

## **D.C. Circuit Court of Appeals' Conflict Minerals Rule Decision is the Shiny Object – But Don't Be Distracted**

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Many lawyers and supply chain managers (and reporters) have focused on the Court of Appeals' August 18, 2015 [decision](#) confirming the court's prior ruling that the Conflict Minerals Rule violates the First Amendment to the extent that it requires reporting companies to report that any of their products have "not been found to be 'DRC conflict free.'" The decision was followed by a volume of news articles, law firm client alerts, and consultant webinars explaining the decision. For our part, we posted a short [blog post](#) calling your attention to the decision. For the most part, they have all advised companies to stay the course – at least for now. Companies focusing on conflict minerals are talking with outside counsel, auditors, and consultants about what they should do in light of the decision, what changes or enhancements they should make to their compliance programs, and whether an independent private sector audit is likely to be required for calendar year 2015 reports. A lot of hand-wringing about how best to spend time and resources.

But, don't be completely distracted by the Conflict Minerals Rule decision. Supply chain managers and compliance officers need to also turn a careful eye to what is happening in the context of the California Transparency in Supply Chains Act (California Supply Chain) disclosures. Two cases filed since August 19, 2015 are based on companies' California Supply Chain statements and highlight the risks that come with gathering and analyzing information about your supply chain and with making disclosures as required by law. You should consider the implication of these cases on disclosure in general and about the approach being taken to press companies beyond supply chain transparency to accomplish responsible sourcing. Those focusing on conflict minerals know that supply chain transparency is extremely difficult in its own right. Responsible sourcing is that much harder. So, great care should be taken in your disclosure — whether that disclosure is in response to the conflict minerals rule, the California Transparency in Supply Chains Act, industry guidelines, or other requirements.

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