



WORDCAMP FOR PUBLISHERS 2019

TOP CASES IN INTERNET PUBLISHING

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A user signs up to use a website, and agrees to the terms and conditions, which clearly state that the laws of state X apply. The user later sues the website, saying it violated the laws of state Y.

HOW DO YOU RULE?

- A) FOR THE COMPANY, BECAUSE THE USER HAD TO CLICK "I AGREE" & FOLLOWING EVERY STATE LAW WOULD BE ONEROUS.
- B) FOR THE USER, IF THE LAW OF STATE Y IS PARTICULARLY IMPORTANT.
- C) NEITHER A NOR B.

**185 F.Supp.3d 1155 (2016)
IN RE FACEBOOK BIOMETRIC
INFORMATION PRIVACY
LITIGATION.**

**United States District Court,
N.D. California.
(9th Circuit)**

**RULING: CHOICE OF LAW PROVISION
INVALID BECAUSE IT VIOLATES A
FUNDAMENTAL ILLINOIS POLICY AND
ILLINOIS HAS A MATERIALLY GREATER
INTEREST THAN CALIFORNIA IN THE
DETERMINATION OF THIS ISSUE.**

**Choice of law clauses are usually
valid, unless they fall under these
two circumstances:**

- (a) the chosen state has no
substantial relationship or**
- (b) application of the law of the
chosen state would be contrary to
a fundamental policy of a state
which has a materially greater
interest.**

**RESTATEMENT (SECOND) OF
CONFLICT OF LAWS § 187(2)
(A)–(B)**



Internet Publishing: the Wild West

- **Copyright**
- **Website Contracts**
- **Privacy in the digital age**
- **Libel**
- **Open Source vs. Proprietary**
- **Jurisdiction**
- **Algorithm ethics**
- **Disability Accommodations**

DISCLAIMER: THIS IS NOT LEGAL ADVICE



Two Separate Court Systems

Federal And State



Supreme Court



Appellate



Trial

COMMON MISCONCEPTIONS

ONLY STATE LAWS CAN BE DECIDED IN STATE COURT

State courts are the final arbiters of state law, but federal court can still rule on state law.

PERSUASIVE VS. PRECEDENT

Judge can listen to another district, but not necessarily.

