



## Kurt R. Hunt

Of Counsel  
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Kurt focuses his practice on privacy, cybersecurity and public utility issues, particularly in the telecommunications industry. In that role, he advises clients on general corporate and administrative issues, regulatory compliance and contract negotiations.

He also draws on his broad experience to help a wide variety of clients -- ranging from start-up cloud service providers to Fortune 50 corporations -- resolve complex issues relating to their technology, data security, data breach response, intellectual property, privacy and marketing needs. He works closely with clients to develop strategies that help ensure compliance with state privacy laws, the Children's Online Privacy Protection Act (COPPA), FCC regulations, the European Union's General Data Protection Regulation (GDPR), the Telephone Consumer Protection Act (TCPA), the CAN-SPAM Act, the FTC endorsement guidelines and related international laws. He also drafts and negotiates service agreements and other commercial contracts that address complex privacy and data issues.

Kurt is an experienced litigator and represents clients in state and federal courts, as well as before administrative agencies and public utility commissions. In 2011, he won a landmark case in the U.S. Court of Appeals for the Sixth Circuit against the Department of Justice, securing his client's right to bring claims against the Department of Homeland Security for violations of the Privacy Act.

### Services

- Litigation
- Cybersecurity & Data Privacy
- Corporate & Transactional
- Privacy, Data Protection & Internet Technologies

- Public Utilities Industry
- Municipal & Government
- TCPA Compliance & Defense

## Education

- University of Michigan Law School (J.D., *cum laude*, 2007)
- Eastern Michigan University (B.S., *magna cum laude*, 2005)
  - Telecommunications and Film

## Bar Admissions

- Ohio

## Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Ohio

## Affiliations/Memberships

- Media Bridges
  - Board of Trustees (president 2012 - 2013)
  - Vice president (2011 - 2012)
  - Member (2008 - 2011)
- Radio Free Queen City (WVQC-LPFM), Board of Advisors (2008 - 2012)
- The Ohio Center for Law-Related Education, (2009 - 2010), High School Mock Trial Case Committee co-chair (2010-2012)
- Xavier University, Media Law and Policy, adjunct professor (spring 2010, spring 2011)
- Rothenberg and Vine Elementary Schools, tutor (2008-2010)
- Ohio State Bar Association
- Cincinnati Bar Association
- Federal Communications Bar Association
- Energy Bar Association
- Electric Cooperative Bar Association

## Experience

**Advise Parking Company on New Key Card Vendor at College Campus**

We worked with a company that manages vehicle parking. Our client was seeking to replace their current electronic key cards and access systems and was working with a new software vendor. The system provides information on each parker, such as their name and status at the institution and also tracks financial information related to parking fines or tickets.

### **Advise Pre-paid Card Provider on CAN SPAM and TCPA Compliance**

We worked with a prepaid card provider to advise on their CAN SPAM and TCPA compliance issues regarding the gathering and distribution of customer data. We helped to vet our client's policies and ensure they remained strong in the face of evolving legislation and threats.

### **Advised Client on Policies to Project Customer Data Used in Software Application**

Our client developed a new software application that helped customers take inventory of their purchases and also notifications for recalls, maintenance, upgrades and other services related to their purchase. The application required gathering a tremendous amount of data, including purchase history, geographic location and other potentially sensitive information. We worked with our client to develop policies that dictated how and when this information could be shared with other businesses, as well as ensuring the data remained protected and was in compliance with the applicable federal and state laws.

### **Build Data Sharing Platform for Client to Enable Information Sharing**

We built a data sharing platform for a retirement community to enable their providers throughout the country to share information. We advised the client on compliance with myriad of regulations that govern health care data and ensured their platform met their needs while also remaining protected from potential breaches.

### **Represent Client in Creation of Loyalty Program**

We represented a transportation company in their negotiation with a vendor to implement a new loyalty program for their customers. The program required the gathering of customer data, including sensitive information about location and travel. We worked on behalf of our client to fully vet the vendor and ensure the collection and use of this information would be in compliance with the appropriate regulations.

