No. 22-532

ORIGINAL

In The

Supreme Court of the United States

JOACHIM MARTILLO,

Petitioner,

v.

TWITTER INC., FACEBOOK INC., A MEDIUM CORP., LINKEDIN CORP., THE STANFORD DAILY PUBLISHING CORP., and HARVARD CRIMSON INC.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The First Circuit

PETITION FOR A WRIT OF CERTIORARI

JOACHIM MARTILLO
75 Bailey St., Ste. 1L
Boston, MA 02124
(617) 276-5788
ThorsProvoni@protonmail.com
Pro Se Petitioner

QUESTIONS PRESENTED

1. Whether digital personal literary property, which a Defendant carries in the form of a post, comment, or tweet, is "other property" according to M.G.L. Chapter 159 § 1.

2. Whether a 2022 social medium platform is a common law common carrier.

3. Whether the public has a Constitutional right,

   a) which guarantees non-discriminatory common carriage,

   b) which was long-established at the time the original thirteen colonial states ratified the US Constitution, and

   c) which is confirmed by US Constitution Amendment IX.

4. Whether Amendment I gives a 2022 social medium platform, which is unequivocally a message common carrier, a Constitutional right to refuse message common carriage of digital personal literary property from any member of the public to any member of the public.

5. Whether "hosting" (bailment) of digital personal literary property in a backend server constitutes speech of a 2022 social medium platform.

6. Whether it is allowable for a Court to use a logical fallacy in interpretation of a statute.

7. Whether a 2022 social medium platform is a 1996 Interactive Computer Service (ICS) as an ICS is defined in 47 U.S. Code § 230.

QUESTIONS PRESENTED – Continued

8. Whether the Internet

   a) is a government-supported place of public accommodation, in which a social medium platform violates public accommodation anti-discrimination law;

   b) is a government-created government-supported government-designated public forum, in which a social medium platform violates public forum doctrine by hosting a discriminatory open forum; or

   c) contains government networks and facilities, in which state action doctrine is violated by discriminatory actions of a social medium platform.

9. Whether the dismissal of the Petitioner's Original Complaint is an abuse of discretion.

All *Questions Presented* of Petition I[1] are incorporated by reference.

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[1] Petition I or *Martillo v. Twitter*, (21-6916), January 22, 2022 – March 28, 2022, is a petition for a writ of certiorari before judgment of the Court of Appeals for the First Circuit.

CORPORATE DISCLOSURE STATEMENT

Joachim is a natural person, who neither is publicly traded nor has a parent corporation.

RELATED PROCEEDINGS

All proceedings directly related to this petition consist of the following.

- *Martillo v. Twitter et al.*, No. 21-6916 (U.S. Supreme Court), Petition for Certiorari, Denied, March 28, 2022.[2]
- *Martillo v. Twitter et al.*, No. 21-1921 (U.S. Court Of Appeals for the First Circuit), Opening, Nov. 15, 2012, District Court Affirmed Oct. 4, 2022.
- *Martillo v. Twitter et al.*, No. 1:2021cv11119 (US District Court for the District of Massachusetts), Final Order of Dismissal, Oct. 15, 2021, Reconsideration Denied, Nov. 10, 2021.

[2] Petition I.

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PETITION FOR A WRIT OF CERTIORARI

Joachim Martillo, whose complaint against the Defendants-Respondents was dismissed before service, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit.

OPINIONS BELOW

Neither the Appeals Court opinion (App. 1) nor the District Court order (App. 3-8) is officially or unofficially reported.

JURISDICTION

The Court of Appeals entered judgment on October 4, 2022. App. 1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The pertinent constitutional and statutory provisions are reproduced in the Appendix to this petition. App. 11-42.

INTRODUCTION

This petition raises "issues of great importance that" several members of this Court have concluded "plainly merit this Court's review." *NetChoice, LLC v. Paxton*, 142 S. Ct. 1715, 1716 (2022) (Alito, J., dissenting). Social media has become "the modern public square." *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017). That status has given social-media behemoths like Twitter and Facebook "enormous control over speech." *Biden v. Knight First Amend. Inst. at Columbia Univ.*, 141 S. Ct. 1220, 1224 (2021) (Thomas, J., concurring).[3]

Decisions of the federal judiciary in § 230-related litigation indicate a judicial coup that legislates

1. to strip the public of Constitutional rights and
2. to confer upon a message common carrier rights it has neither constitutionally nor by statute.

[3] *Moody v. Netchoice*, No. 22-277 (U.S. Supreme Court), Petition for Certiorari, Docketed, March 28, 2022, p. 2.

STATEMENT OF CASE

This petition incorporates Petition I[4] by reference.

In July 2021 Joachim filed a complaint *in forma pauperis* against social medium platforms providing

1. message common carriage and
2. places of public accommodation for exhibition and entertainment.

The District Court applied 28 U.S. Code § 1915(e)(2) to dismiss the complaint with the following three arguments.

1. The District Court asserted § 230 precluded any such complaint against a social medium platform even though a 2021 social medium platform is not an Interactive Computer Service (ICS) as an ICS is defined in § 230.

2. The District Court referred to a voice telephony precedent to argue in violation of causality and physical law that Joachim had no monetary claim against these social medium platforms.

3. The District Court misinterpreted the English language to assert that 42 U.S. Code § 2000a did not apply.

Joachim motioned for reconsideration and explained problems in the District Court's decision. The District Court denied reconsideration. Joachim timely

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[4] *Martillo v. Twitter et al.*, No. 21-6916 (U.S. Supreme Court), Petition for Certiorari, Denied, March 28, 2022.

appealed and later petitioned this Court for a writ of certiorari before judgment

1. because removing users and content by major social medium platforms might affect midterm elections[5] and

2. because § 230 caselaw effectively vitiates all civil rights, public accommodation, and common carriage anti-discrimination law.

While Twitter and Medium took the case seriously enough to join the appellate litigation, the Court of Appeals summarily affirmed (App. 1.) the District Court decision.

REASONS TO GRANT THE PETITION

Although Joachim may be the only § 230-litigant that understands Internet operation,[6] digital transmission common carriage technology, and Internet business models, the District Court and the Appeals Court seemed determined to bury the controversy of this litigation by failing to produce much in the way of reviewable orders or memorandums. Consequently,

[5] Joachim wonders whether social medium platform discrimination had a role in results of midterm elections.

