

Insights: Publications

The Future of U.S. Pretrial Discovery Involving European Union Data after *Salt River*

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The underlying issues addressed in *Salt River Project Agricultural Improvement and Power District v. Trench-France SAS, et al.* are hardly novel, but the Arizona District Court's decision represents a potential watershed moment in U.S. pretrial discovery practice and procedure. 303 F. Supp. 3d 1004 (D. Ariz. 2018). The long-standing tension between the common-law regime of the United States (with broad discovery requirements and little regard for data privacy) and the civil-law traditions of most European countries (with limited or no pretrial discovery and immense deference to individual rights and data privacy) has previously resulted in a long list of court orders that outright reject European Union (EU) data-privacy laws in favor of U.S. discovery laws. As discussed in more detail below, the *Salt River* court, however, may have provided the blueprint for the future of U.S. pretrial discovery that involves the handling of protected EU data. Indeed, *Salt River* promotes the application of a foreign mechanism to US discovery overseen by a foreign discovery master. The implications of potential discovery delays, increased costs, the need to hire local counsel, and more, are far-reaching.

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