THE US-ISRAEL
Legal Review 2026

IN PARTNERSHIP WITH:

THE NATIONAL LAW REVIEW

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NISHLIS
GLOBAL LEGAL MARKETING

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ACC Association of Corporate Counsel
ISRAEL

Contents

THE US-ISRAEL LEGAL REVIEW 2026

A LEGAL GUIDE TO US-ISRAEL INVESTMENT

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Welcome

Welcome to the 2026 edition of the *US-Israel Legal Review*, which arrives at a moment when cross-border activity is being tested, reshaped, and, in many ways, strengthened.

Despite geopolitical pressure and rapid technological change, the connection between the US and Israeli markets remains highly active, driven by investment, innovation, and increasingly complex regulation. This edition brings those developments into focus, with contributions from leading firms as well as interviews with senior general counsel and the Executive Director of ACC Israel, offering a clear view of what Israeli GCs expect from their external advisers today.

A clear thread running through this edition is how deals are being structured and financed in a more demanding environment. Contributors examine private equity and M&A activity, capital markets trends, and the growing use of sophisticated financing and risk allocation tools, including insurance. There is also a sharper focus on how Israeli companies are adapting their M&A strategies in the age of artificial intelligence, alongside the practical realities of financing in a shifting economic climate.

On the disputes side, the Review looks at international arbitration and developments in Israeli litigation, highlighting how complex, multi-jurisdictional matters are being handled in practice. Technology and regulation continue to shape the landscape. Authors explore the impact of AI on copyright and patent law, regulatory developments in crypto, and key trends across sectors including healthcare, energy, employment, intellectual property disputes, representations and warranties, and real estate. Taken together, these perspectives offer a clear, practical view of the legal frameworks driving US-Israeli business in 2026.

We also include the eighth *IsraelDesks League Tables*, showcasing global law firms and individuals involved in Israeli deals and with Israeli clients.

We hope you enjoy the publication!

Idan Nishlis
CEO, *Nishlis Legal Marketing*

Lee Saunders
Senior Editor

Daniel Friedman
Editor

Gary Chodes
CEO, *The National Law Review*

Inbal Aviad

ACC Association of Corporate Counsel ISRAEL

As the newly appointed President of the Association of Corporate Counsel Israel (ACCI), it is my pleasure to welcome you to this edition of The US-Israel Legal Review and to share a few words about the organization and the community it represents.

ACCI is the Israeli chapter of the global Association of Corporate Counsel (ACC), headquartered in the United States. ACC is the world's leading organization for in-house counsel, representing more than 45,000 in-house corporate lawyers across approximately 85 countries worldwide. The organization is incorporated as a public-benefit entity and is wholly owned by the global ACC, a not-for-profit organization.

The Israeli chapter includes over 1,500 active members, all serving as in-house legal counsel in corporations and organizations, both public and private, including many of the leading companies in Israel and around the world. Our members come from a broad range of industries, including high-tech in all its various fields, retail, real estate, defense industries, traditional manufacturing, pharmaceuticals, banking, investments, biotechnology, and more.

Approximately 65% of ACC Israel's members are women, many of whom hold senior leadership positions and head some of the largest legal departments in the Israeli market—reflecting both the diversity and strength of the Israeli in-house legal community.

ACCI's activities focus primarily on professional education, skills development, and meaningful engagement with regulators. In a typical year, the organization hosts 70 or more professional conferences and seminars, covering topics such as public tenders, insolvency, cybersecurity, and data privacy, alongside essential soft skills for in-house counsel. During the COVID period, ACC Israel organized over 100 webinars and continues to maintain an active dialogue with regulators, including the National Cyber Directorate, the Corporations Authority, the Competition Authority, and others.

Much of ACC Israel's extensive professional activity is made possible thanks to the meaningful contribution and ongoing support of our partner law firms, whose expertise and commitment allow us to deliver high-quality content and programs to our members so I would like to express my sincere appreciation to those global and international law firms that act as trusted partners to ACC Israel. Their ongoing collaboration, thought leadership, and commitment to the in-house community enable us to deliver high-quality, practical, and relevant content to our members. Together, we are able to create real value for the ACC Israel community and to strengthen the professional ecosystem in which in-house counsel operates.

Cheers for a great 2026!

Inbal Aviad
GC Papaya Global
ACC Israel Chairwoman

Stress-Tested and Stronger: Israel's High-Tech Economy Matures for 2026

Uri Nesher
Partner, High-Tech and M&A

Nataly Margalit
Partner, High-Tech and M&A

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ARNON, TADMOR-LEVY

After two years of political, security, and macroeconomic disruption, 2025 marked a year of strategic recalibration for the Israeli high-tech economy. While the market did not experience a broad-based rebound, it did exhibit a clearer sense of direction: renewed deal activity, more disciplined investment behavior, and a shift toward quality, scale, and strategic alignment.

From a legal and transactional perspective, 2025 was defined less by volume and more by substance, setting the tone for a cautiously constructive and optimistic 2026.

A Market Defined by Selectivity

Capital remained available in 2025, but it was deployed with heightened scrutiny. Investors prioritized companies with proven technologies, defensible market positions, and governance frameworks capable of supporting mature growth.

Early-stage activity continued, yet rounds were generally smaller, valuations more conservative, and terms more investor-protective than in prior cycles. Extensions, insider-led financings, and down rounds remained part of the landscape, reflecting longer fundraising cycles, extended runways, and a continued postponement of exit expectations.

For later-stage companies, access to capital depended increasingly on revenue visibility and operational discipline. Due diligence processes deepened and became more targeted, with heightened attention to regulatory exposure, data protection and cross-border data transfer, intellectual property ownership, and compliance readiness.

In sectors touching national security or critical infrastructure, the regulatory overlay was not an ancillary consideration but was rather central to investment decisions and transaction structuring.

M&A: Strategic Buyers Take the Lead

While public markets remained largely inaccessible for most Israeli companies in 2025, the M&A landscape showed meaningful signs of revival.

The year was characterized by strategic acquirers leading the market - buyers seeking durable capability acquisition rather than purely opportunistic pricing.

» A landmark illustration of this dynamic was Alphabet's acquisition of cloud-security company Wiz in a record-setting transaction for an Israeli-founded technology company, underscoring both the global appetite for Israeli deep-tech capabilities and the scale that Israeli cybersecurity champions can now reach.

» A further headline deal widely viewed as emblematic of the strategic shift was Palo Alto Networks' acquisition of CyberArk, reinforcing Israel's position as a global cybersecurity powerhouse and demonstrating the continued strategic value of Israeli innovation in mission-critical domains.

Beyond major transactions, deal activity in cybersecurity, enterprise software, fintech infrastructure, and defense-adjacent technologies reflected similar themes.

Buyers focused on strategic fit, long-term value creation, and post-closing integration. As a result, deal structures frequently used tools designed to bridge valuation gaps and execution risk: milestone-based consideration, earn-outs, deferred payments, and more robust representations, warranties, and tailored indemnity allocations.

From a legal standpoint, transactions were more complex and carefully engineered. As mentioned, regulatory approvals, particularly antitrust, foreign investment, and national security clearances, played a central role in timing and deal certainty.

Parties increasingly engaged with regulators earlier in the process, and deal documentation more often reflected a deliberate allocation of regulatory risk, including cooperation covenants and conditions designed to mitigate closing uncertainty.

Sectoral Strengths and the Regulatory Overlay

Cybersecurity remained a core pillar of Israeli tech in 2025, propelled by global demand and heightened geopolitical risk.

Defense-tech and dual-use technologies attracted

increased attention from foreign corporates and governments, bringing additional considerations around export controls, foreign ownership sensitivities, and government approvals.

Artificial intelligence continued to generate deal flow, but with a discernible shift toward applied solutions embedded in regulated industries such as financial services, healthcare, and industrial systems.

» Continued emphasis on governance, compliance, and regulatory preparedness as prerequisites for fundraising and exits, and more creative structures to reconcile pricing expectations.

» Public markets may reopen selectively, but likely only for mature, revenue-driven companies with strong operating discipline.

"Defense-tech and dual-use technologies attracted increased attention from foreign corporates and governments, bringing additional considerations around export controls, foreign ownership sensitivities, and government approvals."

These transactions required thoughtful navigation of data governance, emerging AI compliance frameworks, and cross-border operational constraints.

For many companies, legal readiness became not only a cost of doing business but a differentiator in fundraising and exits.

Beyond cyber and applied AI, Israel's deep-tech ecosystem has reached a scale that few hubs outside the United States can rival. In 2025 there were roughly 1,500 active deep-tech companies across sectors such as medical devices, semiconductors, agrifood, biotech, and advanced AI.

This depth of foundational R&D-intensive innovation not only diversifies the technology landscape but also provides fertile ground for complex, high-value transactions and collaborations that extend well beyond traditional software start-ups.

Looking Ahead to 2026

Expectations for 2026 are measured but constructive. Assuming relative macroeconomic stability, several trends are likely to shape the year:

» A gradual increase in M&A, particularly mid-market transactions driven by strategic buyers.

Conclusion

2025 was not a return to prior exuberance, but it signaled a pivot toward a more resilient and mature market. The year underscored that high-quality Israeli companies continue to command global relevance and strategic value and that legal, operational, and regulatory sophistication increasingly determines outcomes.

As 2026 unfolds, the ecosystem appears better positioned for sustainable growth rather than cyclical excess.

About the Authors

Nataly Margalit and Uri Nesher are partners in the High-Tech and M&A practices at Arnon, Tadmor-Levy, advising Israeli and international companies and investors on complex and high-profile M&A transactions, venture capital and private equity investments.

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ISRAEL 2025 HIGH-TECH ACTIVITY REPORT

COMPILED BY AXIS INNOVATION

	Total Exits M&As and IPOs (only refers to exit deals of over $10M in value)	Israeli High-Tech Exits (M&As, Buyouts, IPOs)	Number of M&As (only refers to deals of over $10M in value)	Capital Raised	Number of IPOs (only refers to deals of over $10M in value)
2023	45 deals Average deal size $167M	92 exits $10.9B	42 Average deal size $119M	$7.2B 393 rounds	3 deals Average deal size $842M
2024	53 deals Average deal size $252M	116 exits $17.3B	47 Average deal size $268M	$12.5B 1050 rounds	6 deals Average deal size $130M
2025	84 deals Average size deal size $700M	182 exits $17.8B	77 deals Average deal size $574M	$16.7B 801 rounds	7 deals Average deal size $2.09B

Top Venture Capital Firms in Tel Aviv in 2025

Team8
VC Investments: 67
Exits: 9

TLV Partners
VC Investments: 16
Exits: 16

Cardumen Capital
VC Investments: 55
Exits: 2

Pitango VC
VC Investments: 379
Exits: 73

Hetz Ventures
VC Investments: 53
Exits: 8

Viola Ventures
VC Investments: 284
Exits: 54

Pontifax
VC Investments: 111
Exits: 36

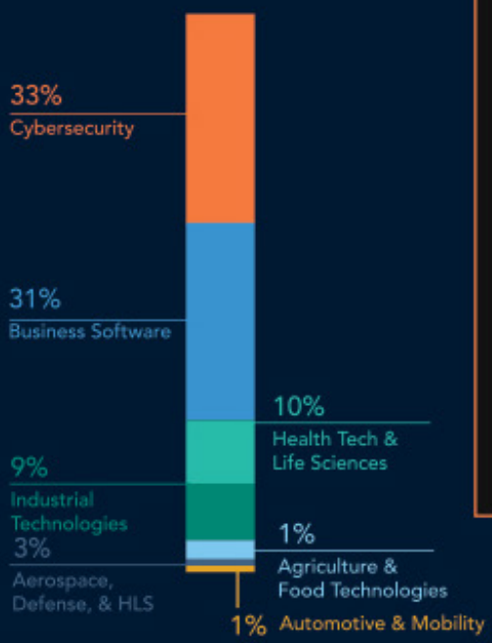
F2 Venture Capital
VC Investments: 64
Exists: 9

StageOne Ventures
VC Investments: 110
Exits: 22

New Era Capital Partners
VC Investments: 40
Exits: 7

M&As and IPOs by Geography

Sectoral Breakdown Based on Amount of Funding



ANALYSIS BY AXIS INNOVATION AND NISHLIS LEGAL MARKETING, BASED ON RESEARCH BY AXIS INNOVATION, IVC, PWC, AND STARTUP NATIONAL CENTRAL. BASED ON PUBLICLY AVAILABLE DATA AS OF JANUARY 31, 2026. FINAL NUMBERS ARE EXPECTED TO BE GREATER.

IsraelDesks
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SETTING THE BENCHMARK

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Acquiring in Adversity: Why Israeli Startups Remain a Compelling M&A Target

Sharon Vanek
CICC Executive Director

2025 turned out to be a record year for Israeli tech exits, with M&A activity reaching approximately $74 billion - a 340% increase over 2024. For corporate acquirers, the question is no longer whether to engage with Israel's ecosystem, but how to do so with clear eyes.

A Record That Demands Explanation

On paper, the numbers from 2025 should not exist. Israel spent the last few years navigating sustained conflict, including a summer of direct missile exchanges with Iran and ongoing military reserve obligations affecting tens of thousands of tech workers. And yet, Israeli technology companies produced the most valuable exit year in the sector's history outside the 2021 IPO boom: roughly USD 74 billion in M&A and IPO transactions, up from USD 13.4 billion in 2024.

The headline deals are hard to ignore. Google's USD 32 billion acquisition of cloud security firm Wiz reset the global benchmark for cybersecurity M&A. Palo Alto Networks' USD 25 billion all-stock purchase of CyberArk was the second-largest Israeli tech exit ever. ServiceNow acquired IoT security firm Armis for USD 7.75 billion. Munich Re bought Next Insurance for USD 2.6 billion. Xero acquired fintech startup Melio for up to USD 3 billion. Nine deals alone accounted for over USD 53 billion.

