
California Enacts Nation's First Anti-Bot Law

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On September 28, California Governor Jerry Brown signed into law [S.B. 1001](#), which makes it illegal “for any person to use a bot to communicate or interact with another person in California online, with the intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving the person about the content of the communication in order to incentivize a purchase or sale of goods or services in a commercial transaction or to influence a vote in an election,” unless the person discloses its use of the bot in a manner that is “clear, conspicuous, and reasonably designed to inform persons with whom the bot communicates or interacts.”

Dubbed a “[Blade Runner law](#)” by some because of its intent to expose the use of robotic systems online, the law’s scope and impact will depend to a considerable degree on the enforcement discretion apparently left in the hands of the California Attorney General’s Office (and perhaps district and city attorneys as well), which under California’s expansively interpreted Unfair Competition Law (UCL) can seek \$2,500 per violation as well as equitable remedies. Private plaintiffs may also try to use the UCL to seek injunctive relief and restitution for violations of the anti-bot law.

The statute defines a “bot” as “an automated online account where all or substantially all of the actions or posts of that account are not the result of a person.” It defines “online platform” as “any public-facing Internet Web site, Web application, or digital application, including a social network or publication, that has 10,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months.” The law expressly provides that it “does not impose a duty on service providers of online platforms, including, but not limited to, Web hosting and Internet service providers.”

A response in part to the “[computational propaganda](#)” deployed most notably during the 2016 US election cycle and in part to [concerns raised by parents’ groups](#) about advertising aimed at children, the law raises significant First Amendment issues. It does not take effect until July 1, 2019, but it may become a model for other jurisdictions considering legislative responses to automated methods of shaping online content. For example, Senator Feinstein (D-CA) has recently introduced a federal “[Bot Disclosure and Accountability Act](#).”

WilmerHale’s [Cybersecurity and Privacy Practice](#) will continue to track these and other

developments affecting our increasingly digital economy and culture.

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