

## David A. Wheeler

Partner | Intellectual Property

### OVERVIEW

David is a partner in the Intellectual Property practice group and leads its Cybersecurity & Data Privacy team. He counsels and defends clients in data, cybersecurity and privacy matters. His practice features a Defense in Depth (DiD) approach to protecting clients and their data, including information governance programs, cybersecurity risk assessment and preparedness, incident response planning, legal and regulatory compliance and security, and privacy and information management needs. He is a Certified Information Privacy Professional (CIPP) certified by the International Association of Privacy Professionals (IAPP). For the 2021-2022 bar year, David serves as Vice-Chair for the Information Security Committee, the Internet of Things Committee, and the Biotechnology, Healthcare Technology, and Medical Devices Committee of the American Bar Association's Science & Technology Law Section.

He provides counsel based on a wide variety of cybersecurity and privacy considerations, including the development of cyber and privacy policies and procedures, cybersecurity and privacy audits, cyber risk mitigation and remediation, cybersecurity and PCI compliance, GDPR compliance, CCPA compliance, employee privacy, record retention and electronic discovery, international and cross-border data transfer, data breach readiness, response and crisis management, and data privacy, security breach, CAN-SPAM Act and TCPA issues.

He provides counsel based on a wide variety of cybersecurity and privacy considerations, including the development of cyber and privacy policies and procedures, cybersecurity and privacy audits, cyber risk mitigation and remediation, cybersecurity and PCI compliance, GDPR



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### EDUCATION

Loyola University Chicago School of Law (J.D., 1999), with honors, moot court

Loyola College in Maryland (M.B.A., 1993)

University of Maryland (B.S., Information Systems, 1987)

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### ADMISSIONS

Illinois

compliance, CCPA compliance, employee privacy, record retention and electronic discovery, international and cross-border data transfer, data breach readiness, response and crisis management, and data privacy, security breach, CAN-SPAM Act and TCPA issues.

David also assists clients in becoming compliant with cybersecurity rules, regulations and initiatives such as those required or issued by executive orders, SEC, FCC, FTC, FCRA, FACTA, FINRA, FFIEC, OCC, state and self-regulatory frameworks. He provides advice to clients on the litigation defense of data privacy, security breach and TCPA class action suits in the United States.

He has handled a wide range of intellectual property issues, including trademark and copyright litigation, new gTLDs and forced recovery of domain names. David has drafted and negotiated a variety of technology services agreements, including EU data processing agreements, cloud services agreements, card payment services agreements, web/app development and webhosting agreements, data sharing agreements, Wi-Fi internet access and services agreements, data center services agreements, call center access agreements, software license agreements, hardware lease/purchase agreements, cyber forensics agreements, and cyber vulnerability and threat remediation services agreements.

Before joining the firm David spent a number of years as a consumer financial services class-action defense litigator, as well as an IP/IT counselor. In the data security and privacy areas, David has applied his technical experience to address personal information collection and use requirements, data security requirements, breach notification compliance, incident response, PCI-DSS compliance and cyber governance counseling.

Clients value David's three decades of information technology experience, including software development, use and policy development. He quickly assesses the risks and implications of each situation and guides clients toward the best solution for their business goals.

## EXPERIENCE

### Information Technology/eCommerce

- Advises on data security compliances, incident response, breach notification compliance, data security risk remediation and prelitigation strategy, payment card industry data security standards (PCI-DSS) compliance, EU Safe Harbor and cyber governance and the development of new internal data security governance standards
- Provides guidance on internet domain name and username forced recovery, purchase, registration and assignment negotiation and counseling, and new ICANN gTLD domain name registry services negotiation and counseling
- Drafts and negotiates eCommerce transactions, including EDI/XML agreements for Internet-based mortgage lenders, website terms of use agreements, disclaimers, data licensing, co-branding agreements,

outsourcing and independent contractor agreements, intellectual property assignments, limited liability company and operating agreements, software licensing agreements and asset purchase privacy due diligence