For M&A teams, this creates a genuine analytical challenge. Standard geopolitical risk frameworks say caution; deal flow says something more durable is at work. Sorting out what's structural from what's a statistical anomaly driven by a few mega-deals matters enormously for how you approach the market in 2026.

Why Acquirers Keep Coming

The most straightforward explanation is that Israeli startups are concentrated in sectors where demand is not discretionary. Cybersecurity accounted for 58% of exit value in 2025 and continues to lead private fundraising. Enterprise software and AI-focused companies follow closely. For multinationals facing escalating threats to their digital infrastructure, access to best-in-class capabilities cannot simply be deferred until conditions stabilize.

There is also a structural factor that reduces deal friction: Israeli companies typically establish US operational footholds early, through Delaware incorporation, US-based sales leadership, or American anchor customers. By acquisition stage, many targets look less like foreign companies and more like dual-geography businesses with familiar legal and commercial structures. That materially lowers integration cost and complexity.

The talent angle is equally important. Israel's technology workforce has deep roots in elite military intelligence units, and the pipeline those units produce has not been shut down by the conflict. A notable trend that emerged clearly in 2025 is the rise of rapid 'acqui-hire' transactions: large technology companies making fast, often defensive moves to secure small, AI-native teams. PwC Israel recorded 22 acquisitions of companies founded in the last three years, most valued under USD 50 million, and nearly half focused on AI. ServiceNow alone made three Israeli acquisitions in under three months late in the year.

The Bifurcation Problem

The 2025 data contain a warning that acquirers should read carefully. Strip out the Wiz transaction, and the average acquisition size drops 40% to roughly USD 160 million. The market is bifurcating sharply: a small number of generational exits at unprecedented scale, surrounded by a much larger volume of smaller, earlier-stage deals. The middle of the market, mature companies at mid-scale valuations, is getting squeezed.

Private funding tells a similar story. Total capital raised grew to approximately USD 15.6 billion in 2025, up from 2024, but the number of funding rounds fell to 717, the lowest in a decade. Investors are concentrating bets rather than spreading them. For acquirers targeting companies in the USD 500 million to USD 2 billion range, pipeline may be thinner than the headline exit numbers suggest.

The Risks Are Real

Resilience is genuine, but it is not unlimited. Several structural pressures deserve honest attention. New startup formation has declined. Active investor participation dropped 20% quarter-over-quarter by Q3 2025. Brain drain is a live concern: some founders and senior engineers have relocated abroad, and Israel's government introduced a tax reform package in early 2026 specifically designed to reverse that trend. The fact that policy intervention was deemed necessary says something.

For acquirers, the most immediate operational risk is post-close talent retention. A significant portion of Israeli engineering teams have dealt with reserve duty obligations, displacement, and extended personal disruption. Deals that looked solid at signing have run into trouble at integration when key people left. Explicit retention structures, competitive compensation frameworks, and realistic integration timelines are not optional extras here but rather table stakes.

There is also a regulatory dimension that is easy to overlook. Israeli companies that have received grants from the Israel Innovation Authority carry material restrictions on technology transfer, IP licensing, and manufacturing relocation. These obligations survive an acquisition and must be factored into deal structure from the outset, not discovered during post-close integration.

What 2026 Looks Like

As of early 2026, the market is showing early signs of normalization after the record exit wave. M&A activity is continuing with ServiceNow's acquisition of Pyramid Analytics and Medtronic's USD 585 million deal for AI cardiology firm CathWorks among the early transactions of the year. The IPO window reopened meaningfully in 2025 - seven Israeli companies went public at a combined USD 14.6 billion, led by Navan and eToro, giving founders an alternative exit path for the first time in years.

The consensus among Israeli VCs surveyed at the start of 2026 is that cybersecurity and AI will continue to dominate, with quantum technologies emerging as a third area of focus. The narrative is also shifting from 'Startup Nation' to something more mature, more focused on scale, and more explicitly resilient. For acquirers with a long horizon, that evolution is relevant, the assets coming to market in the next two to three years will look different from those that defined 2025.

The Bottom Line

2025 confirmed what the most active acquirers in this market already knew: Israeli tech produces world-class assets, and conflict has not changed that. But the year's record numbers also mask real concentration risk, a thinning mid-market, and structural pressures on the talent pipeline that anyone buying in 2026 needs to take seriously.

The companies worth acquiring are identifiable. They have earned their resilience through deliberate operational design, not circumstance. Finding them requires more careful diligence than the headline deal pace might imply, but the strategic rationale for doing that work remains as strong as ever.

Author

Sharon Vanek
CICC Executive Director

CICC
THE CALIFORNIA ISRAEL CHAMBER OF COMMERCE

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- Drive Innovation
- Expand Opportunities
- Build a Stronger Community

Amplify Your Firm

The Content, Audiences, and Trends That Drive Legal Market Visibility

LEXOLOGY ENGAGE

Insights informed by Lexology reader engagement

Reads across Lexology*
94,782,231

Organisations accessing content:
13,084

Content tied to regulatory updates and business impact consistently outperforms general commentary. Readers are drawn to:

- **What changed?**
- **What must companies do now?**
- **What does this mean for business?**

High-performing authors are not necessarily high-volume authors

Top read topics across all 16 sectors

- AI
- Cybersecurity
- Due diligence
- European commission
- Supply chain
- Generative AI
- Personal data
- Data protection and privacy
- ESG

- **Insight:** 16% of all reads are on AI
- **Insight:** AI is ranked no.1 in every single sector
- **Insight:** AI not a trend topic. There is strong interest in both the technology and the regulatory frameworks

What's top of mind for your clients?

AI acts as an accelerator: it either strengthens legal's role as a governance and risk allocation function, or it exposes its limitations as a reactive function.

Irene Comoglio
Legal Counsel at Zucchetti

**Overall reads across Lexology over the past 12 months (Apr 25 - Mar 26) for contributor content published at any time*

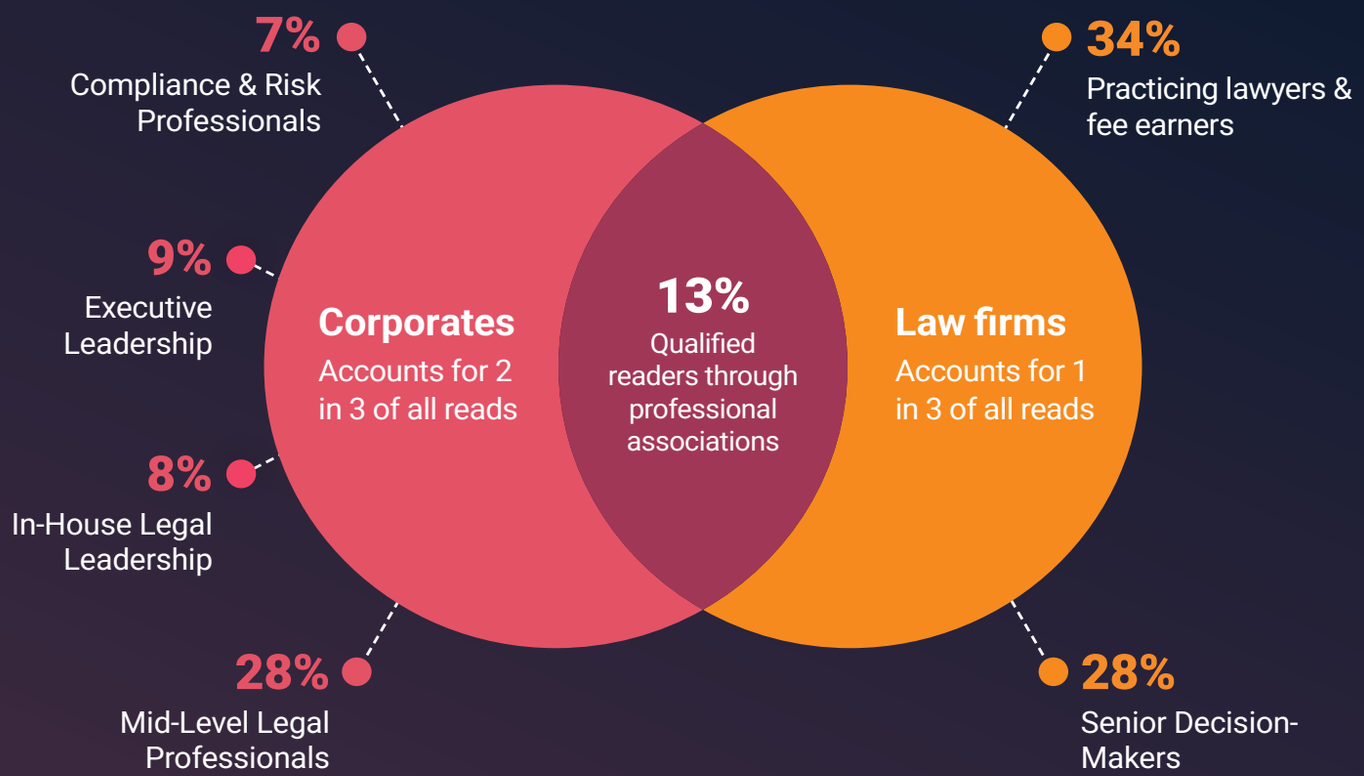
Lexology's global readership

LEXOLOGY ENGAGE

What's top of mind for your clients?

Navigating these challenges... requires a proactive, commercially savvy legal team... to anticipate potential risks and prevent or mitigate them, but also... identify opportunities and leverage them.

Wellington Chimwaradze
GC for Africa at AbInBev



Industry sectors with highest reads:

- Industrial Goods & Services **26%**
- Financial Services **27%**
- Technology **9%**
- Healthcare **7%**

Audience engagement

Engaged sessions account for **44%** of all visits, with readers interacting nearly **five times per session**

Reads are from **209 countries** globally with **45%** of all reads coming from the US

ISRAELDESKS LEAGUE TABLES
2026

Legally Israel 100 - IsraelDesks League Tables 2026

We are pleased to present the eighth edition of the *IsraelDesks League Tables*, continuing to track and recognise international law firms that act as consistent, credible partners to Israeli clients across jurisdictions.

In a year marked by ongoing geopolitical pressure and market uncertainty, cross-border legal activity has remained active, with transactions progressing, capital deployed, and long-term relationships maintained.

The global network of firms operating Israel desks continues to expand, now approaching 160 firms, reflecting Israel's sustained relevance within the international legal and business landscape.

This year's tables identify more than 50 leading lawyers across 11 practice areas and sectors, alongside our Value and Volume rankings, with our Elite category reserved for those demonstrating clear market impact.

Presented By:

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GLOBAL LEGAL MARKETING

IsraelDesks

THE NATIONAL LAW REVIEW

League Tables

LEGALLY ISRAEL100
IsraelDesks League Tables 2026

M&A Volume

Position	Law Firm	Volume
1	Freshfields Bruckhaus Deringer	17
2	DLA Piper	15
3	White & Case	13
4	Greenberg Traurig	10
5	Paul Hastings	8
6	Bryan Cave Leighton Paisner	7
6	CMS	7
6	Latham & Watkins	7
7	Goodwin	6
7	Taylor Wessing	6
8	Sidley	5
9	Hogen Lovells	4
9	Sullivan	4
10	A&O Shearman	3
10	Carter Ledyard & Milburn	3
11	Fox Rothschild	2
12	Bersay	1
12	Cleary Gottlieb	1
12	Davis Polk	1
12	Royer Cooper Cohen Braunfeld	1
12	Sheppard	1
12	Skadden	1

Elite

M&A Value

Position	Law Firm	Value ($M)	Volume
1	Freshfields Bruckhaus Deringer	47,750	17
2	Goodwin	28,236	6
3	Sidley	10,675	5
4	White & Case	5,823	13
5	Latham & Watkins	3,588	7
6	A&O Shearman	3,450	3
7	DLA Piper	2,425	15
8	Paul Hastings	1,263	8
9	Greenberg Traurig	1,157	10
10	Sullivan	428	4
11	Bryan Cave Leighton Paisner	413	7
12	Carter Ledyard & Milburn	262	3
13	Taylor Wessing	120	6
14	Davis Polk	90	1
15	CMS	29	7

Elite

Capital Markets Volume

Position	Law Firm	Volume
1	Greenberg Traurig	23
2	Latham & Watkins	18
3	Paul Hastings	13
4	Sullivan	13
5	Carter Ledyard & Milburn	10
6	Freshfields Bruckhaus Deringer	8
6	Goodwin	8
7	Chapman and Cutler	7
8	A&O Shearman	5
8	Cleary Gottlieb	5
8	Davis Polk	5
8	DLA Piper	5
9	Bryan Cave Leighton Paisner	4
9	Gowling WLG	4
9	Skadden	4
10	White & Case	3
11	Herrick Feinstein	2
11	Sheppard	2
12	CMS	1
12	Taylor Wessing	1

Elite

Capital Markets Value

Position	Law Firm	Value ($M)	Volume
1	Latham & Watkins	10,009	18
2	Carter Ledyard & Milburn	7,608	10
3	Greenberg Traurig	6,390	23
4	White & Case	5,755	3
5	Freshfields Bruckhaus Deringer	3,570	8
6	Cleary Gottlieb	3,412	5
7	Goodwin	3,341	8
8	Davis Polk	2,615	5
9	Skadden	1,730	4
10	Chapman and Cutler	998	7
11	Taylor Wessing	877	1
12	Sullivan	531	13
13	Bryan Cave Leighton Paisner	327	4
14	DLA Piper	252	5
15	Paul Hastings	228	13
16	Herrick Feinstein	160	2

