Insights: Alert

Anthropic Granted Preliminary Injunction by Federal Court Regarding “Supply Chain Risk” Designation

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As discussed in a previous Legal Alert, on March 9, Anthropic filed a lawsuit in the Northern District of California challenging the Department of War (DoW) designation of it as a supply chain risk. Anthropic specifically challenged the DoW's designation under 10 USC § 3252, which relates to armed services procurement. Anthropic contended the government's actions violated its First Amendment rights (prohibiting retaliation for protected speech), its Fifth Amendment rights (procedural due process), and the Administrative Procedure Act.

What Did the Court Find?

The Court found that Anthropic is likely to succeed on all of its claims. **First**, regarding the First Amendment claim, the Court held that Anthropic' s public statements regarding AI safety were protected speech, that the government sought to chill this speech, and that the government's own documents and statements showed that its motives were retaliatory in nature. **Second**, regarding the Fifth Amendment claim, the Court held that Anthropic had protected liberty interests and that the government's actions were taken without adequate notice or pre- or post-deprivation process. **Third**, regarding the APA claim, the Court held that the government acted arbitrarily and capriciously in several ways: 1) Anthropic's conduct does not meet the statutory definition of “supply chain risk”; 2) there is no basis to infer from Anthropic's insistence on usage restrictions that it would become a saboteur; 3) the government failed to make the required reasoned determination that less intrusive measures were not available; and 4) the risk assessment was not prepared by the Under Secretary of Defense for Intelligence as required by DoW's own implementing regulations.

What is the Scope of the Preliminary Injunction?

The injunction covers 17 named federal agencies and prohibits them from implementing, applying, or enforcing what it defined as the Presidential Directive, the Hegseth Directive, and the Supply Chain Designation. **The Presidential Directive** refers to President Trump's Truth Social post on February 27 directing all federal agencies to stop using Anthropic. **The Hegseth Directive** refers to a February 27 X post by Secretary of War Hegseth directing the Department of War and all entities that do business with the Department of War to cease any commercial activity with Anthropic. Finally, the **Supply Chain Designation** refers to Hegseth's subsequent designation of Anthropic as a “supply chain risk.” The enjoined agencies include Department of War, Department of State, HHS, Office of Personnel Management, Nuclear Regulatory Commission, Department of

the Treasury, Department of Commerce, Social Security Administration, Department of Homeland Security, Securities and Exchange Commission, National Aeronautics and Space Administration, Department of Energy, Federal Reserve Board of Governors, National Endowment for the Arts, Federal Housing Finance Agency, Department of Veterans Affairs, and GSA.

The Government's Key Oral Argument Concessions

The order mentions some of the key concessions the government made during oral argument, all of which are potentially useful for government contractors if their usage of Anthropic after February 27, 2026 is ever challenged by the government. The government admitted during oral argument that the Hegseth Directive had "absolutely no legal effect at all" and that that the statement did not reflect DoW's "immediate intended course of action" and that "DoW does not intend to terminate any contractors on the basis that they have a commercial relationship with Anthropic that [i]s separate from their work for DoW." This is a critical concession by the government. It also conceded that the Supply Chain Designation applies only to Anthropic's use as a contractor or subcontractor in "covered systems" involving specific national security information technology. Finally, the government also conceded that contractors working for DoW will not be terminated for using Anthropic for non-DoW work.

What is the Practical Effect of the Preliminary Injunction?

This order restores the status quo from before the directives on February 27, 2026, though we note that the order is stayed for seven days from its issuance, so it is effective as of April 2, 2026. We recommend continuing to monitor and audit Anthropic usage, but refrain from making any major decisions regarding the long-term usage of Anthropic. While this ruling puts Anthropic in a strong legal position, the government may well appeal to the Ninth Circuit and seek a stay of this preliminary injunction. Note though that the government's judicial admissions at oral argument survive regardless of the appellate outcome and provide some legal protection independent of how the injunction fares at the Ninth Circuit.

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