Michael L. Whitener

Attorney

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Michael Whitener is a VLP Partner whose legal practice focuses on two areas: (1) technology transactions and (2) data privacy and cybersecurity.

In the technology transactions area, Michael drafts and negotiates agreements relating to software and patent licensing, alliances, reseller and referral arrangements, manufacturing, supply and distribution, outsourcing, cloud computing and other internet services, and website terms of service. His constant goal is "plain English" documents that are clear, comprehensive and balanced, while protecting his clients' interests. He also advises clients on protecting and preserving their copyrights, trade secrets, patents and other valuable intellectual property, as well as appropriate use of open source software.

In the data privacy and cybersecurity area, Michael provides practical advice on the collection, use, sharing and protection of data in compliance with an ever-changing network of privacy laws. He conducts privacy audits and risk assessments, drafts privacy/security policies and data transfer agreements, advises on compliance with U.S. and foreign data privacy laws and regulations (including the CCPA and the GDPR), and assists companies in preventing and responding to data security incidents. Michael's data privacy expertise includes Big Data analytics, mobile applications, privacy by design, and cross-border data transfers.

Michael has received all seven certifications offered by the International Association of Privacy Professionals (IAPP), including certifications in the laws of the United States (CIPP/US), European Union (CIPP/E), Asia (CIPP/A), and Canada (CIPP/C), U.S. governmental privacy laws (CIPP/G), IT privacy best practices (CIPT) and information privacy management (CIPM). In 2016, the IAPP

designated Michael as a Fellow of Information Privacy. He was named a "BTI Client Service All-Star" in 2016 and 2019.

Michael has spent much of his legal career overseas, including postings in Tokyo, Singapore, Sydney and Doha. He was Group Counsel – International at the technology consulting firm BearingPoint, and General Counsel/Managing Director at the satellite communications firm WorldSpace Asia. He also spent two years as Senior Trade Adviser to the International Trade Administration, U.S. Department of Commerce, and was a Fulbright Fellow in Japan for a year.

Michael was previously in private practice with Sidley Austin and Hogan Lovells. He received his law degree from the University of Virginia School of Law and undergraduate degree (in English literature) from the College of William & Mary.

Practice Areas

- Technology Transactions
- Privacy
- Intellectual Property
- Web & E-commerce
- Education
- International Practice
- Semiconductors
- Entertainment & Media
- Mergers & Acquisitions
- Clean Tech & Sustainability

Admissions

- Bar of the District of Columbia
- State Bar of New York
- State Bar of New Mexico

Professional or Trade Affiliations

- International Association of Privacy Professionals: Member, Publications Advisory Board

Education

- J.D., University of Virginia School of Law
- B.A., College of William & Mary

Honors & Awards

- International Association of Privacy Professionals Fellow of Information Privacy
- BTI Client Service All-Star 2016 and 2019

Community Involvement

- Montgomery County Board of Education: Member, Ethics Panel (2012-15)

Recent Publications

- VLP Partner Michael Whitener Interviewed for IAPP Article: "Facebook to Close its Facial Recognition System, But Will It Start a Paradigm Shift?"
  (Nov 4, 2021)
- VLP Partner Michael Whitener Publishes Article on the "Internet of Bodies"
  (Feb 10, 2021)
- VLP Partner Michael Whitener Named a BTI Client Service All-Star for 2019
  (Apr 1, 2019)
- VLP Attorneys Michael Whitener and Raquel Aragón Co-Author Privacy Advisor Article "How Should We Regulate Facial Recognition Technology?"
  (Jan 30, 2019)
- VLP Partner Michael Whitener Discusses U.S. v. Microsoft on a Thomson Reuters Legal Current Podcast
  (Feb 28, 2018)
- VLP Partner Michael Whitener Quoted in Bloomberg Law Article "SCOTUS Privacy Case May Be Consumer Litigation Windfall"
  (Dec 7, 2017)
- VLP Partner Michael Whitener Interviewed on KCBS Radio in San Francisco About a Supreme Court Digital Privacy Case
  (Dec 1, 2017)
- VLP Partner Michael Whitener Quoted in Corporate Counsel Article "Lawyers Say New Digital Pill Raises Consent, Data Security Issues"
  (Nov 27, 2017)
- VLP Partner Michael Whitener Interviewed by Inside Counsel in the Article "The Employee Privacy Risks of Company Chips"
  (Nov 8, 2017)
- VLP Partner Michael Whitener Interviewed by Inside Counsel in the Article "Why Health Records Are So Valuable to Cybercriminals"
  (Jun 12, 2017)
- VLP Partner Michael Whitener Quoted in the Law360 Article "NY's 'Right To Be Forgotten' Bill Needs Narrower Focus"
  (Mar 29, 2017)
- VLP Partners Melissa Krasnow and Michael Whitener Co-Author Bloomberg Law Article "A Brief Overview of Privacy and Data Security Developments to Watch"
  (Mar 21, 2017)
- VLP Partner Michael Whitener Quoted in the Law360 Article "MLB Wearable Tech Experiment Raises Athlete Privacy Issues"
  (Mar 16, 2017)
- VLP Partner Michael Whitener Interviewed by Inside Counsel in the Article "Top Cybersecurity Innovations of 2017"
  (Mar 9, 2017)
- VLP Partner Michael Whitener Interviewed by Inside Counsel in the Article "Pokémon GO Exposes the Risks of BYOD Policies"
  (Aug 24, 2016)
- VLP Partner Michael Whitener Interviewed by EdWeek Market Brief Article "As States Toughen Data-Privacy Laws, Ed-Tech Providers Adjust"

