Episode 334: Fight Like a Canadian

October 19, 2020

Overview

Download the 334th Episode (mp3).

Subscribe to The Cyberlaw Podcast:
This episode features an interview with Ronald Deibert, Professor of Political Science, and Director of the Citizen Lab at the Munk School of Global Affairs & Public Policy, University of Toronto. We talk about his new book, Reset: Reclaiming the Internet for Civil Society. We also talk about the unique Canadian talent for debate that is both bare-fisted and unusually polite. Ron gets to use both talents in our discussion of what's wrong with the technology ecosystem and whether it can be improved by imposing "restraint" on governments and the private sector.

In the news roundup, I urge Twitter to bring back the Fail Whale to commemorate its whale of a fail in trying to suppress a New York Post story that is bad news for Joe Biden. It's a disaster on all fronts, with Twitter unable to offer a satisfactory explanation for its suppression of the news report, or to hold to any particular enforcement policy for more than a day, and ended with an embarrassing insistence that the Post can't have its account back until it deletes tweets that Twitter would probably allow the Post to post today.

And not surprisingly, the episode is encouraging everyone to think that they can do this better than Twitter. The FCC is going to start work on an effort to add an administrative gloss to section 230. Mark MacCarthy thinks the Commission lacks authority to interpret the provision; I disagree. We do agree that Justice Thomas's thoughts on section 230 are surprisingly detailed – and make Supreme Court review of the provision a lot more likely.

Megan Stifel tells us that the ransomware business is getting even more specialized. Together we wonder if that specialization opens the door to new, even more creative ways to take down organized cybercrime.

David Kris notes the pearl-clutching over search warrants that identify a pattern of conduct rather than an individual. He almost agrees with me that this is just what probable cause looks like in the twenty-first century.

This Week in Europe's Tough Privacy Talk and Slow Privacy Walk: David teams with Charles Helleputte to make sense of two data protection rulings in Europe that bring a lot more thunder than lightning to the debate: First, an attack on the privacy standards, such as they are, for online advertiser Real Time Bidding. Second, the proclamations of France's top court and its DPA about sending data to US cloud providers.

Megan notes two stories that deepen trends we knew were coming: hackers chaining VPN and ZeroLogon bugs to attack US government networks, maybe including election agencies and Iranian state hacker group resorting to ransomware attacks.

We cover a few updates of past weeks' stories: The fallout continues from OFAC's ransomware advisory. (Rumors that the agency will be renamed WTF OFAC are unconfirmed). And Tik/Chat seems to be settling in for a longer court battle before the government's arguments start to take hold. (As a bonus, our Cyberlaw grammarian makes a surprise appearance to announce the rule of English usage that prevents TikTok from ever being TokTik).

In quick hits, we boldly predict that the government will launch an antitrust suit against Google, some day. We speculate on why Tesla's autopilot AI might be fooled by projected images. And note New York's claim that Twitter is systemically important to the nation's financial system. Which, I must admit, is about the most 2020 thing I've heard in a while.

And more!

Oh, and we have new theme music, courtesy of Ken Weissman of Weissman Sound Design. Hope you like it!

As always, The Cyberlaw Podcast is open to feedback. Be sure to engage with @stewartbaker on Twitter. Send your questions, comments, and suggestions for topics or interviewees to CyberlawPodcast@steptoe.com. Remember: If your suggested guest appears on the show, we will send you a highly coveted Cyberlaw Podcast mug!

The views expressed in this podcast are those of the speakers and do not reflect the opinions of their institutions, clients, friends, families, or pets.

Practices
Privacy & Cybersecurity

© 2021 STEPTOE & JOHNSON LLP. ALL RIGHTS RESERVED. ATTORNEY ADVERTISING.