No. 24-475

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOHN DOE,
Plaintiff-Appellant,

v.

GRINDR, INC.; GRINDR, LLC,
Defendant-Appellee.

On Appeal from the United States District Court for the
Central District of California
No. 2:23-cv-02093
The Honorable Otis D. Wright II, District Court Judge

BRIEF OF THE ELECTRONIC PRIVACY INFORMATION CENTER AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFF-APPELLANT AND REVERSAL

Megan Iorio
Tom McBrien
ELECTRONIC PRIVACY
INFORMATION CENTER
1519 New Hampshire Ave. NW
Washington, DC 20036
(202) 483-1140
iorio@epic.org

Attorneys for Amicus Curiae
Electronic Privacy Information
Center

May 17, 2024

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, *amicus curiae* the Electronic Privacy Information Center states that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

INTEREST OF THE *AMICUS CURIAE*

The Electronic Privacy Information Center ("EPIC") is a public interest research center in Washington, D.C., established in 1994 to focus public attention on emerging privacy and civil liberties issues. EPIC advocates for meaningful government oversight of abusive, exploitative, invasive, and discriminatory data collection systems, algorithms, and platform design practices. EPIC is interested in this case because of the organization's concern that overly broad interpretations of the scope of 47 U.S.C. § 230 can hamper society's ability to address some of the most egregious forms of online harm. EPIC previously filed *amicus* briefs on the scope of Section 230 immunity in *In re Facebook Simulated Casino-Style Games Litigation*, No. 22-16888 (9th Cir. 2023), *Bride v. Yolo Technologies, Inc.*, No. 23-55134 (9th Cir. 2023), *Gonzalez et al. v. Google*, 598 U.S. 617 (2023) and *Herrick v. Grindr, LLC*, 765 F. App'x 586 (2d Cir. 2019).[1]

---

[1] All parties consent to the filing of this brief. In accordance with Rule 29, the undersigned states that no party or party's counsel authored this brief in whole or in part nor contributed money intended to fund the preparation of this brief. No outside person contributed money intended to fund the preparation of this brief.

SUMMARY OF THE ARGUMENT

Congress passed Section 230 to prevent courts from hearing claims that would impose the "moderator's dilemma" on interactive computer service providers ("ICSs"). Understanding what the moderator's dilemma is and how Section 230 prevents it is crucial for understanding how to distinguish between claims that Section 230 does and does not cover.

Certain legal claims would, if entertained by a court, force ICSs into the moderator's dilemma: Either moderate content on one's platform and thus adopt a duty to ensure no harmful content remains, or forego content moderation altogether. Congress recognized that tying a beneficial practice (content moderation) to heightened liability risk (strict liability for all user-generated content) would harm the internet in a variety of ways. Companies that chose not to moderate content would leave platforms full of spam, pornography, and hateful content that children and other users should not be exposed to. Companies who decided to moderate would have to do so in a speech-stultifying way, preventing users from discussing wide swaths of controversial but important topics.

To prevent these harmful outcomes, Congress passed Section 230 with the specific and limited purpose of preventing claims that would force ICSs into the moderator's dilemma. Specifically, claims alleging that an ICS adopted a publisher's duty to prevent publication of tortious materials by deciding to publish and moderate content are the claims that Section 230 prohibits for "treating" an ICS "as the publisher." Claims that merely involve publication activities or user-generated content are not prohibited if they do not result in the moderator's dilemma. The Ninth Circuit has captured this principle by requiring ICSs to show that a claim would necessarily require them to monitor all user-generated content and remove any tortious or otherwise illegal materials to escape liability. Since the claims in this case would not require monitoring or removal of user-generated content to avoid liability, Section 230 does not apply.

A properly scoped Section 230 will not destroy the internet. Since Section 230's passage, ICSs have consistently sought to expand the law's scope by urging courts to adopt a but-for test: Section 230 applies if third-party content is a but-for cause of liability. ICSs warn that having to defend their harmful conduct on the merits would incentivize

them to tamp down on users' speech and to stop innovating. This Court should not lend credence to these overexpansive theories of Section 230 coverage. Weak claims can be dismissed for failure to state a claim. And this Court's repeated refusals to expand Section 230's scope have not resulted in the destruction of the internet. The real danger is widely immunizing harmful, avoidable behavior from some of our society's most powerful corporations.

