



CYBERSECURITY

[Consumers Mixed on Retailers' Use of Facial Recognition Technology](#)

Many consumers are unaware that retailers use facial recognition technology in retail stores to monitor shoppers and prevent shoplifting. Consumers see cameras in retail stores and assume they are there to monitor for shoplifting and theft, but many are unaware that facial recognition technology is used so their actual identity can be determined while they are shopping in the store. [Read more](#)

[OIG Announces New Multidisciplinary Cybersecurity Team](#)

The Office of Inspector General (OIG) [recently announced](#) the creation of a cybersecurity team focused on combatting threats within the Department of Health & Human Services (HHS) and within the health care industry. The team includes auditors, evaluators, investigators, and attorneys with experience in cybersecurity matters. Its work is intended to build on the cybersecurity priorities the OIG has previously identified in its annual assessments and reports. [Read more](#)

ENFORCEMENT + LITIGATION

[FTC Settles with Four Companies over Privacy Shield Certification](#)

In the wake of the determination by the European Commission that the EU-US Safe Harbor Framework was insufficient to protect EU citizens' personal information, the Privacy Shield Framework was implemented by the Department of Commerce.

Companies that apply for Privacy Shield certification are required to file an application, which requires the companies to attest to certain things they are doing to protect personal data of individuals before personal information of EU citizens are transferred to the U.S. [Read](#)

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[Protecting the Privacy of Children Online – More Updates on COPPA](#)

Recently we updated you on the Children's Online Privacy Protection Act (COPPA) [view related [post](#)]. Last week, Senator Edward J. Markey of Massachusetts and Senator Richard Blumenthal of Connecticut sent a [letter](#) to the Federal Trade Commission (FTC) regarding apps designed for children and whether those apps are in compliance with COPPA, See 15 U.S.C. 6501 and regulations at 16 C.F.R. Part 312 et. seq. The Senators stated that they are concerned that thousands of apps may “improperly track children and collect their personal information.” The Senators requested a response from the FTC by October 31. The letter also asked that the FTC “investigate whether these apps, and the advertising companies they work with, are in fact tracking children with persistent identifiers and collecting their personal information in violation of COPPA...”

In addition, on October 3, the Campaign for a Commercial Free Childhood (CCFC), along with several other organizations, [sent a letter](#) to the FTC and requested that the FTC investigate whether Facebook’s Messenger Kids messaging application violates COPPA by “...collecting personal information from children without obtaining verifiable parental consent or providing parents with clear and complete disclosures of Facebook’s data practices.” [Read more](#)

NEW + NOW

[Website ADA Lawsuits](#)

Section 5 of the Federal Trade Commission Act requires all consumer facing websites to include a Privacy Policy or Statement of Privacy Practices to provide consumers with information about how the company collects, maintains and uses consumers’ information provided through the website.

We frequently complete website documents for companies, and we update them based upon new risks and litigation that crop up. For instance, several years ago, there was a rash of lawsuits around the Telephone Consumer Protection Act (TCPA), and many companies updated their websites to reflect language in response to that wave of litigation (among other compliance measures). [Read more](#)

DRONES

[ULC's Reliance on 1946 Supreme Court Case for Drone Innovation](#)

More than 100 years ago, manned aviation revolutionized transportation. However, it is less well-known that it also sparked a big change in property rights.

In the 1946 Supreme Court case, *United States v. Causby*, the court determined that although owning land historically was thought to convey a property right "to the periphery of the universe," this concept had "no place in the modern world." That is, Congress recognized that as far back as the Air Commerce Act of 1926, "navigable airspace" (i.e., the airspace above minimum safe altitudes) had to be subject to a "public right of freedom of foreign and interstate air navigation." This resulted in the idea from the *Causby* court that "the air is a public highway."

Now, with the rise of unmanned aerial systems (UAS or drones), the well-settled concept of navigable airspace as a public good and air navigation as a federal right are facing scrutiny. UAS are unique (and vastly different from manned aircraft) because they fly low, in the interstitial spaces. UAS can operate almost anywhere; this means that UAS have expanded the safe altitude for flight dramatically. Under Federal Aviation Administration (FAA) rules for the operation of UAS, UAS are authorized to fly below 400 feet (and above, with the appropriate FAA waiver). [Read more](#)

[President Trump Signs the FAA Reauthorization Act: What Does it Mean for Drones?](#)

On October 5, 2018, President Trump signed the Federal Aviation Administration (FAA) Reauthorization Act, which establishes new conditions for the recreational use of drones, and immediately repealed the Special Rule for Model Aircraft. The FAA is currently evaluating the impact of this change and how the organization will implement these changes. [Read more](#)

AUTONOMOUS VEHICLES

[The Reality of Self-Driving Cars and the Regulatory Hurdles](#)

The National Highway Traffic Safety Administration's (NHTSA) guidelines for automakers and state regulators regarding autonomous vehicles states that "'automated' or 'self-driving' vehicles are a future technology rather than one that you'll find in a dealership tomorrow or in the next few years," because "a variety of technological hurdles have to be cleared, and other important issues must be addressed before these types of vehicles can be available for sale in the United States." However, the NHTSA added that "fully automated cars and trucks that drive us, instead of us driving them, will become a reality."

[Read more](#)

PRIVACY TIP #160

[In the Near Future: Taking Control of Your Data](#)

This week's privacy tip focuses on a new open source project called, Solid. Founder Sir Tim Berners-Lee, frustrated by lack of control over personal data, started the project with the goal to move the control of individuals' data back to the individual. [Read more](#)

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