(Aug 1, 2016)

- VLP Partner Michael Whitener Interviewed by Newsmax in the Article "EU's New Privacy Shield Creates New Compliance Requirements"
(Aug 1, 2016)
- VLP Partner Michael Whitener Interviewed by Inside Counsel in the Article "Will Artificial Intelligence Revolutionize Cybersecurity?"
(Jun 27, 2016)
- VLP Partner Michael Whitener Interviewed on Podcast for Thomson Reuters Legal Current: "A New Era of US-EU Data Privacy"
(Apr 8, 2016)
- VLP Partner Michael Whitener Quoted in article "Conflicting Data Policies Raise Compliance Challenges" for the Global Association of Risk Professionals
(Mar 24, 2016)
- VLP Partner Michael Whitener Quoted in Financial Times Article, "Court rulings threaten to upset defences against data breach claims"
(Mar 16, 2016)
- VLP Partner Michael L. Whitener Interviewed on Podcast for Thomson Reuters Legal Current: "Professor Scalia & the Paper Chase"
(Mar 7, 2016)
- VLP Partner Michael Whitener Recognized in BTI Client Service All-Stars 2016
(Feb 9, 2016)
- VLP Partner Michael Whitener Quoted in IAPP article, "How Sturdy is the Privacy Shield?"
(Feb 3, 2016)
- VLP Partner Michael Whitener Sits Down with Inside Counsel to Discuss Cyber Attacks and Litigation Risks for 2016
(Jan 21, 2016)
- VLP Partner Michael L. Whitener Interviewed on Podcast for Thomson Reuters Legal Current: "Is Your Car Really a Transformer?"
(Aug 17, 2015)
- VLP Partner Michael L. Whitener Quoted in Corporate Counsel Article, "Baseball Hacking Scandal? It's Just Business as Usual"
(Aug 13, 2015)
- VLP Partner Michael L. Whitener Authors a Guest Post for Thomson Reuters Legal Current, "Ashley Madison Hack: There is No Such Thing as Guaranteed Data Security"
(Jul 23, 2015)
- VLP Partner Michael Whitener Quoted in Hacksurfer.com Article "After Snowden, Will Tech Companies Trust Government?"
(Mar 6, 2015)

Blog Posts

- Establishing Guardrails for Using Customer Data in AI Training - A Blog Post by Michael Whitener & Christelle Pride
(Apr 22, 2024)
- The Elements of a Corporate AI Policy - A Blog Post by Michael Whitener
(Oct 31, 2023)
- The Data Privacy Framework has Landed! How to Reap the Benefits - A Blog Post by Michael Whitener
(Aug 15, 2023)

- Drafting Robust TOMs - a Blog Post by Michael Whitener
  (Feb 21, 2023)
- Top Five Pain Points in Data Processing Agreements - a Blog Post by Michael Whitener
  (Feb 8, 2023)
- Don't Let Privacy Issues Tank Your Data-driven M&A Deal - a blog post by Michael Whitener
  (Nov 10, 2021)
- VLP Partner Michael Whitener Interviewed for IAPP Article: "Facebook to Close its Facial
  Recognition System, But Will It Start a Paradigm Shift?"
  (Nov 4, 2021)
- VLP Partner Michael Whitener Publishes Article on the "Internet of Bodies"
  (Feb 10, 2021)
- What is the Future of Facial-Recognition Technology Regulation? Part Three
  (Mar 6, 2019)
- How Should Facial-Recognition Technology Be Regulated? Part Two
  (Feb 27, 2019)
- How Should Facial-Recognition Technology Be Regulated? Part One
  (Feb 20, 2019)
- Blockchain and Privacy: Irreconcilable Differences?
  (Nov 27, 2018)
- Congress Steps in to Address the Microsoft Ireland (Overseas Warrants) Case
  (Mar 27, 2018)
- Cybersecurity: What to Watch in 2018
  (Dec 8, 2017)
- Online Tracking Goes Offline: What are the Privacy Risks?
  (Aug 24, 2017)
- Do Employee Chip Programs Cross Privacy Boundaries?
  (Aug 17, 2017)
- The Challenges of China's New Cybersecurity Law
  (Jun 20, 2017)
- Developments Generating Demand for Privacy and Data Security Legal Practice
  (Mar 1, 2017)
- Privacy Shield and Onward Transfer
  (Oct 28, 2016)
- Pokemon Go and BYOD
  (Sep 1, 2016)
- Brexit and EU Data Privacy
  (Aug 1, 2016)
- Will Artificial Intelligence Revolutionize Cybersecurity?
  (Jun 3, 2016)
- The EU-US Privacy Shield
  (Feb 9, 2016)
- Cyber Attacks and Litigation Expected to Jump in 2016
  (Feb 2, 2016)
- Seven Myths and Half-Truths About Open Source Software
  (Oct 28, 2015)
- Cars and Privacy by Michael Whitener
  (Jun 18, 2015)

- Cookies Are So Yesterday by Michael Whitener
  (May 19, 2015)
- Internet of Things by Michael Whitener
  (Mar 12, 2015)