ARGUMENT

I. SECTION 230 ONLY PREVENTS CLAIMS THAT WOULD FORCE INTERNET COMPANIES INTO THE "MODERATOR'S DILEMMA."

This Court has repeatedly recognized that Section 230 was never meant to grant internet companies blanket immunity for any harm involving user-generated content. Rather, "the principal or perhaps the only purpose" of Section 230 is to prevent a specific class of claims that would force internet companies into the "moderator's dilemma." *See Fair Hous. Council of San Fernando Valley v. Roommates.Com, LLC*, 521 F.3d 1157, 1163 n.12 (9th Cir. 2008) (en banc). The moderator's dilemma is the "grim choice" that ICSs faced absent Section 230's protections: engage in content moderation and consequently adopt a

duty to prevent the dissemination of *any* harmful user-generated content on the platform, or to forego content moderation altogether to escape liability. *Id.* at 1162–63. Congress recognized that either of these options would chill speech, stunt the development of the internet, and prevent companies from offering content-filtering technologies that helped users control what they and their children saw online. *See* 47 U.S.C. §230(b). Preventing the moderator's dilemma was the crucial and *limited* goal of Section 230. And only a specific type of claim imposes the moderator's dilemma: those that allege that, by disseminating user-generated speech, an ICS has adopted a publisher's duty to screen and filter harmful user-generated content. The Ninth Circuit has captured this principle in their Section 230 prong 2 analysis by requiring ICSs to show that a claim *requires* a company to monitor all user-generated content and remove any tortious or otherwise illegal content. *See HomeAway.com, Inc. v. City of Santa Monica*, 918 F.3d 676, 682 (9th Cir. 2019); *Doe v. Internet Brands*, 824 F.3d. 846, 851, 853 (9th Cir. 2016). Because the claims at issue in this case do not require such monitoring or removal of user-generated content, Section 230 does not apply.

In the mid-1990s, Congress was deciding how and whether to regulate the internet through laws such as the Communications Decency Act ("CDA"). Predictably, legislators disagreed about the best model for online speech regulation. Senator Exon, one of the sponsors of the CDA, sought to impose criminal penalties on websites that knowingly displayed obscene and indecent materials to children. *See* Communications Decency Act of 1996, Pub. L. No. 104-104, § 502, §§ 223(d)(1)(B), (h)(2), 110 Stat. 133, 134–35 (to be codified at 47 U.S.C. § 223(d)(1)(B), (h)(2)); H.R. Conf. Rep. No. 104–458, at 189–90. Representatives Cox and Wyden, on the other hand, considered the CDA's criminalization of speech too heavy-handed and preferred an internet on which access to content was voluntarily controlled by companies, parents, and users. *See* 141 Cong. Rec. 22045 (daily ed. Aug. 4, 1995).

While legislators disagreed about the best way to prevent children's access to objectionable materials, they agreed on one thing: the moderator's dilemma imposed by *Stratton Oakmont v. Prodigy* was dangerous. *See* 141 Cong. Rec. 16024–25 (daily ed. June 14, 1995); 141 Cong. Rec. H8469 (daily ed. Aug. 4, 1995). Any common law doctrines

that punished companies with heightened duties because the companies screened and filtered the information they published would thwart Congress's aims to incentivize those screening and filtering activities. *Id.* To understand what claims Section 230 blocks, it is crucial to understand how the moderator's dilemma operates.

