



BERKMAN KLEIN CENTER
FOR INTERNET & SOCIETY AT HARVARD UNIVERSITY

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Michael Sobol, Esq.
Lieff Cabraser Heimann & Bernstein, Attorneys at Law
275 Battery St, Floor 29
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RE: Google Location History Litigation, No. 5:18-cv-05062-EJD (N.D. Cal.)

Dear Ms. De Villa and Mr. Sobol:

The Berkman Klein Center for Internet & Society (“BKC” or “the Center”) is honored to be considered as a potential recipient of *cy pres* funds in the above case. As the scope and sweep of our current and future work show below, we can make full use of *cy pres* funds from either category.

Please find the additional information requested for the Court below:

Organization Information

(1) Name of organization
Berkman Klein Center for Internet & Society
The President and Fellows of Harvard College
1557 Massachusetts Avenue
Cambridge, MA 02138

(2) Discuss the founding and history of the organization.

Since its founding in 1996, Harvard’s Berkman Klein Center for Internet & Society (BKC) has

housed rigorous scholars whose research has been fundamental to our collective understanding of the digital space, and whose creative thinkers have turned ambitious ideas into concrete impact. Originally founded at Harvard Law School, BKC has grown into Harvard's only university-wide, interfaculty initiative devoted to studying the Internet. Once controversial and novel, many of the insights derived from those at BKC are now well accepted and even foundational to continuing work in academia, private industry, and civil society. By closely examining the existing architecture of the digital world—and in imagining better systems of governance—BKC leaders are among those who have helped positively shape the trajectory of the digital world.

BKC is Harvard's center for connecting faculty who study Internet & new technologies. Chris Bavitz leads Lumen, which uniquely collects and studies online content removal requests, providing transparency and supporting analysis of the Web's takedown "ecology"; Jonathan Zittrain and James Mickens co-lead the Institute for Rebooting Social Media, which addresses social media's most urgent problems including privacy breaches, content governance, and misinformation; and Cass Sunstein and Oren Bar-Gill have just launched the Artificial Intelligence and the Law effort, bringing together a team of faculty to research algorithms and consumer protection.

BKC's commitment to world-class scholarship has been coupled with a desire to build a digital sphere that serves the public interest. Early BKC projects, such as Creative Commons, Global Voices, and the Digital Media Law Project allowed people to rethink sharing and content amplification online; harness the potential of the web to translate crucial underreported news directly from global citizen journalists; and create resources to help citizen and professional journalists alike navigate a nascent but quickly growing and complexifying field. The success of these projects, as well as more recent BKC community-incubated organizations like the Integrity Institute (a think-and-do tank for trust and safety workers in tech) and the Edgelands Institute (a multi-disciplinary organization explores how the digitalization of urban security is changing the urban social contract) has hinged on BKC's ability to serve as a trusted convener, hosting practitioners, policymakers, technologists, artists, and academics for iterative dialogue on emerging issues in technology and society, and to create an entrepreneurial environment to develop research-based solutions and coalitions.

The Center's programs are world-renowned for bringing together those who seek to use their extraordinary talents in the service of global public interest, and who wish to contribute to a collaborative network committed to generosity, curiosity, and action. We are dedicated to serving undergraduate students through tenured faculty at Harvard and from academic institutions around the world, as well as people from the full range of career stages, disciplines, sectors, national origins, and lived experiences. Our capacity and field-building efforts have resulted in an active network of thousands, where active appointees and alumni work in companies, governments, civil society, and academic institutions as well as leadership roles that direct rigorous research,

frontline community consultations, and civic-minded advocacy. To date, BKC has welcomed more than 500 people into its community of fellows, staff, faculty, and affiliates from more than 40 countries; hosted more than 1,000 events, workshops and conferences; produced more than 700 videos and podcasts; contributed more than 10 million lines of code to GitHub; and published more than 250 reports, papers, and books in our publication series.

(3) Describe the organization’s current goals.

A diverse, interdisciplinary community of scholars, practitioners, technologists, policy experts, and advocates, we seek to tackle the most important challenges of the digital age while keeping a focus on tangible real-world impact in the public interest. The beneficiaries of this work include the Internet & society community broadly construed including students, practitioners, public sector stakeholders, technology leaders, policy-makers, academics, and the broader public.

(4) Provide a brief description of the organization’s current programs.

