ARTIFICIAL INTELLIGENCE AND GOVERNING THE LIFE CYCLE OF PERSONAL DATA

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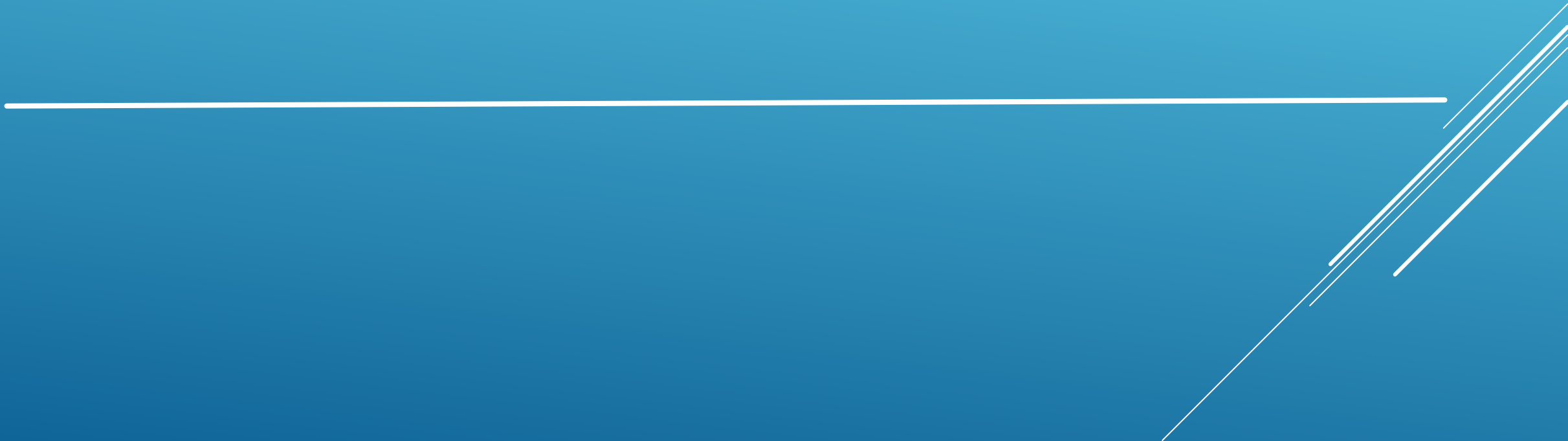
Personal Data
Existing Regulations
Value of Personal Data
Personal Data Life Cycle
Governing the Life Cycle

Data

Impersonal Data   Personal Data

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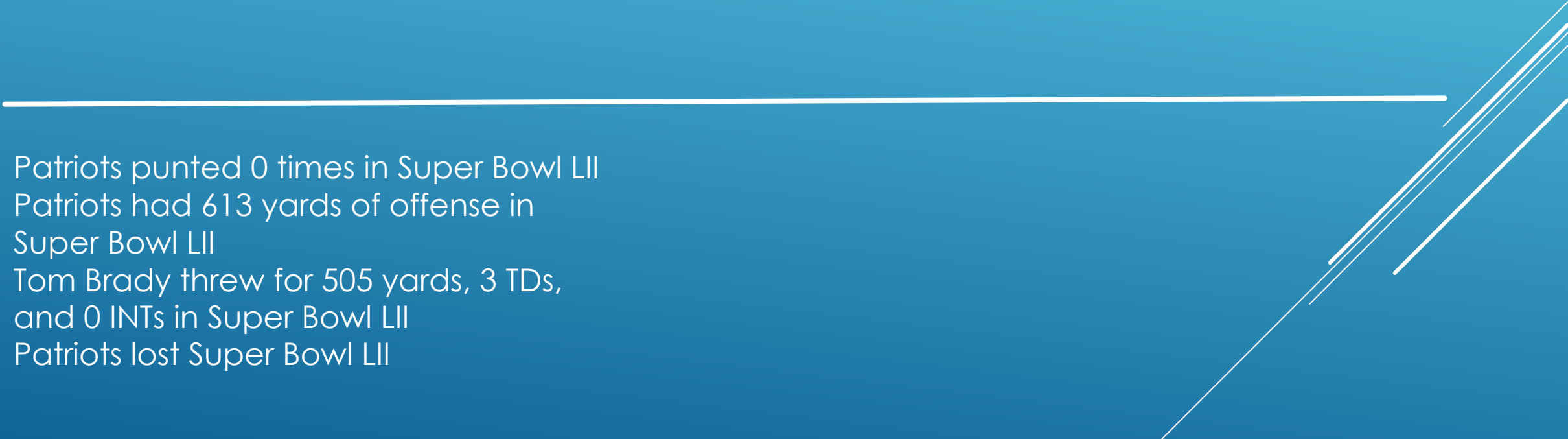
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Personal Data

Any information relating to an identified or identifiable natural person

Source: General Data Protection Regulation, Art. 4(1)

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Personal Data

Personal Information or Personally Identifiable Information:
- Social Security Number
- Telephone number
- Email address
- Driver's license number
- Financial account number
- Credit or debit card number
- Any information that permits a specific individual to be contacted physically or online

Source: Cal. Bus. & Prof. Code §22577(a); Mass. Gen. Laws ch. 93H, §1.