The moderator's dilemma stems from the now-familiar dichotomy of publishers versus distributors. In early cases brought against internet companies, courts relied on media tort law to create a liability framework. *E.g., Cubby, Inc. v. CompuServe, Inc.*, 776 F. Supp. 135, 140 (S.D.N.Y.1991); *Stratton Oakmont, Inc. v. Prodigy Services Co.*, 31063/94, 1995 WL 323710, at *4 (N.Y. Sup. Ct. May 24, 1995). This body of law distinguished between publishers and distributors of tortious content. Publishers were traditionally subject to strict liability for disseminating defamatory content. *See Prodigy*, 1995 WL 323710, at *3. In other words, publishers had a duty to prevent the dissemination of any tortious speech through their services. Distributors, on the other hand, could only be held liable if a plaintiff established that defendant knew they were disseminating defamatory content. *See* Restatement (Second) of Torts § 581 (requiring a showing of negligence for

distributors). For each new speech-disseminating practice or technology, courts determined whether the entity was a publisher or distributor for liability purposes.

The key distinction between a publisher and distributor is the level of editorial control an entity exerts over the content it disseminates. For instance, newspaper companies are traditionally labeled publishers of news articles and op-eds because they exert high levels of editorial control over those materials. *See Prodigy*, 1995 WL 323710, at *4. But the same companies are traditionally labeled as mere distributors of wire service reports, such as those from the Associated Press, because they do not exert editorial control over those reports. Brent Skorup & Jennifer Huddleston, *The Erosion of Publisher Liability in American Law, Section 230, and the Future of Online Curation*, 72 Okla. L. Rev. 635, 640–43 (2020) (explaining and collecting cases). Similarly, defendants such as newsstands and libraries are usually labeled distributors of what they sell because they are not involved in deciding the content of the publications. *See id.*

Courts justified the publisher-distributor distinction on the grounds of practicality and free speech. If distributors are not

intimately familiar with the materials they are disseminating but held liable nonetheless if those materials are tortious, their only option to avoid liability would be to steer away from controversial topics, publications, or speakers and to reduce the amount of information they disseminate. *See* Skorup & Huddleston, *supra*, at 643–49 (describing Supreme Court cases that shifted away from strict liability for media torts on First Amendment grounds). But because publishers can be fairly presumed to know the contents of materials they edit closely, it is fair to hold them strictly liable for publishing tortious content absent special circumstances such as stories about public figures.

With the rise of the internet, courts had to make the same publisher-distributor determination for websites that disseminated user-generated speech. One court recognized that websites that declined to alter or remove any user-generated posts were acting as distributors because they were not exercising editorial control. *See Cubby, Inc.*, 776 F.Supp. at 140. But in *Stratton Oakmont v. Prodigy Services*, the court labeled a message board website, Prodigy, as a publisher because it promulgated and enforced content guidelines such as bans on obscene words. *Prodigy*, 1995 WL 323710, at *2. Prodigy argued that these

practices did not constitute the level of editorial control necessary to be labeled a publisher. *Id.* at *3. But the court disagreed, ruling that Prodigy's decision to moderate content—however imperfect—rendered it a publisher that had breached its duty by allowing a user to post something defamatory. *Id.* at *4. The combination of the outcomes in *CompuServe* and *Prodigy* created the moderator's dilemma: ICSs' only reasonable options to avoid massive tort liability would be to either forego moderating content altogether or to err on the side of over-moderating users' communications, stunting the flow of speech.

The *Prodigy* decision sent shockwaves through all sides of the Communications Decency Act debate. Senators Exon and Coats recognized that, by imposing content moderation obligations on websites, the CDA could risk turning all websites into publishers with dangerously high liability risks. *See* 141 Cong. Rec. 16024–25 (June 14, 1995). They added several defenses for companies, such as section (f)(4), which would ensure that compliance with the CDA would not, alone, cause an ICS to be labeled as a publisher. *See* S. 652, 104th Cong. § 402(a)(2) (adding § 223(f)(4)) (1995)) (codified at 47 U.S.C.A. § 223(f)(1)

(West)).[2] The following exchange illustrates the Senators' intent that the CDA not impose massive potential liability on complying companies by directing courts not to "treat" ICSs "as [] publisher[s]" of all third-party content on their sites by holding them strictly liable for tortious statements:

> Mr. COATS. I understand that in a recent N.Y. State decision, Stratton Oakmont versus Prodigy, the court held that an online provider who screened for obscenities was exerting editorial content control. This led the court to treat the online provider as a publisher, not simply a distributor, and to therefore hold the provider responsible for defamatory statements made by others on the system. I want to be sure that the intent of the amendment is not to hold a company who tries to prevent obscene or · indecent material under this section from being held liable as a publisher for defamatory statements for which they would not other-wise have been liable.
>
> Mr. EXON. Yes; that is the intent of the amendment.

