

## Highlights of the 2025-2026 Edition

These are among the many new features and recent developments in this release.

### Communications

- United States Supreme Court holds, in an action under the Telephone Consumer Protection Act of 1991, that (1) in an enforcement action, a district court is not bound by an agency's pre-enforcement statutory interpretation absent express statutory preclusion of judicial review and (2) the Hobbs Act did prevent the district court from disagreeing with a statutory interpretation by the Federal Communications Commission. § **12:03**

### Copyright

- The District of Columbia Circuit holds that a copyright application authored by a generative artificial intelligence was properly rejected by the Copyright Office as the Copyright requires works to be authored by human beings. § **1:03**
- The Second Circuit, abrogating several district court decisions, holds that the discovery rule determines when an infringement claim accrues, regardless of the copyright holder's sophistication in detecting and litigating infringements. § **1:33**
- As a matter of first impression, the Fifth Circuit holds that a registered compilation of works is eligible for only one award of damages, rather than for multiple awards for each item in the compilation. § **1:43**

### Defamation or Libel

- Iowa Supreme Court adopts fair report privilege in affirming summary judgment against a former high school tennis coach who sued the school district for defamation based on its online posting of an unedited video of a public board meeting. § **11:24**
- Answering a certified question, Massachusetts Supreme Judicial Court states that the discovery rule applies in determining whether the limitations period has expired for a defamation claim arising from social media post, stating that application of the rule is based on the totality of the circumstances, given how access to and the ability to search on social media platforms varies from platform to platform and even from post to post. § **11:24**
- As a matter of first impression, Nebraska Supreme Court holds that posting a website list was a single publication with respect to libel claims, updating the website list was not a republication triggering a new statute of limitations for libel claims, and reference to the website list in a telephone conversation was not a republication of the website list. § **11:24**

### **Digital Millennium Copyright Act**

- The Second Circuit holds that safe harbor protection under the DMCA was available to the operator of a website on which users can upload videos containing copyrighted musical recordings. § **1:51.70**

### **Electronic Contracts**

- Several courts considered whether a website's arbitration provision was binding based on a user's interaction with the website. § **8:06**

### **Electronic Funds Transfer Act**

- Sixth Circuit holds that the Electronic Funds Transfer Act preempts a state chartered credit union's claims for indemnification or contribution under the Michigan Electronic Funds Transfer Act against a cell phone service provider for reimbursements it made to its customers arising from the provider's failure to protect them from SIM swap scams. § **8:02**

### **First Amendment**

- United States Supreme Court holds that Texas statute requiring commercial pornographic websites to verify the age of their visitors and to display health warnings about the effects of consumption of pornography is not facially unconstitutional under the First Amendment. § **12:04**
- In two actions under 42 U.S.C.A. § 1983 alleging First Amendment violations by the Texas Attorney General with respect to his alleged retaliation against the plaintiffs based on their online speech, the Ninth Circuit affirmed dismissal on Younger abstention and the District of Columbia Circuit upheld injunctive relief against the Texas Attorney General. § **12:04.50**

### **Jurisdiction**

- A district court in Virginia lacked personal jurisdiction over an Israeli corporation that developed and licensed spyware on the plaintiff's cell phone in her action asserting, inter alia, Virginia common law tort claims, arising from the murder of her husband, the Fourth Circuit holds. § **11:13.50**

### **Lanham Act**

- Joining the consensus view, the Second Circuit holds that the mere act of purchasing a competitor's trademarks in the context of keyword search advertising does not constitute trademark infringement under the Lanham Act. § **4:06**

### **Trade Secrets**

- Affirming a compensatory damages award under the Defend Trade Secrets Act (DTSA) which included sales outside the United States, the Seventh Circuit holds, as an apparent matter of first impression, the Seventh Circuit holds that the DTSA rebuts the presumption against extraterritoriality. § **3:11**