

Big Data in the Electronics Industry

By 2020, the Internet of Things will include more than 50 billion cloud-connected devices. This is an unprecedented opportunity for the electronics industry, both for companies that design and build the devices, and for those that make the hardware, software and networks connecting them. But these devices will collect and share a tremendous amount of sensitive data—from power grid controls, to manufacturing secrets, to personal health information—forcing the electronics industry to grapple with many privacy, cybersecurity, intellectual property, contracting, antitrust and other challenges.

PRACTICE AT A GLANCE

- WilmerHale has been recognized globally for its experience counseling and advocating for hundreds of leading consumer companies, including dozens in the electronics industry (from wearables to home entertainment and computing devices to “always on” consumer devices).
- Our interdisciplinary team of lawyers has helped electronics industry clients grapple with Big Data issues on six continents under a plethora of regulatory regimes.

INDUSTRY-SPECIFIC ISSUES

Cybersecurity and encryption: Today’s sophisticated devices collect and transmit a great deal of sensitive user data. Absent effective security, such data falls into the hands of identity thieves, business competitors and state-sponsored cybercriminals. And as law enforcement and privacy advocates clash about data encryption, electronics manufacturers are in the crossfire.

Privacy: Consumer devices such as fitness trackers, smart TVs, mobile devices, home automation hardware and always-on digital assistants collect sensitive health, financial, location and other information that is subject to burdensome privacy and consumer protection laws around the world.

Patent convergence: As Big Data gets bigger, companies from historically distinct sectors find themselves in direct competition—networking, data storage, cloud computing, wireless, cellular and security. Like the 3G wars in the 2000s and the smartphone wars of the last decade, convergence means IP conflicts.

48 Billion+

The amount projected annual spending in Big Data technology and services market in 2019.

**“Everything that can
be automated will
be automated.”**

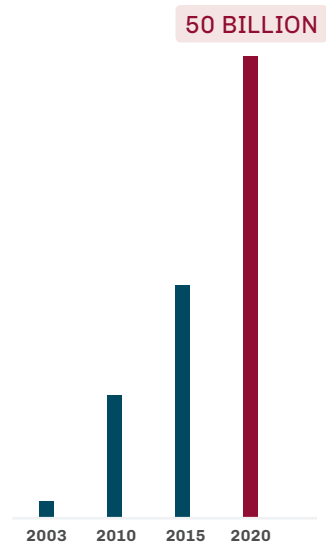
— *Zuboff's First Law*

INDUSTRY-SPECIFIC ISSUES *continued*

Technology transactions and licensing: Increasingly, technology transactions and licensing agreements involve parties granting or obtaining access to data collected through consumer electronics or business devices (such as in-store sensors or fleet trackers). And Big Data analytics providers often partner with electronics manufacturers to profit from the collection and processing of information. Appropriate contracts are essential to prevent disputes about who owns the data, what it will be used for, and the parties entitled to access and exploit it.

EXPERIENCE

- Counsel a range of electronics manufacturers on compliance with cybersecurity laws, directives and best practices around the globe, including highly prescriptive state and federal regimes in the United States, the European Union and Asia.
- Advocate for equipment and chip manufacturers in disputes concerning export control restrictions on hardware for data centers and other applications outside the US, and counsel electronics manufacturers on compliance with such restrictions.
- Advised manufacturer of “always on” consumer device about state and federal surveillance laws and privacy laws governing the passive collection, use and sharing of sensitive data from adults, children and visitors present within a home.
- Represented handset manufacturers, network connectivity equipment makers and telecommunications networks in numerous high-profile cases involving data access technology resulting from compliance with 3GPP LTE standard.
- Advise electronics companies on many consumer protection and advertising issues, including restrictions on the use of consumer and business information for marketing through email, text messages, calls and online behavioral advertising.
- Assist major consumer device manufacturers in responding to data breaches and other information security incidents involving their products, from initial forensic investigations to dialogue with state and federal regulators, to formal consumer notices and credit monitoring.
- Defended smart TV manufacturers and their Big Data service providers in litigation concerning the collection and analysis of individual consumers’ video viewing data and other information for use in targeting personalized television advertising.
- Counsel major consumer electronics manufacturers on compliance with data localization, encryption and trade secrets challenges in China.
- Assist companies with lawful implementation of TouchID systems, including for use in mobile payments, consumer financial services and authentication for business transactions.
- Represented Ethernet leader Broadcom in data center patent infringement litigation against competitor Emulex, culminating in injunction against Emulex data center products and \$58 million patent license for Fibre Channel and Fibre Channel over Ethernet high-speed data storage technology.



Growth In Number Of Internet Of Things Connected Devices

Source: Cisco IBSG, April 2011

“The Internet of Things will augment your brain.”

— Eric Schmitt, Former CEO of Google

For more information visit us at wilmerhale.com/big-data | contact us at big.data@wilmerhale.com