Regulations Governing Data Security
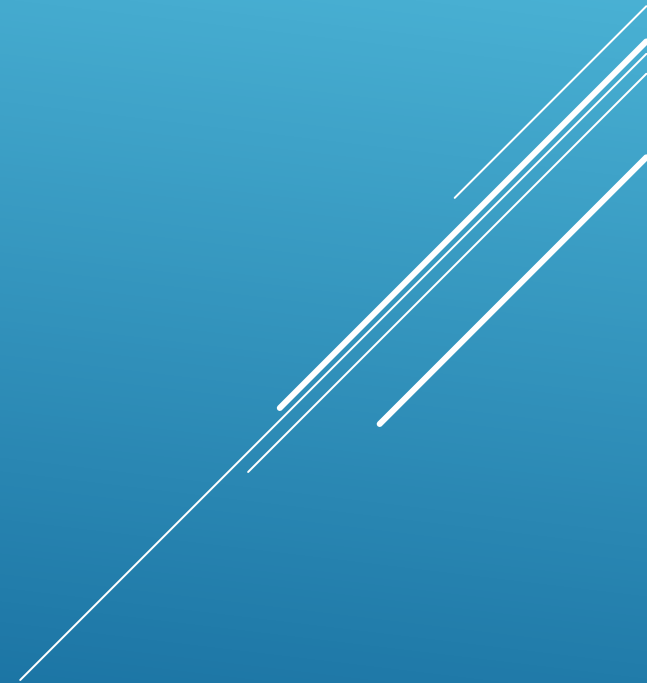
Regulations Governing Data Security

Europe: General Data Protection Regulation (Regulation 2016/679)

Regulations Governing Data Security

United States - Federal:

- Health Insurance Portability and Accountability Act (42 U.S.C. §1301 et seq.)
- Children's Online Privacy Protection Act (15 U.S.C. §§6501-6506)
- Federal Trade Commission Act (15 U.S.C. §§41-58)
- Financial Services Modernization Act (15 U.S.C. §§6801-6827)
- Fair Credit Reporting Act (15 U.S.C. §1681)
- Electronic Communications Privacy Act (18 U.S.C. §2510)

Regulations Governing Data Security

United States - States:

- Alaska (Alaska Stat. § 45.48.500 *et seq.* (2018)), Arizona (Ariz. Rev. Stat. § 44-7601 (2018)), Arkansas (Ark. Code §§ 4-110-103 & -104 (2018)), California (Cal. Civ. Code §§ 1798.81, 1798.81.5, 1798.84 (2018)), Colorado (Colo. Rev. Stat. § 6-1-713 (2018)), Connecticut (Conn. Gen. Stat. § 42-471 (2018)), Delaware (Del. Code tit. 6 § 5001C to -5004C (2018), tit. 19 § 736 (2018)), Florida (Fla. Stat. § 501.171(8) (2018)), Georgia (Ga. Code § 10-15-2 (2018)), Hawaii (Haw. Rev. Stat. §§ 487R-1, 487R-2, 487R-3 (2018)), Illinois (20 ILCS 450/20 (2018), 815 ILCS 530/30 (2018), 815 ILCS 530/40 (2018)), Indiana (Ind. Code §§ 24-4-14-8, 24-4.9-3-3.5(c) (2018)), Kansas (Kan. Stat. §§ 50-7a01, 7a03, & 50-6, 139b(2) (2018)), Kentucky (Ky. Rev. Stat. § 365.725 (2018)), Massachusetts (Mass. Gen. Laws Ch. 93l, § 2 (2018)), Maryland (Md. State Govt. Code §§ 10-1301 to -1303 (2018)), Michigan (MCL § 445.72a (2018)), Montana (Mont. Code Ann. § 30-14-1703 (2018)), Nevada (Nev. Rev. Stat. § 603A.200 (2018)), New Jersey (N.J. Stat. §§ 56:8-161 & 162 (2018)), New Mexico (2017 H.B. 15, Chap. 36), New York (N.Y. Gen. Bus. Law § 399-H (2018)), North Carolina (N.C. Gen. Stat. § 75-64 (2018)), Oregon (Ore. Rev. Stat. § 646A.622 (2018)), Rhode Island (R.I. Gen. Laws § 6-52-2 (2018)), South Carolina (S.C. Code §§ 30-2-310, 37-20-190 (2018)), Tennessee (Tenn. Code § 39-14-150(g) (2018), Texas (Tex. Bus. & Com. Code § 72.004, § 521.052 (2018)), Utah (Utah Code § 13-44-201 (2018)), Vermont (9 Vt. Stat. § 2445 (2018))

