

# Tracking Technology Litigation 2.0 — 2026 Update

## Zoom

### SPEAKERS

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Tracking technology litigation continues to evolve and expand, driven by increasingly sophisticated data collection techniques, broader use of session replay, identity resolution, AI-driven profiling, and growing scrutiny from plaintiffs, regulators, and courts over whether companies are adequately disclosing, governing, and technically controlling how user data is collected, shared, and monetized.

CIPA wiretapping and pen register claims kicked off the first wave of cases targeting pixels, cookies, session replay tools, and broken user consent flows. ECPA crime-tort theories followed and are now becoming their own distinct wave, with plaintiffs using privacy policy and consent banner language to plead around statutory defenses. Meanwhile, courts across multiple jurisdictions are issuing decisions that cut in both directions — creating a fragmented and fast-moving landscape for companies that deploy tracking technologies.

This session will cut across the full range of active tracking technology litigation — the statutes, the theories, the court rulings, and the technical realities driving it all.

Topics will include:

- Filing trends and data — what the complaint filing data reveals about plaintiff strategies, targeted industries, and where this litigation is headed.
- Proof and defensibility: how companies can document what actually happens on their websites, preserve evidence of consent and data flows, and demonstrate operational controls before litigation or regulatory scrutiny begins.
- What makes companies easy targets and how to avoid those pitfalls.
- CIPA and ECPA theories — how the two statutory frameworks operate, where they overlap, and where they diverge.
- A discussion of key recent court rulings impacting tracking technology defense considerations.
- Insights from scanning: what's happening on your websites that you don't know about. finding unknown trackers, consent banner and process failures, nesting tracking technologies, ongoing monitoring, and server-side deployments.
- Practical steps to reduce exposure — updates to privacy policies, consent mechanisms, tag management, and website data technology governance.

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