---

[2] The provision reads: "No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section."

> Mr. COATS. And am I further correct that the subsection (f)(4) defense is intended to protect companies from being put in such a catch-22 position? If they try to comply with this section by preventing or removing objectionable material, we don't intend that a court could hold that this is assertion of editorial content control, such that the company must be treated under the high standard of a publisher for the purposes of offenses such as libel.
>
> Mr. EXON. Yes; that is the intent of section (f)(4).

141 Cong. Rec. 16024–25 (June 14, 1995).

Representatives Cox and Wyden were similarly concerned that *Prodigy* would prevent companies from voluntarily moderating content and developing filtering technologies that would enable parents to control what their children saw online. They titled Section 230, their amendment to the CDA, "Protection for 'Good Samaritan' Blocking and Screening of Offensive Material." *See* 47 U.S.C. §230(c). Rep. Cox explained that he sought to protect "computer Good Samaritans from taking on liability such as occurred in the *Prodigy* case in New York." 141 Cong. Rec. H8470 (daily ed. Aug. 4, 1995). The representatives were aware that *Prodigy*'s outcome—imposing a publisher's duty on websites because they moderated content—would be "a massive disincentive" to

content moderation. 141 Cong. Rec. 22045 (daily ed. Aug. 4, 1995) (statement of Rep. Cox). Rep. Goodlatte criticized the court's mislabeling of Prodigy as a publisher instead of a distributor, noting "[t]here is no way that any of these entities, like Prodigy, can take the responsibility to edit out information that is going to be coming in to them from all manner of sources onto their bulletin boards." 141 Cong. Rec. 22046 (daily ed. Aug. 4, 1995). Thus, the purpose of Section 230 was to ensure that companies could moderate content without taking on the duty to monitor for and remove all tortious content on their platforms.

As the House and Senate versions of the CDA were reconciled, Congress retained its focus on the joint goal of overturning *Prodigy*. As this Court has noted, the House Committee reported that overturning *Prodigy* was Section 230's "principal or perhaps the only purpose."[3] *Roommates.com, LLC*, 521 F.3d at 1163, 1163 n.12.

---

[3] The Court referred to this as the "principal or perhaps only purpose" due to the House Committee Report that referred to overturning *Prodigy* as "[o]ne of the principal purposes" of Section 230 without providing any other purposes. *See* H.R. Conf. Rep. No. 104–458, at 194 (1996)).

For these reasons, Congress passed the CDA with the inclusion of Section 230 to prevent courts from hearing claims that would recreate the moderator's dilemma. In other words, Section 230 prevents claims that treat ICSs as publishers by imposing on them a publisher's duty to prevent the publication of anything tortious. *See, e.g.*, *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1102–03 (9th Cir. 2009). All other claims are permitted, even when they involve harmful user-generated content or would require the defendant to engage in publishing activity to satisfy its duty. *See, e.g.*, *id.* at 1109; *HomeAway.com, Inc. v. City of Santa Monica*, 918 F.3d 676 (9th Cir. 2019); *Doe v. Internet Brands*, 824 F.3d 846 (9th Cir. 2016).

This Court's decision in *Barnes v. Yahoo* illustrates how the Court has distinguished between claims that implicate the moderator's dilemma and those that do not. In *Barnes*, two claims that implicated the defendant's publishing activities came out opposite ways under the Court's Section 230 analysis because one claim—the negligent undertaking claim—imposed a publisher's *duty* on the defendant, while the other—the promissory estoppel claim—did not. *See Barnes*, 570 F.3d at 1102–03, 1109. The negligent undertaking claim forced Yahoo

