

DICTIONARY ARBITRAGE AND SECTION 215: “RELEVANT”

There’s an odd footnote in the White Paper the Administration released to justify its Section 215 dragnet.

3 The word “tangible” can be used in some contexts to connote not only tactile objects like pieces of paper, but also any other things that are “capable of being perceived” by the senses. See Merriam-Webster Online Dictionary (2013) (defining “tangible” as “capable of being perceived especially by the sense of touch”) (emphasis added).

I’m interested in it because it seems to prepare us all to discover that the Administration has been getting things—like DNA, screen captures, and similar—with Section 215 that are absurd.

But I’m also interested because the Administration chose to use Merriam-Webster’s Online Dictionary. A good American dictionary – and the most up-to-date version!

Which is why I found it so suspicious that the Administration decided to use a 24-year old edition of the Oxford English Dictionary for this definition.

Standing alone, “relevant” is a broad term that connotes anything “[b]earing upon, connected with, [or] pertinent to” a specified subject matter. 13 Oxford English Dictionary 561 (2d ed. 1989).

To create this dragnet, after all, the Administration has had to blow up the meaning of “relevant” beyond all meaning. And they had to dig up an old British tome for this particular, all-important definition?

So I looked up how the American Merriam-Webster online dictionary defines “relevant.” Here are the first two definitions:

a : having significant and demonstrable bearing on the matter at hand

b : affording evidence tending to prove or disprove the matter at issue or under discussion <relevant testimony>

“Having significant and demonstrable bearing on the matter at hand.” Not, “possibly maybe having a teeny fraction bearing on the matter and hand.” But a “significant and demonstrable bearing” on a terrorist investigation, in context.

So the Administration apparently looked up “relevant,” discovered it proves our point – that their use of the term is totally ridiculous – and kept digging through old dictionaries until they could find one that proved their point. (Update: Read this entire comment from Adam Colligan for more on what the dictionaries say.)

The online Oxford dictionary, by the way, provides this as the first definition for “relevant:”

closely connected with the subject you are discussing or the situation you are thinking about

As with all absurd arguments in DC, it depends on what the definition of X is.