Elite

Tax and Private Clients

Position	Law Firm	Volume
1	DLA Piper	37
2	Greenberg Traurig	33
3	Fox Rothschild	17
4	Taylor Wessing	14
5	Herrick Feinstein	9
6	CMS	7
7	Bersay	3
8	Wiggin and Dana	2

Elite

Employment

Position	Law Firm	Volume
1	Greenberg Traurig	109
2	DLA Piper	81
3	Bersay	16
4	Bryan Cave Leighton Paisner	15
4	CMS	15
5	Squire Patton Boggs	14
6	Taylor Wessing	6
7	Fox Rothschild	4
7	Wiggin and Dana	4
8	Pillsbury	3
8	Zeichner Ellman & Krause	3
9	A&O Shearman	2
9	Carter Ledyard & Milburn	2
10	Herrick Feinstein	1
10	Paul Hastings	1

Elite

Litigation

Position	Law Firm	Volume
1	Greenberg Traurig	32
2	DLA Piper	24
3	White & Case	23
4	Freshfields Bruckhaus Deringer	21
5	Sullivan	17
6	DAC Beachcroft	14
6	Pillsbury	14
7	Bryan Cave Leighton Paisner	12
7	Zeichner Ellman & Krause	12
8	Taylor Wessing	9
9	Kobre & Kim	7
10	Chapman and Cutler	6
10	Fox Rothschild	6
11	A&O Shearman	5
11	Paul Hastings	5
12	Carter Ledyard & Milburn	3
12	CMS	3
12	Goodwin	3
12	Herrick Feinstein	3
13	Wiggin and Dana	2
14	Cleary Gottlieb	1
14	Squire Patton Boggs	1

Elite

IP

Position	Law Firm	Volume
1	Freshfields Bruckhaus Deringer	18
2	Greenberg Traurig	16
3	DLA Piper	9
3	Fox Rothschild	9
3	Pillsbury	9
4	CMS	7
5	A&O Shearman	4
5	Goodwin	4
6	Taylor Wessng	3
7	Carter Ledyard & Milburn	2
8	Sheppard	1
8	Zeichner Ellman & Krause	1

Elite

Patents and Trademarks

Position	Law Firm	Volume
1	CMS	51
2	Pillsbury	47
3	Mathys Squire	34
4	Greenberg Traurig	17
5	Fox Rothschild	13
6	DLA Piper	9
7	Wiggin and Dana	6
8	Carter Ledyard & Milburn	4
9	Goodwin	2
10	Gowling WLG	1
10	Taylor Wessing	1

Elite

Banking

Position	Law Firm	Volume
1	DLA Piper	47
2	Zeichner Ellman & Krause	30
3	Greenberg Traurig	22
4	Freshfields Bruckhaus Deringer	18
5	CMS	15
6	A&O Shearman	13
7	Bryan Cave Leighton Paisner	11
7	Chapman and Cutler	11
8	Pillsbury	7
9	Latham & Watkins	6
10	Fox Rothschild	5
11	Hogan Lovells	2
11	Squire Patton Boggs	2
11	Taylor Wessing	2
12	Gowling WLG	1
12	Herrick Feinstein	1
12	Paul Hastings	1

Elite

Energy and Infrastructure

Position	Law Firm	Volume
1	Freshfields Bruckhaus Deringer	16
2	DLA Piper	13
3	CMS	11
4	A&O Shearman	10
5	Bryan Cave Leighton Paisner	5
5	Pillsbury	5
6	Latham & Watkins	1
6	Sidley	1
6	Taylor Wessing	1

Elite

Hi-Tech

Position	Law Firm	Volume
1	Greenberg Traurig	111
2	DLA Piper	93
3	Goodwin	39
4	Pillsbury	27
5	CMS	23
6	Sullivan	20
7	Fox Rothschild	19
8	Bersay	17
9	Bryan Cave Leighton Paisner	16
10	Squire Patton Boggs	13
10	Wiggin and Dana	13
11	A&O Shearman	12
11	Zeichner Ellman & Krause	12
12	Freshfields Bruckhaus Deringer	11
13	Sidley	7
14	Hogen Lovells	5
15	Chapman and Cutler	3
16	Pulse Law	1
16	Taylor Wessing	1

Elite

Real Estate

Position	Law Firm	Volume
1	Greenberg Traurig	29
2	Herrick Feinstein	19
3	DLA Piper	14
4	Chapman and Cutler	9
5	Zeichner Ellman & Krause	7
6	Bryan Cave Leighton Paisner	6
6	CMS	6
7	Taylor Wessing	5
8	Sidley	3
8	Squire Patton Boggs	3
9	Carter Ledyard & Milburn	2
9	Goodwin	2
9	Sheppard	2
10	Pillsbury	1

Elite

Individual Rankings

LEGALLY ISRAEL100
IsraelDesks League Tables
2026

Leading

Name	Law Firm
Louis Glass	CMS
Joshua Kiernan	Latham & Watkins
Jeremy Lustman	DLA Piper
Jonathan Morris	Bryan Cave Leighton Paisner
Lee Noyek	A&O Shearman
Joey Shabot	Greenberg Traurig
Daniel Turgel	White & Case
Adir Waldman	Freshfields Bruckhaus Deringer

Prominent

Name	Law Firm
Ari Berman	Pillsbury
Colin Diamond	Paul Hastings
Gary Emmanuel	Greenberg Traurig
Josef Fuss	Taylor Wessing
Michael Friedman	Chapman and Cutler
Michael Kaplan	Davis Polk
Miriam Lampert	Squire Patton Boggs
Mark Selinger	Greenberg Traurig
Yossi Vebman	Skadden

Recognized

Name	Law Firm
Guy Ben-Ami	Carter Ledyard & Milburn
Yariv Ben-Ari	Herrick Feinstein
Clarissa Coleman	DAC Beachcroft
Meira Ferziger	Greenberg Traurig
Susannah Fink	Gowling WLG
Mayan Katz	Goodwin
Adam Snukal	Honigman
Tali Sealman	White & Case
Daniel Rubel	Zeichner Ellman & Krause

Notable

Name	Law Firm
Tom Beaudoin	Goodwin
Andrew Besser	CMS
Sarah Biser	Fox Rothschild
Adam Fleisher	Cleary Gottlieb
David Gitlin	Royer Cooper Cohen Braunfeld
Steven Glusband	Carter Ledyard & Milburn
Kenneth Henderson	Bryan Cave Leighton Paisner
Lee Hochbaum	Davis Polk
Daniel Ilan	Cleary Gottlieb
Odia Kagan	Fox Rothschild
Udi Karklinsky	Kobre & Kim
Matthew Kittay	Fox Rothschild
Steven Malech	Wiggin and Dana
Paul Miller	Bryan Cave Leighton Paisner
Jonathan Nesher	Bryan Cave Leighton Paisner
Idan Netser	Sidley
Zohar Nevo	Hogan Lovells
Nathan Renov	Pillsbury
Joel Rubinstein	White & Case
Jason Saltzman	Gowling WLG
Gil Savir	Paul Hastings
Bill Schnoor	Goodwin
Louis Tuchman	Herrick Feinstein
Michael Szlamkowicz	Hogan Lovells
Lawrence Sternthal	Greenberg Traurig
Michael Sweet	Fox Rothschild

Editorial

A&O Shearman

Before the firm's merger with Shearman & Sterling, Allen & Overy had been active in the Israeli market for over 25 years. Following the 2024 transatlantic merger, A&O Shearman's Israel practice enjoys a towering reputation, supporting clients in corporate finance, strategic M&A, divestments, joint ventures, public takeovers, refinancings, and IPOs. This past year, the firm earned an Elite ranking in the energy sector.

With an on-the-ground presence in Tel Aviv, the Israel Group is fronted by senior corporate lawyer **Lee Noyek** (Partner, London), who advised Xero Ltd. in relation to certain Israeli aspects of its acquisition of Melio, a US-based payments platform built by Israeli founders, in a major fintech exit. With regards to litigation and arbitration, **Mark Levy** KC (Partner, London) and the International Arbitration team acted for Israeli businessman Eytan Stibbe, founder of the Vital Capital investment fund, in a highly complex commercial arbitration seated in London, which resulted in a complete dismissal of all claims asserted against him and a company under his control. Performing very well in banking and energy, the firm advised project lenders on complex infrastructure financings.

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Carter Ledyard & Milburn

Carter Ledyard & Milburn ("CLM"), one of New York's oldest law firms with a 170-year history, maintains a well-established Israel practice advising Israeli companies on corporate, securities, and M&A matters. In 2025, the firm was particularly active in cross-border transactions, with a strong focus on M&A and capital markets transactions, scooping an Elite ranking in Capital Markets (Value). The practice reflects a sustained commitment to Israeli clients operating internationally, combining US transactional capability with familiarity in Israeli business and regulatory environments. The team has also recently added new real estate and high-tech clients.

The team is led by Israeli Cross-Border Chair, **Guy Ben-Ami** (Partner, New York), and stars **Steven Glusband** (Chair of Securities, New York) and **Bryan J. Hall** (Chair of M&A, New York). Both Hall and Ben-Ami supported BrainsWay Ltd., an Israeli-headquartered, Nasdaq- and TASE-listed developer of non-invasive neurostimulation treatments, on a series of strategic minority investments in US mental health platforms, including Axis Integrated Mental Health, Heading Health and Stella MSO, LLC.

The firm also advises on a range of capital markets transactions, including primary and secondary offerings for Israeli issuers. In addition, the team acted on the merger between Matrix IT Ltd. and Magic Software Enterprises Ltd., creating a combined Israeli IT services group valued at approximately USD 4 billion.

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Chapman and Cutler

Chapman and Cutler ("Chapman") acts as a key bridge for Israeli financial institutions, trustees, and investors entering the US market, particularly in finance and restructuring matters. The firm's Israel Practice is led by **Michael Friedman** (Partner, New York), who also heads Chapman's Special Situations and Restructuring Group and regularly advises Israeli lenders, bond trustees, and investment funds on cross-border financings, restructurings, and bankruptcy-related matters involving US assets and borrowers.

A significant portion of the firm's work involves representing Israeli bondholders and trustees in complex US-linked restructurings. Chapman represents the bond trustee in the restructuring of approximately USD 275 million of TASE-traded bonds issued by Zarasai Group Limited, among several other restructurings.

Beyond restructurings, Chapman acted as US counsel to the trustees of Starwood West Limited in connection with the modification of USD 450 million in CMBS loans secured by mortgages over five retail shopping malls in the United States. The practice also prominently features **Ken Marin** (Partner, New York), who co-chairs the Asset Securitization Group, and **Tobias Moon** (Partner, Washington DC), who is a member of the firm's Compliance, Regulatory and Payments Group.

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Davis Polk

Davis Polk's Israel Practice continues to advise on some of the most consequential capital markets and M&A transactions involving Israeli and Israel-connected companies, having acted for numerous Israeli-founded or Israel-based companies on US IPOs.

The Israel Practice is co-headed by **Michael Kaplan** (Partner, New York), **Lee Hochbaum** (Partner, New York), and **Benjamin S. Kaminetzky** (Partner, New York), and comprises approximately 50 lawyers, many fluent in Hebrew and representing Israeli corporates and international investors across technology, financial services, telecommunications, energy, chemicals, and healthcare and life sciences.

With a practice advising issuers and underwriters on IPOs, equity offerings, convertible and high-yield debt issuances, as well as corporate governance, Kaplan has been instrumental in numerous capital markets mandates, such as Oddity Finance LLC on its USD 525 million offering of senior notes, as well as NextVision on its USD 400 million global offering and Meitav Investment House Ltd., one of Israel's leading investment institutions, on its approximately USD153 million global offering. In M&A, the firm advised Fireblocks, a digital asset infrastructure company, on its acquisition of Dynamic Labs, an Israeli-founded developer of embedded wallet infrastructure for enterprises.

Fellow co-head Hochbaum focuses on complex cross-border M&A, private equity transactions, joint ventures and restructurings, while Kaminetzky, an experienced bankruptcy litigator, represents debtors, lenders and creditors in high-stakes reorganizations, including leveraged buyouts, labor and pension disputes, mass torts, fraudulent transfer and preference litigation.

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DLA Piper

DLA Piper commands a leading position in Israel-related work, deploying its global platform to operate consistently at the highest end of the market. With more than 100 lawyers across its Israel country group and a substantial roster of Israeli clients, the firm delivers fully coordinated cross-border counsel spanning the US, Europe, Latin America, and Asia. Under the leadership of **Jeremy Lustman** (Partner), alongside **Jon Kenworthy** (Co-Chair of Corporate) and **Christopher Giordano** (Chair of the US M&A Group), the team executes complex transactions and strategic mandates for Israeli companies and investors worldwide. In 2025, the firm ranked first in banking and private client and tax, while also securing Elite positions in employment, energy, high-tech, litigation, M&A (Volume), and real estate.

The practice demonstrates considerable strength in cross-border M&A transactions, advising Israel's SimilarWeb on its acquisition of Sweden-based Wincher International, and Israel's StoreDot Ltd. on its business combination with Andretti Acquisition Corp II, valuing the combined entity at USD 882 million. In capital markets, the team advised on Enlivex Therapeutics' USD 212 million private placement, reinforcing its role in high-value financings for Israeli issuers.

Beyond transactional work, DLA Piper delivers integrated advisory capabilities across employment, technology, and finance. Its employment practice advises Israeli companies on global workforce expansion, including hiring, restructuring, immigration, and equity incentive frameworks across multiple jurisdictions, as well as handling disputes and compliance matters. In parallel, the firm

maintains a top-tier banking and finance practice, advising on cross-border loan facilities, complex credit structures, and refinancing transactions involving major lenders such as HSBC and Bank Leumi. This breadth enables the team to support Israeli clients across the full lifecycle of international growth, from initial market entry through to sophisticated financings and post-acquisition integration.