Select examples of established programmatic initiatives in these areas include the following:

Privacy Tools

The Privacy Tools Project advances a multidisciplinary understanding of data privacy issues and builds computational, statistical, legal, and policy tools to help address these issues in a variety of contexts. By leveraging advances in computer science, social science, statistics, and law, the Privacy Tools project aims to further the tremendous value that can come from collecting, analyzing, and sharing data while more fully protecting individual privacy. This effort seeks to translate the theoretical promise of new technical measures for privacy and data utility into definitions and measures of privacy and data utility, as well as practical computational, legal, and policy tools for enabling privacy-protective access to sensitive data in a variety of contexts.

Recent work of the Privacy Tools Project has included efforts to bridge the understanding of legal and technical privacy concepts relevant to statistical agencies such as the US Census Bureau, as well as an NSF-funded collaboration to pilot co-design of law and computer science to ensure the adoption of sociotechnical systems that provide adequate data protection for individuals, groups, and society. Members of this team are also a part of the Data Co-ops project at Georgetown University to develop technical and legal tools for re-envisioning the information ecosystem. In addition to contributing to data publishing infrastructure around the world, the ideas developed in this project aim to benefit society more broadly as it grapples with data privacy issues in many other domains, including public health and electronic commerce.

Institute for Rebooting Social Media

In 2021, the Center launched the Institute for Rebooting Social Media (“RSM”) in recognition of the fact that the relationship between consumers and powerful social media platforms is in need

of a reset. This three-year research initiative at the Center has focused on addressing social media's most urgent problems, including misinformation, privacy breaches, and content governance. RSM has brought together participants from academia, industry, government, and civil society in time-bound collaboration to spur real practical legal, technical, and policy changes in the state of our online social media. RSM participants have explored the development of new legal, governance, and technical structures to build consumer trust, alter today's paradigms around the capture and monetization of user data, re-examine principles of liability of social media platforms, and mitigate the current risks and harms to consumers and society at large. The RSM initiative combines efforts to advance scholarship through public writing and analysis, expand the field of students and professionals engaged on these issues in the public interest, and build tangible prototypes. Projects furthering these objectives of fostering a safer, privacy-respecting digital consumer environment, such as the Integrity Institute, have been nurtured and developed through RSM and its predecessor Assembly Program at the Center.

Cyberlaw Clinic

The Harvard Law School Cyberlaw Clinic, founded at the Berkman Klein Center, provides innovative, hands-on training to Harvard Law School students who, together with their clinical supervisors, offer legal and policy research, guidance, and representation to a variety of real-world clients. Clinic clients include individuals, start-ups, institutional entities, and research projects. Students enhance their preparation for high-tech practice and technology policy work, including public interest tech, earning course credit by working on real-world litigation, client counseling, advocacy, and contractual projects. Privacy within business, non-profit, and research contexts has been a significant area of focus for the Clinic. Data and information privacy and security are foremost among the concerns, and the Clinic's attorneys and students frequently address novel questions concerning the practical application of privacy and data security laws and crafting of privacy policies. The Clinic also works with clients and collaborators to inform the development of the law regarding privacy, vis-à-vis both private actors and the government. For example, last fall, the Cyberlaw Clinic submitted an extensive comment on an Advance Notice of Proposed Rulemaking by the Federal Trade Commission related to commercial surveillance and data privacy. The comment was submitted on behalf of various Berkman Klein Center projects and associates, including the Data Nutrition Project, the Lumen Database, the Risk Assessment Tool Database project, and the Youth and Media Project project. The comment provided concrete recommendations on achieving end-to-end data transparency from data collectors and processors for consumers.

Youth and Media

Our Youth and Media project ("YaM") focuses on the digital lives of youth and engages in research, advocacy, and development initiatives around youth privacy and digital technology. While digital technologies indeed provide creative, educational, and revolutionary possibilities for youth, data about young people is collected, stored, and searched at an unprecedented rate

and without material oversight. Neither youth nor their parents have control over how this information is handled by third parties, as data is frequently gathered, accessed, disclosed, copied, and sold without consent or knowledge. Meanwhile, online reputation has an increasingly large sway over a young person's future social, academic, and professional prospects.

The data privacy issues for youth are further complicated in educational settings, where increasingly powerful, innovative digital and AI-driven products and services offer schools new platforms and tools to shape, improve, and expand learning experiences, even in the face of continually shrinking budgets. However, these benefits are accompanied by critical privacy concerns, especially around the collection and use of student data. Our YaM team engages youth in participatory research to gather evidence-based insight on these digital privacy issues, advises government policymakers and non-governmental organizations on youth privacy considerations, develops educational tools, and works with multi-stakeholder initiatives to develop approaches that balance transparency and privacy considerations. This team has developed privacy and other learning resources, available in over 35 languages, and conducted one of the largest qualitative research projects on youth issues — with a special focus on privacy and social media — on the Internet in the U.S. The YaM projects' research insight into the digital lives of youth informed recent comments by the Cyberlaw Clinic to the Federal Trade Commission in connection with its proposed rulemaking on commercial surveillance and data security rulemaking.

