

MARCH SILICON VALLEY CHAPTER WEBINAR
KEY TAKE-AWAYS
"Good Data Asset Management – Realizing Data's Full Potential"
March 18, 2021

Following the successful March SV chapter webinar, we have compiled some valuable take-aways from our panel. Also, thank you to Nick Aries, Bird & Bird, for assisting in the program planning and fielding the Q&A portion of the webinar, and to Steve Schott, LES-SVC Program Chair, for organizing and skillfully moderating the program.

John Carney, Managing Director, China IP Exchange LLC

- Your vehicle already shares data
- That data has significant value to a variety of parties
- V2X will dramatically increase the amount of vehicle data available
- Vehicle makers understand the need to protect the consumer

Efrat Kasznik, President, Foresight Valuation Group

- Get your data monetization action plan by - protection/compliance: keep your corporate data well protected; review your trade secret protocols and contracts; ensure compliance with jurisdictional privacy laws (GDPR, etc.)
- B2B Space - You should already be thinking about data monetization; explore existing data platforms for insights; package data you can extend via a SaaS model
- B2C Space - Do not be deterred from engaging in data monetization; think beyond advertising: virtual goods, other digital intangibles

Krishna Sood, Senior Counsel, Open Innovation Team, Microsoft

- Map the data ecosystem to understand value flows and incentives for a data sharing arrangement
- The value may lie in the outcomes of sharing data, not in the data itself
- No one size fits all: the business should ensure policy and technical stacks evolve synergistically to support different data governance models to facilitate responsible data sharing and innovation

Katharine Stephens, Partner, Bird & Bird

- Knowing your data and the rights attaching to it is vital to your data strategy. But knowing the rights attaching to your data can be difficult. Since there is little intellectual property protection for data, it is usually protected by contractual provisions. Once data is pulled into the business, it is easy to lose the provenance of that data and the contractual rights governing it. It is then easy to overstep the mark and use data to which you have no right or you are using it beyond the original purpose for which you were licensed.
- Treat your data with care - Do not drift into contractual deals over data as if data is a commodity. It is vital to consider what you want to use the data for in the future and avoid narrowing your options at the outset. However you decide to commercialise your data, ensure that you preserve the value in it and don't allow it to leak away.
- Keep up with the regulations - Data governance and data localisation provisions in national and regional laws will impact your data strategy. Ensure that you map your data flows, analyse local constraints and consider whether they apply to your type of data. You may have to consider modifying your data flows to avoid certain countries and regions.
- Get involved - Data is one of big planks of the EU's commercial strategy. The Commission published a strategy for data in February 2020 which set out a "European way" for regulating data, balancing the flow and wide use of data with privacy, security, safety and ethical standards, the ultimate goal being to have a single EU-wide data space. In line with this strategy, a raft of legislation is planned including a Regulation on Data Governance which was published in draft in November 2020. A draft Data Act will be published later this year which promises a review of the intellectual property rights framework with the aim of enhancing data access and use, and could include possible revisions to the Database Directive and clarification on the application of the Trade Secrets Directive. If you have views on data, you can get involved in the many consultations that that taking place around these and other legislative changes.