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Fox Rothschild

The Israel Practice Group at Fox Rothschild advises Israeli businesses entering and expanding in the US market, providing legal support across technology, software, agriculture, healthcare and medtech. In 2025, the firm recorded strong activity in private client and tax, among other areas.

Spearheaded by **Michael Sweet** (Partner, San Francisco), **Odia Kagan** (Partner, Philadelphia), and **Sarah Biser** (Partner, New York), the sizeable Israel Practice Group stretches coast to coast. The Group is recognized in the IsraelDesks rankings for its work in intellectual property and trademark protection, employment litigation and data privacy, with particular strength in advising on GDPR compliance for Israeli companies operating internationally. Alongside its commercial practice, the group regularly assists Israeli families with US estate planning, trust structures and cross-border tax considerations, and in banking finance – especially credit facilities - **Matthew Kittay** has been busy for Israeli clients this past year.

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Greenberg Traurig

Greenberg Traurig's Israel Practice operates from a multidisciplinary Tel Aviv office of more than 100 professionals, serving as a critical conduit for Israeli companies expanding globally and international clients entering the Israeli market. The firm achieved first-tier standing in employment, high-tech, litigation, and real estate, alongside Elite rankings in M&A, Capital Markets (Volume and Value), IP, and private client and tax—reflecting both the scale of its platform and the consistency of its performance at the highest level.

Fully integrated within the firm's global architecture, the team delivers sophisticated cross-border counsel across corporate, capital markets, real estate, employment, and technology-driven sectors. Working in close concert with leading Israeli law firms, the practice provides seamless international support. Its distinctive model—comprised entirely of US-qualified lawyers based in Israel—enables culturally fluent, commercially incisive, and highly responsive advice for Israeli businesses operating in complex global markets.

The team's transactional strength is demonstrated through a series of high-value, strategically significant mandates. Under the leadership of **Joey Shabot** (Managing Shareholder, Tel Aviv), the practice advised Carbyne Ltd., an Israeli public safety technology company, on its USD 625 million sale to Axon, and represented Ibex Investors in the sale of DigitalOwl, an Israeli InsurTech company, to Datavant. In capital markets, **Gary Emmanuel** (Shareholder, Tel Aviv) and **David Huberman** (Shareholder, Tel Aviv) advised Israeli issuers including Silexion, Steakholder Foods, and Can-Fite BioPharma on US offerings and PIPE financings, as well as Clearmind Medicine and Polyrizon on registered direct offerings. **Mark Selinger** (Shareholder, Tel Aviv) represented Sentrycs and its shareholders in its sale to Nasdaq-listed Ondas Holdings.

This transactional depth is complemented by expansive sector coverage and sustained advisory capability. **Lawrence Sternthal** (Shareholder, Tel Aviv) leads complex cross-border real estate matters for Israeli institutional investors, while **Meira Ferziger** (Shareholder, Tel Aviv) heads a specialist employment practice advising Israeli companies on US and international employment, immigration, and litigation issues, including in the context of M&A and IPOs. The practice also maintains a formidable position in intellectual property, patents, and high-tech, with **Barry Schindler** (Shareholder, New Jersey/New York).

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Herrick Feinstein

Herrick's Israel practice is embedded within the firm's New York platform and is dedicated to advising Israeli clients operating in the US market. Herrick works closely with leading Israeli law and accounting firms and is recognized in the IsraelDesks rankings for the breadth of its work, achieving Elite status in real estate and strong recognition across related areas. Israel practice co-chair and real estate partner **Yariv Ben-Ari** (Partner, New York) advises Israeli lenders, developers, operators and contractors on complex cross-border matters. Chair of the firm's Tax Department, **Louis Tuchman** (Partner, New York) has also been instrumental throughout 2025 in relation to cross-border tax issues.

In 2025, the firm represented Israeli-backed Canada Global on significant US real estate ventures focused on Miami's multifamily sector. These mandates included joint ventures with Flow Property Investors and Yellowstone Trust, covering investments in projects developed by the Chetrit Group and the acquisition of a 15.9-acre site in Miami.

Herrick also advised Greystone Senior Debt BI, Ltd., an Israeli subsidiary of Greystone, on a Series A bond offering of approximately USD 160 million on the Tel Aviv Stock Exchange, the highest-rated offering of its kind and three times oversubscribed.

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Kobre & Kim

Kobre & Kim maintains a strong cross-border disputes and investigations practice, representing Israeli companies and individuals in complex litigation across the United States and other jurisdictions. Thriving under the leadership of **Udi Karklinsky** (Principal, Tel Aviv), an experienced litigator in complex cross-border commercial litigation, the firm regularly handles corporate disputes, IP litigation, criminal defense, and regulatory enforcement matters involving Israeli businesses operating internationally.

Recent work highlights the firm's role in major technology disputes involving Israeli companies. **Michael Ng** (Partner, San Francisco), who leads the firm's global Intellectual Property and Technology Disputes practice, co-represented Orckit Corporation in patent infringement actions alleging infringement of a portfolio of US patents covering advanced network infrastructure technologies developed by Orckit-Corrigent, the Israeli telecommunications technology company headquartered in Tel Aviv. Ng also co-advised WalkMe, an Israeli digital adoption platform company, in a multi-jurisdictional trade secret and patent infringement dispute.

Beyond technology disputes, the firm has also represented Israeli individuals in high-profile criminal proceedings in the United States. The team acted for Olivier Amar, an Israeli former fintech executive, in United States v. Javice, a widely reported six-week criminal trial before the US District Court for the Southern District of New York. These matters illustrate the firm's focus on complex, high-stakes disputes involving Israeli clients operating across multiple jurisdictions.

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Paul Hastings

Headquartered in Los Angeles, global law firm Paul Hastings enjoys a formidable reputation in private equity, finance, restructuring, litigation, and capital markets, earning an Elite ranking in Capital Markets (Volume). Founded in 1951, the firm has grown into an international platform of more than 1,000 lawyers across offices in the United States, Europe, Asia, and Latin America, advising multinational companies, investors, and financial institutions on complex cross-border transactions.

The firm's Israel-related work is led by **Colin Diamond** (Partner, New York), co-chair of the Global Securities and Capital Markets practice and head of the firm's Israel practice. Diamond advises Israeli public companies and technology businesses on US capital markets transactions and strategic corporate matters. Paul Hastings currently represents more than 30 Israeli clients and regularly works with Israeli companies accessing US capital markets or pursuing strategic transactions involving US buyers and investors. Diamond works closely with **David Ambler** (Partner, Palo Alto) and **Gil Savir** (Partner, New York) on cross-border corporate and capital markets matters.

Recent work highlights the firm's role advising Israeli technology companies on significant US transactions. Diamond and **Ian Engstrand** (Partner, Boston) acted as US legal counsel to Mentee Robotics Ltd., an AI-first humanoid robotics company, in its agreement to be acquired by Mobileye. In the capital markets arena, Diamond advised Allot Ltd., an Israeli provider of network intelligence and security solutions, on its public offering of 5,000,000 ordinary shares, while Savir acted for TAT Technologies in its own share offering.

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Pillsbury

Pillsbury's Israel Practice continues to strengthen its standing in the IsraelDesks rankings, with recognized depth across litigation, high-tech, and intellectual property, and an Elite ranking in patents and trademarks. The team advises US and Israeli companies on sophisticated patent portfolio development, trademark protection, complex disputes, and cross-border regulatory matters, with particular strength in software, cybersecurity, blockchain, life sciences, financial services, and energy.

The practice is led by **Ari Berman** (Partner, New York), who focuses on high-stakes commercial litigation, including shareholder disputes and federal securities investigations, often involving assets and exposures of significant scale. Deputy heads **Nathan Renov** (Special Counsel, New York) and **Justin Rubin** (Partner, Washington DC) anchor the firm's IP and national security capabilities. Renov advises on complex patent strategy across AI, cybersecurity, blockchain, and advanced systems, including work with Israeli research institutions and venture-backed companies. Rubin represents US subsidiaries of Israel's leading defense and homeland security contractors, guiding their expansion into the US market and advising on engagement with the Department of Defense and Department of Homeland Security, including market entry, regulatory positioning, and government-facing strategy.

Notable matters in 2025 saw the team advise Celsius Network, an Israeli-founded cryptocurrency platform, on English law disputes spanning lending arrangements, recovery of digital assets, and claims against former advisers, as well as represent Rapyd, a global fintech company founded in Israel, in English Commercial Court proceedings concerning overpayment claims and related disputes. These were handled by **Laurence M. Lieberman** (Partner, London).

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Royer Cooper Cohen Braunfeld

Royer Cooper Cohen Braunfeld operates from Pennsylvania, New York, and Nashville and earned recognition in this year's IsraelDesks rankings. The firm advises more than 50 Israeli clients and maintains active commercial links between Philadelphia and Tel Aviv. **David Gitlin** leads the cross-border practice and spends significant time in Tel Aviv and previously served as President of the Philadelphia–Israel Chamber of Commerce and continues to strengthen commercial ties between the two markets. RCCB served as US counsel to ProntoNLP, an Israeli provider of generative AI tools, in its sale to S&P Global Market Intelligence.

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Sheppard

Headquartered in Los Angeles, with more than 1,200 lawyers across its office network, global law firm Sheppard maintains an active Israel practice advising Israeli companies, investors, and international businesses operating in Israel across corporate transactions, litigation, intellectual property, and real estate matters. The firm's Israel Desk is led by **Ariel Yehezkel** (Partner, New York), who co-heads the firm's Private Equity Practice Group, and draws on a team of approximately 20 lawyers across multiple practice areas.

The firm has represented approximately 45–55 Israeli clients, spanning sectors such as technology, healthcare, energy, and travel services. Sheppard also maintains a presence in Tel Aviv, supporting cross-border activity between Israeli businesses and the US. Recent work reflects a focus on cross-border corporate transactions and Israel-linked capital markets activity. In the M&A space, Sheppard represented M.S.T. Travel Ltd., the Israeli subsidiary of Korean travel technology company Yanolja, in its acquisition of RightRez Inc., a US-based provider of air automation and post-booking optimization technology for the travel sector, and also represented a US property owner-developer in connection with a corporate bond offering on the Tel Aviv Stock Exchange secured by US real estate assets, advising on the US property aspects of the financing.

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Taylor Wessing

Taylor Wessing's Israel Desk operates as a central platform for advising Israeli clients on cross-border matters spanning technology, life sciences, media, pharma and medical devices, as well as real estate. The Israel Desk is fronted by **Josef Fuss** (Partner, London), who focuses on venture capital and M&A transactions in IP-rich sectors, working closely with Israeli companies, founders, and global investors on UK and cross-border mandates. Drawing on more than 20 years of continuous engagement with Israel, the team comprises fluent Hebrew speakers and a network that includes on-the-ground presence in Tel Aviv through **Joshua Gertner**.

In 2025, the firm secured impressive rankings across the board, and especially in private client and tax related work, as well as real estate, litigation and employment, frequently led by **Helen Farr** (Partner, London). In its M&A work, Taylor Wessing advised Prodalim Group, an Israeli-headquartered global provider of juice-based solutions and specialized ingredients, on its acquisition of René Laurent from US-listed International Flavors & Fragrances Inc. It also advised the founders and shareholders of Greenbids, a French AI-driven adtech company, on its sale to Perion Network Ltd., an Israeli Nasdaq-listed digital marketing company. Both transactions were led by **Gilles Amsallem** (Managing Partner, Paris) and **Dalila Mabrouki-Jacques** (Partner, Paris), underscoring the firm's integrated European approach to Israeli-linked deals.

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White & Case

White & Case maintains a long-standing and deeply embedded Israel practice, advising Israeli corporates, financial institutions, and global investors on cross-border M&A, capital markets, and complex disputes. Ranked Elite in M&A (Volume), Capital Markets Value), the firm is also active in high-stakes litigation, in which it also earns an Elite ranking. The team acts for Meta in a series of Israeli class actions spanning data protection, privacy, and competition law. The team operates across high-tech, healthcare, energy, financial services, and real estate, reflecting the breadth of Israel's outbound and inbound deal flow and the increasing intersection between regulatory risk and commercial strategy.

The practice is led by **Daniel Turgel** (Partner, London/Tel Aviv), who has spent over a decade advising on leading Israel-related transactions and divides his time between the UK and Israel. He works alongside **Tali Sealman** (Partner, New York), who focuses on US–Israel M&A, representing both US acquirers of Israeli businesses and Israeli sellers, and **Joel Rubinstein** (Partner, New York), who advises on IPOs, SPACs, and de-SPAC transactions involving Israeli issuers and investors. On

the disputes side, **Julian Lamm** (Partner, Los Angeles) represents multinational technology clients in Israeli litigation, including a series of class actions against Meta involving alleged unlawful data collection, advertising practices, and competition issues.

Recent matters highlight the firm's role at the center of major Israeli-linked transactions. Turgel advised Bazan Group on its acquisition of a controlling stake in US-based Cantium LLC, supporting its expansion into upstream energy, and advised Centerbridge Partners and Gallatin Point Capital on the sale of their holdings in Phoenix Holdings, a leading Israeli insurance and asset management group. In capital markets, the firm advised Bank Hapoalim on its landmark USD 2 billion bond issuance and Bank Leumi on the establishment of its inaugural € 3 billion Covered Bond Programme. Together, these mandates demonstrate White & Case's ability to combine transactional scale, cross-border structuring, and regulatory insight for Israeli clients operating globally.

