



Katten Privacy, Data and Cybersecurity Newsletter

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ICO Joint Statement on Data Scraping and the Protection of Privacy

By Tegan Miller-McCormack and Sarah Simpson

On August 24, the Information Commissioner's Office (ICO) issued a joint statement in conjunction with 11 other global authorities responsible for data protection and privacy on data scraping. The statement underscored how data scraping, which is the process of extracting data from online sources like social media platforms, has increasingly created significant privacy concerns that may constitute reportable data breaches and lead to exploitation such as identify fraud. [Read more about the ICO's recommendations for websites and individual users.](#)

CFPB Director Announces Intention to Propose Rules Targeting the Reliance on Non-Traditional Data Sources in Consumer Finance

By Christina Grigorian, Eric Hail and Jessica Harrell

This article discusses the Consumer Financial Protection Bureau's (CFPB) intention to publish new rules under the Fair Credit Reporting Act to prevent "misuse and abuse" by data brokers, as announced by CFPB director Rohit Chopra. The proposed rules are in response to consumer lenders' growing reliance on data brokers (and the data they generate using artificial intelligence) to generate business, improve their practices and ascertain the creditworthiness of consumer credit applicants. [Read more about the proposed rules and key takeaways here.](#)

Copyright Office Holds That 600+ Prompt Iterations Are Not Enough 'Human Authorship' for Registration of GenAI Artwork

By Michael Justus

On September 5, the US Copyright Office Review Board affirmed the Copyright Office's refusal to register a digital artwork created with the Midjourney text-to-image GenAI tool. The Review Board held that text prompts alone did not constitute sufficient human authorship, despite the claim that the work was the result of 624 iterative prompts. However, the Review Board left open the possibility that the claimant's use of Adobe Photoshop to alter the image after its output by Midjourney could be sufficient human authorship to register copyright in the alterations. [Read more about the decision and what it means for copyright issues related to GenAI outputs.](#)

SEC Denial of Grayscale Bitcoin Fund Was Arbitrary and Capricious, Rules DC Circuit Court of Appeals

On August 29, a unanimous three-judge panel of the United States Court of Appeals for the District of Columbia Circuit ruled that the Securities and Exchange Commission (SEC) acted arbitrarily and capriciously when it denied Grayscale Investment LLC's proposed listing of a bitcoin exchange-traded fund (ETP) in July 2022. Grayscale's ETP was intended to be traded on NYSE Arca, a national securities exchange. The Court granted Grayscale's petition to vacate the SEC's order rejecting NYSE Arca's proposed rule changes to accommodate Grayscale's ETP. Effectively, the SEC must now reconsider its previous disapproval of Grayscale's bitcoin fund. [Read more about the Court's findings and how the decision impacted the price of bitcoin.](#)

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