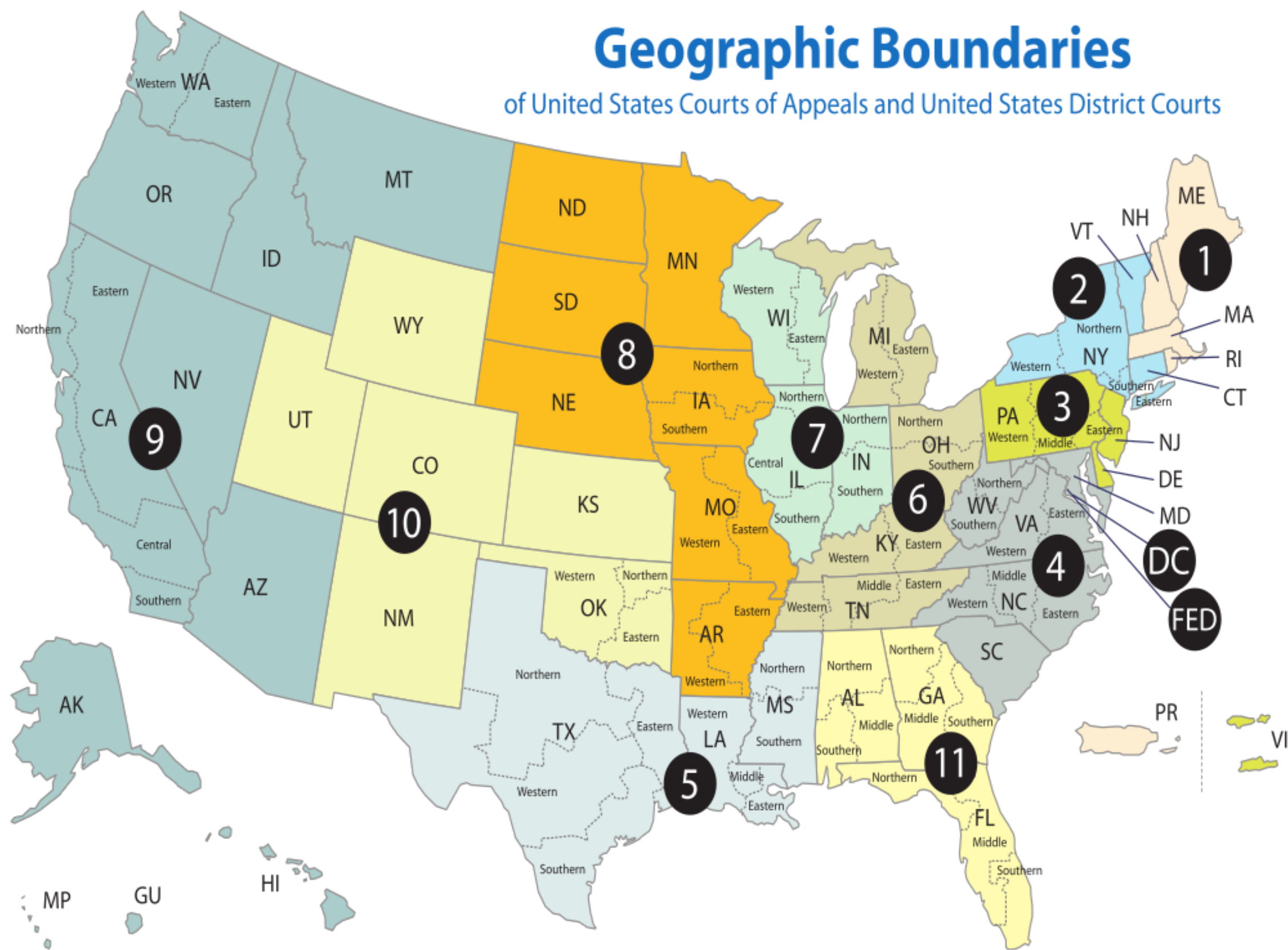
APPEALS ARE RE- TRIALS

Trial courts determine issues of material fact. But an appellate court can determine how the law applies.

**Rivera v. Google,
LLC (19-1182)
Court of Appeals for the
7th Circuit**

Geographic Boundaries

of United States Courts of Appeals and United States District Courts





Sandmann vs. Washington Post

**Eastern District of Kentucky,
July 26, 2019, 2:19-cv-00019**

Court says reprinting Phillips' opinion is not
defamatory.

"Rorschach Test"- Beryl Love, Cincinnati
Enquirer



Source: YouTube Screenshot via Slate



Contrast: International Law

**"Why is Lord McAlpine trending? *Innocent face*" -
Commons Speaker's Wife, Sally Bercow**

UK: PUBLISHERS
ARE LIABLE FOR
REPUBLISHING
THE LIBEL OF
OTHERS

And burden of
"defence" is on the
media defendant

THE ONLINE
JOURNALISM
HANDBOOK
BY PAUL
BRADSHAW

Don't publish when in
doubt

WRIGHT V. VER
31 JULY 2019

Born in the US, now
lives in St. Kitts and
Nevis. Says he founded
Bitcoin, Allegedly
defamatory tweets/
YouTube comments.



Fourth Estate Public Benefit Corporation v. Wall-Street.com

March 4, 2019

Resolved longstanding conflict in the circuit courts, sided with the 10th and 11th circuits. Now have to get your copyright registered to sue.



Rimini Street Inc. v. Oracle

LIMITS COPYRIGHT FEE AWARDS

(1) clerk and marshal fees,
(2) transcript fees,
(3) printing and witness fees and costs,
(4) exemplification & copying fees,
(5) docket fees and
(6) compensation of court-appointed experts and interpreters.