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Wiggin and Dana

Wiggin and Dana has cemented its position in the IsraelDesks rankings, with a 13-lawyer team led by **Steven Malech** (Partner, New York). The group advises Israeli companies, investors, and high net worth individuals on complex areas of US law, supporting the protection of US assets and interests, the expansion of US operations, and related strategic matters.

The practice acts for clients ranging from startups to state-owned and publicly traded companies across defense, aerospace, semiconductors, software, medical devices, and financial services. It has also developed a strong patent prosecution capability, with **Pierre Yanney** (Chair, Patent Prosecution Group, New York) and **Frank Duffin** (Partner, New Haven) advancing patent portfolios for Israeli clients, including in semiconductor technologies.

Working closely with leading Israeli firms and maintaining a regular presence on the ground in Israel, the team supports companies, investors, and high net worth individuals in safeguarding US interests, scaling operations, and resolving disputes. It also advises on export controls, sanctions, and national security matters, with **Sean Koehler** (Partner, New Haven) focusing on ITAR, EAR, OFAC, and CFIUS regimes.

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Inside Israel's Modern GC Role

Hila Hubsch
Head of Corporate, External and Legal Affairs at Microsoft Israel

Amir Markovits
Head of Legal, Venn City

Noa Rosenberg-Segalovitz
CHRO & CLO, Lightricks

Nira Poran
Executive Director at ACC, Israel

In this *US-Israel Legal Review*, we speak with three leading in-house voices shaping the legal function in Israel today: **Hila Hubsch** (Head of Corporate, External and Legal Affairs at Microsoft Israel), **Amir Markovits** (Head of Legal, Venn City), and **Noa Rosenberg-Segalovitz** (CHRO & CLO, Lightricks). They share candid perspectives on the pressures facing modern GCs, from AI governance and data regulation to scaling global businesses from Israel.

We also spoke with **Nira Poran**, Executive Director at ACC Israel, whose insights place these conversations in a wider context, explaining why the GC role in Israel has become increasingly strategic and influential within companies and across the broader business ecosystem

What explains the elevated position of the legal function in Israel, and how does it shape the way Israeli GCs work with external law firms?

Nira: *Several factors explain the central role of the legal function in Israeli companies. Israel operates in a highly regulated environment, and CEOs want confidence that their organizations comply fully with evolving rules and standards. This places the general counsel close to senior management and often at the center of strategic decision-making.*

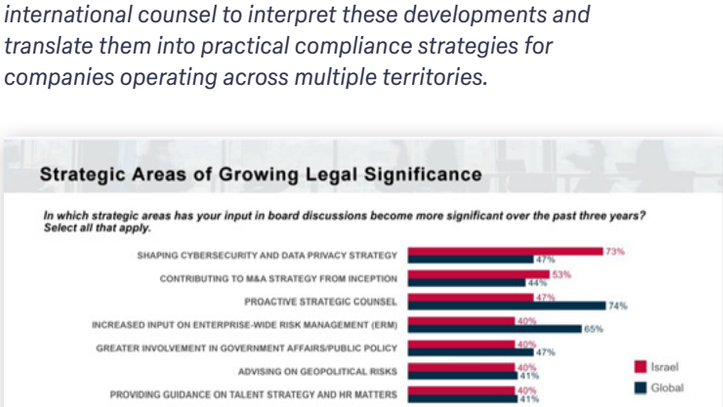
Also, ACC is another factor. We put so much focus on the legal, that companies are starting to understand the role of the GC in a deeper way. Today, they have a far deeper appreciation of what the GC contributes. In the past, the GC might only answer discrete legal questions. Today, they are much more knowledgeable, and the CEOs like to have someone close who has or can suggest the answers or the appropriate course of action.

Israel's corporate landscape also influences this dynamic. Many companies remain smaller than their global counterparts, which means senior executives work closely together. In that environment, CEOs value a GC who can quickly analyze an issue, suggest solutions, and guide the company through complex regulatory terrain.

What kind of support do Israeli companies and GCs seek from international law firms in cross-border matters

Nira: *Israeli companies often operate globally, so their legal teams frequently need guidance on regulatory frameworks outside Israel. Employment and labor law represents one of the most common areas where Israeli GCs rely on international firms. Companies with operations in Europe, the UK, the United States, and Far East need to understand local labor rules, employee rights, and compliance obligations in each jurisdiction.*

Data protection and privacy regulation create another major area of demand. Regulatory regimes vary significantly between countries and even between states within the US. Israeli companies must ensure that their handling of employee data, monitoring practices, and broader data governance comply with these rules. Much of the global privacy framework now takes shape in jurisdictions such as California, particularly in cities such as San Francisco and Los Angeles where technology companies operate at scale. Israeli GCs therefore look to international counsel to interpret these developments and translate them into practical compliance strategies for companies operating across multiple territories.



What makes one international law firm stand out from another for Israeli clients?

Nira: *Responsiveness and accessibility matter enormously. Israeli business culture places great value on immediacy. Many GCs expect quick answers and direct*

communication, often through tools such as WhatsApp rather than lengthy email exchanges.

In practice, this means international counsel must adapt to a faster communication rhythm. When a GC needs advice, they often expect an answer quickly and in a practical form.

Cost also remains an important factor. Israeli companies tend to manage legal budgets carefully and often combine different firms depending on the issue. For example, they may instruct specialist boutiques for litigation or employment matters while working with larger firms for cross-border transactions. They tend to not have a problem hiring a few firms for a few different topics.

Geographic presence can also influence decision-making. A firm with a point of presence is helpful. It is not a deal breaker but can be an additional convenience.

Beyond pricing and service levels, how do Israeli GCs measure value from external counsel?

Nira: *Quality remains the primary measure of value. Israeli GCs assess whether external counsel provides clear, practical advice that solves the problem at hand.*

They also look at how well firms match the scale of the issue. For smaller matters, companies may prefer to work with specialist or mid-sized firms that offer focused advice. For complex or high-stakes issues, they may turn to larger international firms with deeper resources.

Another aspect of value involves connectivity. GCs often rely on their external counsel to introduce them to trusted lawyers in other jurisdictions when a new issue arises. The ability to recommend reliable counterparts across different territories therefore carries real weight.

What do international firms often misunderstand about Israeli companies or GCs?

Nira: *Israeli business culture aligns quite naturally with the United States. Many Israeli executives feel comfortable working with American counterparts and operate within a similar commercial mindset.*

European firms sometimes encounter more cultural distance. Communication styles, expectations around responsiveness, and interpretations of business language can differ. For example, a simple "yes" may carry different meanings depending on context and culture.

At the ACC, we have often run workshops and webinars to help bridge these cultural differences. Greater awareness of these nuances can improve collaboration significantly.

How can international lawyers bridge cultural gaps when working with Israeli GCs?

Nira: *Experience plays the decisive role. Senior GCs who work in global companies often adapt naturally to different legal and business cultures because they have encountered them repeatedly throughout their careers.*

No academic training can fully replicate that experience. Lawyers develop this understanding over time by working across jurisdictions, engaging with different teams, and learning how business decisions unfold in practice.

Technology and AI tools may assist with research or drafting, but they cannot replace the judgment that lawyers develop through years of cross-border work.

Which regulatory issues are likely to dominate the agenda for Israeli GCs over the next 12–18 months?

Nira: *Several themes already command close attention. Artificial intelligence regulation will continue to shape corporate strategy as governments introduce new frameworks and oversight mechanisms. Antitrust enforcement will also remain important as technology companies expand and regulators examine market concentration more closely.*

At the same time, geopolitical developments influence many legal decisions. Israeli companies monitor how international tensions affect supply chains, investment flows, and regulatory cooperation.

Energy also stands out as an emerging focus. Israeli companies increasingly explore opportunities in renewable energy, alternative energy technologies, and even nuclear energy. Alongside this, the growth of data centers creates new regulatory and infrastructure challenges.

How does the mindset differ in Israel's GC community when compared to many other countries?

Nira: *How does the mindset differ in Israel's GC community when compared to many other countries?*

Israel's relatively small business community adds another dimension. Many executives know each other through previous roles, law firms, or universities. As a result, companies often consider how strategic decisions might affect peers within the market.

Since most senior legal and business professionals operate in Tel Aviv, the ecosystem remains highly connected. GCs frequently meet in person, share insights, and exchange perspectives on market developments, which reinforces the strong role that legal leadership plays within Israeli companies.

We also caught up with **Hila Hubsch, Head of Corporate, External and Legal Affairs at Microsoft Israe**l, and learned more about the opportunities and challenges today.

With regulation still catching up with technology, particularly around AI and cloud infrastructure, how do you make decisions today when the rules of tomorrow are still unclear?

Hila Hubsch, Head of Corporate, External and Legal Affairs at Microsoft Israel: *"When the legal landscape is uncertain, I rely on a principle based and proactive approach to making decisions. At Microsoft, we've built internal governance frameworks, especially our Responsible AI Standard that guide how we design, test, deploy, and monitor AI systems long before formal regulation arrives. These frameworks operationalize core values of fairness, transparency, accountability, and safety, allowing us to move quickly without compromising trust.*

In addition, even when new technologies aren't explicitly regulated, foundational legal principles still apply. AI or cloud initiatives must protect customer data, ensure accuracy, and honor our contractual and privacy commitments. The fact that something is "new" does not exempt it from established legal norms.

We closely track regulatory trends worldwide. It's clear that regulators are shifting toward risk based, layered approaches to AI governance. The EU AI Act is the clearest indication: transparency, safeguards, documentation, and human oversight are becoming baseline expectations. In order to stay ahead of the curve, we are already aligning our engineering and governance practices with emerging regulatory expectations, ensuring that our internal standards evolve in step with, and often ahead of, the frameworks taking shape globally."

Where do you most often feel the tension between commercial speed and legal risk, particularly in fast-moving areas like AI? How do you decide when to move ahead versus pause? What do you expect most from external counsel at those moments?

Hila: *"As a company operating at the forefront of AI, we feel the tension between commercial velocity and legal risk most acutely when technology is advancing faster than regulatory frameworks. We manage that tension through governance. Microsoft's public guidance consistently reinforces that innovation must be paired with responsible AI practices – strong privacy protections, rigorous security safeguards, transparency measures, and clear oversight structures.*

When legal risk is manageable - because we have strong technical guardrails, clear accountability, and confidence that our practices align with emerging global norms - we move forward. When uncertainty is too high, or when a new capability raises questions about safety, compliance, or broader impact, we slow down and reassess. You can see this reflected in our Responsible AI documentation. At those pivotal moments, we also consult external counsel for clarity and foresight.

What we value most is jurisdiction specific insight: how regulators are likely to interpret emerging obligations, how to calibrate risk across markets, and what documentation, controls, and governance structures will withstand scrutiny."

What legal or regulatory issues demand the most attention today, and how have expectations from regulators, governments, or enterprise customers shifted in the past year?

Hila: *"AI governance, data privacy, and cybersecurity remain the three most consequential areas for any organization operating at scale. The regulatory landscape is shifting at an extraordinary pace, with new statutes, technical standards, and enforcement frameworks emerging across jurisdictions almost weekly.*

At the same time, enterprise customers have become increasingly sophisticated in their expectations, seeking greater transparency, stronger contractual protections, and clearer models of shared accountability. Microsoft's AI Customer Commitments that include built in transparency tools, clear documentation, responsible by design safety features and its Customer Copyright Commitment reflect this shift toward heightened expectations and a more mature trust posture.

In this environment, compliance is no longer simply a legal requirement; it is a core driver of trust and, increasingly, a competitive advantage. Organizations that can demonstrate robust governance, credible risk management, and verifiable adherence to regulatory norms are better positioned to win and retain customer confidence in a market where trust is now a differentiator, not a peripheral factor – it is central to commercial success."

How has the role of the legal function inside Microsoft evolved in recent years as the business has expanded into new technologies and markets?

Hila: *"Microsoft's legal function has evolved from a traditional risk management role into a technology enabled, strategy shaping partner. As the company expanded into AI and cloud, our Corporate, External, and Legal Affairs (CELA) department had to modernize how it works both in expertise and in the tools we use.*

A major shift has been the department's adoption of AI in its own workflows. We built new skills and roles inside the legal team, adding data scientists, engineers, and policy experts alongside lawyers. We also launched an internal AI initiative which accelerated the responsible adoption of AI across our operations. Today, tools like Microsoft 365 Copilot are part of our daily practice, helping us streamline research, contract review, and analysis, and allowing attorneys to focus on higher value advisory work."

We also spoke with **Amir Markovits, Head of Legal at Venn City**, a proptech startup founded in 2016, about the trends impacting GCs and his sector.

Where do you see the biggest legal or commercial friction when scaling this model, and how do external counsel help you grow without losing the flexibility that makes neighborhood-level solutions work?

Amir: *"In its early stages, Venn focused on building communities in multi-family residential complexes in Tel Aviv. Over the last five years, Venn has shifted toward developing a SaaS platform that streamlines tenants' interactions with property managers in multi-residential buildings. By offering Venn's platform to residents, landlords and property managers can manage the full tenant lifecycle through a dedicated app - from applying for an apartment, through accessing services (e.g., maintenance requests, keyless entry, and purchasing pool memberships), and ultimately through move-out.*

What makes Venn's solution unique is its combination of a technology platform with the community-building DNA from Venn's early days. Venn has successfully helped residents in the US get to know their neighbors in a culture where neighbors often remain strangers. The platform enables residents to create virtual interest-based groups and organize both online and in-person gatherings.

The biggest friction arises at the intersection of technology and a highly regulated environment. Although multifamily housing is a traditional industry, it is governed by a patchwork of federal, state, and municipal rules, many of which were not designed with integrated digital platforms in mind. As Venn scales, we are constantly balancing standardization - which is critical for a SaaS business - with the need to adapt to legal requirements around housing, payments, consumer protection, and data privacy. We are also balancing our efforts to use technology to deliver the best possible tenant experience with the regulatory constraints that can limit how solutions are deployed.

