

News Update on Australia's Anti-Encryption Law

News Update 1.8.19

What SaaS Companies Need to Know about Source Code Escrow Agreements

If you run a SaaS company, you may come across a negotiation where a prospective customer or business partner insists on the inclusion of source code escrow in the deal terms. However, the traditional source code escrow product is unlikely to provide the protections that your prospective customer or business partner is seeking. The Silicon Valley Software Law Blog addresses the issue of source code escrow products designed for SaaS products and what SaaS companies need to know about them in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/what-saas-companies-need-to-know-about-source-code-escrow-agreements/>

News Update on California's

Enactment of Landmark Data Privacy Law

News Update 6.29.18

In the Aftermath of GDPR, California Passes Consumer Privacy Act of 2018

Software companies are still taking steps to comply with the European Union's General Data Privacy Regulation ("GDPR"), which just recently went into effect, but they now are facing the prospect of having to comply with a law closer to home: California's New Consumer Privacy Act of 2018. The Silicon Valley Software Law Blog discusses this development at the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/in-aftermath-of-gdpr-california-passes-consumer-privacy-act-of-2018/>

News Update on California Supreme Court Ruling

Establishing New Independent Contractor Test

News Update 5.3.18

California Supreme Court Ruling To Have Long Term Impact on Silicon Valley Reliance on Gig Workers

If your Silicon Valley company relies on Gig workers as part of its business model, then the California Supreme Court's ruling is likely to have significant consequences for your business. The Silicon Valley Software Law Blog discusses this ruling at the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/california-supreme-court-strikes-blow-to-software-industry-reliance-on-gig-workers/>

California Contemplates Passage of State Net

Neutrality Bill

With the impending repeal of net neutrality at the federal level, California is currently considering the passage of a net neutrality bill to restore net neutrality at the statewide level. The Silicon Valley Software Law Blog discusses the proposed bill at the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/california-to-consider-bill-that-restores-net-neutrality/>

European Court to Hear Challenge to Privacy Shield: Will the Framework Survive Court Review?

If your software company has pursued Privacy Shield certification and is relying on the certification to comply with EU data privacy regulations, then you will be interested to know that a challenge to the framework is to be heard by a European High Court. The Silicon Valley Software Law Blog has addressed this development and what it may mean for the Privacy Shield framework in the following blog post:

<http://www.siliconvalleysoftwarelaw.com/irish-court-has-referred-case-to-european-court-which-challenges-privacy-shield-will-the-eu-u-s-privacy-shield-framework-withstand-scrutiny-by-the-european-high-court/>

What Software Companies Need to Know about the GDPR

The European Union's General Data Protection Regulation (the "GDPR") will go into effect on May 25, 2018. In case you are not up to speed on the law already, what do you need to know about it before it goes into effect? The Silicon Valley Software Law Blog addressed the highlights of the regulation in the following blogpost

<http://www.siliconvalleysoftwarelaw.com/what-software-companies-need-to-know-about-the-eu-general-data-protection-regulation/>

Bipartisan Bill Introduced in Senate that Seeks to Prevent Attacks on American Cyber-Networks

The "PATCH Act of 2017" has just been introduced in the Senate, which would require government agencies to submit security holes in software products they identify for independent review in order to determine any vulnerabilities that need to be addressed. For more information on the bill, please check out the Silicon Valley Software Law Blog posting on the story:

<http://www.siliconvalleysoftwarelaw.com/bipartisan-bill-introduced-in-senate-that-seeks-to-prevent-attacks-of-american-cyber-networks/>.