### **Advise Client on Building a Compliant Database**

We advised a sports organization that promotes their game for all ages across the country, on the development of a software application that required gathering information on players and coaches. Since the application would involve sharing of data, some of which could be deemed personal or private, we worked with the client to ensure they remained in compliance with all the applicable federal and state laws governing the collection, distribution and sharing of such data.

### **Advise Client on Encryption Laws**

Our client, a transport company, was seeking to strengthen their internal security practices relating to data management. We advised them on the applicable encryption laws, including how to prioritize encryption levels. We also worked with the client to develop and implement policies to govern future encryption procedures.

### **Email Spoofing Using Company Officials' Addresses**

Our client, a food manufacturer, noticed a pattern of email attempts, purportedly from company officials, requesting money wire transfers. We worked with them to determine the email spoofs were coming from an external source. We then worked with their technical staff to implement measures to ensure the email spoofs were

eliminated and also helped to put in place policies that would guide potential information breaches that could occur because of the spoofing.

### **Represent Credit Union in Data Breach, Advise on Prevention**

We represented a credit union that suffered a data breach when a rogue employee made confidential information public. We assisted the client with the data breach notification process and worked with their technical staff to perform a risk analysis on the systems and data to determine how the breach may have happened. We determined the full extent of the breach, and advised the client on implementing internal controls to prevent the situation from occurring again.

### **Represent Financial Institution After Potential Data Breach, Advise on Policies**

We represented a financial institution after a data breach occurred. Someone broke into our client's facility and stole computer equipment and files that contained potentially confidential information. However, the files were appropriately redacted and the equipment was encrypted, both of which prevented any confidential information from being discovered or released. Following the incident, we worked with the client to ensure their policies remained strong and also evaluated their response to the breach to ensure they remain proactive in the case of another incident.

### **Advice regarding Establishment and Operation of Natural Gas utility (Gas/Water/Sewage)**

We are currently assisting a large, municipal water and sewage utility in Kentucky with respect to its plans to enter the natural gas business in order to spur economic development in the region. We are advising the client on all aspects on the statutory and regulatory issues implicated by this new venture, as well as the related issues implicated by its status as a municipal instrumentality. In addition to helping the client navigate these issues, we have also been retained to assist with negotiations regarding gas purchase agreements, transmission and distribution issues, eminent domain issues, and all aspects of the project – “from A to Z” - that will help them secure the supply of gas and deliver it to customers.

### **Advise clients on compliance issues relating to privacy**

We regularly advise a wide variety of clients on compliance with privacy regulations, including state laws, the Electronic Communications Privacy Act, Stored Communications Act, Customer Proprietary Network Information rules, EU Data Protection Directive, the Wiretap Act, and the Gramm-Leach Bliley Act. Our role has included helping to structure services and internal processes, negotiating service agreements, and responding to specific (and often immediate) concerns regarding the dissemination of data.

### **Privacy Act case involving first impression**

We successfully briefed and argued an issue of first impression related to the Privacy Act before a three-judge panel in the Sixth Circuit Court of Appeals (*Shearson v. Dept. Homeland Security*, 638 F.3d 498 (6th Cir. 2011)).

### **Resolved dispute with FCC on behalf of cable company**

We represented a cable company that was contacted by the Federal Communications Commission regarding alleged noncompliance with the FCC's leakage reporting and annual reporting, found on forms 320 & 325. The client was threatened with a loss of their license. We worked on behalf of the client to negotiate with the FCC to resolve the alleged reporting issues that were noncompliance, and the client was able to avoid all threatened fines and franchising penalties. We also have advised the client on a number of municipal franchise agreements.