Regulations Governing Data Security

Charter of Fundamental Rights of the European Union, Art 8:

"Everyone has the right to the protection of personal data concerning him or her"

Value of Personal Data

Top 9 Data Brokers:
- $52.7 million from people search products (*e.g.*, searching for phone numbers and addresses)
- $177.8 million from risk mitigation products (*e.g.*, employee background search)
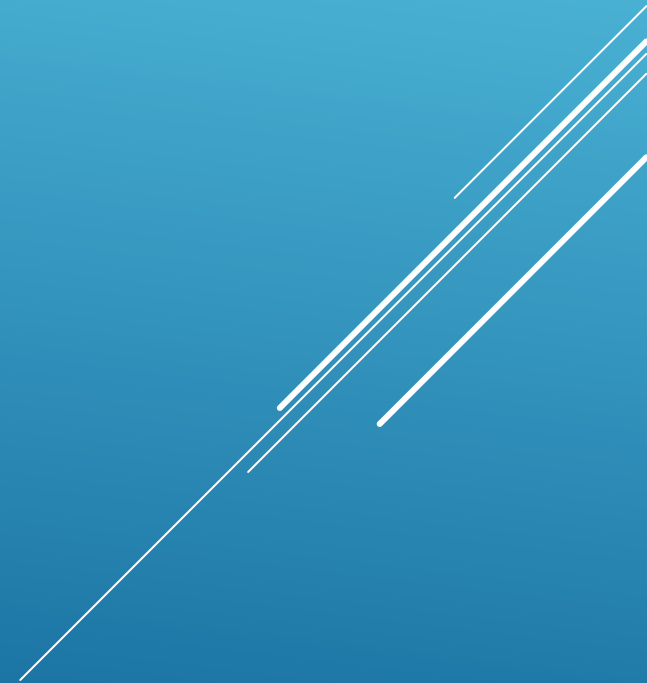- $196.2 million from marketing services/products

Total: $426+ million

Source: HTTP://WWW.VISUALCAPITALIST.COM/MUCH-PERSONAL-DATA-WORTH/

How AI Can Use Personal Data

Cambridge Analytica

How AI Can Use Personal Data

- Cambridge Analytica claims that it has psychological profiles based on 5,000 separate pieces of data on 220 million American voters and that it uses this data to understand people's deepest emotions and then target them accordingly
- Jonathan Rust (director of the Psychometrics Centre at the University of Cambridge): "The danger of not having regulation around the sort of data you can get from Facebook and elsewhere is clear… It's how you brainwash someone"

Source: https://www.theguardian.com/politics/2017/feb/26/robert-mercer-breitbart-war-on-media-steve-bannon-donald-trump-nigel-farage

How AI Can Use Personal Data

- With 150 Facebook likes, the model knows you better than your spouse knows you

- With 300 Facebook likes, the model knows you better than you know yourself

Source: https://www.theguardian.com/politics/2017/feb/26/robert-mercer-breitbart-war-on-media-steve-bannon-donald-trump-nigel-farage