Lumen

Lumen uniquely collects and studies online content removal requests, providing transparency and supporting analysis of the Web's takedown "ecology." Lumen seeks to facilitate research about different kinds of complaints and requests for removal – legitimate and questionable – that are being sent to Internet publishers, platforms, and service providers and, ultimately, to educate the public about the dynamics of this aspect of online participatory culture. Initially focused on requests submitted under the United States' Digital Millennium Copyright Act, Lumen now includes complaints of all varieties, including those concerning trademark, defamation, and privacy, both domestic and international. Currently, the Lumen database contains millions of removal requests and grows by more than 20,000 notices per week, from companies such as Google, Twitter, YouTube, Wikipedia, Reddit, Medium, Github, and WordPress. Because of recent dramatic increases in notice volume, in 2014 the project upgraded to a more robust website that provides more granular data and API access for notice submitters and researchers.

Digital Self-Determination

The Berkman Klein Center studies and advises governments on digital self-determination, an emerging concept by which we consider how data serves individuals. The focus remains firmly on the people impacted by data rather than the data systems or human power structures. BKC is a founding partner in the International Digital Self-Determination Network along with the national

government of Switzerland; the Centre for Artificial Intelligence and Data Governance at Singapore Management University; the Global Tech Policy Practice at the Technical University of Munich School of Social Sciences and Technology; and The GovLab at New York University. In collaboration with this network, the Center connects different actors from around the world to consider how to apply Digital Self-Determination in real-life settings in order to ensure that people everywhere are legally, socially, and technically empowered to participate in the digitally connected world. BKC's current work on digital self-determination research addresses educational systems and the support and use of student data by studying the dynamics of involved stakeholders like edtech providers, school administrators, and teachers. From this research, the project has made recommendations for stakeholders that clarified data ownership, access, persistence, and use.

BKC Policy Practice

Bringing together governmental, nonprofit, and private sector organizations to discuss the most pressing questions around emerging digital technologies, the BKC Policy Practice creates a space for learning, knowledge-sharing, and capacity-building. Participating organizations work with small, agile teams – composed of Harvard faculty, staff, BKC community members, students, and outside expert collaborators – to identify key challenges and create actionable outputs such as UNICEF's Case for Better Governance of Children's Data report and the United States' National Action Plan on Responsible Business Conduct.

BKC Research Sprints

Since 2020 the BKC Research Sprint program has engaged international cohorts of early career academics and tech professionals to learn from international experts about a social technology issue tied to current events and related to data issues, surveillance, and/or AI. They then co-create outputs such as research reports, policy briefs, practitioner guidelines for participatory stakeholder engagement processes, technology oversight recommendations, Wikipedia entries, web dashboard mockups, and explainer infographics. We have held research sprints on privacy-related topics including surveillance of vulnerable populations, data co-operatives, transparency and takedown notices with Lumen, privacy in schools during the COVID-19 pandemic, and Digital Self-Determination.

Fellows and Affiliate Programs

The Berkman Klein Center's vibrant fellows and affiliate programs incorporate the work of leading privacy scholars. Members of our current fellows and affiliates class who write and advise on privacy and surveillance concerns include security technologist Bruce Schneier, Youth and Media scholars Leah Plunkett and Sandra Cortesi, privacy tools post-doctoral fellow Alexandra Wood, privacy scholar Neil Richards, digital labor scholar Ifeoma Ajunwa, and migration and surveillance scholar Petra Molnar.

(5) Has your organization ever received a prior cy pres award? If yes, please cite the applicable case(s), identify the amount(s) awarded, and describe the nature and scope of the project(s) funded.