## **Advise clients on marketing compliance issues**

We routinely counsel a variety of clients, including multimedia, technology and wireless companies on proposed marketing initiatives for print, TV, radio and internet media. Our role includes reviewing proposed copy, drafting necessary disclaimers and restrictions, and providing detailed assistance complying with CAN-SPAM, FTC endorsement rules, the Telephone Consumer Protection Act, and other relevant laws and regulations. Our work also includes drafting contest/sweepstakes rules and advising on compliance with state and federal contest laws and rules, as well as advising on contest/sweepstakes rules specific to social media platforms.

## **IP Licensing/Agreement Experience**

Our attorneys have drafted a wide variety of agreements for clients to help them protect their intellectual property. Since 2011, we have drafted more than 575 total agreements, which can be broken down as follows:

### **Development Agreements (70)**

- Independent Contractor Agreements (15)
- Talent Agreements (15)
- Presenter Agreements and Content Provider Agreements (10)
- Joint Ownership Agreements (10)
- Production Agreements (10)
- Employee Invention Policy and Agreements (5)
- Joint Development Agreements (5)

### **Litigation-related/Dispute Agreements (55)**

- Pre-Litigation Settlement Agreements (15)
- Trademark Trial & Appeal Board Settlements (15)
- Co-Existence Agreements (10)
- Litigation Settlement Agreements – Patent Disputes (5)
- Litigation Settlement Agreements – Trademark Disputes (5)
- Joint Defense Agreements (5)

### **License Agreements (155)**

- Software License Agreements (35)
- Patent License Agreements (35)
- Trademark License Agreements (20)
- End User License Agreements (15)
- Subscription Agreements (10)

- Software as a Service (SaaS Agreements (10)
- Channel Partner Agreements (10)
- Pilot Agreements (10)
- Copyright License Agreements (5)
- OEM License Agreements (5)

## **IT-related Agreements (170)**

- Terms of Use and Privacy Policy (35)
- Healthcare-related IT Agreements (30)
- Software IT Agreements (25)
- Hardware IT Agreements (25)
- Master Client/Service Agreements (25)
- Support and Maintenance IT Agreements (15)
- Reseller Agreements (15)

## **Research Agreements (55)**

- Advanced Research Agreements (25)
- Materials Transfer (20)
- Cooperative Research and Development Agreements (10)

## **Misc. Agreements (55)**

- Non-Disclosure Agreements (25)
- Participant Agreements (10)
- Exclusive Sales Representation Agreements (5)
- Termination Agreements (5)
- Domain Purchase Agreements (5)
- Domain Escrow Agreements (5)

## **Access Reform (Telecommunications)**

We represent 13 of Kentucky's 15 local rural exchange carriers (RLECs) in connection with the Kentucky Public Service Commission's ongoing administrative case regarding potential reforms to intrastate access charges, high cost support, and universal service. This representation is ongoing.

## **Advise hospital on data access arrangement that allows safe patient information sharing**

We worked with a hospital to build a data access arrangement that enabled them to share data between coding staff and off-site providers. We worked with the client to help structure the agreements to ensure protected and sensitive health care records and information are properly protected, as well as to build policies to ensure controls are in place.

## **Assist client in creating ride share program to help patients get to doctor appointments**

We worked with a subsidiary of a transport group on a medical ridesharing program. Our client contracted with taxi companies to arrange rides for patients to get to doctor appointments. The nature of the program provided personal information to the taxi companies, including a person's name, address and doctor, so we worked with them to structure data access arrangements that ensured sensitive and confidential information was protected.

## **Dispute Over Jurisdictionality of Mobile to Landline Calls**

When the Brandenburg Telephone Company needed Sprint to pay its access charges, it turned to Dinsmore. Sprint had been withholding millions of dollars in access charges billed to it pursuant to Brandenburg Telephone Company's filed and approved tariffs. Sprint claimed that although the tariff language jurisdictionalized access traffic as inter/intrastate on the basis of a juxtaposition of the called and calling party numbers, the advent of wireless telecommunications required jurisdictionalization based on the location of the wireless switch handling the traffic. Before the Franklin Circuit Court, Dinsmore successfully argued that the plain language and historical application of Brandenburg Telephone Company's tariff prevailed. As the Franklin Circuit Court agreed in reversing the Commission, any other outcome would have resulted in an impermissible violation of Brandenburg Telephone Company's constitutional due process rights. As a result of the reversal, the client will be able to recover a substantial amount of unpaid charges, and it establishes an important precedent for other wireline carriers across the Commonwealth.

