used on the Internet, and turned on the Back to My Mac feature installed on her Mac from another Mac. From there, Duplaga could operate the computer remotely, and snapped a picture of one of the suspects with the camera on her computer. The photo led the police to arrest the suspects and recover almost all of the stolen property. The full story may be found at http://www.nytimes.com/2008/05/10/nyregion/10laptop.html?_r=1&ref=technology&pagewanted=print&oref=slogin

MICROSOFT TO APPEAL EC'S \$1.39 BILLION FINE

On May 9th, Microsoft announced that it would appeal the \$1.39 billion fine imposed by the European Commission for failure to comply with an antitrust order. Microsoft filed the appeal with the Court of First Instance in Luxembourg, and stated that it was seeking clarity from the court and nothing more. The fine was imposed to address the pricing structure Microsoft set up for licensing its patents. The EC found that the pricing issue violated the EC's March 2004 order, which was

upheld by the Court of First Instance last fall. It appears that the EC will stand firm in its decision to issue the historic fine. The full story may be found at http://www.news.com/8301-10784_3-9940230-7.html

MISSOURI MOM CHARGED IN FEDERAL COURT FOR MYSPACE SUICIDE, MISSOURI AMENDS LAW TO INCLUDE CYBER STALKING

On May 15th, Missouri mom Lori Drew was indicted in Federal District Court in Los Angeles for her alleged involvement in a MySpace suicide case. The indictment alleges that Drew posed as a sixteen-year-old boy with a romantic interest in Megan Meier, a teenage neighbor who committed suicide after the boy rejected her. Drew is charged with setting up the false account to "harass, abuse or harm" Meier in violation of MySpace rules. Prior reports stated that Drew set up the account to see what teenagers were saying about her daughter, and deleted the account after she learned of Meier's suicide. Drew also has unnamed co-conspirators, supposedly including the teenage girl that allegedly sent the message telling Meier the world would be a better place without her right before her death. Missouri police could not charge Drew because Missouri law did not cover this fact scenario. On May 16th, the Missouri Legislature passed a bill that added cyber harassment to its current harassment legislation. The legislation makes it a felony for a person over 21 to harass someone under 17 on the Internet, provides stricter penalties, and requires school boards to report Internet harassment. The legislation was implemented in response to Meier's death and to give Missouri prosecutors a tool to hold others like Drew liable in the future. A press release on the legislation may be found at <http://www.senate.mo.gov/08info/members/newsrel/d15/051608e.pdf>

Drew's indictment may be found at <http://i.cdn.turner.com/cnn/2008/images/05/15/my.space.drew.indictment.pdf>

SUPREME COURT UPHOLDS CHILD PORN LAW UNDER FIRST AMENDMENT

On May 19th, the U.S. Supreme Court, in a 7-2 decision, upheld a federal law that punishes people who are seeking or peddling child pornography. In the case, defendant Michael Williams was convicted of "pandering" child pornography after he sent an undercover cop a link to sexually explicit images of children. Williams challenged the "pandering" provision of the law, claiming that it was overly broad and violated the First Amendment right to free speech. The Supreme Court rejected his argument, even though the pandering provision could apply to a case where the person did not actually possess child pornography. Justice Scalia wrote that the law was "carefully crafted" to deal with the problem of distribution on the Internet, and rejected numerous examples where a person could be held liable when he or she did not actually possess child pornography. Justices Souter and Ginsburg dissented, stating that First Amendment protection should not be ignored, even to achieve worthy goals like thwarting child pornography. The full decision may be found at <http://www.supremecourtus.gov/opinions/07pdf/06-694.pdf>

SURVEY FINDS COMPANIES HAVE WORKERS READ EMPLOYEE E-MAIL

On May 20th, e-mail security firm Proofpoint announced the results of its survey concerning outbound e-mail and data loss prevention. The results indicated that 41% of large companies (20,000 employees or more) are paying staffers to read or analyze the contents of employee e-mails, with 22% of companies having staff exclusively for this purpose. Further, 40% of the companies had investigated employee misuse of e-mail, and 27% had fired someone over it. The survey also found that leakage of information on YouTube and blogs was another major concern among companies. The full story may be found at <http://www.proofpoint.com/news-and-events/press-releases/pressdetail.php?PressReleaseID=204>

EBAY, STUBHUB SUED BY CHICAGO OVER CONCERT TICKET TAXES

On May 19th, the city of Chicago filed suit against eBay and its subsidiary, StubHub, for failing to collect taxes on tickets for concerts and sporting events on their websites. eBay and StubHub claim the tax did not apply to them, though the Chicago city amusement tax ordinance includes Internet

sites that resell tickets. It is unclear how many tickets were sold to events in Chicago, so the city asked to view the websites' bookkeeping in the complaint. If Chicago prevails, the decision could have far reaching implications for other websites like Amazon.com that are protesting New York's decision to implement an online sales tax. The full story may be found at http://www.chicagotribune.com/business/chi-chicago_sues_ebay_may21,0,6659751.sto_ry

