

The Already-Physical Present

Consumer AI public accommodations under a functional coverage test.

The premise does not survive examination.

The defense bar's working premise in ADA Title III litigation against consumer AI is that the sector is a pure-digital category without the physical operations nexus doctrine demands. That premise was accurate in 2018. It is empirically wrong in 2026. The major providers have built the physical operations the doctrine requires.

10

Google Stores

Permanent US retail, Chelsea to San Diego

5

Meta Labs

Burlingame, LA flagship, Las Vegas, NYC, Honolulu

1

Microsoft Experience Center

677 Fifth Avenue, New York City

Project Vend

Anthropic's Claude operating physical vending machines, SF / NYC / London

"The doctrine has been satisfied for most of the consumer AI sector by facts the courts have not yet been asked to see."

The case for consumer AI coverage does not require replacing the nexus doctrine for Google, Meta, Microsoft, or Anthropic. It requires only honest application of the existing doctrine to the physical retail operations each of these companies has opened in the last five years.

The Cascade Strength Scale

Not all nexus arguments are equally settled. The five tiers keep them distinct.



Each provider analysis identifies which tier its conclusions rely on, so the reader and any court can evaluate the argument at the level of rigor they require.

Not every cascade argument is equally settled.

1	AI-integrated device sold in a physical store	SETTLED
2	Website or app required to configure or use a store-sold product	SETTLED
3	Same AI service runs on store-sold products and broader corporate platforms, the integration cascade	LIVE FRONTIER
4	All consumer products of the same corporation inherit nexus from any physical operation	NOVEL · NOTED
5	Unrelated services owned by the same parent inherit nexus	NOT ASSERTED

The Four Providers

Provider by provider, the physical retail and the cascade it carries.



For each provider, the analysis states which store, which AI service, what the cascade covers, and which tier the principal claim depends on.

Ten physical stores. One integrated AI service. The cascade reaches the whole product line.

A Pixel phone sold at the Chelsea Google Store ships with Google Gemini as a core operating feature. The Gemini cascade runs from that sale through Gmail, Docs, Sheets, Slides, YouTube, Maps, Search, and the Android OS, because Gemini is the same integrated AI service deployed in the store-sold device.

TIER 1 · SETTLED

Pixel phones, Nest products sold at Google Stores.

TIER 2 · SETTLED

Google.com, Google Home app, Pixel setup.

TIER 3 · PRINCIPAL CLAIM

Gmail, Docs, Sheets, Slides, YouTube, Maps, Search, Android OS, Chrome.

Facebook, Instagram, and WhatsApp are reachable through Meta Labs in 2026.

Social media platforms have historically been treated as pure-digital services outside Title III reach. A coherent application of Robles to Meta's 2026 corporate configuration produces the opposite result: Meta AI is sold at Meta Labs, and Meta AI runs inside every WhatsApp conversation, Facebook Messenger exchange, Instagram direct message, and Threads interaction. The integration is not incidental; Meta represents Meta AI as core to each of those platforms.

SOLD AT META LABS (TIER 1)

Ray-Ban Meta AI glasses · Oakley Meta · Meta Ray-Ban Display · Quest

3 / 3S

INTEGRATION CASCADE (TIER 3)

Facebook · Instagram · WhatsApp · Messenger · Threads

677 Fifth Avenue. The Copilot cascade from a single store.

Surface devices sold at the Fifth Avenue Experience Center run Microsoft Copilot as an integrated operating-system feature. The Copilot cascade extends through Windows 11, Microsoft 365, Bing search, Microsoft Edge, and consumer-facing Copilot. The Tier 3 argument covers the whole Microsoft consumer productivity suite.

The store

677 Fifth Avenue, NYC. Sales + demonstrations of Surface, Windows PC, Xbox, and Copilot features.

Tier 1 and 2 (settled)

Surface devices sold at the store; the Microsoft activation and setup websites.

Tier 3 (principal claim)

Word, Excel, PowerPoint, Outlook, Teams, OneNote, Bing, Edge, Copilot interface.

Not AI as the product sold. AI as the commercial operator.

Project Vend installs Claude-operated autonomous vending machines in San Francisco, New York, and London. Claude stocks inventory, sets prices, identifies suppliers, and manages the financial operations. Human involvement is limited to physical restocking under Claude's direction. This is structurally distinct from Google Stores, Meta Labs, and the Microsoft Experience Center.

THE DOCTRINAL VALUE

Project Vend demonstrates the near-term feasibility of AI systems occupying the commercial-operator role that Title III traditionally assigns to human or corporate entities. Whether the machines are open to the general public is unresolved on the current record. The factual step from the current configuration to full public-accommodation coverage is small.

The nexus the doctrine pretends does not exist has been built by the industry itself.

Google

10 Google Stores → Gemini → Gmail, Search, YouTube, Maps, Android

Meta

5 Meta Labs → Meta AI → Facebook, Instagram, WhatsApp, Messenger, Threads

Microsoft

Fifth Avenue → Copilot → Word, Excel, PowerPoint, Teams, Bing, Edge

Anthropic

Project Vend → Claude as commercial operator → AI-as-operator configuration established

Tiers 1 and 2 are settled. Tier 3 is the live litigation frontier. Together, the Tiers 1–3 analysis covers the bulk of consumer AI by any measure of market activity.

The Exception and the Frontier

The remaining gap is narrower than the literature describes, and embodiment is closing it further.



The category "pure-digital consumer AI outside Title III" has narrowed to OpenAI and a smaller set of providers without physical retail. The gap requires doctrinal reform from a companion article.

OpenAI is genuinely pure-digital, and the gap is real.

OpenAI operates no consumer retail. ChatGPT is distributed entirely through digital channels. The hardware partnership announced in 2024 has not yet shipped at scale. Under the nexus doctrine as it currently stands, ChatGPT is not covered by Title III, and the same analysis applies to Perplexity, Mistral, xAI in its consumer applications, and other pure-digital entrants. The companion article's functional public accommodation test is necessary to close this remaining gap.

HOW THE GAP HAS NARROWED

The premise of existing litigation strategy has been: "consumer AI is outside Title III." That was true in 2018. Today, the category "outside Title III" has narrowed to OpenAI and a smaller set of pure-digital competitors. It is no longer most of the sector.

The remaining gap will continue to close through embodiment.

AI device sold at retail

Coverage through the seller. The same model as iPhone sold at Apple Stores.

Leased service endpoint

Placed in customer homes, owned by the AI company. Peloton and Tesla as analogs.

Mobile agent

AI operating in public space. Food trucks, Uber drivers analyzed as mobile public accommodations.

Kiosk deployments

AI services through kiosks in airports, transit stations, commercial facilities: physical place + digital service.

SOURCES 28 C.F.R. §36.104. · DOJ, Accessibility of Food Trucks under Title III. · R. Calo, Robotics and the Lessons of Cyberlaw, 103 Cal. L. Rev. 513 (2015). · Apple Vision Pro, Meta Ray-Ban, Humane AI Pin product specs (2024).

The doctrine requires honest application to facts already on the ground.

The narrative that consumer AI is a pure-digital category waiting for embodiment to create physical endpoints is empirically wrong for the major providers. Each has built the physical operations the nexus doctrine demands. The case does not require replacing the doctrine. It requires applying it to the 2026 factual record. The remaining gap, OpenAI and the genuinely pure-digital remainder, is meaningfully narrower than the existing literature describes, and the doctrinal reform required to close it is correspondingly more focused.

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28 C.F.R. §36.104. · DOJ, Accessibility of Food Trucks, Coffee Carts, and Similar Mobile Businesses Under Title III.

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