## **Foreign Plaintiff v. U.S. Corporation**

I lead a team which successfully assisted a foreign plaintiff in obtaining financial information from U.S. entities for use in a foreign proceeding. To do so, our team obtained a federal court order under 28 U.S.C. § 1782 requiring certain U.S. businesses and banks to provide discovery for use in the foreign proceeding.

## **In-House Counsel**

We serve as the in-house legal department for Bluegrass Cellular, a commercial mobile radio service (CMRS or cellular) provider throughout Central Kentucky. We assist the client with a wide variety of needs, including negotiating and drafting customer service agreements, vendor agreements, roaming agreements and intercarrier agreements, as well as offering counsel on regulatory compliance, cell tower siting and construction, and other general litigation needs.

## **Pre-Bid Due Diligence**

Represented a bidder in connection with the pre-bid due diligence related to a major energy utility acquisition involving Kentucky, Tennessee, and Indiana legal issues. The ultimate value of the deal for the successful bidder was reported to be approximately \$9.5 billion. The work involved all aspects of public utility regulation and environmental law, as well as strategizing likely communications with major political stakeholders throughout all levels of state and local government. Notable areas of representation in this matter included issues involving:

- Regulatory approvals for change in ownership or control of utilities;
- Regulatory approvals for financing applications;
- Regulatory approvals for obtaining certificate of public convenience and necessity;
- Renewable energy contract review;
- PSC and OSHA complaints;
- Utility supply and vendor contracts;
- Utility tariffs;
- Litigation;
- Regulatory review of rate-affecting issues;
- Fuel Adjustment Clauses;
- Pollution Control Bond change in control;
- Cost recovery of capital expenditures for pollution control equipment and renewable energy projects;
- Environmental surcharges;
- Projecting future impact of greenhouse gas regulations;
- Title V air permits;
- Environmental contamination and compliance issues associated with ongoing operations;
- Disposal of coal combustion by-products;
- General environmental regulatory compliance;
- State and local taxation;
- Real estate and operating leases;
- Franchises, rights-of-way, permitting, planning and zoning, and eminent domain;
- Retail operations review;
- Wholesale electric supply agreements;
- Gas pipeline regulatory issues; and
- Legislative, policy, and strategic planning advice.

## Publications

July 2, 2018

**How Financial Institutions Should Prepare For and Respond to a Cybersecurity Incident**

Bank Director

February 14, 2017

**Cybersecurity Best Practices for Corporate Leadership**

January 6, 2017



## **New Risk in Offering Free Credit Monitoring to Customers Affected by Data Breaches**

December 20, 2016

### **GDPR: Looking to the Future of EU Data Privacy**

November 1, 2016

### **Timing Is Everything in Data Breach Investigations and Disclosures**

August 10, 2016

### **FCC Provides Guidance to Public Utilities on Autodialing and Prerecorded Calls**

August 2, 2016

### **E.U.-U.S. Privacy Shield: A new, valuable tool for cross-border data transfers**

June 14, 2016

### **Cybersecurity Alert: Ransomware Attacks on the Rise**

November 4, 2015

### **EU-US Safe Harbor Invalidated: What Now?**

October 9, 2015

### **EU-U.S. Safe Harbor Invalidated – What It Means for Your Business**

September 24, 2014

### **Five Basic Steps for Dealing with Cybersecurity Threats**

June 26, 2014

### **Canada Targets Commercial Email; Crackdown Perilous to US Companies**