

The Kelley Drye Brief – Winter 2022

March 14, 2022

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Message from Kelley Drye's Chair

Clients and Friends, It's hard to believe we're already into the third month of the year.

As 2022 began, we hit the ground running with many exciting initiatives and items of news to report, which are included in this issue of The Kelley Drye Brief.

First, we made several announcements on leadership changes at the firm. Alan Lubberda, was appointed Office Managing Partner of our Washington, D.C. office. Alan has served the firm in many roles prior to being appointed OMP, previously serving as chair of our International Trade practice. We are excited to see him in this new role.

We also launched a new "Hot Topics" webpage dedicated to the emerging topics of [Blockchain and Cryptocurrency](#). This page showcases the firm's cross-industry experience that can help you harness the potential of distributed ledger technology and minimize the risks while navigating this rapidly evolving space.

We've hosted a number of webinars that focused on issues of importance, including State Attorneys General priorities for 2022 and a Practical Privacy Webinar Series.

And most recently, with the rapidly evolving situation in Ukraine, our Sanctions team has been issuing updates on new sanctions and export control measures imposed by the United States, European Union, and other allies on Russia. These updates can be found [here](#).

I hope you find this issue of The Kelley Drye Brief informative. If you'd like to receive more of our communications, including newsletters, blog posts, and podcasts tailored to your interests, please visit our [sign up](#) page to subscribe.

Best,
[Jim Carr](#), Chair of Kelley Drye

Upcoming Events

Join Kelley Drye for the following upcoming programs, including our Practical Privacy Webinar Series and the first two webinars in a four-part series hosted by our International Trade practice focusing on the U.S. trading relationship with China and how businesses can successfully navigate the challenge of doing business in and with the U.S.'s most contentious trading partner. And in case you missed it, check out recordings of our recent webinars on a variety of hot topics.

Privacy Priorities for 2022: Tracking State Law Developments

March 24, 4:00 - 5:00 PM ET

In the absence of a federal privacy law, privacy has been at the forefront of many states' legislative sessions this year:

- Utah is poised to be the fourth state to enact comprehensive privacy legislation
- FL came close to passing legislation when the State House advanced privacy legislation by a significant margin
- Other state legislatures have privacy bills on their calendars

Against this backdrop, state attorneys general continue to initiate investigations into companies' privacy practices, and state agencies continue to advance privacy rulemakings under existing law. Join for this webinar to learn about the latest developments in state privacy law, make sense of these developments and understand their practical impact.

Register [here](#).

Hot Market / Cold War: Is China Our Best Customer or Our Biggest Threat?

March 29, 12:00 - 1:00 PM ET

Relations between the United States and China have been tumultuous over the last decade - especially in recent years - however, trade and investment ties remain robust between these two economic powers. In this one-hour webinar we will discuss the state of U.S. - China relations and how they have evolved in recent years; whether and where the U.S. should focus on strategic competition or seek cooperative action; the challenges business face doing business in or with China; and what role the Biden Administration, U.S. Congress and other global economic and trade institutions may play in the determining the path forward. Our discussion will feature Kelley Drye International Trade and Government Relations partner, [Paul Rosenthal](#), and be moderated by Kelley Drye International Trade Chair, [John Herrmann](#).

Register [here](#).

Solving the China Challenge: Practical Advice for Engaging in Trade and Investment with China

April 19, 2022, 12:00 - 1:00 PM ET

Businesses face multiple challenges when engaging in commerce with China as the political and reputational risks of doing business there grow, and Chinese investment in the U.S. faces heightened scrutiny. Consumer-facing companies face pressures from shareholders and customers to disassociate themselves from supply chains that may include forced labor or other human rights violations; U.S. manufacturers face sanctions and export restrictions as goods, technology and know-how transfers to China are viewed increasingly through a tightening national security lens; and investors are facing heightened scrutiny as CFIUS has steadily increased its examination of Chinese investment in U.S. businesses. This webinar will discuss the various challenges of doing business with, and in, China and the practical implications of cross-border, bi-directional commerce with the

U.S.' most contentious trading partner. Kelley Drye Export and Sanctions Chair [Eric McClafferty](#) will be joined by an International Trade partner and International Trade and Government Relations Special Counsel [Jennifer McCadney](#) for this one-hour discussion.

Register [here](#).

Visit our [Events](#) page to see upcoming speaking engagements and for the latest updates on Kelley Drye hosted events.

In Case You Missed It

Check out recordings of and materials from recent webinars hosted by Kelley Drye.

2022 Elections: Will Redistricting Reshape Congress?

The countdown to the 2022 Congressional midterm elections is on, and the 2020 census revealed significant changes to state populations, resulting in new congressional maps across the United States. Join Kelley Drye guests Jim Ellis of Ellis Insight LLC and Greg Speed of America Votes as they discuss the redistricting cycle; analyze each state's approach to drawing new congressional maps; take a look at key states, and assess major changes for the midterms.