[6] Joachim invented a key component of modern cloud computing. Joachim Martillo, *Software Configurable Network Switching Device*, Application No. 07/773,161, Oct. 8, 1991.

1. Joachim will dispute logical fallacy, which has been applied to 47 U.S. Code § 230;
2. he will apply transformational syntax to challenge linguistic interpretation of the statute; and
3. he will address why the caselaw is incorrect.[7]

Everything above is a matter of law, indicates abuse of discretion in dismissing his complaint, and is reviewable by this Court.

Abuse of Discretion Is Intolerable (Question: 9)

Because Joachim's complaint was dismissed before service under 28 U.S. Code § 1915(e)(2), merits of the district court case are not at issue. While Joachim is no longer indigent despite efforts of Twitter, Facebook, LinkedIn, and Medium,[8] lower courts need guidance addressing a sound legal conclusion upon which a case can be dismissed before service.

The issue of abuse of discretion in dismissing *Martillo v. Twitter*, No. 1:2021cv11119, remains important to anyone indigent that must file a complaint.[9]

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[7] Something may be familiar like the Internet yet be misunderstood. From Aristotle to Galileo, common wisdom alleged a heavier object fell with greater acceleration than a lighter object did.

[8] Joachim found clients through use of a social medium platform.

[9] *Humphries v. Various Federal USINS Employees*, 164 F.3d 936 (5th Cir. 1999), provides a standard for abuse of discretion.

Joachim's appeal, which is captioned *Martillo v. Twitter et al.*, No. 21-1921, sought

1. reversal of the dismissal on grounds of abuse of discretion and
2. remand to district court

so that the defendants could be served, and the trial could proceed. (Because Joachim found employment, he can and will pay the fees, which are associated with service and with representation.)

This petition addresses issues of:

1. status of digital personal literary property like a tweet, a comment, or post;
2. misunderstanding (a) of common law, (b) of Constitutional law, or (c) of statutory law;
3. logical fallacy in caselaw of 47 U.S. Code § 230; and
4. caselaw addressing (a) place of public accommodation, (b) public forum, and (c) state action (proxying).

The combination of misunderstanding with logical fallacy occasions unsound legal conclusion along with abuse of discretion at every level of the US judiciary and makes a social medium platform legally

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Yet, because the Court of Appeals seems not to consider legal reasoning, which ignores causality and the laws of nature, to lead to an unsound legal conclusion (see p. 25), more guidance is needed.

untouchable despite discrimination against members of the public.

Until this Court provides guidance, only abuse of discretion is possible because sound legal conclusion is impossible, or there is no standard to measure soundness of a legal conclusion.

The Wow! Factor seems to interfere with the legal system.[10] After Internet developers put nifty user interfaces on services that have existed for decades or even for almost two centuries, many now argue that long established caselaw should no longer be applied.

1. Nature of Digital Literary Property Needs to Be Clarified (Question: 1)

When the District Court asserted Joachim did not present property for common carriage in the sense of

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[10] The Wow! Factor influenced early telegraph decisions. "In two early cases, *Parks v. Alta Cal. Tel. Co.*, 13 Cal. 422 (1859), and *Mac Andrew v. The Electric Co.*, 17 C. B. (Eng.) 3 (1855), they were held to be common carriers; but in other early cases the courts, when they considered the nature and power of electricity, thought it so strange, wonderful and incomprehensible, that no ordinary human care or skill could possibly suffice to control it perfectly, and, deeming it therefore unjust to hold telegraph companies bound by the strict rules which govern common carriers, sought out reasons for making a distinction between these new carriers of thought and the old carriers of merchandise." Benjamin F. Rex, "Liability of Telegraph Companies for Fraud, Accident, Delay and Mistakes in the Transmission and Delivery of Messages," *The American Law Register*, May, 1884, Vol. 32, No. 5, New Series Volume 23 (May, 1884), p. 282, URI: https://www.jstor.org/stable/3304891. By 1869 the Wow! Factor had dissipated.

M.G.L. c. 159 § 1, the District Court wiped out Joachim's monetary claim by abuse of discretion and undermined legal protections for purchasers of digital merchandise. The wrongness of the District Court's legal conclusion must be demonstrated.

Samuel Morse received letters patent (1,647) to the telegraph on June 6, 1840[11] before Alexander Graham Bell received letters patent (174,465) to the telephone on March 7, 1876.[12] Morse's patent was later subject of *O'Reilly et al. v. Morse et al.*, 56 U.S. 62 (1853), whose proceedings also concluded before Bell received his patent.[13]

Not only is it an unsound legal conclusion, but the District Court makes an argument that violates causality when it asserts the General Court of Massachusetts excluded denial of common carriage of digital personal literary property from penalty under M.G.L.

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[11] Samuel E. B. Morse, *Improvement in the Mode of Communicating Information by Signals by Electro-Magnetism*, US1647A ('647), June 6, 1840. The telegraph is a digital transmission technology.

[12] Alexander Graham Bell, *Improvement in Telegraphy*, US174465A ('465), March 7, 1876. ["Telephone" became a common generally meaningful term after 1876.] While telegraphy is a digital transmission technology, the voice telephone network was purely analog until 1962. See *Engineering and Technology History Wiki*, "Digital Transmission" in *Telephone Transmission*, URL: https://ethw.org/Telephone_Transmission#Digital_Transmission.

[13] No major Internet technology patent exists that is comparable to the '647 patent or to the '465 patent. This absence suggests technology has not changed significantly and mostly looks different.

c. 159 §§ 1 & 2 because voice was not "other property" in original intent of the legislators.

The District Court seems to believe these legislators prophesied Alexander Graham Bell would invent the telephone seven years later.

Controversies, which pertain to personal literary property (or common law copyright), go back at least to the time of Milton's publication contract with Samuel Simmons for *Paradise Lost* in April 1667 and continue in *Estate of Hemingway v. Random House*, 53 Misc. 2d 462, 279 N.Y.S.2d 51 (N.Y. Sup. Ct. 1967); *Harper & Row, Publishers, Inc. v. Nation Enterprises*, 471 U.S. 539, 105 S. Ct. 2218 (1985); and *Salinger v. Random House, Inc.*, 811 F.2d 90 (2d Cir. 1987).

