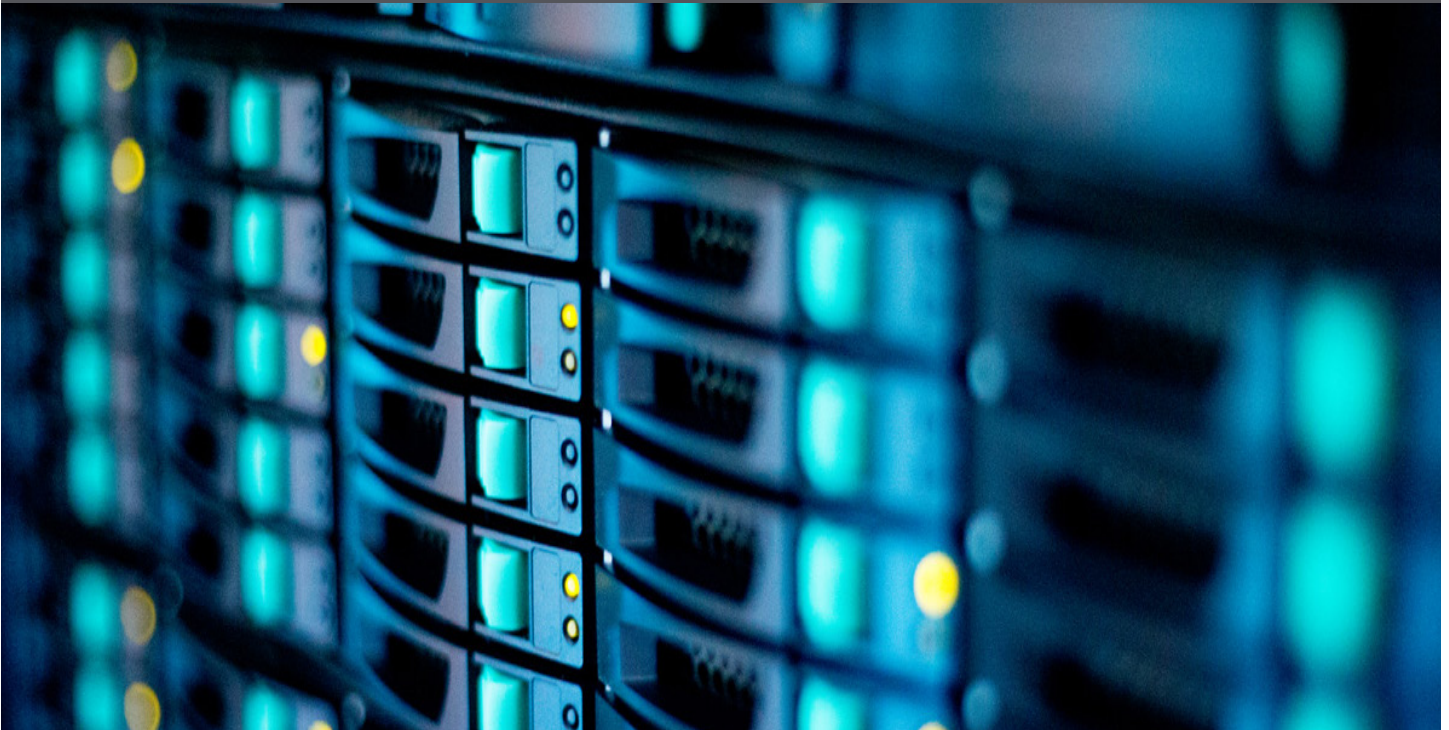




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New California Ruling and Legislation Provide Some Relief for Businesses Facing Website-Tracking Claims

In the span of one week, two long-awaited developments emerged from California's Court of Appeal and Legislature. Together, they may narrow a prominent category of litigation under the California Invasion of Privacy Act ("CIPA") involving website and application tracking technologies. CIPA and similar federal and state wiretap statutes were originally enacted to address communications surveillance, but they are increasingly invoked to challenge routine online practices involving cookies, pixels, session-replay tools, and analytics tags.

First, on August 21, 2026, the California Court of Appeal issued a tentative ruling in *Variety Media, LLC v. Superior Court*, Case No. B350578, finding CIPA's pen-register provisions may not extend to technology that collects only a website visitors' Internet Protocol ("IP") addresses.

Second, on the heels of this decision, the California Legislature passed Senate Bill 690 ("SB 690") on August

28, 2026, which, if signed by the Governor, would eliminate private pen-register and trap-and-trace claims under CIPA filed within two years before the January 1, 2027, effective date.

Neither development is final: the appellate ruling remains tentative, and SB 690, which is expected to be signed by the Governor, has not yet been enacted. Even so, together they signal a potentially important narrowing of a prominent category of CIPA website-tracking claims.

THE TENTATIVE RULING IN *VARIETY MEDIA LLC*

After extensive briefing, the Court of Appeal issued a tentative ruling on August 21, 2026, rejected Variety Media's argument that CIPA's pen-register provisions are confined to telephone equipment, finding based on the statute's legislative history that it may reach internet-based technology.

However, the tentative ruling adopted a limiting construction of the definition of a “pen register” or “trap and trace” device that favored Variety Media. Traditionally, these devices capture information identifying the *destination* of an outgoing communication, whereas a visitor’s IP address generally identifies the *origination* of the communication. The Court therefore tentatively concluded that collecting an IP address, alone, does not meet the definition of a pen-register device. Under the tentative ruling, the plaintiff would have to amend the complaint to bolster the allegations regarding the information collected.

CALIFORNIA LEGISLATURE PASSES SB 690 TO LIMIT PRIVATE CIPA CLAIMS

If the Governor signs SB 690, it will materially weaken many private, website-based claims without requiring courts to resolve the full reach of the statute. The practical importance of *Variety Media* may therefore shift. Its technology-neutral interpretation could remain relevant to Attorney General enforcement, claims outside SB 690’s coverage, and disputes concerning conduct beyond the reach of the retro-activity provision. Its source-versus-destination analysis could also influence how courts evaluate whether particular data fields qualify as dialing, routing, addressing, or signaling information.

The developments provide some relief for defendants, but they are not final. Website operators should continue to monitor the evolving landscape of online tracking litigation, keeping in mind these key takeaways from recent events:

- **Do not assume website-tracking exposure has ended.** Plaintiffs will likely continue to bring theories under other statutes besides CIPA or other sections of CIPA, like section 631 wiretap claims. Businesses

should treat the developments as a reason to reassess—not abandon—their practices related to website tracking tools, including the preservation of technical documentation related to data collected by various tools.

- **Reassess pending demands and cases.** Covered section 638.51 claims may be candidates for a stay, dismissal, demurrer, supplemental briefing, or revised settlement posture, depending on procedural posture and the final status of the ruling and legislation.
- **Preserve alternative defenses.** Other defenses to CIPA related litigation including consent, party status, lack of interception in transit, jurisdiction, standing, arbitration, and pleading deficiencies may remain independently viable.

For more information or assistance, please contact [Sharon R. Klein](#), [Philip N. Yannella](#), [Rachel L. Schaller](#), [Gabrielle N. Ganze](#), or another member of Blank Rome’s [Privacy, Security & Data Protection](#) practice group.

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