

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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