SAVED \$12.8 MILLION

Still had to pay:
\$35.6 million in copyright infringement
\$3.4 million in costs
\$28.5 million in attorney's fees
\$14.4 million for violations of state computer access laws

"FULL COSTS" DISPUTED

Court rules
unanimously.
Also March 4, 2019.



POST "BLURRED LINES"

Ed Sheeran

Going to trial Sept. 11 in \$100 million lawsuit, sued by the estate of Marvin Gaye. 1:17-cv-05221 US 2nd Circuit (NY)
Does "Thinking Out Loud" rip off "Let's Get it On?"

Led Zeppelin

Sept 23 En Banc hearing.:
Does "Stairway to heaven" rip off Spirit's 1968 "Taurus?"
Won jury trial but back to appellate court. 16-56057 (9th Cir. 2018)

Katy Perry

On Thursday- ordered to pay \$2.78 Million for "Dark Horse."
2:15-cv-05642 (CA Central)

Kraftwerk

Wins 20 year lawsuit on 2-second sample taken from their song. The court said you could hear the stolen clip. (And the clip is repeated in the song.)



Allen v. Cooper 895 F.3d 337, 358 (4th Cir. 2018)

Supreme Court Oral Argument the 5th of Novemberrr

Can states be sued in federal court for copyright law violations?

Case involves alleged copyright violations of footage from
the archeological excavation of Blackbeard's Queen
Anne's Revenge.



Cybersquatting

According to the World Intellectual Property Organization, cybersquatting set a new record in 2018, up 12 percent. ADR Forum cases rose 13 percent.

(For Uniform Domain Name Dispute Resolution cases. US claimants can also file under the ACPA but that's more rare.)

Example:

UBS AG v. Josephine Henry / goldvaultsecurity

Claim Number: FA1907001851160

"UBSoffshorebank.com" violates international policy





Domino's vs. Robles 18-1539

TO DECIDE:

Whether Title III of the ADA requires a website or mobile phone application that offers goods or services to the public to satisfy accessibility requirements with respect to individuals with disabilities.

RISING TIDE OF LITIGATION

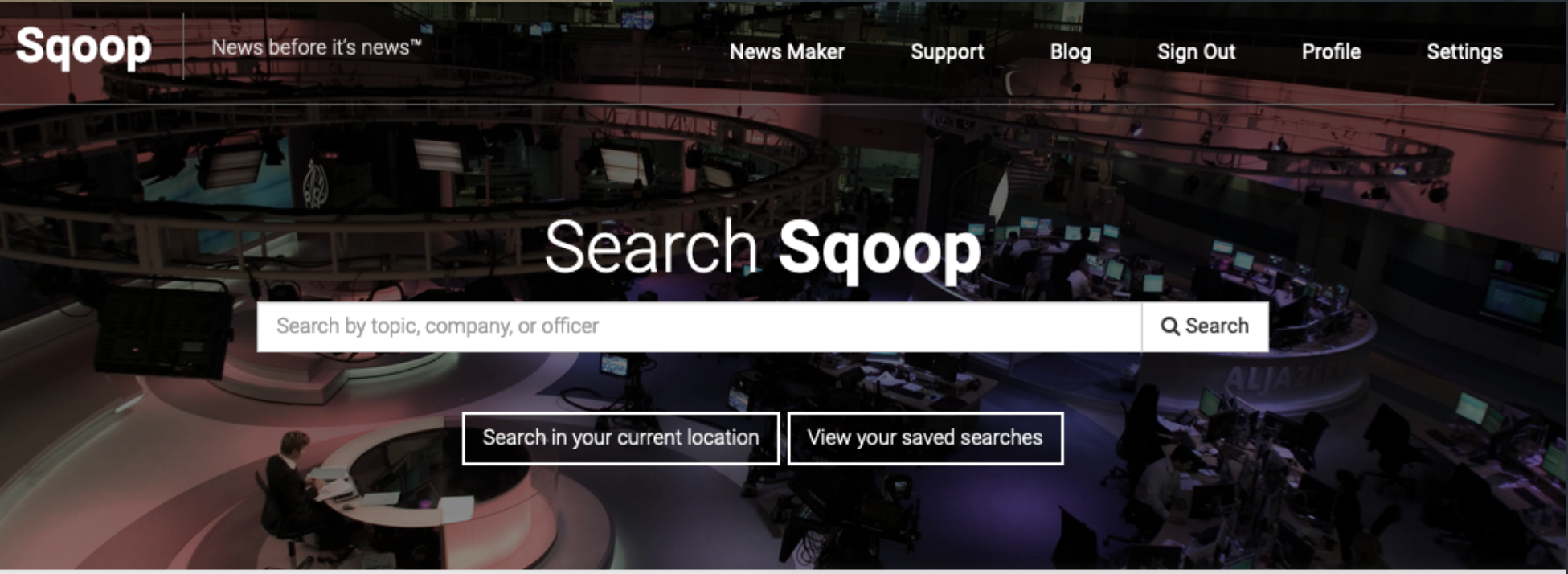
In 2018 alone, litigants filed over 2,250 federal lawsuits asserting ADA violations based on web-site inaccessibility, nearly tripling the number in 2017.