In 1976, Congress amended the Copyright Act and almost entirely absorbed common law copyright into statutory copyright. See 17 U.S. Code § 301. Some space remains for common law copyright at least in California and Massachusetts as the following two case seem to indicate:

- *Hemlock Hat Co. v. Diesel Power Gear, LLC*, Case No.: 19-cv-02422-AJB-AHG (S.D. Cal. Nov. 25, 2020) and
- *Lyons and Homecoming Farm, Inc. v. Gillette*, Case No.: 11-12192-WGY (DC District of Massachusetts, Memorandum and Order, July 31, 2012.[14]

[14] The case discusses common law copyright infringement but leaves open issues (a) of *in rem* rights to personal literary

While statutory copyright provides *in personam* rights, common law copyright included at least in part *in rem* property rights[15] to personal literary property. Such rights were long-established at the time of ratification of the US Constitution and are protected by Amendment IX. Without a Constitutional amendment *in rem* property rights cannot be extinguished and remain relevant in the context of a social medium platform to:

1. the issue of common carriage of unpublished digital personal literary property and
2. the issue of conveyance of unpublished digital personal literary property from one person to another or from one person to the public.[16]

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property and (b) of the conveyance of ownership of unpublished personal literary property to another person or to the public.

[15] *In rem* rights to personal literary property hardly differ from *in rem* rights to real estate. Constitutional amendment extinguished *in rem* property rights to a chattel slave.

[16] § 230 states that a 1996 Interactive Computer Service (ICS) is not a publisher of third-party content. Unpublished literary property remains unpublished even after transport by either an ICS or a social medium platform. While a 2022 social medium platform fails to meet the definition of a 1996 ICS, the social medium platform is neither a broadcaster nor a publisher just as neither telegraph nor telex service is either publishing or broadcasting. A user sees on his display unpublished digital personal literary property, which he has by means of an explicit sequence of HTTP REQUESTs requested the social medium platform to provide to him by means of message common carriage. An Internet mail service like Google Gmail works similarly. A 2022 social medium platform has a frontend user interface differing slightly

Since the 1840s, a plaintiff prevailed over a telegraph (a message common carrier of digital personal literary property) for:

1. denial of common carriage or
2. failure to deliver a writing or personal literary property

well before Massachusetts General Law, Chapter 159 §§ 1 & 2 were enacted in 1869.[17]

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from the frontend of an Internet mail service because the former has a whizzier interface than the latter. The backend of one hardly differs at all from the backend of the other. If one telex service differed from another telex service only because one service had a niftier interface than the other, the two services would not be subject to different sets of laws. The FCC ruled in 1979 that Email was a common carriage service (see pp. 20-21). The services of Gmail and a 2022 social medium platform hardly differ from USPS ECOM and must be considered common carriage services.

[17] In the early days of telegraphy, some doubted that a telegraph provided common carriage because a telegraph service provided a true paper copy of a paper text, but eventually the law recognized that a telegraph provided message common carriage either of the message information of the original paper text or of the signals into which the original paper text was transformed at the originating telegraph office. It was possible to hold the same debate about voice transmission by telephone (voice telegraphy), but by 1876, few denied that original telegraphy or voice telegraphy constituted common carriage even if telephone voice common carriage does not carry a cognizable discrete message, which is literary property. Because of technological development, this debate is barely understood today. A good summary of early telegraph law can be found in T. W. D., "The Law of Telegraphs and Telegrams", *The American Law Register* (1852-1891), Vol. 13, No. 4, New Series Volume 4 (Feb., 1865), pp. 193-212, republished

When the District Court uses a voice precedent like *Am. Tel. & Tel. Co. v. IMR Cap. Corp.*, 888 F. Supp. 221 (D. Mass. 1995) to deny Joachim has a valid monetary claim against each social medium platform (App. 6-7), this assertion cannot represent a correct legal conclusion based on sound legal reasoning and precedents of federal and state telecommunications law.

When a writer uses a common carriage letter-transportation service to cause a letter to be received by the letter's recipient, the writer conveys his personal literary property to the recipient. In the early 20th century Congress realized the medium (or substrate in patent law terminology) for personal literary property need not be paper, and a statute like 17 U.S. Code § 102 was modified to reflect new technology.

Joachim and the public have an Amendment IX right to non-discriminatory common carriage, which he wishes to use to convey and dedicate his unpublished digital personal literary property to the public. Not only does each defendant violate common carriage law, but each Defendant violates 42 U.S. Code § 1982. In so doing, each Defendant applies contractual Terms of Service differently and with unlawful discrimination to separate groups of users and violates 42 U.S. Code § 1981.[18]

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by *The University of Pennsylvania Law Review*, URI: http://www.jstor.org/stable/3302631.

[18] See the discussion of discriminatory application of TOS in Joachim's *Reply to Medium's Appellee's Brief*, which can be found in PACER or via its QR code in *Appendix E – QR Codes* (App. 52).

2. Legal Misunderstanding Must Be Eliminated (Questions: 2-7)

If only there were a legal and regulatory framework

- used for centuries by multiple industries,
- usable to answer all legal questions which are associated with the Internet, and
- able to make regulation simple and easy!

That commonly used framework is common carriage law for the carriage of people, merchandise, property, goods, or communications.

The Application of Common Law Common Carriage Must Be Clarified

Internet exceptionalism is unjustifiable. Common carriage has evolved to cover common carriers as diverse as ferries, stagecoaches, railroads, telegraphs, telephony, the US Postal Service, FedEx, Amazon delivery, taxi service, DoorDash, grocery common carriage service, pneumatic mail, trucker common carriers, some escalators, some elevators, a Ferris wheel, air common carriers, telex, email service, SMS, container ships, etc.

A social medium platform easily fits into this eclectic group.

Every social medium platform is a message common carrier of digital personal literary property if it

holds out message carriage to the public under uniform terms for a reasonable charge, which may be monetary fee, barter (information collected about the user) or work for carriage (to wit, "eyes-on-a-page" – a valuable item).

The service, which a social medium platform provides, hardly differs from common carriage service, which telegraph or telex provided.[19] The only major difference is a whizzier interface, (a) which the social medium platform downloads to an end user laptop computing device or (b) which is software (i) licensed from the social medium platform and (ii) pre-installed as an app on a mobile computing device in order to avoid delay associated with downloading a webpage from a backend server.