External counsel is essential in helping us navigate this complexity pragmatically. The value is not only in identifying legal constraints, but also in helping us design compliant frameworks that preserve operational flexibility. We rely on counsel who understand both the regulatory environment and the commercial realities of property management, and who can translate legal requirements into scalable, practical solutions rather than rigid prohibitions."

Where do you most often feel the tension between commercial speed and legal risk, and how do you decide when to push forward versus slow things down?

Amir: *"The tension is most acute when expanding into new territories governed by unfamiliar regulatory regimes, or when launching new features or partnerships that touch regulated areas such as payments, tenant screening-adjacent processes, identity verification, or handling sensitive data. These initiatives often respond to immediate market demand, but they can raise questions under frameworks such as consumer protection laws, financial regulations, or privacy obligations.*

Deciding whether to move forward involves assessing both the severity and the reversibility of the risk. After reviewing the regulatory landscape, if a risk is potentially systemic, irreversible, could materially increase Venn's liability, or could materially affect tenants' rights or trust (and, as a result, harm our relationship with our customers), we slow down and consider alternatives. If the risk is more operational and can be mitigated through controls, disclosures, or modest adjustments to the platform or services, we may proceed while continuing to refine the legal structure.

In those moments, we expect external counsel to be clear, creative, and commercially grounded. We value advisors who can articulate not only what the risk is, but how it can be managed, what trade-offs exist, and what a regulator would realistically focus on in practice."

What legal issues keep you most alert today? How do you use outside advisors to stay ahead rather than react?

Amir points out: *"Data protection, financial regulatory exposure, and AI regulation are areas that require constant attention. Because we handle sensitive personal and, in some cases, financial information, expectations around transparency, security, and accountability have increased noticeably. Residents are more aware of how their data is used, and tolerance for ambiguity has decreased.*

Regulatory expectations appear to be moving toward greater scrutiny of technology providers operating at the intersection of the traditional residential housing industry and increasingly active regulatory enforcement. In many cases, these providers do not fit neatly into existing regulatory categories.

We use external advisors proactively by involving them early in product design, partnership structuring, and policy development, rather than only at the point of contract negotiation or incident response. This helps us anticipate issues and build defensible positions before questions arise."

How has the role of the legal function evolved inside the company over the past few years?

Amir notes: *"Before I joined Venn, the company had not had an internal legal function for several years. Although Venn received support from external counsel, certain matters still required immediate, day-to-day attention. When I joined, the immediate need was - as expected - to put out fires: unblocking stalled handling negotiations that needed creative legal solutions, registering trademarks that had fallen between the cracks, and addressing data privacy issues. After reaching a more stable baseline (as stable as you can expect in a fast-paced start-up), the legal function evolved into a strategic partner in product development and business planning. In my view, legal's role is not only to serve as a gatekeeper (which is critical in a high-growth company operating in a heavily regulated industry), but also to mitigate risk in a way that enables execution and helps the company gain competitive advantage.*

With no internal legal function previously in place, a significant part of the work has focused on building internal structures - policies, playbooks, templates, and escalation processes - that enable Venn to move quickly while maintaining consistency and compliance. This shift reflects the company's growth, the increasing complexity of its regulatory exposure, and the need to embed legal thinking into day-to-day decision-making."

Looking to 2026 and beyond, what emerging legal or regulatory issues do you think will most affect your business as you expand across cities and markets, and where will trusted external advisors play the biggest role?

Amir concludes: *"As we expand geographically, regulatory fragmentation will remain a key challenge. Differences in housing regulation, consumer finance rules, data privacy regimes, AI regulation, and local operational requirements can materially affect how products are deployed. Increased regulatory attention on embedded financial services, data-sharing ecosystems, and digital access controls is also likely to impact our model, even if the precise contours of future regulation are not yet clear.*

Trusted external advisors will play the biggest role in helping us anticipate regulatory trends, interpret new guidance, and design scalable compliance strategies across jurisdictions. Their insight is critical not only for responding quickly to new rules, but also for shaping our growth roadmap so that legal considerations are integrated from the outset rather than addressed retroactively."

We also spoke with **Noa Rosenberg Segalovitz Chief Human Resources Officer (CHRO) and Chief Legal Officer (CLO) at Lightricks**, a fast-growing Israeli creative-tech company with millions of users worldwide.

As Lightricks' tools increasingly rely on AI to help users create and share content, what are the hardest questions you face around ownership, fairness, and responsibility, and how do specialist external lawyers help you stay ahead?

Noa explains: *As an AI-native creative technology company with millions of global users, the most complex legal questions we face sit at the intersection of innovation, user empowerment, and accountability.*

Across our enterprise and API frameworks, the LTX Model and related technology remain exclusively owned by Lightricks. Customers receive a defined, limited license, subject those use restrictions fundamental to protecting the integrity of the technology and ensuring long-term sustainability. At the same time, as between LTX and the customer, ownership of Input and Output is allocated to the customer, to the extent permitted by law.

One of the hardest questions in AI is the allocation of responsibility for Input, Output, and downstream use. Our agreements are explicit; customers control and are responsible for Inputs and must ensure they have all necessary rights and consents. Similarly, responsibility for use of Outputs, including compliance with law and third-party rights, rests with the customer. We require customers to implement appropriate governance mechanisms where necessary.

Our Acceptable Use Policy operationalizes fairness and responsible deployment at the product level. It prohibits harmful use cases, such as biometric identification misuse, exploitation of minors, hateful conduct, misinformation, and unlawful activity. We also explicitly require compliance with AI-specific regulatory regimes where applicable and clarify that customers are responsible for ensuring their deployment meets such requirements. This anticipates the potential increasing formalization of AI regulation globally.

Specialist external counsel are critical not only for interpretation of emerging regulation but for stress-testing our approach before launch. The objective is not merely compliance, but strategic positioning, anticipating how a regulator or court would assess a product feature two years from now, not two months from now. For a creative-tech company operating at scale, that forward-looking contractual infrastructure is as important as the technology itself.

What legal issues keep you most alert today, particularly around IP, user-generated content, and AI features, and how have expectations from users or regulators shifted in the past year?

Noa adds: *The legal issues that require the highest level of attention today sit at the intersection of intellectual property, user-generated content, and responsible AI deployment. As our products scale globally, our agreements and policies are structured to address these risks through clarity of allocation rather than excessive restriction of creativity.*

User-generated content risk has evolved in both scale and complexity. Synthetic media, likeness generation, and voice simulation intersect with copyright, privacy, and right-of-publicity laws. Our platform terms make clear that no rights are granted to use a person's name, image, likeness, or persona without appropriate clearance. Users bear responsibility for obtaining required releases and ensuring lawful use of Output containing identifiable individuals or protected elements. This reflects our broader philosophy: we enable creative expression, but we do not transfer legal responsibility for clearance and compliance from the creator to the platform.

A core principle for us is that creative technology should empower users, not preemptively constrain them beyond what is legally or ethically required. Our Acceptable Use Policy establishes guardrails against unlawful, harmful, or abusive use. These restrictions are designed to protect users and the public without restricting legitimate artistic or commercial creation.

We do not believe in over-policing creative output. Instead, we structure responsibility as a shared obligation: the platform provides safeguards and transparency; customers and developers must deploy responsibly within their own contexts.

Over the past year, I have observed two parallel trends. Firstly, users are increasingly seeking clarity rather than broad assurances. They want to understand, in concrete

terms (1) Who owns the Output; (2) Whether their data is used for training; and (3) Who bears responsibility for clearance and downstream use.

Our agreements address these questions directly. This clarity is not merely defensive drafting, it is a trust-building mechanism in an environment where ambiguity undermines adoption.

Secondly, from a regulatory perspective, we are still in a transitional phase. Outside of certain defined domains, there is not yet a fully harmonized, detailed regulatory regime governing general-purpose creative AI tools. In many jurisdictions, regulators appear to be observing how the market structures responsibility, governance, and safeguards before imposing prescriptive horizontal rules.

How has the role of the legal function evolved at Lightricks as the company and its products have scaled globally?

Noa points out: *As Lightricks has evolved with LTX into an AI-first company, the legal function has had to evolve in parallel, not only in substance, but in structure, mindset, and tooling. In earlier stages, the legal team's primary focus was transactional. As our products became AI-native and widely deployed globally, the scope shifted significantly.*

Legal is no longer a downstream reviewer of product decisions; it is embedded at the design stage. Being part of an AI-first company requires a different operating model. AI products iterate rapidly. Features may evolve weekly. Deployment may vary across jurisdictions with differing regulatory sensitivities. This requires the legal team to move from static compliance to dynamic risk governance. We must understand model architecture, data flows, product design choices, and deployment models, not at a theoretical level, but at a practical one.

Looking to 2026 and beyond, what emerging legal or regulatory challenges do you expect to have the biggest impact on creative-tech companies, and how are you preparing internally?

Noa concludes: *The most significant forward-looking challenges for creative-tech companies are likely to include, among others: AI-specific regulatory regimes, global fragmentation of digital regulation, evolving rights management and licensing models for AI training data, and regulation of synthetic identity and authenticity. Implementation of emerging AI legislation, particularly classification-based regimes, will increase documentation, transparency, and audit-readiness requirements. At the same time, divergent regulatory approaches across jurisdictions may require differentiated deployment strategies.*

Litigation trends around training data and copyright will likely continue to shape market standards. Disclosure expectations around AI-generated or AI-modified content may also expand.

Internally, we are investing in enhanced documentation and governance frameworks that provide clarity and stability in an evolving regulatory landscape. With external advisors, we prioritize long-term partnerships rather than episodic engagement. We seek firms that combine regulatory depth and practical commercial understanding across the US, Israel, and Europe. The strategic objective is clear: maintain product leadership while building durable legal infrastructure that supports scale, user trust, and long-term enterprise value.

Learn more about the ACC 2026 Chief Legal Officers Survey – Israel Supplement, produced by the ACC, in collaboration with FTI Consulting, here.

A Brief Guide to Litigation in Israel 2026

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With litigation involving global corporations gaining unprecedented prominence in Israel, becoming acquainted with Israeli litigation practices could offer significant advantages for companies and individuals already operating in, or considering entering the Israeli market.

Israel's Litigation Framework

Comparative Law – Israel's Legal System

The State of Israel operates an independent, adversarial legal system, modeled after the Common Law tradition in form and procedure.

At the same time, for many years, the Israeli legal system has shown identifiable influences of Continental Law principles, including the long-time and continuous effort by the Knesset (the Israeli Parliament) to codify substantive civil laws.

However, the "look and feel" of the legal system is more like that of a Common Law system, as exemplified by the strong emphasis on precedents as legal authority, and the importance of the right to cross-examine witnesses.

Litigants are free to define the scope of their dispute, and the court will adjudicate only on the basis of their pleadings and the evidence they present. In determining the outcome, the court applies the law, encompassing primary legislation enacted by parliament, subsidiary legislation such as regulations, and legal precedent. All judicial proceedings in Israel are bench trials, as there is no right to trial by jury.

Traditionally, Israeli civil procedure favored written submissions and affidavits (subject to cross examination), over oral arguments and testimonies.

The Civil Law Procedure Regulations, which have gone through an extensive revision that came into force on 2021 (the "**Regulations**") now theoretically prioritize direct examination and oral summation in certain proceedings.

Despite the time that has elapsed since the Regulations entered into force, many judges have yet to adopt this new approach, preferring to rely on their discretion as established by the Regulations, to order that summation and witness testimony will nevertheless be submitted in writing.

Israel's Litigation Landscape

Israel is a highly litigious state. It has the highest number of lawyers per capita in the world, and an overwhelming number of claims filed each year, crowding its courts.

According to the Courts Administrator, approx. 911,312 new claims and appeals were filed in 2024 - roughly 1 claim for every 11 citizens.

The Structure of the Israeli Legal System

The Israeli judiciary is comprised of a general court system, alongside specialized tribunals.

The general court system includes the **Supreme Court**, six **District Courts** (one in each judicial district), and dozens of **Magistrate Courts** located throughout the different districts.

Permanent specialized tribunals, each with limited subject matter or personal jurisdiction, function alongside (and sometimes as part of) the general court system.

These tribunals include, inter alia, labor courts, administrative courts, military courts, religious courts, family courts, the Competition Tribunal, and the Standard Form Contracts Tribunal.

The Magistrate courts serve as the trial court of first instance for most civil disputes, with subject matter jurisdiction over claims for relief valued up to ILS 2.5 million, and in certain real estate disputes.

Magistrate court claims are usually presided over by one judge.

District courts have appellate jurisdiction over the magistrate courts, and they also serve as a residual trial court of first instance when the magistrate courts and specialized tribunals lack jurisdiction.

The district courts are usually presided over by one judge in their capacity as trial courts, and three judges in their capacity as appellate courts.

The Tel Aviv and Haifa District Courts each have a specialized economic division. These economic courts are granted exclusive subject matter jurisdiction within the court over economic claims (such as shareholder disputes or derivative actions).

Judges with the relevant knowledge and experience preside over each of these divisions.

The Supreme Court is Israel's highest judicial authority, functioning both as an appellate court for district court decisions (with an automatic right of appeal for first-instance cases and by certiorari for appellate cases) and as a High Court of Justice endowed with judicial review powers.

Standardly, it comprises 15 justices, headed by the President of the Supreme Court (there are currently 4 vacancies). Most cases are presided over by three justices, and five or more justices can preside over matters deemed especially significant.

The decisions of the Supreme Court are final and are not subject to appeal, yet under extremely rare and unique circumstances a Supreme Court verdict can be subject to a re-hearing before an enlarged panel.