Greg Speed is the president of America Votes, which leads coordination of progressive groups' independent voter turnout programs. Previously, Greg served as communications director for the Democratic Congressional Campaign Committee (DCCC) and for IMPAC 2000, Democrats' redistricting effort following the 2000 census.

Jim Ellis is President of Ellis Insight, LLC, where he analyzes electoral politics and reports upon trends, and tendencies in American elections. Jim formerly provided political consulting services to the House Republican majority through 2006; has run two national political action committees; and consults with many major corporations, associations and national lobbying firms.

To view full presentation click [here](#).

Privacy Priorities for 2022

Under Chair Lina Khan, the Federal Trade Commission has announced an aggressive privacy agenda, which is unfolding on the enforcement, regulatory, and policy fronts. In recent enforcement actions, the FTC has sought stringent remedies, including data deletion, bans on conduct, notices to consumers, stricter consent requirements, individual liability, and significant monetary relief based on a range of creative theories. The FTC has also announced that it intends to launch a rulemaking to limit "surveillance advertising." The FTC has also issued two rounds of guidance on its Health Breach Notification Rule -- which has never been the subject of an FTC enforcement action and is the subject of an open rulemaking proceeding.

To help make sense of these developments -- and understand their practical impact -- Kelley Drye's Privacy team will take a deep look at these key recent developments and put them in the context of the FTC's recent challenges and setbacks. Listen to a recording [here](#).

Office Politics: Rules for Engaging Your Workforce in the 2022 Elections

With 2022 midterm elections right around the corner, you may already be planning to approach your executives and employees to encourage them to be more engaged politically in today's important issues, whether that's learning more about the candidates and issues, registering to vote and voting, volunteering for favored campaigns and candidates, and even perhaps fundraising. Before you start,

let Kelley Drye's Campaign Finance and Political Law team, [Dave Frulla](#) and [Jeff Hunter](#), review the “rules of the road” when it comes to engaging your workforce without accidentally violating relevant laws.

This 45 minute webinar covers the basics, including:

- What kind of political activity is permissible in the workplace?
- Can my organization, executives, or employees raise political contributions?
- Can I encourage my employees to volunteer?
- What should I watch out for?
- What should I do if a campaign wants me to raise money?

To view the presentation slides click [here](#).

The Russia-Ukraine Impasse and How Companies Can Prepare for “Severe” Sanctions

As military tensions along the Russia-Ukraine border continue, the United States, European Union, and other countries are threatening “severe” economic sanctions on Russia should hostilities escalate further. In this 45 minute webinar, members of our sanctions and government relations teams will provide an overview of the U.S. sanctions and export control measures currently under consideration, what effect those measures may have on companies with exposure to the Russian market, and what companies can do to prepare.

To view full presentation click [here](#).

State Attorney General Consumer Protection Priorities for 2022

Consumer protection enforcement efforts are expected to increase dramatically this year. Recent pronouncements from State Attorneys General around the country bring privacy, big tech and the misuse of algorithms, and basic advertising related frauds into particular scrutiny.

In this program, Kelley Drye State Attorneys General practice Co-Chair [Paul Singer](#), Advertising and Marketing Partner [Gonzalo Mon](#), Privacy Partner [Laura VanDruff](#), and Senior Associate [Beth Chun](#) discuss and provide practical information on these and other state consumer protection, advertising, and privacy enforcement trends.

To view the presentation click [here](#). To view the webinar recording, click [here](#).

Privacy Priorities for 2022: Legal and Tech Developments to Track and Tackle

Privacy compliance is a daunting task, particularly when the legal and tech landscape keeps shifting. Many companies are still updating their privacy compliance programs to address CCPA requirements, FTC warnings on avoiding dark patterns and unauthorized data sharing, and tech platform disclosure, consent, and data sharing changes. But in the not too distant future, new privacy laws in California, Colorado, and Virginia also will go into effect. Addressing these expanded obligations requires budget, prioritizing action items, and keeping up to date on privacy technology innovations that can help make some tasks more scalable.

This joint webinar with Kelley Drye’s Privacy Team and [Ketch](#), a data control and programmatic privacy platform, highlights key legal and self-regulatory developments to monitor, along with practical considerations for how to tackle these changes over the course of the year. This is the first in a series of practical privacy webinars by Kelley Drye to help you keep up with key developments,

ask questions, and suggest topics that you would like to see covered in greater depth.

To view the presentation click [here](#). To view the webinar recording, click [here](#).

Hot Topic: Blockchain and Cryptocurrency

Earlier this year Kelley Drye launched a new “Hot Topics” webpage dedicated to the emerging topics of [Blockchain and Cryptocurrency](#). As distributed ledger technologies such as these play a greater role in solving complex business problems across all industries, many of our clients are seeking guidance to understand the legal and regulatory considerations that arise during the development and implementation of these technologies. Virtual currency and other Blockchain-based digital assets continue to attract the attention of policymakers across the globe, yet a lack of consistency in how these policymakers are addressing concerns raised by the technology is becoming a major challenge for legal professionals who practice in this area.