<<https://tinyurl.com/y3y7o3rg>>.



How to follow


Cases that could affect you




Other Federal Courts

Our access to the appellate courts is quite limited, with no rationale given by PACER for certain circuit courts but not others being available.

Code	Court Name
CA1	<i>The First Circuit Court of Appeals</i>
CA2	<i>The Second Circuit Court of Appeals</i>
CA3	<i>The Third Circuit Court of Appeals</i>
CA4	<i>The Fourth Circuit Court of Appeals</i>
CA5	<i>The Fifth Circuit Court of Appeals</i>
CA6	The Sixth Circuit Court of Appeals
CA7	<i>The Seventh Circuit Court of Appeals</i>
CA8	<i>The Eighth Circuit Court of Appeals</i>
CA9	<i>The Ninth Circuit Court of Appeals</i>
CA10	The Tenth Circuit Court of Appeals
CA11	<i>The Eleventh Circuit Court of Appeals</i>
CADC	D.C. Circuit Court of Appeals
CAFC	Federal Circuit Court of Appeals
CIT	International Trade Court
COFC	Court of Federal Claims
-	<i>The Supreme Court</i>

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1

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☆ In re Facebook Biometric Information Privacy Litigation (3:15-cv-037)

District Court, N.D. California

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Last Updated: Aug. 2, 2019, 6:56 a.m. PDT
Assigned To: [James Donato](#)
Referred To: [Donna M. Ryu](#)
Date Filed: Aug. 17, 2015
Date Terminated: May 29, 2018
Date of Last Known Filing: April 16, 2018
Cause: [28:1332 Diversity-Personal Injury](#)
Nature of Suit: [360 P.I.: Other](#)
Jury Demand: [Plaintiff](#)
Jurisdiction Type: Diversity

[DOCKET ENTRIES \(PAGE 1 OF 3\)](#) [PARTIES AND ATTORNEYS](#) [FJC INTEGRATED DATABASE](#)