A social medium platform provides

- store-and-forward message switching and
- temporary storage (bailment[20] or hosting) of a message (digital personal literary

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[19] 19th century telegraph networks constituted the "Victorian Internet" and occasioned development of a legal framework that would apply perfectly to the 21st century Internet if only US Courts applied this long-established straightforward caselaw.

[20] In contrast, a newspaper publisher owns the writing of a reporter under a "work for hire" arrangement while a book publisher acquires copyright from a writer. A bookseller owns the physical copies of the books he sells. A social medium platform is more like an owner of parking garage than like a publisher or like a distributor of newspapers or of books. Once a social medium platform moderates or curates, an American has the Constitutional right under Amendment IX and under 47 U.S. Code § 230,

> property) within a backend server on its way to delivery to its destination by digital message common carriage.

The operations

1. of store-and-forward message switching and
2. of message bailment

are both traditional operations of message common carriage.

Bailment of digital personal literary property is not speech of a social medium platform, and the social medium platform has neither editorial discretion nor distributor discretion with respect to bailment except in the mind of a user, who understands neither basic common carriage law nor full-stack software engineering at the level of a PHOSITA (Person Having Ordinary Skill in The Art in patent law terminology).

For a social medium platform to escape[21] obligations common carriage law imposes on a social medium platform, the social medium platform need only reorganize itself into a genuinely private club or

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which only refers to a speaker or to a publisher, to sue the social medium platform for distributor libel.

[21] The common carriage framework is not inflexible. A common carrier may offer a plurality of standard service tiers.

- cease to monetize "eyes-on-a-page" and
- cease trading in information it collects from a user in exchange for message common carriage service.[22]

In brief, if a social medium platform makes money from common carriage, it is legally and constitutionally obligated (Amendment IX) to obey common carriage law.

Amendment IX gives the public Constitutional right to non-discriminatory common carriage. A common carrier has no right to refuse common carriage to a customer except for circumstances of unfitness or lack of space.[23]

A common carrier is a person who holds himself out as willing to serve any shipper who offers him a reasonable fee to transport the kinds of goods he professes to carry to a place he professes to serve, provided they were not unfit and his conveyance was not already

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[22] Digital personal literary property, of which a social medium platform is bailee and which the social medium platform distributes by message common carriage to other users, serves in barter for service. Bailment of digital personal literary property is valuable to the social medium platform because the social medium platform uses a user's literary property to attract more eyes to the website of the social medium platform.

[23] 47 U.S. Code § 230(c)(2)(A) identifies certain digital personal literary property that is unfit in the context of the Internet. *U.S. v. Stevens*, 559 U.S. 460, 130 S. Ct. 1577, 176 L. Ed. 2d 435 (2010) provides guidance with respect to restrictions that a message common carrier (not just a social medium platform) may apply to user speech or digital personal literary property, for which a user seeks common carriage.

full. See *Lovett v. Hobbs*, 2 Show. K.B. 127, 89 Eng. Rep. 836 (K.B. 1680); *Jackson v. Rogers*, 2 Show. K.B. 327, 89 Eng. Rep. 968 (K.B. 1683).

By definition, a common carrier has to serve all comers. If he wrongfully refuses to accept a consignment, he is suable in tort. See *Jackson v. Rogers*, 2 Show. K.B. 327, 89 Eng. Rep. 968 (K.B. 1683).

Denial of common carriage is a self-evidencing violation and deserves draconian penalties because common carriage law is root and beginning of anti-discrimination law, without which modern civil society does not function.

Zeran[24]-based caselaw,

- which gives a social medium platform unfettered editorial discretion[25] to discard digital personal literary property temporarily stored on a backend server of a social medium platform or to deny message common carriage of a user's digital personal literary property,
- which gives a social medium platform the right to deny common carriage to a member of the public, and
- which renders a social medium platform immune to publisher and to distributor

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[24] *Zeran v. America Online*, 129 F.3d 327 (4th Cir. 1997).

[25] Neither the phrase "editorial discretion" nor the phrase "common carrier" is mentioned in 47 U.S. Code § 230.

> libel by removing the distinction between a distributor and a publisher,[26]

violates the US Constitution Article I Section 1, US Constitution Amendment I, and US Constitution Amendment IX. This caselaw takes away the Amendment IX rights of a member of the public to non-discriminatory common carriage and to sue for libel even though these two types of rights were long established at time of ratification of the US Constitution by the original thirteen colonial states.

A social medium platform has no Amendment I right to refuse message common carriage of a user's digital personal literary property because hosting is bailment and not the speech of the social medium platform, which performs message common carriage.

An Explanatory Example

The following question-and-answer may clarify the legal situation.

Question: Does a notice board accessible to passers-by – in the entrance of a supermarket for example – offer a common carriage service? If not, how does Twitter differ from a notice board beyond Twitter's attachment to a network that offers public access?

Answer: The described public notice board is a material board to which a shopper affixes a material

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[26] See dissent in *Doe v. America Online*, 783 So. 2d 1010, 1013 n.6 (Fla. 2001).

message. The material board provides neither message switching nor message common carriage. Twitter provides store-and-forward message switching as well as message common carriage among users. Twitter temporarily stores a message in a backend database system (bailment) while the message is on the way to an end-user by means of message common carriage.

Discussion: The question confuses frontend model (a pure concept or abstract idea[27]) with a material notice board. The frontend model makes it easier for an end user to interact with Twitter's backend system.

In other words, Twitter's service has no similarity to the material notice board. The question shows lack of comprehension of Internet technology.[28]

Hosting is not speech of a social medium platform. Storing digital personal literary property in a backend

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[27] Abstract idea in this context has similarity to the abstract idea exception to patent eligibility. A discussion of confusion of virtual reality with physical reality can be found in Joachim's *Reply to Twitter's Appellee's Brief*, which can be found in PACER or via its QR code in *Appendix E – QR Codes* (App. 50).

[28] The terminology of full-stack software engineering is confusing. A software engineer generally uses the Model-View-Controller design pattern to design a web or cloud service. An end user invokes a browser on his end host (a laptop or mobile computing device) to access the service. A single page application is frontend social medium platform software that runs in a web browser to access a service of the social medium platform – an older design might use Jakarta (or Java) Server Pages, but such a design does not affect the argument. A mobile device typically runs a mobile app (provided by the social medium platform) to complete common carriage service, which the social medium platform's backend provides.

server of the social medium platform hardly differs from temporary storage or bailment of a paper letter in a satchel at a USPS sorting location or at a FedEx office until the paper letter can be sent on its way to its destination by common carriage.

