

Saint Louis University School of Law

Scholarship Commons

All Faculty Scholarship

2021

The Law of Employee Data: Privacy, Property, Governance

Matthew T. Bodie
Saint Louis University School of Law

Follow this and additional works at: <https://scholarship.law.slu.edu/faculty>



Part of the [Intellectual Property Law Commons](#), [Labor and Employment Law Commons](#), and the [Other Law Commons](#)

Recommended Citation

Bodie, Matthew T., The Law of Employee Data: Privacy, Property, Governance (April 5, 2021). Indiana Law Journal, Vol. 97, 2021-2022, Saint Louis U. Legal Studies Research Paper No. 2021-14.

This Article is brought to you for free and open access by Scholarship Commons. It has been accepted for inclusion in All Faculty Scholarship by an authorized administrator of Scholarship Commons. For more information, please contact ingah.daviscrawford@slu.edu.



SAINT LOUIS UNIVERSITY SCHOOL OF LAW
Legal Studies Research Paper Series

No. 2021-14

The Law of Employee Data: Privacy, Property, Governance

Matthew T. Bodie
Saint Louis University School of Law

Indiana Law Journal, Vol. 97, 2021-2022

The Law of Employee Data: Privacy, Property, Governance

Indiana Law Journal, Vol. 97, 2021-2022

Saint Louis U. Legal Studies Research Paper No. 2021-14

Matthew T. Bodie

Saint Louis University - School of Law

Abstract

The availability of data related to the employment relationship has ballooned into an unruly mass of personal characteristics, performance metrics, biometric recordings, and creative output. The law governing this collection of information has been awkwardly split between privacy regulations and intellectual property rights, with employees generally losing on both ends. This Article rejects a binary approach that either carves out private spaces ineffectually or renders data into isolated pieces of ownership. Instead, the law should implement a hybrid system that provides workers with continuing input and control without blocking efforts at joint production. In addition, employers should have fiduciary responsibilities in managing employee data, and workers should have collective governance rights over the data's collection and use.

Keywords: employee data, employee privacy, data privacy, intellectual property, big data, algorithmic management

Suggested Citation:

Bodie, Matthew T., The Law of Employee Data: Privacy, Property, Governance (April 5, 2021). *Indiana Law Journal*, Vol. 97, 2021-2022, Saint Louis U. Legal Studies Research Paper No. 2021-14.