

Facebook's Patents Prove That Push for Zuckerberg's Facial Recognition Tech Should Prompt Horror In Private Citizens

Minh Uong/The New York Times

By Natasha Singer



When Facebook rolled out facial recognition tools in the European Union this year, it promoted the technology as a way to help people safeguard their online identities.

“Face recognition technology allows us to help protect you from a stranger using your photo to impersonate you,” Facebook told its users in Europe.

It was a risky move by the social network. Six years earlier, it had deactivated the technology in Europe after regulators there [raised questions](#) about its facial recognition consent system. Now, Facebook was reintroducing the service as part of an update of its user permission process in Europe.

Yet Facebook is taking a huge reputational risk in aggressively pushing the technology at a time when its data-mining practices are under heightened scrutiny in the United States and Europe.

Already, more than a dozen privacy and consumer groups, and at least a few officials, argue that the company's use of facial recognition has violated people's privacy by not obtaining appropriate user consent. The complaints add to the barrage of criticism facing the Silicon Valley giant over its handling of users' consent. While proponents view it as a high-tech tool to catch personal details, [Several American government agencies](#) are

criminally, investigating Facebook's response to the harvesting of its surveillance data by [Cambridge Analytica](#), a political consulting firm.

Facial recognition works by scanning faces of unnamed people in photos or videos and then matching codes of their facial patterns to those in a database of named people. Facebook has said that users are in charge of that process, telling them: "You control face recognition."

But critics said people cannot actually control the technology — because Facebook scans their faces in photos even when their facial recognition setting is turned off.

"Facebook tries to explain their practices in ways that make Facebook look like the good guy, that they are somehow protecting your privacy," said [Jennifer Lynch](#), a senior staff attorney with the Electronic Frontier Foundation, a digital rights group. "But it doesn't get at the fact that they are scanning every photo." Rochelle Nadhiri, a Facebook spokeswoman, said its system analyzes faces in users' photos to check whether they match with those who have their facial recognition setting turned on. If the system cannot find a match, she said, it does not identify the unknown face and immediately deletes the facial data. At the heart of the issue is Facebook's approach to user consent.

In the European Union, [a tough new data protection law](#) called the General Data Protection Regulation now requires companies to obtain explicit and "freely given" consent before collecting sensitive information like facial data. Some critics, including the former government official who originally proposed the new law, contend that Facebook tried to improperly influence user consent by promoting facial recognition as an identity protection tool.

Facebook notified users in Europe this year that they could choose to turn on the social network's facial recognition services. Some critics say Facebook tried to manipulate consent by promoting the service as an identity protection tool.

“Facebook is somehow threatening me that, if I do not buy into face recognition, I will be in danger,” said Viviane Reding, [the former justice commissioner](#) of the European Commission who is now a member of the European Parliament. “It goes completely against the European law because it tries to manipulate consent.”

European regulators also have concerns about Facebook's facial recognition practices. In Ireland, where Facebook's international headquarters are, a spokeswoman for the Data Protection Commission said regulators “have put a number of specific queries to Facebook in respect of this technology.” Regulators were assessing Facebook's responses, she said.

In the United States, Facebook is fighting a lawsuit brought by Illinois residents claiming the company's face recognition practices violated a state privacy law. Damages in the case, certified as a class action in April, could amount to [billions of dollars](#). In May, an

Facebook routinely makes misrepresentations to induce

consumers to adopt wider and more pervasive uses of facial recognition technology,” the complaint said. Nikki Sokol, associate general counsel at Facebook, said in a statement, “This lawsuit is without merit and we will defend

ourselves vigorously.” Separately, [privacy and consumer](#) MS. Nadhiri said Facebook had designed its consent process to comply with the new European law and had previewed its approach April saying Facebook added facial recognition services, like the one with European regulators. As to the privacy groups’ complaint, she said the social network had notified users about expanded facial recognition services. The groups argued that Facebook violated [a 2011 consent decree](#) that prohibits it from “We provide clear information to people about how we use face recognition technology,” Ms. Nadhiri wrote in an email. The company’s recently updated privacy section, she added, “shows people how the setting works in simple language.”

Facebook is hardly the only tech giant to embrace facial recognition technology. Over the last few years, Amazon, Apple, Facebook, Google and Microsoft have filed facial recognition patent applications.

In May, civil liberties groups criticized Amazon for marketing [facial technology](#), called Rekognition, [to police departments](#). The company has said the technology has also been used to find lost children at amusement parks and other purposes. (The New York Times has also [used Amazon's technology, including](#) for the recent royal wedding.)

Critics said Facebook took an early lead in consumer facial recognition services partly by turning on the technology as the default option for users. In 2010, it introduced a photo-labeling feature called [Tag Suggestions](#) that used face-matching software to suggest the names of people in users' photos. People could turn it off. But privacy experts said Facebook had neither obtained users' Opt-in consent for the use, nor publicly disclosed that the system that could detect for consumers with light their phones. "With Tag Suggester's faces, you're in the social network doing things, and then it could analyze the faces and identify the Facebook's face and other details, rising," said Brian Binkley, a former chief executive of [Korai](#) for each shop.

Consumers deemed "it's not the" could be eligible for a social people's time and, like, a lot of gear access of identified faces, he added, play enabled Facebook to said. And other Facebook patent filings described

how a federal criminal facial-recognition algorithm captured shoppers' faces, Facebook with its social media had tripped faces-matching software found the largest facial database to date, their identity labels in a list of complaints to facially recognize." Ms. Nadhiri is Facebook Privacy Insultation on the privacy of its photo in tagging features said the also patent filings is showing that Facebook States where it has its faces' identification uses the turned in that the Facebook helped them off, she said it with have always respected privacy of the company she said but Facebook may only be getting started with Facebook's recognition applications the are at the core of its business and for many of its various products and uses of expanding its biometric capabilities and its use of the technology to track its users and its users is and for the near future," the current complaint said. Ms. Nadhiri said that Facebook often sought patents for technology it never put into effect and that patent filings were not an indication of the company's plans. But legal filings in the class-action suit hint at the technology's importance to Facebook's business. The case was brought by Illinois consumers who said that Facebook collected and stored their facial data without their explicit, prior consent — in violation, they claim, of a state biometric privacy law. If the suit were to move forward, Facebook's lawyers argued in a recent court document, "the reputational and economic costs to Facebook will be irreparable."

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