The new webpage showcases the firm’s cross-industry experience that can help our clients harness the potential of distributed ledger technology and minimize the risks while navigating this rapidly evolving space. If you have questions about this new offering and Kelley Drye’s capabilities, please contact [Matt Luzadder](#).

Kelley Drye Expands Ad Law Access, Creating Daily Podcast

Kelley Drye & Warren LLP announced the expansion of the Ad Law Access podcast, which is now available on a daily basis. Hosted by [Simone Roach](#), powered by Kelley Drye’s Advertising and Privacy / Data Security teams, the daily podcast complements the award-winning Ad Law Access blog, and provides updates and analysis on advertising, marketing, and privacy / data security law.

“We were seeing an increased demand for information and wanted to provide our listeners with an easy way to get the high-level, insightful analysis we provide on our blog as it happens,” said partner [John Villafranco](#). “The Ad Law Daily podcast delivers these timely insights in a form that is perfect to listen to during a workout, a commute or a lunch break.”

Podcast host Simone Roach has worked with the advertising law practice at Kelley Drye for over 15 years. As host of the Ad Law Daily podcast, she provides a daily audio perspective to the issues that are top of mind for in-house counsel.

The Ad Law Access Daily podcast is available from a number of services ([iTunes](#), [Spotify](#), [Google Podcasts](#), [SoundCloud](#) and [many other podcast services](#)).

Originally launched in 2019, the Ad Law Access podcast has produced popular episodes on the [FTC](#), [CCPA](#), [Commercial Co-Ventures](#), [Texting 101](#), [Challenging Competitors' Claims](#), [Product Origin and Origin Marketing Claims](#), [Influencers and Endorsers](#), Sweepstakes and Contests, [GDPR](#), and many other topics.

For additional information, visit:

- [Ad Law Access Blog \(Subscribe\)](#)
- [Advertising and Privacy Law Resource Center](#)

- [Ad Law News and Views Newsletter \(Subscribe\)](#)
- [Advertising Law Practice Page](#)
- [Privacy and Information Security Practice Page](#)
- [State Attorneys General Practice Page](#)

Kelley Drye LA Office Moves

The firm's Los Angeles office recently completed a cross-city move to a new downtown location. This move continues the expansion of the firm's presence in California, which has included the recent addition of partner [Becca Wahlquist](#) (Consumer and Class Action).

"California is a key legal proving ground for issues involving privacy, labor and employment, and advertising," said [Dana Rosenfeld](#), Kelley Drye managing partner. "Under Kim's leadership, our expanded office will provide a key resource from which to serve our clients."

Previously located at 10100 Santa Monica Boulevard in Century City, the Kelley Drye office moves to 350 South Grand Avenue (2 California Plaza) in Downtown Los Angeles, which provides a brighter, more open, and more efficient space. Additionally, the new office is within walking distance to both the state and federal courthouses, adjacent to fine dining, five-star hotels, performing arts centers, museums, and major sporting arenas. As part of the move, all attorneys and staff will benefit from a full technology refresh.

Kelley Drye Names Alan Luberda Managing Partner for Washington, D.C. Office

Kelley Drye & Warren LLP announced the appointment of [Alan Luberda](#) as office managing partner for its Washington, DC location. Alan will oversee day-to-day office management, implement operating and strategic plans, manage budgets, and represent Kelley Drye in the D.C. community.

Alan served as chair of the firm's International Trade practice for five years and was a member of the firm's Earnings Allocation Committee for the last three years. Alan's practice focuses on the areas of U.S. trade remedy law, customs, and export controls law and regulation. He counsels and represents businesses - from large multinationals to family-owned enterprises - as well as industry and trade associations, in international trade-related matters before Congress, the Department of Commerce, the Office of the U.S. Trade Representative, the U.S. International Trade Commission, the U.S. Department of State, the Department of Homeland Security (including the Bureau of Customs and Border Protection) and other agencies.

Alan succeeds [Kathy Cannon](#), who steps down after serving as Washington, D.C. Office Managing Partner for seven years to focus on her International Trade practice. Additionally, partner John Herrmann will become chair of the International Trade practice group. John joined Kelley Drye in 2009, following service in the administration of President George W. Bush, including work at the White House on the National Security Council staff.

"Washington is the center of our outstanding regulatory practices as well as our Government Relations and Public Policy group," said [Dana Rosenfeld](#), Kelley Drye managing partner. "Under Alan's leadership, we will continue to expand our capabilities and be a key resource for our clients."

In total, Kelley Drye has eight offices across the United States, and is home to skilled practitioners in the areas of litigation, trade and customs, advertising and data privacy, communications, regulatory, government relations, labor and employment, real estate, corporate, bankruptcy, intellectual property, and more.

In 2021, for the eighth consecutive year, *The Washington Post* has named Kelley Drye & Warren LLP as a top workplace in the Washington, D.C. region. Selection on the list is based solely on employee feedback gathered through an anonymous third-party survey which measures several aspects of workplace culture, including alignment, execution, and connection."]