into the moderator's dilemma: either abandon content moderation on its social media platform to avoid having to "undertake" such services "reasonably," or engage in content moderation and face liability for any "unreasonable" failure to remove harmful materials. *Id.* at 1102–03. But the breach of contract claim offered Yahoo two other options: abide by its promise to remove the harmful information or avoid making such promises in the first place. *Id.* at 1108 ("This makes it easy for Yahoo to avoid liability: it need only disclaim any intention to be bound."). Despite the fact that the plaintiff alleged Yahoo was liable for failing to engage in certain publishing activities and that user-generated content was a but-for cause of the illegality, this Court found that the breach of contract claim was not barred because it did not force Yahoo into the moderator's dilemma. The same logic applies to the present case.

II. A PROPERLY LIMITED SECTION 230 WILL NOT DESTROY THE INTERNET.

Section 230 plays an important role in protecting online speech, but it is not the proper tool to dispose of every problematic claim involving user-generated content. Yet internet companies consistently portray it as such, aiming for overbroad interpretations of the law that

would expand Section 230 from a narrow tool meant to prevent the moderator's dilemma to a get-out-of-jail free card for their own harmful conduct. The real danger is interpreting Section 230 in a way that prevents accountability for companies simply because they operate on the internet. The Court should decline to make that mistake here.

Weak claims that attack core internet infrastructure can and should be dismissed on the merits at the motion to dismiss stage. This is the course of action the Supreme Court chose to follow last term through its disposition of the *Gonzalez v. Google* and *Twitter v. Taamneh* cases. In *Gonzalez*, Google and its amici claimed that Section 230 immunity was necessary to shield algorithmic recommendations wholesale from liability lest the entire internet be destroyed. *See, e.g.*, Br. for Resp't at 52–53, *Gonzalez v. Google*, 598 U.S. 617 (2023) (claiming that not receiving Section 230 protections for recommendation algorithms would "come at a cost to free expression," "be the ultimate Pyrrhic victory," "lead a race to a bottom of pornography or other offensive material," and cause "other websites [to] fold altogether," among other horribles). But the Court explained it would "decline to address the application of § 230 to a complaint that appears to state

little, if any, plausible claim for relief." *Gonzalez v. Google*, 598 U.S. 617, 622 (2023). Instead, it issued a merits decision in the factually identical *Twitter v. Taamneh*, finding that Twitter's (and likely Google's) algorithmic amplification of terrorist content did not meet the definition of associating or participating in a terrorist venture. *See Twitter, Inc. v. Taamneh*, 598 U.S. 471, 498–99 (2023). It then remanded *Gonzalez* with instructions to issue a merits decision informed by *Taamneh*. *See Gonzalez*, 598 U.S. at 622. Just a few months ago, a Ninth Circuit panel took similar action when it reversed a district court's grant of a motion to dismiss on Section 230 grounds but affirmed its grant of a motion to dismiss for failure to state a claim. *See Quinteros v. Innogames*, No. 22-35333, 2024 WL 132241, at *1–2 (9th Cir. Jan. 8, 2024). These cases show that courts do not need to adopt a tortured, overbroad interpretation of Section 230 to end weak cases at an early stage.

Perhaps the strongest demonstration that a properly scoped Section 230 will not break the internet is actual experience: this court's decisions not to extend Section 230 have not yet shown any signs of breaking the internet. When this Court recognized that online home

rental companies must comply with local regulations against brokering rentals for unregistered properties, *Homeaway.com*, 918 F.3d at 683, it did not cause online rental platforms to fold. When this Court said that app developers still have a duty to design safe products, *see Lemmon v. Snap*, 995 F.3d 1085, 1092–93 (9th Cir. 2021), platforms did not adopt draconian measures to crack down on user-generated content. When this Court found that websites still have a duty to warn users about known dangers to their safety, *see Internet Brands*, 824 F.3d at 853, it did not destroy web forums. And when this Court held that social media companies have a duty to abide by content moderation promises they make to users, *see Barnes*, 570 F.3d at 1109, it did not destroy social media. The Ninth Circuit has shown that allowing internet companies to face meritorious lawsuits is not inconsistent with ensuring the vibrancy of the internet—and it should not stop now.