FCC Evaluates USPS ECOM (Email)

An email service backend, a social medium backend, a blog hosting backend, and a mail LISTSERV backend all keep mail/posts and replies/ comments in a backend database. There are slight differences in forwarding and public access. The frontend of each service makes each service look different, but the protocols neither differ much (if at all) nor do the data exchanges between a frontend and its backend differ much (if at all).[29] Nothing justifies regulating these services differently.

While the FCC has declined to regulate email service, it has decided email service is common carriage[30]

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[29] In a modern software architecture like Jamstack, it is extremely easy to swap one frontend for another. What is Jamstack? Jamstack, previously stylized as JAMStack, stands for JavaScript, API and Markup and was first coined by Mathias Biilmann, CEO of Netlify in 2015. In Jamstack websites, the application logic typically resides on the client side, without being tightly coupled to the backend server.

[30] When the US government enacts a law or promulgates a regulation, it is supreme according to U.S. Constitution Article VI ¶ 2, but when the US government declines to regulate, a state has the authority to regulate according to Amendment X. The FCC usually regulated interstate voice and data telecommunications while regulation of the end user access loop was left to state

in Federal Communications Commission [CC Docket No. 79-6; FCC 79-465] Electronic Computer Originated Mail (ECOM); Proceeding Terminated, *Memorandum Opinion and Order*.[31]

> 17. Not only is the proposed service "communications by wire or radio;" It is also a common carrier activity. As has often been noted, the statutory definition of common carrier is not helpful: "'common carrier' or 'carrier' means any person engaged as a common carrier for hire ***" 47 U.S.C. 153(h). Our Rules shed little additional light on the issue: "*** any person engaged in rendering communication service for hire to the public." 47 CFR 21.1 Like our Rules and the language of the Act, Legislative history is also less than illuminating- the term was not intended to include "*** any person not a common carrier in the ordinary sense of the term." Thus, whatever guidance we are to receive on the meaning of communications common carriage must come from judicial interpretations and comparisons of ECOM with existing communications common carrier services already regulated under the Act.[32]

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regulation, for which Massachusetts used commonwealth common carriage law.

[31] *Federal Register*, Vol. 44, No. 181, Monday, September 17, 1979, Notices, pp 53788-53800.

[32] USPS ECOM provided fee-for-service common carriage. A modern email service charges a fee, which is a combination of work-for-carriage ("eyes-on-a-page") with barter (collecting user content), and with a fee for storage.

Dial-A-Porn

In the 1980s, Dial-A-Porn used AT&T Mass Announcement Network Service (MANS) to provide pornography over the public telephone network. AT&T and an associated local subsidiary provided statutory federal and common law state common carriage.

No one ever confused Dial-A-Porn narratives, which AT&T or an AT&T subsidiary (*e.g.*, an RBOC[33] like NY Telephone) hosted, with AT&T's own speech.

Hosting, which is a term used today in the context of a blog or in the context of a social medium platform, was considered then to be (and remains today) temporary storage (bailment) of customer's merchandise or property on its way to the destination.[34] Calling such temporary storage or bailment hosting does not make it possible for a common carrier to escape its common carriage obligations.

The FCC fined Dial-A-Porn, but AT&T or its NY Telephone subsidiary had impunity with respect to the telephone calls, which were carried, because AT&T and NY Telephone were together providing common carriage.

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[33] Regional Bell Operating Company (pre-Breakup).

[34] A Dial-A-Porn narrative was uploaded onto a telephone network server (temporary storage or bailment). A telephone customer accessed the narrative by dialing a special local number so that there was end-to-end Telco billing between the customer and the Dial-A-Porn company.

MANS was a lucrative service, which AT&T, an RBOC, or an ILEC[35] offered at least through early 1990s until pornographers realized the Internet was a better facility (place of public accommodation) for pornography.[36]

A 2022 Social Medium Platform versus a 1996 ICS

The meaning of Interactive Computer Service (ICS) is a matter of law and has never been adequately addressed.

47 U.S. Code § 230 can apply to a 2022 social medium platform if and only if the definition of an ICS includes a 2022 social medium platform. The definition of an ICS depends on the definition of an Access Software Provider (ASP).

What was a 1996 Access Service Provider (ASP)?

Joachim's company consulted for AOL in 1996. At the time AOL was an ICS because it was a dial-up Internet On-Ramp. Compuserve and Prodigy were also ICSs. In 1996 most Americans probably accessed the Internet (not a dial-up network) through a dial-up ICS

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[35] Incumbent Local Exchange Carrier (post-Breakup).

[36] See FCC, 47 CFR Part 64 [Gen. Docket No. 83-989; FCC 84-253], "Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials," *Federal Register*, Vol. 49, No. 119, Tuesday, June 19, 1984, pp. 24996-25003.

like one of these three services.[37] In some sense, such an ICS seemed responsible for all the content of the Internet even though such responsibility and liability is impossibly unfair. No 2022 social medium platform acts like an Internet portal or an on-ramp as a 1996 ICS did.

In 1996 Joachim's company also consulted for Aurora Technologies, which manufactured Access Software, which was called Control Tower. Aurora Technologies licensed the software to a system integrator working with an Internet On-Ramp (ICS), whose customer was often a library or a school.[38]

The System Integrator/ASP set up a (usually headless) server at the school or library. The server was connected to the Internet On-Ramp either by dial-up or by leased line.[39] The client software was installed a PC that connected to the server by serial lines, by Ethernet, by Token Ring, or by Arcnet.

47 U.S. Code § 223(e) Defenses (6) indicates that Congress treated a user of an ICS or a user of an ASP,

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[37] While a 1996 ICS was within the Internet, the 1996 ICS unlike a 2022 social medium platform had a means (usually a dial-up network) for someone outside the Internet (*i.e.*, without an IP address) to access the Internet.

[38] Such access software is implicitly at the core of the controversy in *United States v. American Library Assn., Inc.*, 539 U.S. 194, 123 S. Ct. 2297 (2003).

