

# Big Tech defends landmark law in US Supreme Court

February 21 2023, by Alex PIGMAN

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The nine Supreme Court justices will examine a case involving Google and related to the November 2015 attacks in Paris.

The US Supreme Court heard arguments Tuesday in a landmark case that could transform the internet by scrapping decades-old legal

protections for tech companies over harmful content on their platforms.

The nine justices began examining a case related to the November 2015 attacks in Paris and their ruling, expected by June 30, could have huge repercussions for the future of what appears online.

The case stems from a complaint against Google filed by the relatives of Nohemi Gonzalez, a US citizen who was among the 130 people killed in the coordinated strikes in the French capital.

Gonzalez, who was studying in France, was murdered at the Belle Equipe bar by assailants from the Islamic State group.

Her family blames Google-owned YouTube for having recommended videos from the jihadist group to users, which they say encouraged the call to violence.

According to the family, "by recommend[ing] ISIS videos to users, Google assists ISIS in spreading its message and thus provides material support to ISIS," a legal brief said.

The complaint was dismissed by lower courts on behalf of a law, known as Section 230—passed when the internet was in its infancy, and now one of its pillars of how it is regulated.

Section 230 states that in the United States, internet companies cannot be considered publishers and have legal immunity for the content posted on their platforms.

The novelty of the Gonzalez case is that the complainants are specifically pinning the blame on algorithms, arguing that the highly complex recommendation systems perfected by big platforms are not covered by Section 230.

"The selection of the users to whom ISIS videos were recommended was determined by computer algorithms created and implemented by YouTube," said the brief from the Gonzalez family's legal team.

The Supreme Court declines to hear the vast majority of the cases that come its way, and opting to decide on this one indicates there could be a willingness to modify the landmark law.



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## **Big Tech, cold sweat**

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In the legal filing, Google pleaded that the court "not undercut a central building block of the modern internet."

"Recommendation algorithms are what make it possible to find the needles in humanity's largest haystack," Google said.

Allowing platforms to be sued for their algorithms "would expose them to liability for third-party content virtually all the time," said Facebook owner Meta in its own brief, adding that recommendations serve to organize uploaded content.

On Wednesday, the top court in the United States will consider a very similar case, but this time one that asks if internet platforms should be subject to anti-terrorism laws.

In the past, several of the nine justices have expressed a willingness to move the lines on Section 230, which is increasingly contested given the backlash against Big Tech in recent years.

In 2021, conservative justice Clarence Thomas lamented that "many courts have construed the law broadly to confer sweeping immunity on some of the largest companies in the world."

Polarized US lawmakers are unable to pass legislation that would update Section 230, which was enacted when Facebook founder Mark Zuckerberg was 11 years old and Google did not exist.

Given the deep political divide, it therefore seems likely that the Supreme Court will move the lines faster than Congress.



But for now, "nobody knows exactly how," said Tom Wheeler, an expert at the Brookings Institution think tank. "That's why it's important to see how the hearing goes," he told AFP.

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