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January 01, 2020

Navigating Cross-Border Discovery in US Litigation

Because of technological innovations and expanding globalization, it is increasingly common for information sought by parties in a U.S. litigation to be located abroad. At the same time, foreign data protection laws have become more prevalent and carry significant penalties for non-compliance. In this shifting landscape, parties and their counsel must carefully navigate the boundaries between domestic discovery obligations and foreign data processing and transfer restrictions.

In today's global marketplace, US-based litigations often involve paper and electronic documents, communications, databases, and applications from other countries and jurisdictions. This cross-border discovery presents complex considerations and tasks for counsel throughout the course of a litigation, especially given the passage of the European Union's (EU's) General Data Protection Regulation (GDPR) and similar data protection laws worldwide.

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