[39] In 1996 it was rare for a member of the public to have dedicated or leased-line access to the Internet.

at least in some situations like a user of a dial-up phone line.

To a 1996 user of an ICS or of an ASP, the definitions of these two entities are perfectly clear. A Court misunderstands the definitions in 2022 because the technology is obsolete, and everyone has forgotten what these definitions mean.

Here is § 230(f) Definitions (2).

Interactive computer service

> The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

Here is § 230(f) Definitions (4).

Access software provider

> The term "access software provider" means a provider of software (including client or server software), or enabling tools that do any one or more of the following:
>
> (A) filter, screen, allow, or disallow content;
>
> (B) pick, choose, analyze, or digest content; or

> (C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

47 U.S. Code § 223 does not directly refer to an Access Software Provider except indirectly through ICS.

47 U.S. Code § 223(e) Defenses (6) tells us that to Congress an ICS could be a dial-up service.

In a legal defense, the ICS must not be considered a common carrier.

The following clause of 47 U.S.C. § 223(e) does not indicate how to treat an ICS outside of the context a legal defense to an accusation under § 223.

> (6) The Commission[40] may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission shall have no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of paragraph (5) in any action arising under subsection (d). Nothing in this section shall be construed to

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[40] Federal Communications Commission (FCC).

> treat interactive computer services as common carriers or telecommunications carriers.

47 U.S.C. § 223(h) Definitions (3) (a-c) defines "Access Software" and is consistent with 47 U.S.C. § 230(f) Definitions (4) Access Software Provider (A-C).

ICS by Grammatical and Syntactic Analysis

The statute states the following.

> The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

The comma between server and including means the text should be constructed to be equivalent to the following.

> The term "interactive computer service" means any information service, system, or access software provider (1) that provides or enables computer access by multiple users to a computer server and (2) that includes specifically either a service or system that provides access to the Internet and to such systems operated or services offered by libraries or educational institutions.

What do the two restrictive relative clauses modify? The first occurrence of system is so general that the two restrictive relative clauses must modify it. If the two restrictive relative clauses modify both "access software provider" and also system, the same two restrictive relative clauses must modify the phrase "information service". The above text must be constructed to the following by expanding any elliptic phrase to the only possible complete equivalent.

Below is the result of the grammatical transformation that explains the definition of an ICS.

a. any information service

   i. that provides or enables computer access by multiple users to a computer server and

   ii. that includes specifically

      - a service that provides access to the Internet and access
        - to such systems, which are operated by libraries or by educational institutions, or
        - to such services, which are offered by libraries or by educational institutions, or
      - a system that provides access to the Internet and access
        - to such systems, which are operated by libraries or by educational institutions, or

- to such services, which are offered by libraries or by educational institutions;

b. any system

i. that provides or enables computer access by multiple users to a computer server and

ii. that includes specifically

- ♦ a service that provides access to the Internet and access
  - to such systems, which are operated by libraries or by educational institutions, or
  - to such services, which are offered by libraries or by educational institutions, or
- ♦ a system that provides access to the Internet and access
  - to such systems, which are operated by libraries or by educational institutions, or
  - to such services, which are offered by libraries or by educational institutions; or

c. any access software provider

i. that provides or enables computer access by multiple users to a computer server and

ii. that includes specifically

- a service that provides access to the Internet and access
  - to such systems, which are operated by libraries or by educational institutions, or
  - to such services, which are offered by libraries or by educational institutions, or
- a system that provides access to the Internet and access
  - to such systems, which are operated by libraries or by educational institutions, or
  - to such services, which are offered by libraries or by educational institutions.

After *Stratton Oakmont*,[41] it made sense to immunize an Internet portal like AOL, Compuserve, or Prodigy because these Internet On-Ramps lacked control over third-party Internet content they made available to their users. Even if one accounts for development of technology, a 2022 social medium platform provides an Internet service and not a portal to the Internet as list items (a-c) above all indicate an ICS must be. A 2022 social medium platform has complete

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[41] *Stratton Oakmont, Inc. v. Prodigy Servs.*, 23 Media L. Rep. (BNA) 1794, 1995 WL 323710, 1995 N.Y. Misc. LEXIS 229 (N.Y. Sup. Ct. 1995)

control over the content on its backend. The user of an ICS must be coming from outside the Internet as no user does today with today's technology. It seems like legislation for the Courts to interpret a statute, which is directed to a 1996 Interactive Computer Service, which is an Internet On-Ramp, to apply to a 2022 Internet Service, which is a social medium platform.

3. Logical Fallacy Cannot Become Precedent (Question: 7)

While Petition I (p. 17 *et seq.*) explained logical fallacy the Court of Appeals for the Fourth Circuit expressed in its opinion in *Zeran v. America Online*, 129 F.3d 327 (4th Cir. 1997),[42] logical fallacy could have been explained more concisely.

The *Zeran* Court made a fallacious logical leap like below.

> "If I am in Cambridge, MA, I am in Massachusetts."
>
> "If I am not in Cambridge, MA, I am not in Massachusetts."

Zeran-based caselaw (a) constitutes a logical blight on the US legal system, (b) represents unconstitutional legislating by the US federal judiciary, and (c) violates

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[42] Petition I (App. 48) distinguished between an ICS of § 230 and a social medium ICS. It is clearer to distinguish between a (1996) ICS and a (2022) social medium platform.

Article I Section 1 of the US Constitution in yet another way.

4. Accommodation, Forum, and State Action Must Be Disentangled (Question: 8)

The concepts of public accommodation and public forum are related while state action often relates to a public forum even if a public forum does not play a role in *Burton v. Wilmington Pkg. Auth*, 365 U.S. 715, 81 S. Ct. 856 (1961).[43] Less time would have been wasted on litigation if State Action Doctrine had been named State Proxy Doctrine or State Proxying Doctrine.

Public Accommodation

The social medium platform-related caselaw, which denies a social medium platform is a place of public accommodation, is confused and results from cartoonish litigation. The Memorandum Opinion of the *Noah*[44] Court was correct in denying a virtual forum[45] (chat room) was a place in CRA sense. Plaintiff Noah's error in presenting his case was metaphorically equivalent to confusing a movie (not a place) with a movie theater (a place), where the movie is exhibited. If

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[43] State Action Doctrine applies against the Government, Public Forum Doctrine against a private actor.

