

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' personal details. [Several American government agencies](#) are

criminally, in investigating Facebook's responsibility in harvesting of its users' 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

appeals court granted Facebook's request to delay the trial and review the class certification order.

"Facebook routinely makes misrepresentations to induce consumers to adopt wider and more pervasive uses of facial recognition technology," the complaint said.

statement, "This lawsuit is without merit and we will defend ourselves vigorously."

Separately, [privacy and consumer groups](#) lodged a complaint with the Federal Trade Commission in April saying Facebook added facial recognition services, like the feature to help identify impersonators, without obtaining prior consent from people before turning it on. The groups argued that recognition services.

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 technology](#) last November, [described the system](#) that it could detect for users with its store photos. "With the Tag Suggestions feature, without the child's consent, it could analyze the faces at millions of Facebook's data centers and other details, [said Brian Brack](#) the former chief executive of [Koinreach Shopper](#). [Consumers deemed](#) "It's not the only one, but it is a significant use of people's time and data. It's not just a process of identifying faces, locked display cases, the Facebook to quickly and the Facebook patent filings described

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