- Guides industry-leading telecommunications companies and financial institutions on records retention policies and procedures, CAN-SPAM, privacy and data security issues
- Advises companies on various technology-related issues including wireless broadband and technology acceptable uses, licensing, transfers and purchases
- Provides guidance on website, social networks, corporate, and international privacy policies
- Counsels on retail distribution license development, including addressing issues of cloud services and end-user license agreements
- Counsels on trademark, branding strategy and prosecution, as well as internet-related trademark infringement matters including domain name recovery, trademark infringement and licensing

## Litigation

- Domain name and trademark infringement litigation
- Search engine search terms disputes
- Consumer lending class action litigation with an emphasis on the defense of national banks and mortgage lenders against FHA, ECOA, TILA, HOEPA, FCRA, FACTA, FDCPA, HMDA, RESPA and state consumer lending claims

## RECOGNITIONS

- *The Legal 500 United States*, recommended in "Trademark Litigation," 2021
- Award of Merit, The National Center for Missing and Exploited Children

## NEWS & INSIGHTS

July 1, 2025 In The Media

David Wheeler featured in *Corporate Compliance Insights Article*, "Flying Blind on AI: The New Normal for Compliance Teams"

June 30, 2025 Publication

Federal Court Finds That Training AI on Copyrighted Books is "Quintessentially" Transformative Fair Use

June 5, 2025 Publication

Tips to Reduce Risk of Exposure to UID2 Class Actions

**April 24, 2025 Publication**

Tips to Reduce Risk of Exposure to UID2 Class Actions

**April 2, 2025 In The Media**

David Wheeler Quoted in *The Cybersecurity Law Report* Article, "Navigating Global Privacy Control's Not-So-Simple Implementation"

**March 14, 2025 Event**

NGE Attended the 2025 World IP Review Summit

**January 30, 2025 Publication**

Top Twelve Trends to Monitor in the Hospitality Industry in 2025

**January 29, 2025 Firm News**

NGE Represented RecoveryOne in its Sale to TailorCare

**November 21, 2024 Publication**

Cybersecurity Risks and Regulatory Challenges Impact Hospitality Industry

**October 17, 2024 Event**

David Wheeler Speaks at ABA's 2024 Virtual Fall Conference

**September 18, 2024 Event**

David Wheeler Speaks at ABA's 2024 SOC Fall Leadership Meeting

**August 2, 2024 Publication**

EU Sets Key Artificial Intelligence Regulation Dates

**July 23, 2024 Publication**

Navigating the CIPA Landscape: Understanding Tracking Technology Litigation and Compliance Strategies

**May 7, 2024 Firm News**

David Wheeler Certified As IAPP Artificial Intelligence Governance Professional

**April 10, 2024 Event**

David Wheeler Serves as Panelist on Federal Bar Association Webinar Session "AI Interactive — Counseling Clients on the Intersection of AI, Privacy, and Cybersecurity Law"

**January 10, 2024 In The Media**

David Wheeler Quoted in *LegalTech News* on Cybersecurity in 2024

**January 2, 2024 In The Media**

David Wheeler Quoted in Law360 Article on the Concerns Legal Tech Leaders Have Going Into 2024

**December 22, 2023 In The Media**

David Wheeler Quoted in *LegalTech News* Article on Key Developments in AI Governance and Regulation in 2023

**November 2, 2023 Publication**

White House Issues Executive Order on AI: Charting a Path to Responsible AI Development



**July 12, 2023 Publication**

Client Alert: European Commission's Adequacy Decision Sets Standards for US Companies to Receive Personal Data from EU Under the New EU-US Data Privacy Framework

**June 9, 2023 Event**

Firm Hosts Intellectual Property 102 Webinar Series

**May 19, 2023 Event**

David Wheeler and Dan Terhune Participate in FBA's Law Firm Cybersecurity & Ethical Obligations/Cyber Risk Assessments Webinar