Filed

YYYY-MM-DD

to

YYYY-MM-DD

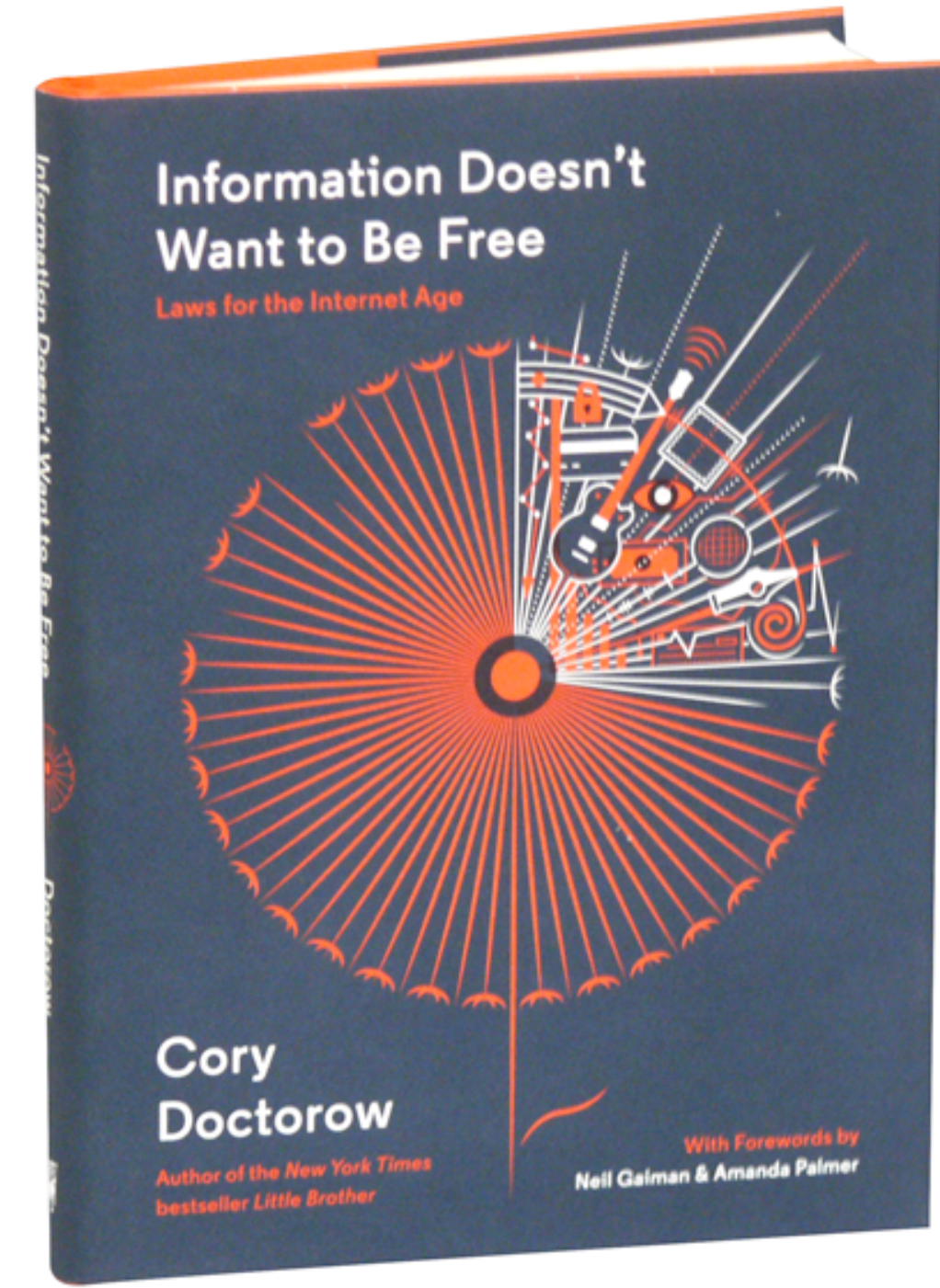
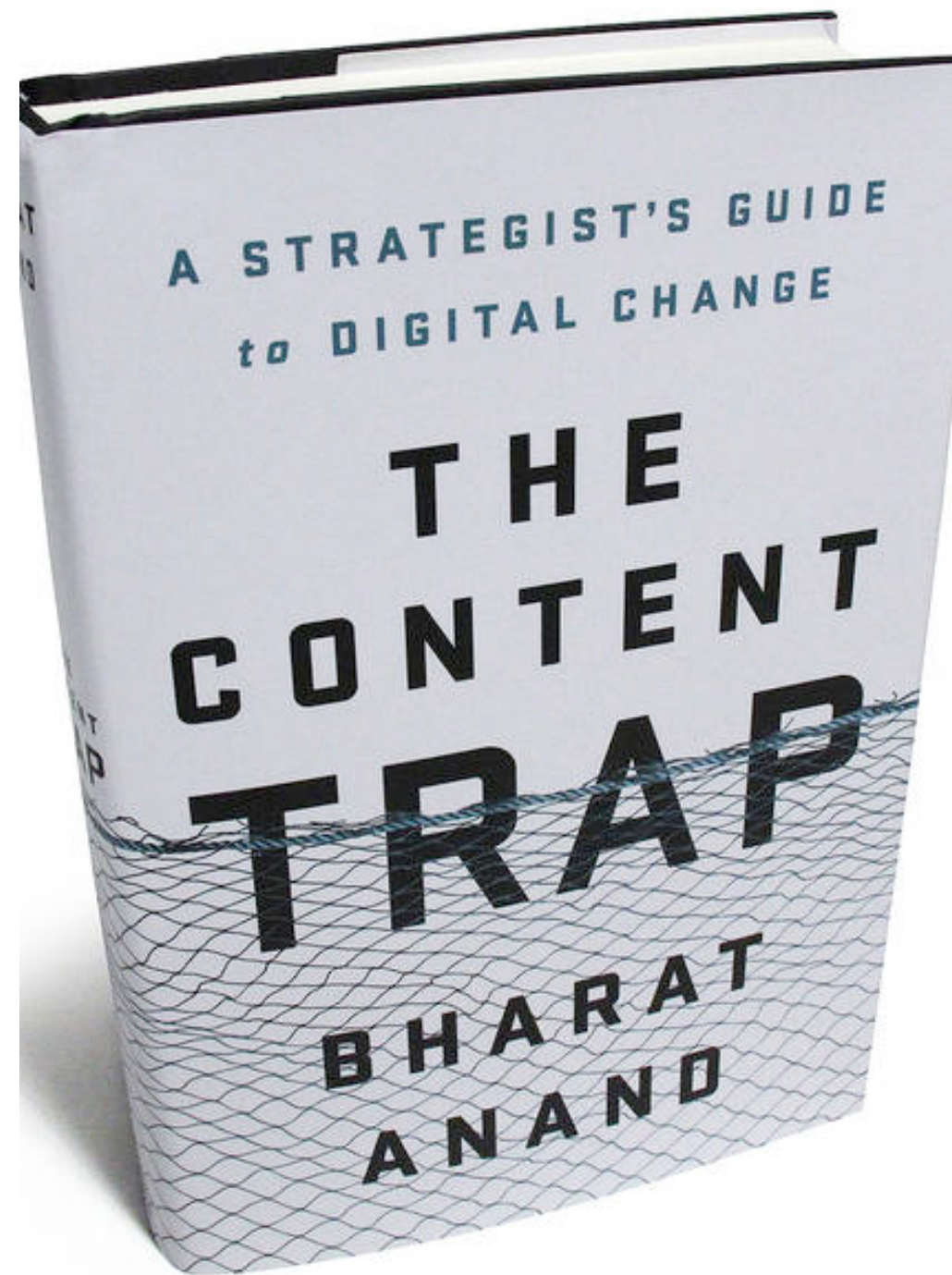
Documents

to

Ascend

Document Number	Date Filed	Description
1	May 14, 2015	COMPLAINT Class Action Complaint for Violations of the Illinois Biometric Information Privacy Act filed by Nimesh Patel; Jury Demand. Filing fee \$ 400, receipt number 0752-10643762.(Barz, James) (Entered: 05/14/2015) Main Document Complaint Download PDF
	May 14, 2015	ECF Transfer In - converted docket entry
2	May 14, 2015	CIVIL Cover Sheet (Barz, James) (Entered: 05/14/2015) Main Document Civil Cover Sheet Buy on PACER

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