

GOOGLE'S CHINA PROBLEM: A CASE STUDY ON TRADE, TECHNOLOGY AND HUMAN RIGHTS UNDER THE GATS

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ABSTRACT

Trade and human rights have long had a troubled relationship. The advent of new technologies such as internet further complicates the relationship. This article reviews the relationship between trade, technology and human rights in light of the recent dispute between Google and China from both theoretical and practical perspectives. Starting with an overview of the internet censorship regime in China, the article goes on to assess the legal merits of a WTO challenge in this case. First, the article discusses which service sector or subsectors might be at issue. Second, the article analyzes whether and to what extent China has made commitments in each of the identified sector, as well as any limitation or restrictions that has been inscribed for such commitments. Next, the article reviews whether the Chinese internet filtering regime is in violation of these commitments and other relevant GATS obligations. In the 4th part, the article considers any exceptions that China might be able to invoke in the case of a breach. The tentative conclusion of the article is that, overall, Google does not have a strong case against China

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under WTO law.

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