

REED SMITH'S NEW APP OFFERS INITIAL DATA BREACH NOTIFICATION ASSESSMENT

The firm looks to make data breach notification laws a little more interesting than your average chart allows.

BY GABRIELLE ORUM HERNÁNDEZ

Attorneys fearful of technology often argue that it offers no replacement for experienced legal judgment at any stage of a legal matter. Reed Smith's recent launch of an online app to determine the applicability of data breach notification laws, Breach ResponderS, makes the case that initial risk assessments are a part of legal expertise that can, and perhaps should, be automated and publicly available.

Mark Melodia, co-chairman of Reed Smith's Information Technology, Privacy & Data Security Group, explained that he and co-chairman Paul Bond found themselves being somewhat methodical in their approach in initial assessments of data breach notification requirements, an approach which lends itself well to computer programming.

"Any time in law when you are seeing patterns like that and



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repetition like that, there's an opportunity to apply technology, and an opportunity to be more efficient and transparent about your process," he said.

Here's a brief look at the firm's data breach notification law assessment tool:

Who it serves: Melodia said the app was designed with an eye to privacy officers and

litigation heads at midsized organizations who are perhaps dealing with their first data breach, or maybe a little less familiar with data breach notification laws. While those professionals have found value in the app, the tool has also found favor among those at larger, more sophisticated organizations that need to manage data

breach notification rules on a regular basis.

Regardless of client sophistication, data breach notification remains a fairly dry topic among attorneys and privacy officers. “If you can take that piece of it away and free them up to do something more challenging and interesting, I think even the sophisticated client appreciates that,” Melodia said.

What it does: Breach ResponderS is a guided questionnaire (calling Breach ResponderS an “app” may be a stretch) that takes information about a potential data breach and spits out a baseline assessment of data risks and what different notification requirements may apply. The service is available online with responsive design, and it works just about as well on your phone as it does on your computer.

Data breach notification laws exist in 48 states; each has slightly different qualifications and requirements, and is subject to changing legislative efforts. Melodia said this type of law lends itself well to an assessment program, and the firm decided to make its internal technology into a public-facing tool. “This struck me as an area where we were already internally realizing a lot of

efficiencies using technology around this particular challenge of having these 48 state data breach notification laws that required very factual questions to be asked, but yielded slightly different results,” Melodia said.

Ditching the chart: Reed Smith is certainly not the first law firm to try to make data breach notification law resources publicly available, but it may have found a more useful way of making the information available than some of its colleagues. Baker & Hostetler, Steptoe & Johnson LLP, Perkins Coie, Davis Wright Tremaine, Foley & Lardner and others have all made data breach notification charts available through their websites and organized them by state.

In keeping with the online trends of the day, Reed Smith’s tool is an attempt to move dry information such as data breach notification law from the realm of the static chart to the dynamic. Breach ResponderS users answer a series of questions that help them pinpoint the information they need, rather than having to scan an unwieldy chart, a feature that can be especially helpful if affected users live in different states.

How pinpointed are we talking? The tool walks users

through a couple of key questions about the content and security of breached data to diagnose the issue, but the tool seems designed to be more of an initial benchmark than a definitive assessment. There are a couple of broad questions, things such as “Do any of the following scenarios apply?” that can be hard to answer and may require a little more nuance than the app can offer.

That said, that may be Reed Smith’s intent. As The American Lawyer reported last week, Reed Smith is hoping the tool will help with client development. Melodia also noted that the app is a way to show that the firm is not only talking the talk of innovation, it’s also walking the walk. “The hope is that it will help identify our practice not just with data breaches and the important judgment calls and experience which we can charge for, but more broadly one of our core values as a firm at Reed Smith is innovation. It’s one thing to talk about it in marketing, it’s another thing to apply it to your practice,” he said.

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