

# Privacy and the Intersection of E-Discovery

UT LAW 2021 eDiscovery Essentials

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## Agenda

1 Approach of U.S. Courts to Foreign Data Privacy Laws



2 Privacy Challenges Presented by GDPR (and similar laws)



3 Compliance Strategies



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# Part 1

## Approach of U.S. Courts to Foreign Data Privacy Laws

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### Landmark Case: *Aerospatiale*

“It is well settled that [foreign] statutes do not deprive an American court of the power to order a party subject to its jurisdiction to produce evidence even though the act of production may violate that statute.”

*Societe Nationale Industrielle Aerospatiale v. U.S. Dist. Ct. for S. Dist. of Iowa*, 482, U.S. 522, 544 n.29 (1987).

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## Balancing Test

- *Aerospatiale* led to development of a balancing test
- Five non-exhaustive factors



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## Potential Consequences



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