[44] *Noah v. AOL Time Warner Inc.*, 261 F. Supp. 2d 532 (E.D. Va. 2003).

[45] The virtual forum (virtual conference room or virtual meeting room) interaction abstraction is an elementary instance of a virtual reality.

Plaintiff Noah had focused on AOL's temporarily assembled place of public accommodation[46,47] for exhibition and entertainment, he might have had a good argument that AOL was violating § 2000a by allowing other users to create an environment hostile to Muslims, who constitute a protected class under § 2000a.

Lewis v. Google LLC, No. 20-16073 (9th Cir. Apr. 15, 2021) is vicariously embarrassing to read and only has virtue of non-precedential status. In this decision, the audience is confused with the movie theater.[48]

The Internet is a state-supported establishment that has an identifiable structure that can be mapped to locations throughout the planet. The Internet has premises that have buildings with grounds or appurtenances throughout the United States of America. Premises of the Internet may temporarily include premises of a user, whose device is within the Internet (has an Internet Protocol or IP address). Since the 1960s the Internet, which has evolved from the

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[46] This place of exhibition or entertainment extends from a social medium platform's server to structures that social medium platform software creates in a place in memory of a device on which a user's browser is running.

[47] Plaintiff Noah entered the temporarily assembled "movie theater" by means of his program-executing or computing device, which in 2003 was within the Internet (had an IP address), which is temporarily part of the "movie theater". The "move theater" includes the place where the user computing device is located.

[48] A Court, which considers *Clegg v. Cult Awareness Network*, 18 F.3d 752 (9th Cir. 1994), relevant to a § 230 litigation, can only believe (according to generous inference) that the Internet operates by magic.

ARPANET, was intended to become a place of accommodation for resource sharing. Now it is public. The US government has established and supports[49] the Internet as a place of public accommodation within the definition of 42 U.S. Code § 2000a. The operative phrase in the statute is "Establishments affecting interstate commerce or supported in their activities by State action *as* places of public accommodation." *The phrase expresses a simile.*[50] A state-supported establishment need only be (functionally) *like* a place. § 2000a desegregated a state-established state-supported public drinking fountain even though it hardly fits into the example list of § 2000a.

Because every social medium platform is and functions within the Internet, every social medium platform comes under 42 U.S. Code § 2000a(b)(4):

> any establishment (A)(i) which is physically located within the premises[51] of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and

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[49] An example of US government support: "Internet for All" at https://www.internetforall.gov/.

[50] The statute does not say "supported in their activities by State action *to be* places of public accommodation." See *Richards v. United States*, 369 U.S. 1, 9, 82 S. Ct. 585 (1962), quoted in *Welsh v. Boy Scouts of America*, 993 F.2d 1267 (7th Cir. 1993) at 1269 ("[W]e must always be cognizant of the fact that 'the legislative purpose is expressed by the ordinary meaning of the words used.'").

[51] Premises include grounds and appurtenances, which include wiring.

(B) which holds itself out as serving patrons of such covered establishment.

A social medium platform may not discriminate against the groups, which § 2000a specifies, and Facebook has already made legal admission of such discrimination.[52]

Public Forum

A public forum like a public park can easily be a place of public accommodation if the public forum contains

1. a facility principally engaged in selling food for consumption on the premises or
2. a place of exhibition or entertainment.

Since the beginning of the Arpanet, the DARPA leadership has asserted the Arpanet and the Internet, into which the Arpanet evolved, were and are facilities for academic research, discussions, and communication. Sometimes such a description has appeared in litigation, *e.g.*, *Loving v. Boren*, 956 F. Supp. 953 (W.D. Okla. 1997). Anyone can be an independent academic researcher and participate in an academic discussion or academic communication. The US government seems to have called the Arpanet or the Internet a public forum since the early 70s. A declaration from an inferior officer or lower official of the US government

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[52] *Human Rights Due Diligence of Meta's Impacts in Israel and Palestine*, https://www.bsr.org/en/our-insights/report-view/meta-human-rights-israel-palestine.

hardly seems dispositive, but the following gloss of the 47 U.S.C. § 230 (a & b) argues the US government has designated the Internet a public forum.

(a) **Findings**

The Congress finds the following:

(1) The rapidly developing array of Internet and other interactive computer services[53] [*Internet On-Ramps like 1996 AOL, Compuserve, and Prodigy*] available to individual Americans [*members of the public*] represent an extraordinary advance in the availability of educational and informational resources [*creates a public forum*] to our citizens [*the public*].

(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

(3) The Internet and other interactive computer services [*Internet On-Ramps*] offer a *forum* for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity. [*Statement Designating Public Forum*]

(4) The Internet and other interactive computer services [*Internet On-Ramps*]

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[53] The Internet is a network of connected networks, which in 1996 could include a 1996 ICS. Thus the 1996 Internet was a 1996 ICS but was not a suable ICS. A constituent ICS was suable.

have flourished, to the benefit of all Americans [*the Public*], with a minimum of government regulation.

(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services [*to create a public forum*].

(b) **Policy**

It is the policy of the United States –

(1) to promote the continued development of the Internet and other interactive computer services [*Internet On-Ramps*] and other interactive media;

(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services [*Internet On-Ramps*], unfettered by Federal or State regulation;

(3) to encourage the development of technologies which maximize user control [*not control by private hi-tech mega corporations*] over what information is received by individuals, families, and schools who use the Internet and other interactive computer services [*Internet On-Ramps*];

(4) to remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

> (5) to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

Since enactment of § 230, the Internet has been partially privatized, but it hardly changes the status of a forum if functions, which a private entity can do more efficiently than the government, are under the control of a private entity.[54] The larger part (maybe most) of the Internet consists of government-owned, supported, or subsidized (often public) networks, links, equipment (including end-user equipment), servers, other miscellaneous devices facilities, and premises. Many US Internet Services Providers (ISPs) are government-run while the government runs or foots the bill for many if not most Internet Access Providers (IAPs) and Network Service Providers (NSPs).

Partial privatization of small elements or areas of a public forum hardly changes public forum status. A US park can contain a private restaurant, a private hotel, or a private shop but remain a public forum.

If the government withdrew its technology and support for the Internet from the Internet, the US Internet would comprise many mostly useless (mostly tiny) disconnected networks.