Life Cycle of Personal Data

1. Capture

2. Usage and Maintenance

3. Destruction
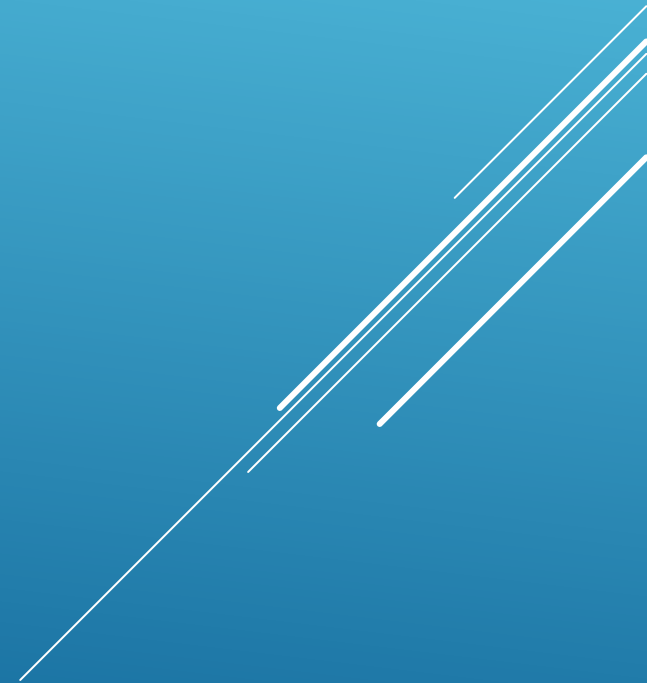
Data Capture

Data Capture

A. Notice:

    1. Who is capturing their personal data;

    2. What data will be captured;

    3. How the capturer will use the personal data;

    4. What techniques the capturer uses to ensure that the personal data is secure;

    5. What other entities may purchase the personal data from the capturer;

    6. How individuals can easily consent, refuse consent, or condition consent to such data capturing; and

    7. How individuals can revoke or change the conditions placed on their consent after initially giving consent.

B. Consent

Sources: COPPA (16 C.F.R. §312.4(a)); HIPAA (45 C.F.R. §164.501; 45 C.F.R. §164.506(c)(1); 45 C.F.R. §164.508(a)(1); 45 C.F.R. §164.510); CalOPPA (Cal. Bus. & Prof. Code §22575(b)); GDPR (Rec. 40, 61, Art. 6(1), 13-14)

Data Usage and Maintenance
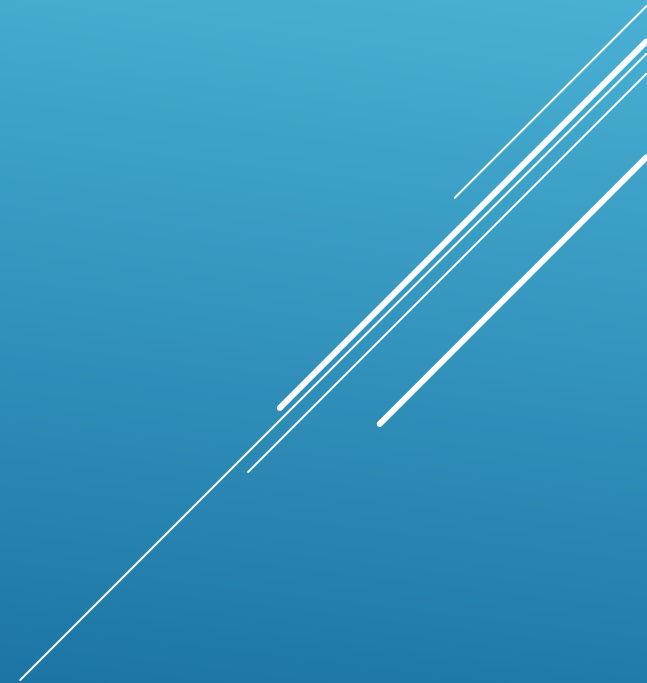
Data Usage and Maintenance

Security requirements: specific administrative, physical, and technical protocols

Source: HIPAA (45 C.F.R. §§ 164.308, 164.310, & 164.312)

Data Usage and Maintenance

Data Breach Notification

1. A description of the nature of the personal data breach, including the categories and approximate number of individuals affected and the categories and approximate number of personal data records concerned;
2. The name and contact information of the person within the entity that will oversee the response and mitigation efforts;
3. The likely consequences of the personal data breach; and
4. Any measures taken or proposed by the party to address the breach, including, measures to mitigate the possible adverse effects of the breach

Sources: State Data Breach Statutes; GDPR (Rec. 73, 85-88, Art. 33)

Data Usage and Maintenance

Annual Notification

1. Who continues to capture their personal data;
2. When the relevant consent was first give;
3. All data that has been captured;
4. How the data subject can edit and reprioritize the data the entity is using;
5. What data the entity is authorized to capture going forward;
6. How the capturer uses the personal data;
7. What techniques the capturer uses to ensure that the personal data is secure;
8. What other entities have purchased the personal data from the capturer in the last year and are expected to purchase the data in the coming year;
9. Any existing conditions placed on the capture and use of the personal data; and
10. How individuals can revoke their consent or change the conditions placed on their consent

Sources: COPPA (16 C.F.R. §312.4(b)); California Shine the Light Law (Cal. Civ. Code §1798.83); GDPR (Rec. 61, Art. 28(1)-(3), 29) 1798

Data Usage and Maintenance

Should specific data uses be prohibited?

Data Destruction

Data Destruction

Two Key Concepts:
1. Waivable Mandatory Data Destruction
2. Destruction Upon Request

Sources: Cal. Bus. & Prof. Code §§ 22580-22581; GDPR (Rec. 39, 77, 81, 98-99; Art. 5(1)(e), 22, 24(3), 28(5), 35(8), 40(1)-(2), 46(2)(e), 57(1)(m), (p), (o), 83(2)(j))

Thank you!

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