The Berkman Klein Center has been fortunate to receive prior court approvals as a *cy pres* beneficiary in connection with the following other class action suits:

- *Cy Pres Recipient Lundy et al. v. Meta Platforms Inc., No. 3:18-cv-06793* US District Court, Northern District of California, 2023 (proposed, pending final hearing)
- *Mounts v. Wells Fargo Bank*, Court of Appeals of the State of California, 2017
- *In re: Ashley Madison Customer Data Security Breach Litigation*, US District Court, Eastern District of Missouri, 2017
- *Nader v. Capital One*, US District Court, Central District of California, 2014
- *Fraley v. Facebook, Inc.*, US District Court, Northern District of California, 2013
- *In re: Netflix Privacy Litigation*, US District Court, Northern District of California, 2012
- *Lanchester v. Washington Mutual Bank*, Superior Court of the State of California, 2012
- *In re: Google Buzz Privacy Litigation*, US District Court, Northern District of California, 2011
- *Raymond et al v. CarsDirect*, Superior Court of the State of California, 2011

These past awards have been instrumental in supporting the creation and expansion of our privacy and related initiatives around digital technologies that advance the public interest, and have played a pivotal role in the Berkman Klein Center's outreach and public dissemination of our work in this area.

Grant Proposal

(6) Has your organization been reviewed or rated by Charity Navigator or similar entity? If yes, what are the organization's ratings?

Yes, Charity Navigator's most recent assessment gives Harvard University a 4-star rating out of 4 with a score of 96/100.

(7) Identify the organization's principal investigator or project director.

BKC Faculty Director, Jonathan Zittrain, will serve as the principal investigator. Since 2014, the board of directors has been led by Jonathan Zittrain, George Bemis Professor of International Law at Harvard Law School, Professor of Public Policy at the Harvard Kennedy School of Government, Professor of Computer Science at the Harvard School of Engineering and Applied Sciences, and Director of the Harvard Law School Library. His research interests include the ethics and governance of artificial intelligence; battles for control of digital property; the

regulation of cryptography; new privacy frameworks for loyalty to users of online services; the roles of intermediaries within Internet architecture; and the useful and unobtrusive deployment of technology in education.

(8) Provide a summary of the plan for the program or project request. Include the issue and/or opportunity addressed, goals and objectives, activities, and timeline.

While the particular issues and projects BKC develops depend on the current issues, technologies, and social context of the time, we have always had a perennial focus on privacy, data autonomy and protection, and surveillance. Today the power of data to transform so many aspects of society, the negative impacts we see social media having on society, and the rise of a new form of AI in Large Language Models (LLMs) makes these perennial issues all the more salient. We feel an urgent need to contribute to conceiving and establishing a balance between the value of innovation and the prioritization of the highest social good, based on sound research, savvy social understanding, and creative approach.

As can be seen from our work described in section (4), we tackle hard problems with multiple complementary approaches: studying, connecting and convening, and educating and advising. The goals of this multiprong approach are to create new paths for (a) studying how to enable the safe use and protection of data, (b) convening faculty, students, fellows, and the public in broad and impactful conversations and (c) to advise in governmental, civil, and commercial stakeholders, to train the next generation of privacy experts, and to educate the public.

We will bring together our projects to create new, dynamic synergies that will increase their collective impact. And by bringing projects together, the work of the individual efforts will be enhanced. Thus, our activities will reflect both these collaborative and individual approaches.

The Center will welcome fellows and affiliates who are addressing issues of data, surveillance, and privacy, some of whom will work on projects independently while others may be embedded in existing Center projects. The Cyberlaw Clinic enrolls a cohort of HLS students every academic year and will continue to do so, with students working with clients on a wide range of privacy-related projects each academic year.

Projects like Privacy Tools, Youth and Media, and Digital Self Determination are leading research, education, policy, and development work, combining different methods of social science research, with a shared commitment to engage in efforts with a real-world impact. Youth and Media, for instance, is studying privacy in the context of newer (e.g., AI and generative AI) and more immersive technologies (e.g., virtual and augmented reality) with the aim of supporting youth, parents, educators, and policy-makers in better understanding privacy – by providing them with a set of tools (learning experiences, visualizations, and other educational resources)

and guidelines – and raise awareness about some of the major privacy challenges of living in a digital world. The Digital Self Determination project is looking to expand its work on privacy in educational systems and through its participation in the International Network for Digital Self Determination, to support governments in understanding approaches and creating policies that support the best use of data for data subjects’ autonomy. The Center will surely continue to examine the online takedown ecosystem, as it has with the Lumen database project for many years, balancing a desire for notice transparency with an interest in respecting privacy.

This research would inform our advisory work. Berkman Klein is commonly asked to advise national, state, and regional governments and civil society, which we do through our Policy Practice. With this support, we will be able to expand our work with these organizations and will be able to engage experts from the aforementioned BKC research projects, early career scholars, and practitioners, an integration we have sought to resource. Similarly, Youth and Media will be able to expand and update their data and privacy resources for students, parents, and educators.