BiPartisan Bill Introduced in Senate that Seeks to Prevent Attacks on American Cyber-Networks

The “Protecting Our Ability to Counter Hacking Act of 2017” or “PATCH Act of 2017” has just been introduced in the Senate. For more background on the bill, please check out this Silicon Valley Software Law Blog post:

<http://www.siliconvalleysoftwarelaw.com/bipartisan-bill-introduced-in-senate-that-seeks-to-prevent-attacks-of-american-cyber-networks/>

Negotiating the Purchase of SaaS Company Assets: Key Problems to Consider in Any

Deal

If you are like many SaaS companies I see, if you are approached with an asset purchase that interests you, you will be in a hurry to get the deal closed. However, before you move forward, you should want to give the deal serious consideration. What are some of the concerns you should have? The Silicon Valley Software Law Blog addresses these issues in the following blog post:<http://www.siliconvalleysoftwarelaw.com/negotiating-the-purchase-of-saas-company-assets-key-problems-to-anticipate-in-any-deal/>

Investigation Reportedly Launched by Department of Justice into Uber's Use of "Greyball" Software

The Department of Justice has launched an investigation into Uber's use of the Greyball software program. For more information on the investigation, please check out the following Silicon Valley Software Law Blog posting on the story:

<http://www.siliconvalleysoftwarelaw.com/investigation-reportedly-launched-by-department-of-justice-into-ubers-use-of-greyball-software/>

Common Software Fee Drafting Problems and How to Fix Them

A common problem in software and SaaS agreements is that the fee terms in the contract make no sense. Why is this the case and how do you fix the terms? The Silicon Valley Software Law Blog addresses this issue in the following posting:

<http://www.siliconvalleysoftwarelaw.com/common-software-agreement-fee-drafting-problems-and-how-to-fix-them/>

Does Your Customer Software License or SaaS Agreement Leave Your Company Vulnerable to a Dispute Over Implementation?

If your company is like most in the software space, your product requires some sort of initial set-up and configuration for customers that in an enterprise scenario can require a significant investment of time and resources. However, many software contracts are silent regarding what is involved in this initial phase of a business relationship, which results in many disputes. The Silicon Valley Software Law Blog discusses this issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/does-your-customer-software-license-or-saas-agreement-leave-your-software-company-vulnerable-to-a-legal-dispute-over-implementation/>

Service Level Agreements: What is a Service Level Agreement or “SLA” and When Do You Need One?

If you are in the software industry, you probably have heard of a “service level agreement” or “SLA” but do you really understand what a service level agreement is or why you might need one? The Silicon Valley Software Law Blog addresses this issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/service-level-agreements-what-is-a-service-level-agreement-or-sla-and-when-do-you-need-one/>

Recent Class Actions Provide Valuable Lesson on Why SaaS Contracts Should Be Drafted

to Fit A Company's Business Model

If your company is like most, you may be using a software agreement that has nothing to do with your company's business practices or business model. Why is this a bad idea? Well, several recent class action suits provide a recent example of why this can be very problematic for a software company. The Silicon Valley Software Law Blog addresses this issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/recent-software-class-actions-provide-valuable-lesson-on-why-saas-contracts-should-be-drafted-to-fit-companys-business-model/>

US Navy Responds to Copyright Infringement Suit Filed by Bitmanagement Software

Bitmanagement Software GmbH has filed suit against the US Navy alleging willful copyright infringement of its 3D virtual reality software "BS Contact Geo" and demanding \$600 million in damages. The Silicon Valley Software Law Blog discussed this and the issues likely involved in the dispute in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/us-navy-responds-to-copyright-infringement-suit-filed-by-bitmanagement-software/>

Takeaways for Software Industry on the Cost of Data Breach

If you are a cloud service provider or a software provider who offers maintenance services to enterprise-level companies, then your company has likely had occasion to negotiate indemnification clauses related to data breaches. Moreover, your company has probably had to provide warranties around data security or employee bad acts that would provide some protections to your customers in the event of a data breach. But have you ever considered what the cost of a possible data breach might really be for your company? The Silicon Valley Software Law Blog addresses this issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/takeaways-for-software-industry-from-new-study-on-costs-of-data-breach/>

HP Launches New Digital Rights Management Software Controversy with Security

Update Downloads

HP has set off a new DRM software controversy over printer cartridges with a recent security update to HP printers, which made third party printer cartridges no longer compatible with their printers. The Silicon Valley Software Law Blog explores the controversy and suggests that new litigation over DRM software could be on the horizon in the following blogpost:

