

SHAREHOLDERS ACTIVISM FOCUSES ON PRIVACY ISSUES

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Legal Briefings – By **Miriam Everett, Claire Wiseman and Lauren Hudson**

- With privacy issues these days commonly featuring as a board legal agenda item, recent shareholder activity at Amazon has shown that privacy is also at the forefront of shareholders' minds.
- A group of Amazon shareholders sought to prevent the company from selling its facial recognition technology because of privacy concerns.
- Although the Amazon motions were defeated, they demonstrate that shareholders are willing to try and hold companies to account over privacy concerns.
- The action also highlights a growing trend for interesting and innovative uses of privacy rights and regulation as a tool.

BACKGROUND

Rekognition is a service offered by Amazon which (among other features) claims it can provide users with “highly accurate facial analysis and facial recognition” in real-time on images, compared to a reference database provided by the customer. It will then provide a confidence score as to whether the identification is accurate.

The potential benefits to police forces and other government agencies are clear. However, civil liberties campaigners (and others who are interested in the privacy field) are concerned about the potential ramifications of wide-spread use of this technology. In particular, there have been concerns raised about bias and inaccuracies, which could allegedly be used to racially discriminate against minorities. Similar concerns are being expressed in the UK, with Ed Bridges recently launching a claim against South Wales Police over their use of similar facial recognition technology (for further information, please see our recent blog post available [here](#)).

In defence of its technology service, Amazon has stated that all users must comply with the law and that it is a matter for lawmakers, rather than corporate entities, to restrict the use of such technology if they see fit.

SHAREHOLDER ACTIVISM - PRIVACY STYLE

The two shareholder votes on the Rekognition technology were led by a group of minority Amazon shareholders and went ahead despite an application by Amazon to the US Securities and Exchange Commission to block the motion.

The first vote saw a call for Amazon to stop selling the technology (only 2.4% of its shareholders voted in favour of this first ballot) and the second vote called on the technology company to commission a study into whether or not the technology endangered individuals' civil rights (27.5% of shareholders voted in favour of this second ballot).

Although the two votes were defeated by a significant majority, the very fact that they were called highlights the profile of privacy issues for companies, including large technology companies such as Amazon. We have already seen interesting uses of privacy regulation by individuals in the UK (see our recent blog post available [here](#)) but this is the first time that privacy has been used as a tool for shareholder activism to hold companies to account for their approach to privacy.

It will be interesting to see whether we see further examples of this strand of shareholder activism in the future, as well as whether any regulation in the area comes out of Congress, the UK courts or parliament, or even on the global stage.

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