As the High Court of Justice, the Supreme Court has material jurisdiction over petitions for judicial review of legislative and administrative actions, including limited review of decisions of the specialized tribunals.

While the High Court of Justice is in fact the court of first instance for such petitions, it is not a trial court and it applies administrative rules of evidence, rather than the civil law rules of evidence. Appropriately, the High Court of Justice also has unique procedural regulations.

Because many cases are granted rights to the Supreme Court, either by appeal or as first-instance petitions, the Supreme Court is extremely active - with approximately 11,274 proceedings opened in 2024.

According to the Courts Administrator, the average length of regular civil proceedings (including claims that are dismissed or settled before final judgment), is 11.2 months for proceedings in the magistrate courts; 20.1 months in the district courts, and 23.2 months for civil appeals in the Supreme Court.

Jurisdiction and Extraterritorial Service of Process in Israel

The purpose of service of process is both to notify the defendant of the legal proceedings and to establish the Israeli court's jurisdiction over a defendant - including a foreign defendant.

The Regulations establish that a prospective plaintiff can serve a foreign prospective defendant in its domicile outside of Israel - if there are grounds for such extraterritorial service - without needing to obtain prior permission from the court.

The plaintiff is still required to file a motion to the court requesting orders for executing the service.

This motion must be accompanied by an affidavit supporting the cause of action of the prospective suit, as well as the existence of grounds for extraterritorial service, and must include the defendant's address abroad to which process is intended to be served.

The Regulations include a comprehensive list of grounds for extraterritorial service, such as that the claim concerns a property located in Israel, or that the claim concerns a contract that is subject to the laws of Israel.

All the grounds require some connection between the claim and the State of Israel which justifies the court assuming jurisdiction over the claim.

The court has the discretion to deny the prospective plaintiff's motion for orders for extraterritorial execution of service, and rule that under the given circumstances process will not be served extraterritorially.

If the court does not deny the motion, and process has been served accordingly, the defendant may move to quash the extraterritorial service, arguing that the Israeli court lacks jurisdiction, or that it is not the appropriate forum for adjudicating the dispute (forum non conveniens).

The performance of extraterritorial service is regulated by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965), to which Israel is a party.

A claim may also be served on a foreign defendant who is not currently present in Israel through a local representative on its behalf that represents it on a regular basis with respect to its matters in Israel, if the action pertains to the same matter.

This method is commonly used to serve a claim on an international enterprise that does business in Israel through a subsidiary or a permanent local distributor/ agent.

Class Actions in Israel

Class action lawsuits have become a prevalent phenomenon in Israel, including against foreign international corporations.

The legal framework for filing and adjudicating class actions in Israel is outlined in the Class Actions Law, 2006 and the Class Action Regulations, 2010.

The Class Actions Law limits the causes of action and matters that can be certified as a class action, listing several class actions that may be certified.

Some prominent examples for such class actions are listed below:

- Most commonly used of these is any civil cause of action against a business in a matter between that business and a customer, whether derived from contract law (e.g. breach of contract) or torts law (e.g. breach of a statutory duty).
- These may include, for example, claims based on the Consumer Protection Law, 1981, such as misleading consumers regarding material aspects of a transaction (e.g. the nature of the asset or service); transaction cancellation terms, etc.
- Another prominent cause of action in recent years is unlawful invasion of privacy, especially in cases where personal information regarding customers is collected and stored.

Under Israeli law, a class action is adjudicated in two stages:

- The certification stage - where the court decides whether to allow the class plaintiff to lead a class action on behalf of the class they claim to represent.
- The adjudication of the action itself – which is similar to the adjudication of any other civil claim in Israel.
- The certification stage begins with the plaintiff filing a motion to certify the class action.

The motion to certify must demonstrate that the claim meets the cumulative conditions required for the court to certify the motion, being that:

- The plaintiff has a personal cause of action concerning the subject of the motion.
- The class action raises material questions of law or fact that are common to all the members of the putative class.
- There is a reasonable chance that said mutual questions will be decided in favor of the putative class in the adjudication of the claim.
- A class action is the fair and effective mechanism for resolving the dispute.
- There is a reasonable basis to assume that the class plaintiff will duly and properly represent the interests of the represented class.
- There is a reasonable basis to assume that the interests of all class members will be represented and managed in good faith.

The respondents are entitled to respond to the motion to certify, and the class plaintiff is then entitled to reply to the respondents' response.

Following the parties' submissions, the court will usually set a preliminary hearing, for the purpose of simplifying and expediting the adjudication of the motion to certify, or to explore the option of resolving dispute through a settlement.

At times, the court might propose that the parties turn to mediation.

Should mediation or the preliminary hearing not be fruitful, the court will usually schedule evidentiary hearings, wherein the affiants (and experts who submitted expert opinion) on behalf of both parties are subjected to cross-examination (unless the parties agree to forgo cross-examinations).

The **evidentiary hearings** are typically followed by written summations, following which the court decides whether to certify the class action.

If the motion to certify is granted, the court will include in its decision the legal and factual questions that will be adjudicated, and the definition of the class to be represented by the plaintiff.

In general, the decision to certify a class action can be

challenged by leave of appeal filed to the relevant court of appeal.

A decision to deny the motion to certify, on the other hand, is considered a judgment, and can therefore be appealed by right.

However, the court's decision in the claim itself (following the granting of the motion to certify) can be appealed by right to the relevant court of appeal.

The Class Actions Law sets out a unique procedure for the approval of settlements, which are subject to the court's approval.

The parties must publicize a notice to the public with the terms of the proposed settlement.

Furthermore, a copy of the proposed settlement must be sent to the Attorney General, the Courts Administrator, and the relevant regulator (such as the Custodian of Consumer Protection).

These officials, as well as any member of the represented class, and any entity or government body that operates to further public goals in fields relevant to the motion, may file objections to the proposed settlement.

Members of the represented class may also "opt- out" of the settlement agreement.

The settlement will only be authorized if the court finds it fair, reasonable, and proper, considering the interests of the represented class.

If the settlement is reached during the certification stage, the court must also find that the prerequisites for certifying the motion are fulfilled.

Israel's New International Commercial Arbitration Law

On February 12, 2024, the Knesset enacted the International Commercial Arbitration Law, 2024 (the "**ICAL**"). This law closely conforms to the United Nations Commission on International Trade Law's ("UNCITRAL") Model Law on International Commercial Arbitration, initially adopted in 1985 and subsequently amended by UNCITRAL in 2006 (the "**Model Law**").

The ICAL's primary purpose, as outlined in its introductory provision, is to establish a comprehensive legal framework for conducting international commercial arbitration proceedings in Israel, guided by the principles contained in the Model Law.

Before the ICAL came into effect, all arbitrations conducted in Israel, whether domestic or international, were governed by the Israeli Arbitration Law, 1968 (the "**Arbitration Law**"), which also referred to certain terms of international conventions on arbitration, where applicable.

However, the explanatory notes accompanying the ICAL bill contended that the Arbitration Law inadequately addressed the distinct features of international commercial arbitration.

As a result, the ICAL was introduced to bridge this gap by adopting a framework based on the provisions of the Model Law, which reflect a globally-recognized standard for international arbitration practice.

It should further be noted that Israel is a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Noteworthy Procedures and Principles in Israeli Law

Good Faith

Great emphasis is placed on the principle of Good Faith under Israeli law, which is applicable across all domains of private law.

The duty of a party to act in good faith is often sufficient to establish liability (or rights), and sometimes even to create duties towards a party harmed by conduct in bad faith -even if said obligations are not expressly included in the original agreement between the parties.

The duty to act in good faith was set in the Israeli Contracts (General Part) Law, 1973 and applies to all the contractual stages - negotiations, the execution of the agreement, and termination thereof, but has also been interpreted to apply to all types of legal actions, whether contractual or not, including actions taken in the context of litigation, such as misuse of judicial procedure etc.

Unjust Enrichment

Unjust Enrichment is a codified and well-established cause of action under Israeli law. It may be used as an independent cause of action where there is no contract

or specific tort, but where a party is deemed to have benefitted unfairly at the expense of another.

It may also be useful as a cause of action accompanying a more 'traditional' one, such as copyright infringement, where there is difficulty proving damages (or where it is impossible to do so), but where the injured party can show that there is enrichment resulting from such unlawful conduct.

Under such circumstances**, a party may be required to reimburse the other party for its enrichment.**

Under Israeli law, a plaintiff must prove three cumulative elements in an unjust enrichment claim: (1) the existence of enrichment; (2) that the enrichment is at the expense of the plaintiff; and (3) that the enrichment is unlawful.

Standard Form Contracts

A standard form contract (or a contract of adhesion) is a contract with a uniform formulation intended for many engagements.

Generally, the contract is drafted by one party, or at its request, in order to be used in agreements with its customers and is usually presented to the customer as a finished product that cannot be negotiated ("take it or leave it").

The Standard Form Contracts Law, 1982 was enacted to protect customers that are party to a standard contract. The law stipulates that in circumstances where - considering the entirety of the contract's provisions and the context of the engagement - a specific clause of a standard form contract is found to be exploitative or provides an unfair advantage to a service provider, the court is empowered to invalidate it.

The law also includes a list of instances which are presumed to be exploitative.

Numerous claims, including class actions, are submitted alleging that the provisions delineated in the agreements which are the subject of the claim (in the case of a class action, for example, user agreements, or terms of service), prescribed by the service providers, are exploitative and hence non-binding.

About the Authors

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Tokenization's New Rulebook: Why It Matters for Israelis in 2026

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Israeli clients should not read the latest US moves on tokenization as just another crypto debate. They are better understood as an early attempt by a large financial system to move assets, ownership records, and parts of market activity onto digital rails.

US regulators are also becoming more organized. Instead of treating each new product as a one-off, they are starting to sort digital assets into clearer categories, explain when older rules still control, and adapt safety rules to digital markets. For Israel, the lesson is simple: success will not come from adding a token label to an asset. It will come from building systems that protect the buyer's rights, satisfy regulators, and work reliably in the real world. In short, the US is treating tokenization less as a speculative craze and more as a practical redesign of financial infrastructure.

Recent US steps mostly move in the same direction. US securities regulators have made clear that turning a share or bond into a digital instrument does not take it outside the securities rulebook, although the design of the token can change what the buyer actually holds. Banking regulators have taken a similar approach: a digital version may be treated like the traditional asset only if it gives the holder the same rights. At the same time, the SEC and CFTC are working more closely together on definitions, oversight, information sharing, and enforcement, including through Project Crypto and their new memorandum of understanding. The CFTC has also started explaining how some digital assets, including certain stablecoins and tokenized collateral, may fit into derivatives markets under specific conditions.

From crypto trend to financial plumbing

For Israeli companies, the main point is that tokenization is really about the plumbing of finance in the capital markets. The big questions are practical: who owns the asset, how that ownership is recorded, whether it can back a loan, what value regulators give it, whether it can be used to settle trades, and which regulator oversees it. That is far more useful than simply asking whether the technology is innovative. In the US, the response is increasingly coming through formal rules, special permissions, staff guidance, and public Q&As that try to fit new technology into normal market safeguards.

That is also why the US debate now involves far more than crypto startups and securities lawyers. It also involves bank regulators, clearing bodies, transfer agents, brokers, futures firms, and market infrastructure providers. Recent moves by the Depository Trust Company, Nasdaq, and the New York Stock Exchange suggest that tokenization is moving toward the financial mainstream. International standard-setters have also entered the picture, showing that this is no longer a niche US issue. For Israelis, that is a strong sign that tokenization is becoming a serious finance topic, not just an experiment in innovation labs.

Digital packaging does not change the asset

One simple idea sits at the center of recent US policy: turning a security into a digital token does not change its basic legal nature. In the view of US securities regulators, if something is a security before tokenization, it is still a security afterward.

But different designs can give buyers different rights, so not every tokenized product should be treated as the same thing. That is why regulators spend so much time separating one model from another.

In some models, the company that issued the original asset is also behind the digital version. In others, another business creates a token linked to an existing asset. That distinction matters. Sometimes the buyer may truly own a digital version of the underlying asset, and sometimes the buyer may only have an indirect claim or price exposure. Regulators have also warned that these design choices can affect ownership, transfer rights, and how much real control the holder has under US law. For Israelis, the practical question is not simply whether an asset can be tokenized. It is whether the person buying the token truly owns something enforceable, and what happens if there is a dispute, a failure, or an insolvency.

This matters because two digital products can look similar on a screen while giving buyers very different rights. One token may represent a real legal interest in an existing security, while another may only mimic the economics of that security. Recent US policy pushes the market to focus on substance rather than labels. That is a lesson Israeli entities would be wise to absorb early.

Banks will focus on legal details, not the marketing

Recent US banking guidance shows why banks will not treat every digital asset the same way. Banks may be able to treat some tokenized securities much like traditional ones for capital purposes, but only when the digital version gives the holder the same legal rights as the original asset. That leaves room for banks to participate in tokenized markets, while still denying equal treatment where the digital structure changes the substance of the asset. In short, US regulators are open to technology, but they are not willing to ignore legal differences.

risk, and operational strength. The winners are likely to be the institutions that can show their digital products still behave like dependable financial instruments when markets are under stress. That is the mindset Israeli clients will need to adopt if they want to create tokenized products that can work across borders.

Stablecoins may become the money used in digital markets

Another important lesson is that tokenization is not just about the asset itself. It is also about the form of money used to pay for trades, settle them, and support margin requirements in digital markets. That is why recent US guidance on payment stablecoins matters beyond the crypto world. US regulators are starting to treat some stablecoins less as speculative instruments and more as tools that may help digital markets function.

For example, the SEC staff allowed broker-dealers to treat certain qualifying payment stablecoins as assets that can usually be sold quickly and to apply only a modest discount when measuring capital.