The Research Sprints will be able to expand and redefine its programs around new research focused on current issues and do so by bringing in expertise from projects such as Privacy Tools and other privacy- and surveillance-focused projects by faculty directors and associates.

We propose a three-year project. Every year we anticipate continued academic research from the Privacy Tools and Youth and Media project, the Cyberlaw Clinic’s continued student education, litigation, client counseling, and advocacy on privacy issues, and educational efforts developed by the Research Sprint program on data, privacy and/or surveillance. In the first year we anticipate additional research production by Privacy Tools, Lumen, Youth and Media, and Digital Self Determination project, and continued advisory work by the Policy Practice. We will also build synergies between our projects and with our collaborators that will express themselves outwardly by year two and throughout year three.

(9) Explain why the organization is approaching the issue and/or opportunity in this way.

By resourcing existing projects more, connecting them with other projects, and creating new synergies across efforts, we will be able to both expand our privacy work and, more importantly, increase its impact on decision-makers and the public.

(10) Identify and explain the range of funds required to effectuate the program or project request, on an aggregate and annual basis (if applicable), including how the money will be used.

The Berkman Klein Center has the capacity to make full and productive use of \$6,500,000 over the course of three years to deliver on the initiatives described. Settlement funds would be used to cover staffing, stipends for relevant fellows, honorariums for contributors to privacy work, and the cost of convenings via facility, food, travel, and other related expenses.

(11) Will the money be used to continue an existing project or create a new project?

The money would be used to continue and expand existing projects, to build connections between projects and with our community and broader networks.

(12) What target population will your organization's project benefit?

Our project will benefit the general public, governmental, civil, and commercial privacy stakeholders, young people and educators, higher ed students within and outside of the US, and the privacy and security communities.

Evaluation

(13) Will your organization agree to provide a report to the Court and the parties every six months informing the Court and the parties of how any portion of the Settlement Fund allocated to it has been used and how remaining funds will be used?

Yes, we agree to provide a report to the Court and the parties every six months informing the Court and the parties of how any portion of the Settlement Fund allocated to it has been used and how the remaining funds will be used. Harvard University has historically treated *cy pres* awards as gifts to the University and that all decisions regarding research and activities supported by such funds will be made solely by the University in accordance with its established policies and procedures.

(14) Describe how your organization will evaluate the success of the grant on enhancing or promoting the protection of internet privacy.

For the research and scholarly aspects of this project, success is measured by external evaluations of the depth, quality, novelty, relevance, and robustness of the work. We rely in large part on the existing academic networks to help us improve our privacy work, both within and outside of our extended networks and via the informal review in internal discussions and formal review of academic publications.

Programs such as the research sprints, fellowships, workshops, and key events include formal survey evaluations by participants, as well as multiple informal touchpoints. Program teams use

these measures formatively throughout the programs and at the end of programs to determine what might be done differently in the next iteration.

Another measure is the uptake and influence of our privacy research within academic communities. This depends not only on the quality of the work but also its communication. Our communications staff tracks the reach and influence of our work through metrics, such as the number of times reports are downloaded and visits to web pages hosting materials. We also seek to quantify our reach into these communities by tracking the number and type of application and attendance at our sprints, convenings, and partner engagements.

Reaching advocacy and policy audiences is of critical importance to us. We share our findings and recommendations beyond academia, For our reports, policy briefs, and other outputs targeted at civil society organizations, private companies, and governments, we engage with our networks of public interest organizations, practitioners, and policymakers in evaluating the impact and influence of this work. Then we measure press mentions and appearances in both mainstream and relevant niche outlets, social media engagement across platforms, and in-person interactions such as speaking opportunities at conferences.

(15) Does your organization intend to use the results of the project in any publications, conference papers, and presentations?

Yes, we intend to use the results of the project in publications, conference papers, and/or presentations. The involved BKC faculty and researchers publish books, in peer-reviewed academic journals, technical reports, technical reports, op-eds and other online writing. They present at relevant conferences and give presentations to a wide range of audiences. In addition, we share our findings, interpretations, and recommendations to policy and technology stakeholders, educational audiences, and the public.

Please do not hesitate to contact me at 617-384-9123 if you have questions or if there is any additional information that would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elisabeth Sylvan', with a stylized, cursive script.

Elisabeth Sylvan, Ph.D.
Berkman Klein Center for Internet & Society at Harvard University