MICROSOFT SEARCH ENGINE TO OFFER CASH REWARDS

On May 21st, Microsoft announced its new search engine business model, including cash refunds for those who use its LiveSearch engine to purchase online products. The rebates would give back a percentage of the purchase price on over 10 million products from over 700 merchants. To receive the rebates, a person must register for an account with Microsoft, and once the balance of the rebates is over five dollars it may be deposited in a bank account, Pay Pal account, or sent by check through the mail. The new plan was implemented to try and compete with Google. The full story may be found at http://www.microsoft.com/Presspass/press/2008/may08/05-21LiveSearchcashbackPR.ms_px

SEC FILES FRAUD LAWSUITS AGAINST FORMER AOL EXECUTIVES

On May 19, the Securities and Exchange Commission filed suit against eight former AOL executives for their part in a fraudulent advertising scheme. The complaint alleges that the executives funded their own advertising revenue by giving money to purchasers to buy advertisements with AOL that painted a favorable picture of the company for analysts and investors. The complaint seeks injunctive relief and monetary penalties, along with officer and director bans against each individual. Four of the eight lawsuits were settled the same day, with each individual paying monetary damages, along with bans from serving as officers/directors for seven and ten years for two of the individuals. The SEC press release, with links to the full complaint, may be found at <http://www.sec.gov/litigation/litreleases/2008/lr20586.htm>

5TH CIRCUIT RULES MYSPACE NOT LIABLE FOR OFFSITE SEXUAL ASSAULT

On May 16th, the U.S. Court of Appeals for the Fifth Circuit ruled that MySpace was not liable for the sexual assault of a 13 year old girl. The case was filed against MySpace after the girl lied about her age and created a profile on MySpace that initiated her contact with a 19-year-old boy who sexually assaulted her after she gave him her phone number and the two met in person. The court affirmed a district court ruling under the Communications Decency Act, which exculpates websites from liability based on their publication of third party content. The girl's attorney attempted to argue that MySpace was negligent in allowing the two to meet in the first place by not having better security measures in place. The court rejected that argument because the girl's attorney did not argue that MySpace was responsible for creating information that was shared between the two. The full decision may be found at <http://www.ca5.uscourts.gov/opinions/pub/07/07-50345-CV0.wpd.pdf>

RESEARCHERS FIND INNOVATIVE WAYS TO STEAL DATA

On May 19th, the IDG News Service reported on innovative technologies designed to steal data from researchers at Saarland University in Germany and the University of California, Santa Barbara. The Santa Barbara report discusses a tool called Clear Shot, which analyzes a video of a person typing on a computer to guess what was being typed. The software is not perfect, as it only gets the word right about 40% of the time. But the software also suggests alternate words, and usually the typed word was within these alternate words. In Germany, researchers trained telescopes on reflective objects like teapots and glasses to capture screen shots of computers. With a \$500 telescope, the researchers got a clear picture off a teapot from a distance of 5meters to read a 12-point font Word document. With a \$27,500 Dobson telescope, they got the same quality from a distance of 30 meters. These are two examples of alternative methods to hacking, as most hacking is done from "inside" the computer. The full story may be found at http://news.yahoo.com/s/pcworld/20080519/tc_pcworld/146047

The Saarbrucken Report may be found at <http://www.infsec.cs.uni-sb.de/%>

7Eunruh/publications/reflections.pdf

The UCSB Report may be found at http://www.cs.ucsb.edu/%7Eemarco/data/papers/ssp08_clearshot.pdf

LAWSUIT SEEKS GUIDANCE ON WHETHER FOURTH AMENDMENT IS WAIVED ON ELECTRONIC DATA SENT OVERSEAS

On May 7th, Maryland law firm Newman McIntosh & Hennessey, LLP filed suit in U.S. District Court for the District of Columbia seeking guidance on whether electronic data transferred to a litigation support service in India waives Fourth Amendment protections. The complaint explains that the service in India requires the electronic transmission of documents to foreign nationals overseas for processing. The issue arose because the Fourth Amendment does not traditionally protect foreign nationals when the government is engaged in surveillance of electronic data submitted to foreign nationals. The lawsuit seeks injunctive relief and declaratory action concerning whether client data transmitted loses its Fourth Amendment protection when sent overseas, whether the firm needs to ask for client permission before sending the information overseas, and whether President Bush has an obligation to establish protocols for such a process. The full complaint may be viewed at http://www.klgates.com/files/upload/eDAT_NMH_v_Bush_Amended_Complaint.pdf

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