Digital Rights Management Software and the Printer Hardware Business

FTC Announces Order Against San Francisco Software Company

The FTC has issued an order against a San Francisco software company for deceptive and misleading trade practices with respect to the distribution of the software product and with respect to advertising and promotions related to the software product. The Silicon Valley Software Law Blog has provided a brief summary of the complaint and the order issued by the FTC in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/ftc-announces-approval-of-final-order-in-deceptive-app-case-against-vulcan>

Third Party Successfully Unlocks Terrorist iPhone, ending Government Encryption Case Against Apple

The U.S. Justice Department has announced that the third party who came forward and convinced the FBI that it could unlock the San Bernardino terrorist's encrypted iPhone successfully unlocked the encrypted iPhone, ending the standoff between Apple and the FBI. The Silicon Valley Software Law Blog addressed the developments in this fight between the U.S. Government and Apple in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/third-party-hacks-san-bernardino-terrorist-iphone-ending-standoff-between-apple-and-fbi>.

The Encryption Debate: Will Government or Industry Win?

When the Justice Department decided to wage a legal battle against Apple over encryption on the iPhone of one of San Bernardino terrorists, the government moved the encryption debate into the public arena and triggered a public debate

over the issue. Now, it is reported that the government is considering launching a second case over the encryption issue against yet another company. Who will be the ultimate winner in this debate? The Silicon Valley Software Law Blog explores the issues in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/who-will-ultimately-win-in-the-fbis-standoff-with-the-software-industry>

FTC Signals to Health Software Companies an Intention to Increase Scrutiny over Advertising Claims

The FTC has just reached a settlement with Lumos Labs over claims that the company was deceptively advertising the health benefits of its Luminosity software program. The FTC's action over this issue should serve as a warning to the health software industry regarding how health software companies are advertising their products. The Silicon Valley Software Law Blog further addressed this matter in the following blog post:

<http://www.siliconvalleysoftwarelaw.com/lumos-labs-case-signals-to-health-software-industry-an-intention-by-the-ftc-to-police-advertising-claims>

Software Industry Considers Consequences of Supreme Court Decision on Patent Validity Defense to Claim of Induced Infringement

The U.S. Supreme Court has just issued an opinion in the *Commil vs. Cisco Systems* case, prompting members of the software industry to consider how the ruling will impact member software companies, as we further explored in our recent Silicon Valley Software Law Blog Posting:

<http://www.siliconvalleysoftwarelaw.com/silicon-valley-software-industry-considers-impact-of-supreme-court-decision-on-patent-invalidity-defense-to-claim-of-induced-infringement>

Senate Cybersecurity Bill May Increase Government Surveillance Pressures on

Cloud Companies

Privacy groups have voiced concerns about the Senate Intelligence Committee's recent introduction of a cybersecurity bill, as was further explored by the firm in the following Silicon Valley Software Law Blog posting linked below:

<http://www.siliconvalleysoftwarelaw.com/new-senate-cybersecurity-bill-may-expand-government-surveillance-pressures-on-cloud-companies>

Software Companies Consider Impact of FCC Decision on Net Neutrality

The Federal Communications Commission ("FCC") recently adopted rules on the issue of net neutrality. The Silicon Valley Software Law Blog looked at the recently decision and contemplated the impact in the link posted below:

<http://www.siliconvalleysoftwarelaw.com/fcc-decision-on-net-neutrality-what-does-this-mean-for-the-software-industry>

Distinguishing Between the Software License and the SaaS Contract

The Silicon Valley Software Law Blog looked at what the differences are between the software license and the SaaS contract models in a recent blog posting linked below:

<http://www.siliconvalleysoftwarelaw.com/software-licensing-vs-software-as-a-service-saas-the-importance-of-the-technology-model-to-contract-drafting>

Report Claims that Most Apps Fail to Protect Users' Privacy

Do most apps on the market fail in providing users' with basic privacy protections?