A social medium platform does not own the entire network infrastructure down to the Customer

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[54] In *United States v. American Library Assn., Inc.*, 539 U.S. 194, 123 S. Ct. 2297 (2003) was careful not to implicate the public forum status of the Internet and only refers to Internet access.

Premises Equipment (CPE). It is hard to understand how a social medium platform can host an open forum within the Internet yet has the right to discriminate against groups of the public in a network infrastructure that does not belong to the social medium platform and that seems to be owned or funded largely by the government. Those parts of the US Internet not owned or funded by the US government mostly belong not to the social medium platform but to other members of the public. The social medium platform owns little of the US Internet in its corporate network and pays for Internet access from an ISP, which also does not own the Internet.

In the pre-Breakup days, AT&T was careful to own its whole network including every piece of CPE so that it did not run into this issue.

State Action (Proxying)

The action (proxying) of a non-government actor (proxy) becomes inextricably linked with the government

1. if the action of the non-government actor can only be considered unequivocally to express government policy,
2. if the non-government actor is government-supported, or
3. if the non-government actor supports the government within a government facility or establishment.

Items [2] and [3] become problematic when proxy action, which the non-government proxy[55] undertakes, could not constitutionally or legally be undertaken by the government.

Jawboning comes under item [1] and does not create state action[56]

- when the non-government actor has means to pushback or
- when the non-government actor can show that it undertook the action in question before the government started jawboning.

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[55] Actor suggests agent and some sort of official relationship status. Proxy implies far less.

[56] Plaintiff Prager made a weak argument for State Action in *Prager Univ. v. Google LLC*, 951 F.3d 991 (9th Cir. 2020). The *Prager* Court cites *Manhattan Community Access Corp. v. Halleck*, 139 S. Ct. 1921 (2019) despite the lack of similarity between the two legal situations. The *Halleck* precedent is irrelevant to the violations that almost every social medium platform commits. While MCA/MNN is a cable-caster, which specializes in a narrow range of content and which operates within a private network, a social medium platform provides an exclusionary open forum in a state-created, state-supported, and probably mostly state-owned or state-supported public network. US and state governments often make extensive use of an exclusionary open private forum that a social medium platform has created within the government-designated public forum of the Internet. See Mat Ford, "Why Isn't the Supreme Court on Twitter?", *The New Republic*, June 25, 2020, URI: https://newrepublic.com/article/158288/supreme-court-twitter.

Eagle Coffee Shop of *Burton*[57] came under item [3] because it paid rent to the government and in effect made the state government complicit in violation of Amendment XIV.

Suppose Delaware had allowed the Eagle Coffee Shop to use government space for free. Then the issue would have come under list item [2].

The Supreme Court points out in *Perry*[58] that the school email system is not, by tradition or government designation, a forum for public communication.

In contrast, the government created the Internet to be a forum for public communication. Partial privatization does not change that designation.

A social medium platform discriminates in government-supported networks and systems like:

1. a state college, library, or school network;
2. a state ISP (e.g., NYSERNET);
3. a community ISP (e.g., Chattanooga EBP);
4. a federally funded broadband link; and
5. like federally funded end host user devices.

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[57] *Burton v. Wilmington Pkg. Auth*, 365 U.S. 715, 81 S. Ct. 856 (1961).

[58] *Perry Local Educators' Ass'n v. Hohlt*, 652 F.2d 1286 (7th Cir. 1981)

The government cannot

1. participate in action,
2. benefit from action,
3. support action, or
4. compel action

by a non-government actor (proxy) if the action would be unconstitutional or illegal, were the government to undertake the action. Every social medium platform is forbidden by state action doctrine from

1. abridging user Amendment I rights,
2. public accommodation discrimination (§ 2000a),
3. civil rights discrimination (Amendment XIV violation), and
4. common carriage discrimination (Amendment IX violation[59]).

While a private entity can host an open forum for discussion in its private space and abridge the speech of visitors to its forum, a private entity cannot host an open forum for discussion within the public square[60] of

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[59] A supporter of discrimination by a social medium platform may argue for limiting Amendment IX to a transportation means of the late 18th century, but 18th century arms hardly limits Amendment II.

[60] White racists have traditionally used a private theoretically open forum to exclude Blacks. See *United States v. Classic*, 313 U.S. 299 (1941). Just Louisiana subsidized an exclusionary

the Internet[61] and abridge the freedom of speech of visitors without committing an action

1. that is inextricably intertwined with the state and
2. that thus violates Amendment I rights of the visitors.

The situation of *Hudgens v. Nat'l Labor Relations Bd.*, 424 U.S. 507, 96 S. Ct. 1029 (1976), is different because the North DeKalb Shopping Center was not a government-designated public forum.

In brief, a social medium platform creates an open forum in the government-designated public forum of the Internet and becomes a state proxy in a constituent state network. Both public forum doctrine and state action doctrine are violated.

Summary

A social medium platform is role model for Constitutional violation, statutory violation, common law violation, and nasty discrimination.

The Internet culminates technological evolution that goes back at least 180 years. Caselaw developed along with technology. The attempt of District Courts

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primary election, the USA subsidizes an exclusionary social medium platform.

[61] The Internet is a state-supported place of public accommodation for resource sharing, research, discussion, exhibition, and entertainment; or the Internet is state-designated public forum.

and Appeals Courts to ignore long standing and well-reasoned precedents is not judicial but is ideological and creates a legal and political disaster transforming a court of law into a court of discretionary abuse.

By ordering service and district court trial for *Martillo v. Twitter*, a process of full litigation of Internet exceptionalism out of the US legal system can be started and completed preferably in class action litigation

1. tried under 42 U.S. Code § 2000a-5 and
2. consolidated with litigation addressing other violations a discriminatory social medium platform routinely commits.

CONCLUSION

For the above reasons, this petition should be granted.

Respectfully submitted,

JOACHIM MARTILLO
75 Bailey St., Ste. 1L
Boston, MA 02124
(617) 276-5788
ThorsProvoni@protonmail.com
Pro Se Petitioner

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No. _____

In The
Supreme Court of the United States

JOACHIM MARTILLO,

Petitioner,

v.

TWITTER INC., FACEBOOK INC., A MEDIUM CORP., LINKEDIN CORP., THE STANFORD DAILY PUBLISHING CORP., and HARVARD CRIMSON INC.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The First Circuit

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI