

## Tim Newman in Bloomberg: Google Data Privacy Fight Hinges on Cloud Storage Tech

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**PRACTICES** Privacy and Cybersecurity

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An order that Alphabet Inc.'s Google turn over customer data stored overseas relied more on the specific storage technology at play than on an outdated federal email privacy law, attorneys told Bloomberg BNA.

Magistrate Judge Laurel Beeler of the U.S. District Court for the Northern District of California ruled April 19 that Google must turn over customer data stored overseas subject to a valid search warrant issued in June 2016 under the Stored Communications Act, 18 U.S.C. § 2701 (In re The Search of Content That Is Stored At Premises Controlled By Google , 2017 BL 129087, N.D. Cal., No. 16-mc-80263-LB,4/19/17).

The ruling may not offer real clarity sought by companies that store large amounts of data in the cloud, such as Google, Microsoft Corp. and Amazon.com Inc., on whether they must comply with government demands for the release of consumer data stored outside the U.S. But it does offer some insight into how courts may parse the technological issues surrounding the storage of data and identification of the consumers tied to that data by focusing on the ability of the company to readily identify the citizenship of a particular user...

In the landmark case of In re Warrant to Search a Certain E-mail Account Controlled & Maintained by Microsoft Corp., the Second Circuit held that the SCA doesn't contemplate extraterritorial application and that the term of art, "warrant," used in the SCA was intended to protect privacy rights.

The Second Circuit said that the SCA focused on user privacy and determined that enforcing the warrant and directing Microsoft to seize communications stored in Ireland would be an unlawful extraterritorial application where Microsoft didn't have to turn over email stored on Irish servers...

Together, these cases highlight the "stronger constitutional basis" for overturning SCA warrants "where the data is located in another country compared to when the data is located in the U.S.," Borden, who is also Drinker's chief data scientist, said.

Due to conflicting court standards, Congress needs to act on the decades-old SCA to add clarity and certainty for the cloud computing industry and courts across the U.S., [Timothy Newman](#), privacy associate at Haynes Boone LLP in Dallas told Bloomberg BNA. Courts shouldn't have to struggle with an outdated standard, he said. Rather "Congress could modernize the SCA and provide a clearer framework for analyzing law enforcement requests for electronic communications," Newman said. If Congress fails to act "it's very possible" that the case "will bubble up to the Supreme Court."

**Excerpted from *Bloomberg BNA Privacy Law Watch*. To read the full article, please [click here](#).**