As the Silicon Valley Software Law Blog reported in a recent blog posting, a recent study suggests that this is in fact a common problem in the software industry, as further discussed in the link below:

<http://www.siliconvalleysoftwarelaw.com/report-reveals-that-the-majority-of-apps-on-market-ignore-privacy-concerns>

California Adopts Smartphone Killswitch Law

California has adopted a law that require smartphones sold in the state to have smartphone kill settings enabled as the default settings on the phone. The Silicon Valley Software Law Blog explores the impact of this legislation in the link set forth below:

<http://www.siliconvalleysoftwarelaw.com/california-adopts-smartphone-kill-switch-law>

California notifies App-based Ride Service Uber and Competitors that Service is Illegal

The state of California has notified Uber, Lyft, and Sidecar that their services are illegal under California law, as further discussed by the Silicon Valley Software Law Blog in the post below:

<http://www.siliconvalleysoftwarelaw.com/california-notifies-app-based-ride-service-uber-and-competitors-that-service-is-illegal>

California Governor Signs Law Prohibiting Nondisparagement Clauses in Consumer Contracts

California has adopted a law prohibiting nondisparagement clauses in consumer contracts, as the Silicon Valley Software Law Blog explored in the blog post linked below:

<http://www.siliconvalleysoftwarelaw.com/california-governor-signs-bill-prohibiting-nondisparagement-clauses-in-consumer-contracts>

Google Settles with FTC over In-App Purchases Made by Children

The Federal Trade Commission has announced that Google has agreed to refund customers' unauthorized in-app purchases made by their children in the Google Play Store, as the Silicon Valley Software Law Blog discussed in its recent blog posting attached below:

<http://www.siliconvalleysoftwarelaw.com/ftc-settlement-with-google-to-require-refund-of-unauthorized-in-app-charges>

\$163 Million Damage Award in Federal Case Against Scareware Software Company and Founders

The U.S. District Court for the District of Maryland has awarded damages in excess of \$163 million in a FTC case against a “scareware” software company, Innovative Marketing, Inc. and its founders, as further discussed by the Silicon Valley Software Law Blog in the blog post link below:

<http://www.siliconvalleysoftwarelaw.com/federal-court-awards-163-million-judgment-against-scareware-software-company-in-ftc-case>

FTC Proposing New Rules to Protect Children's Online Privacy

FTC has announced that it is proposing an amendment to the Children's Online Privacy Protection Rule (“COPPA”). The Silicon Valley Software Law Blog discussed the proposed changes as well as the pros and cons of potential implementation in its blog posting linked below:

<http://www.siliconvalleysoftwarelaw.com/ftc-proposing-new-rules-to-protect-childrens-online-privacy>

President Obama Announces The Consumer Privacy Bill of Rights

President Obama has announced the Consumer Privacy Bill of Rights initiative, as further discussed by the Silicon Valley Software Law Blog in the following blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/president-obama-unveils-new-consumer-privacy-initiative-the-consumer-privacy-bill-of-rights>

Web-Based Companies Evaluate the OPEN Act Proposed as an Alternative to SOPA

Is the Online Protection and Enforcement of the Digital Trade Act (“OPEN”) a better alternative to SOPA? The Silicon Valley Software Law Blog explored this question in the blog post linked below:

<http://www.siliconvalleysoftwarelaw.com/is-the-open-act-a-more-viable-alternative-to-sopa>

SOPA Blackout Day Set to be Observed by Prominent Websites

A number of prominent websites are set to observe SOPA Blackout Day. The Silicon Valley Software Law Blog discussed the SOPA Blackout controversy in the following blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/websites-set-to-observe-sopa-blackout-day>

The Prinz Law Office Launches the Silicon Valley Software Law Blog

The Prinz Law Office announced the launch of the Silicon Valley Software Law Blog in the following link:

<http://www.siliconvalleyiplicensinglaw.com/the-prinz-law-office-launches-the-silicon-valley-software-law-blog/>

How to Protect Your Ideas Before the Launch of a Software Start-up

How do you protect your ideas before you launch your novel software start-up? The Silicon Valley Software Law Blog explored this issue in the following blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/tips-to-protecting-your-ideas-before-you-launch-your-software-start-up-company>

Consider Alternatives to Equity When Launching Your Start-up's First Development Project

If you are like many software start-ups, you probably think that equity is the only way to pay for your development work. However, this is not in fact the only option for a cash-strapped start-up, as the Silicon Valley Software Law Blog discussed in the blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/equity-not-the-only-option-for-software-start-ups-hiring-first-developer>