The real danger is in not properly limiting Section 230, which would allow internet companies to continue to act with impunity and preserve "a lawless no-man's-land on the Internet." *Roommates.com*, 521 F.3d at 1164. This Court has recognized that overbroad Section 230 interpretations such as the but-for test give ICSs what amounts to an

almost blanket immunity from regulation, as "publishing content is 'a but-for cause of just about everything' [an ICS defendant] is involved in." *Lemmon*, 995 F.3d at 1092–93 (citing *Internet Brands*, 824 F.3d at 853). Such immunity allows powerful internet companies to escape liability for avoidable harms they cause. Internet companies, like all other companies, must be subject to laws that protect consumers' basic rights. As this Court has noted, despite "[p]latforms' concerns about the difficulties of complying with numerous state and local regulations, the CDA does not provide internet companies with a one-size-fits-all body of law. Like their brick-and-mortar counterparts, internet companies must also comply with any number of local regulations." *Homeaway.com*, 918 F.3d at 683. Plaintiffs who have suffered real harms for which the law provides a remedy should not be barred from the courtroom through overly expansive interpretations of Section 230. *E.g.*, *Herrick v. Grindr, LLC*, 765 F. App'x 586, 590–91 (2d Cir. 2019) (applying a but-for Section 230 test to dismiss a claim against Grindr for designing an unnecessarily dangerous product); *United States v. Stratics Networks Inc.*, No. 23-CV-0313-BAS-KSC, 2024 WL 966380, at *14 (S.D. Cal. Mar. 6, 2024) (applying a but-for test to prohibit a Telephone Consumer

Privacy Act suit against a company that helps telemarketers evade consumer protection laws); *United States v. EZ Lynk Sezc*, No. 21-cv-1986 (MKV), 2024 WL 1349224, at *9–12 (S.D.N.Y. Mar. 28, 2024) (applying a but-for Section 230 analysis to prohibit enforcement of the Clean Air Act against a company that helps drivers defeat emissions controls on vehicles); *Dennis v. MyLife.Com, Inc.*, No. 20-cv-954, 2021 WL 6049830, at *6–7 (D.N.J. Dec. 20, 2021) (using a but-for Section 230 test to dismiss a claim based on a clear Fair Credit Reporting Act violation). Section 230 is not a get-out-of-jail-free card, it is a scalpel to be used on a specific type of speech-endangering claim—one that is not at issue in this case.

CONCLUSION

For the foregoing reasons, EPIC respectfully urges the Court to reverse the district court's dismissal of Doe's complaint.

Date: May 17, 2024

/s/ Megan Iorio
Megan Iorio
Tom McBrien
ELECTRONIC PRIVACY INFORMATION CENTER
1519 New Hampshire Ave. NW
Washington, DC 20036
(202) 483-1140

Attorneys for Amicus Curiae Electronic Privacy Information Center

CERTIFICATE OF COMPLIANCE

I am the attorney or self-represented party.

This brief contains 3,943 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief *(select only one)*:

[ ] complies with the word limit of Cir. R. 32-1.

[ ] is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.

[X] is an **amicus** brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).

[ ] is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.

[ ] complies with the longer length limit permitted by Cir. R. 32-2(b) because *(select only one)*:

[ ] it is a joint brief submitted by separately represented parties;

[ ] a party or parties are filing a single brief in response to multiple briefs; or

[ ] a party or parties are filing a single brief in response to a longer joint brief.

[ ] complies with the length limit designated by court order dated _____.

[ ] is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature: */s/ Megan Iorio* **Date:** May 17, 2024

CERTIFICATE OF SERVICE

I certify that on May 17, 2024, this brief was e-filed through the CM/ECF System of the U.S. Court of Appeals for the Ninth Circuit. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Date: May 17, 2024

/s/ Megan Iorio
Megan Iorio
Tom McBrien
ELECTRONIC PRIVACY
INFORMATION CENTER
1519 New Hampshire Ave. NW
Washington, DC 20036
(202) 483-1140

Attorneys for Amicus Curiae
Electronic Privacy Information Center