

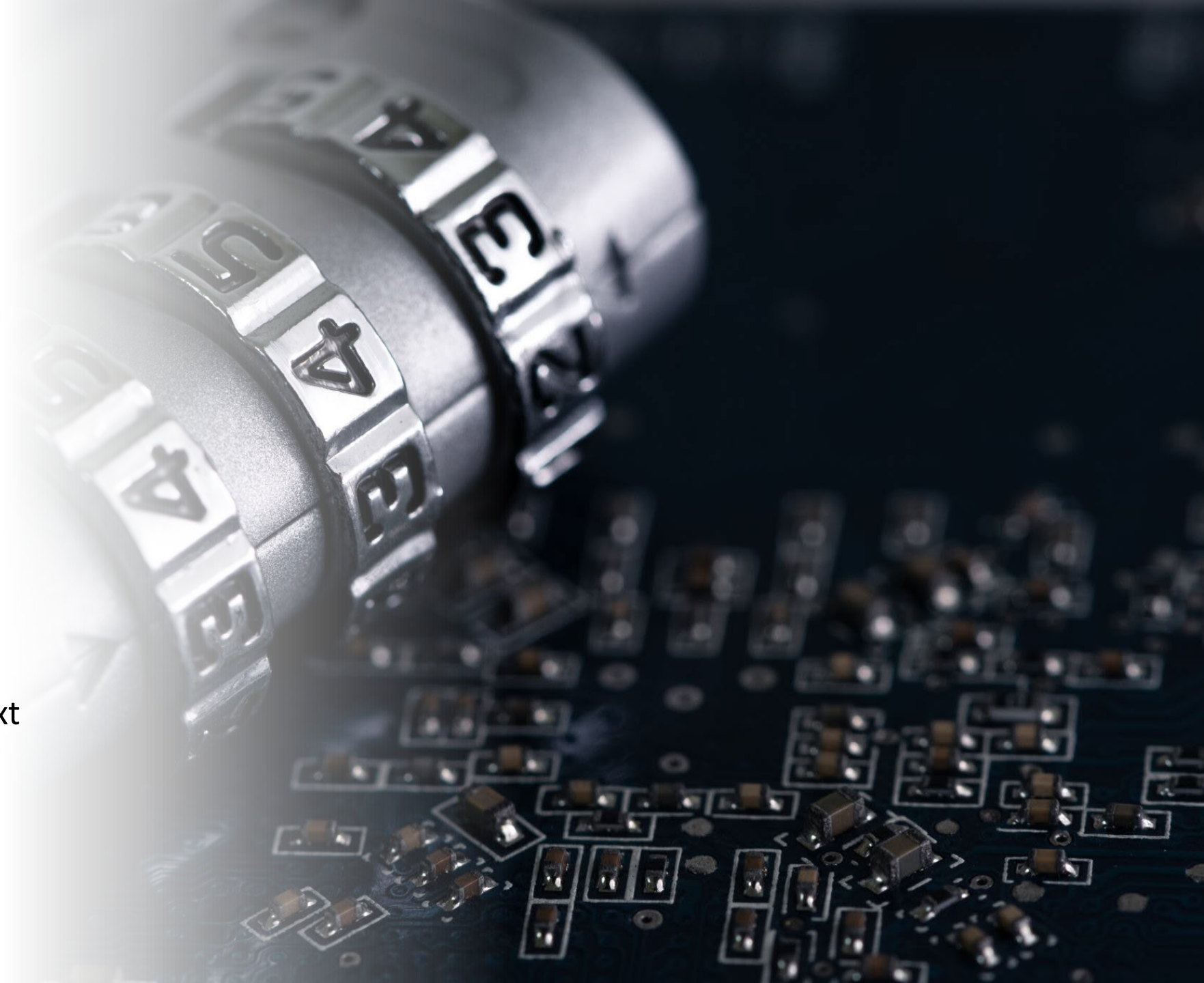


“Dancing on the Third Rail”: A Software Liability Briefing

Melanie Teplinsky
American University, Washington College of Law
October 23, 2025

Insecure Software

- What's at Risk?
- Examples
- Geopolitical Context





Market Failure

- Negative Externalities
- Liability Exemptions

Changing the Status Quo: US & EU Approaches

European Union Proposals



CYBER RESILIENCE ACT



PRODUCT LIABILITY
DIRECTIVE

Cyber Resilience Act



PURPOSE



CONTEXT



REQUIREMENTS



SCOPE

Product Liability Directive

Strict Liability
Regime

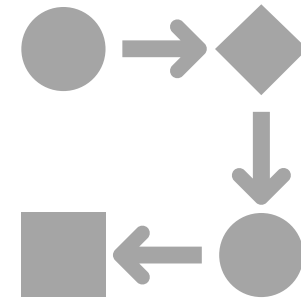
Product +
Defect

Broad
Definition of
Product

National Cyber Strategy



Elements



Process

Standard of Care



Purpose



Minimum Requirements



Selected Considerations/Complexities

One-Size-Fits-All?
Flexibility/Predictability
Competition/Innovation
Open Source
Who is Liable

Safe Harbor



Purpose



Models



**Selected
Considerations/Complexities**

- Certainty
- Updating
- Competition
- Compliance

Conclusions