**03.09.23 Publication**

Linda Hoseman Outlines 4 Critical Benefits and Compensation Issues Facing Employers This Year in *Human Resource Executive*

**February 20, 2023 Publication**

Illinois Biometric Privacy Law Developments May Increase Risk to Businesses Generally But Protect Healthcare Employers from Suits

**January 6, 2023 Publication**

Cybersecurity Issues for Retirement Plans

**December 5, 2022 Event**

Firm Hosts Employee Benefits & Executive Comp 102 Fall Webinar Series

**October 25, 2022 Firm News**

NGE Advises National Medical Billing Services in Its Acquisition of MedTek, LLC

**August 19, 2022 Firm News**

NGE Advises Upfront Healthcare in Its Acquisition of PatientBond

**August 11, 2022 Firm News**

NGE Represents Omeda Holdings LLC in Sale to Sverica Capital Management LP

**August 4, 2022 Event**

David Wheeler Serves as Panelist on ABA Session "A Bird's-Eye Vantage Point of Defending Democracy"

**May 2, 2022 Firm News**

NGE Represents S&S Truck Parts in Its Sale to Investcorp

**March 14, 2022 Publication**

Client Alert: Biden Issues Executive Order on Ensuring Responsible Development of Digital Assets

**October 15, 2021 Firm News**

NGE Represents Savencia Fromage & Dairy in Acquisition of Hope Foods

**September 17, 2021 Firm News**

David Wheeler Appointed to Three Leadership Roles in ABA Science & Technology Law Section

**September 8, 2021 In The Media**

David Wheeler Discusses How to Build a Career in Data Privacy



**September 1, 2021 Firm News**

NGE Represents HAVI in Acquisition of PMI Worldwide

**July 15, 2021 Video**

Personal Data Protection Travels: The New Standard Contractual Clause

**June 28, 2021 Publication**

Client Alert: EU Adopts New Standards for International Data Transfers

**June 10, 2021 Firm News**

The Legal 500 United States 2021 Edition Recommends Four Neal Gerber Eisenberg Practices and 15 Attorneys

**June 8, 2021 Video**

Cybersecurity Considerations for Emerging Companies

**May 19, 2021 Video**

Cybersecurity Issues and Standard of Care

**March 12, 2021 Video**

Privacy Considerations for Remote Work Productivity Monitoring

**February 4, 2021 Firm News**

NGE Represents National Medical Billing Services in Its Strategic Partnership with Aquiline Capital Partners

**November 25, 2020 In The Media**

David Wheeler Quoted in Law360 on FTC's Settlement with Zoom

**October 26, 2020 Event**

Election Oversight in the Face of Foreign Interference

**October 7, 2020 Publication**

Client Alert: Potential Sanctions Risks for Facilitating Ransomware Payments

**July 29, 2020 Publication**

Client Alert: European Court Invalidates Privacy Shield, Large Implications for U.S. Companies Likely

**May 19, 2020 Publication**

Cybersecurity, Privacy, Law Firms, and Ethical Obligations

**May 8, 2020 Event**

Data Privacy Predictions and Important Regulations

**February 20, 2020 Firm News**

Neal Gerber Eisenberg Adds Veteran Intellectual Property Partner David A. Wheeler

**February 19, 2020 Event**

Protecting Organizational Assets Against Evolving Cyber Threats

**February 19, 2020 Event**

What Every In-House Counsel Should Know about IoT, Data Analytics and Machine Learning



## PROFESSIONAL AFFILIATIONS

- American Bar Association, Science & Technology Law Section
  - Vice-Chair, Information Security Committee (2021-2022)
  - Vice-Chair, Internet of Things Committee (2021-2022)
  - Vice-Chair, Biotechnology, Healthcare Technology, and Medical Devices Committee (2021-2022)
  - Member, Cybersecurity Legal Task Force (2021-2022)
- Member, Chicago Bar Association
- Member, International Association of Privacy Professionals
- Member, National Bar Association
- Member, National Black MBA Association