"For Israel, the lesson is simple: success will not come from adding a token label to an asset. It will come from building systems that protect the buyer's rights, satisfy regulators, and work reliably in the real world."

The same guidance also says that equal treatment on paper does not remove ordinary risk controls. If a bank wants to rely on a tokenized asset as collateral, it still has to make sure its claim is valid, senior enough, saleable if needed, and enforceable in the relevant jurisdictions. Regulators also expect a careful written legal analysis before a bank relies on tokenized collateral. For Israelis, the message is simple: digital tools may make finance faster, but they do not erase the need for strong legal foundations when money is at risk.

That focus on safety is likely to remain central in the years ahead. Faster trading and round-the-clock markets may sound attractive, but supervisors will keep asking the harder questions about enforceability, credit

Commissioner Peirce also described such stablecoins as useful for moving money across blockchain-based systems, especially when the reserves behind them are strong.

The CFTC has taken a similar, though still cautious, approach in parts of the derivatives market, allowing some digital assets to count for margin purposes subject to limits, reporting duties, and operational safeguards. Even there, regulators remain more comfortable when the tokenized version behaves like the underlying asset in both legal rights and economic effect.

For Israel, the lesson is not that every project should rush to use stablecoins. It is that no serious digital

market can work without a reliable form of digital cash. If tokenized assets are meant to trade and settle automatically, the market will need payment tools that satisfy rules on reserves, redemption, disclosure, and safety. Recent US developments suggest that regulated stablecoins could play that role. Israelis thinking seriously about digital finance should therefore focus not only on tokenized assets, but also on the money layer that makes those assets usable.

Some compliance checks may move into the software itself

One of the more interesting US ideas is that some compliance requirements may be built into the asset and the platform from the start, instead of being handled only afterward through manual checks. In recent public remarks, Chair Atkins pointed to examples such as resale limits written directly into the code of tokenized securities. US commentary has also highlighted privacy-protecting tools, including zero-knowledge proofs, that can confirm a person meets certain rules without exposing all of that person's private data. The broad point is that compliance may become part of the design, not just part of the paperwork.

That idea should resonate in Israel, where strong products often emerge when lawyers, technologists, and operations teams work together early. Recent US thinking encourages firms to build monitoring, eligibility checks, transfer controls, and reviewable records into their systems from the outset. This is not a loose or deregulatory approach. It is an attempt to enforce clear rules using tools that fit digital systems better. For Israel, that means one of the smartest competitive advantages may be to build products that make compliance easier to verify, not harder.

This also helps explain why regulators may be more willing to allow experimentation than before. If a firm can show that key rules are built into its system, that transfers can be limited appropriately, and that regulators can review what happened, it has a stronger case for special relief or pilot treatment. That does not remove risk, but it can narrow the gap between innovation and trust. Israeli businesses should take that as a practical lesson: design the controls early, and make them visible.

US regulators are starting to work together more closely

Another development Israeli clients should watch is the growing coordination between US regulators themselves. The new SEC-CFTC memorandum of understanding is meant to help senior officials consult earlier, share information, train together, and cooperate on questions that touch both agencies. Its priority areas include product definitions, clearing and collateral, crypto assets, firms overseen by both agencies, simpler reporting, and coordinated examinations and enforcement. That matters because tokenized finance often sits in the gray areas between older regulatory silos.

For Israeli firms with US business, this means that relying on gaps between regulators is becoming a weaker strategy. If an activity touches both securities and commodities rules, or if a business falls under more than one registration regime, the agencies are signaling that they plan to coordinate earlier and more closely. The practical takeaway is that firms subject to more than one regulator should expect more information sharing and, in some cases, joint examinations. Israeli institutions dealing with US partners or US investors should therefore build governance and disclosure with combined regulatory scrutiny in mind.

This also carries a broader lesson for Israel. Tokenization does not fit neatly into one box, so it is hard to regulate well if securities, banking, payments, derivatives, and infrastructure are all treated separately. Recent US experience shows that the hardest problems appear where these systems overlap. Israeli policymakers and market participants should therefore think about joined-up rules, not isolated pilots.

What Israeli clients should take from this

So what should you take from all this? First, any tokenization project should start with a basic legal question, not a marketing question. Does the digital version give the buyer the same real rights as the traditional asset, including ownership, transfer rights, and protection if something goes wrong? If not, it may still have value, but it should not be treated as a simple substitute for the original asset.

Second, think about the whole system, not just the token. A workable digital market needs ways to issue assets, record ownership, control transfers, accept collateral, move money, and give regulators visibility. Recent US moves matter because they show those pieces starting to connect. A project that focuses only on issuing the token may look impressive in a demonstration but still fail in a real regulated market.

Third, you should see compliance-friendly software as a serious strength, not a side feature. Digital systems can be built to screen users, limit resale, check eligibility, and confirm compliance while revealing less private information. Software does not replace the law, but it can make the law easier to apply consistently. For a country with Israel's technical depth, that may be one of the clearest areas to build a real advantage.

Finally, you should approach these developments with both optimism and discipline. The opportunity is real, because tokenization is moving toward mainstream finance rather than remaining a niche crypto activity. But long-term adoption will depend on sound legal rights, credible safeguards, strong operations, and coordinated oversight. If Israel learns those lessons early, it will be better placed to participate in cross-border digital markets as they grow.

"2026 may be remembered as the year tokenization started moving from theory and enforcement fights into practical market design."

Conclusion

The overall direction is becoming easier to see: 2026 may be remembered as the year tokenization started moving from theory and enforcement fights into practical market design.

The US agencies do not yet have a final framework, but they are building a much clearer language for thinking about these issues than the market had even a year ago. That language focuses on real legal rights, equal treatment only where it is justified, software-based compliance, suitable digital payment tools, and closer coordination between regulators. For Israelis, that is a better way to think about the next stage of digital finance.

The real opportunity is not simply to put old assets into new digital wrappers. It is to build financial systems that are easier to automate, easier to connect, and still dependable in the eyes of regulators, counterparties, and courts. Recent US moves suggest that this balance can be achieved, but only by people willing to do the hard work on legal design, risk control, and coordination. If you want to be part of that next phase, the right approach is not to rush. It is to build carefully and credibly from the start.

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Equity Pledge Agreements – A Valuable and Flexible Secured Creditor Tool

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An equity pledge can provide secured lenders greater protection and leverage in case of borrower default, making it a crucial consideration for Israeli investors in US secured lending transactions.

Israeli investors looking to engage in secured lending transactions in the United States should seriously consider requiring equity pledges from the borrower's equity holders in addition to receiving a general security interest in all of the borrower's assets. A properly documented and executed equity pledge provides secured creditors with multiple remedies: (1) exercising voting rights with respect to the pledged equity and (2) foreclosing on the pledged equity through a Uniform Commercial Code ("UCC") Article 9 sale. Which remedy is appropriate depends on the secured creditor's objectives and the specific circumstances of the default. This article examines the core components of a well-drafted equity pledge agreement and analyzes the remedies available to a secured creditor holding a pledge of equity interests, with a focus on practical guidance for Israeli lenders engaged in US secured lending transactions.

What Is an Equity Pledge?

An equity pledge agreement is a security arrangement in which a "pledgor" (i.e., the holder of the equity rights) grants a secured lender a security interest in the pledgor's equity holdings as collateral for debt or other obligations owed to the secured lender. The pledgor may be the borrower itself, pledging the equity interests in its subsidiaries, or the borrower's equity holders, pledging their ownership interests in the borrower itself. In either case, the pledge agreement creates a lien on the specified equity interests and related rights in favor of the secured party.

Equity pledge agreements typically provide the creditor with two main forms of protection upon default: (1) voting and proxy rights with respect to the pledged equity (i.e., the right to vote the pledged equity upon the occurrence of an event of default), and (2) a security interest in and lien on the equity shares themselves, governed by the UCC. The scope of pledged collateral can extend beyond the equity interests themselves to include economic rights (rights to receive profit allocations and distributions) and governance or control rights (rights to vote, access company information, and participate in management).

Due Diligence Is Key. As with any secured lending transaction, thorough due diligence should be conducted before entering into an equity pledge. Due diligence considerations include reviewing the organizational documents of the pledgor and the pledged entity and any senior loan agreements, identifying any transfer or third-party consent requirements that could impede enforcement, and ensuring that the pledge agreement contains all provisions necessary to effectuate the secured creditor's remedies.

Drafting Considerations. When drafting the pledge agreement, the definition of pledged equity interests should be drafted broadly to capture all forms of ownership interests in an entity, including the ancillary benefits flowing from ownership of the pledged equity (the "Equity Related Rights"). Equity Related Rights should include all rights to receive assets, money, or rights of any kind due from time to time in respect of the pledged equity, as well as any dividends and rights to proceeds received; all rights and interests in and to the pledged companies under the operating agreements of the pledged companies; and all voting rights attached to the pledged equity. Secured creditors should ensure that the organizational documents clearly set forth the procedures for electing and removing directors or managers, and the authority required to take significant corporate actions.

The pledge agreement should also include covenants restricting the pledgor's ability to take actions that could impair the secured party's interests. A prohibition on amendments to organizational documents without the secured party's consent is particularly important, as it prevents the pledgor from unilaterally modifying governance provisions that the secured party may need to rely upon when exercising remedies.

Understand the Governing Law. Equity pledge agreements are often governed by the laws of the jurisdiction where the pledged entity is organized, even if the underlying loan agreement may be governed by a jurisdiction outside the US For example, a loan agreement may be governed by Israeli law with

exclusive jurisdiction in Israel, while the related pledge agreement may be governed by US state law where, in the event of a dispute, US state law would be applied.

Perfecting the Equity Lien. The method for perfecting a security interest in pledged equity depends on how that equity is classified under the UCC:

» **Certificated Securities**. Where the pledged equity is evidenced by a physical certificate, perfection may be achieved by either: (a) filing a UCC-1 financing statement, or (b) taking "control" of the certificates by taking possession of the certificates together with signed, undated stock powers (for shares) or assignments (for LLC or LP interests) in blank. Security interests perfected by control have priority over those perfected solely by filing.

» **Uncertificated Securities.** Where the pledged equity is evidenced only on the issuer's books and not certificated, perfection may be achieved by filing a UCC-1 financing statement.

Regardless of classification, secured lenders should use all available perfection methods to maximize protection.

Filing Location. A UCC-1 financing statement must be filed with the central filing office (typically the Secretary of State) in the jurisdiction where the **pledgor** is organized—not where the pledged entity is organized. If the pledgor is a foreign entity organized outside the United States in a jurisdiction that does not maintain a public filing system comparable to the UCC, the UCC-1 financing statement should be filed with the District of Columbia. Because Israel does not maintain a system comparable to the UCC, UCC-1 financing statements for Israeli pledgors should be filed with the District of Columbia.

Remedy 1: Exercise of Voting Rights

The first—and more immediate—remedy available to secured creditors is the ability to exercise voting rights with respect to the pledged equity interests. To effectuate this remedy, the pledge agreement must clearly provide for the transfer of voting rights from the pledgor to the secured party. If so drafted, upon the occurrence of an event of default, voting and other consensual rights will vest in the secured creditor and the pledgor will cease to have the ability or right to vote the pledged shares. Importantly, this transfer of voting power to the secured creditor is accomplished without any requirement of judicial proceedings or notice beyond what is stipulated in the pledge agreement, offering creditors a very flexible tool to protect their collateral.

Once voting rights vest in the secured creditor, the secured creditor can: (1) vote to remove existing directors (for a corporation) or managers (for a limited liability company); (2) appoint an independent director or manager to replace prior management; and (3) amend organizational documents as needed to effectuate these governance changes (assuming the applicable organizational documents permit the pledged equity holder to make such changes).

Appointment of an Independent Director or Manager

The ability to remove and replace management is among the most valuable aspects of the voting rights remedy. By appointing an independent director or manager, the secured creditor places the company under the control of a fiduciary who will act in the best interests of the company, including its creditors. Existing equity holders lose authority to take significant corporate actions without the consent of the newly installed independent director or manager. These blocked actions include initiating bankruptcy proceedings, disposing of or transferring assets (including transferring cash from the borrower's bank accounts), granting additional security interests, and otherwise subjecting the company's assets to liens or encumbrances.

Blocking Power Is Critical. This blocking power prevents former equity holders from taking adverse corporate actions and allows the secured creditor to preserve the value of its collateral while determining the appropriate path forward.

"Regardless of classification, secured lenders should use all available perfection methods to maximize protection."

The independent director or manager can also: (1) effectuate asset sales to satisfy the secured debt; (2) consent to an Article 9 foreclosure of the company's assets; and (3) consent to or authorize a bankruptcy filing where appropriate for the protection of creditors' interests. As recent case law confirms, courts will enforce these bargained-for terms of pledge agreements, rewarding secured creditors who invest in strong documentation with correspondingly robust creditor protection.

It is important to note that exercising voting rights, as described above, does not affect ownership of the pledged equity—the pledgor retains economic ownership, and repayment of the secured obligations reinstates the pledgor's voting rights and economic entitlements. In order to transfer the actual ownership, the secured creditor will need to exercise its rights to foreclose under Article 9 of the UCC. This remedy is discussed below.

Remedy 2: Article 9 Foreclosure

The second principal remedy found in equity pledges is the ability to foreclose under Article 9 of the UCC. Upon default, a secured creditor may dispose of or sell the collateral and apply the proceeds to satisfy the debt. This foreclosure process is governed by UCC Article 9, which provides two main paths for enforcement: UCC Section 9-610 disposition or UCC Section 9-620 strict foreclosure.

UCC Section 9-610 Disposition

Under UCC Section 9-610, a secured creditor may dispose of collateral through either a private or public sale. The process requires:

- **Reasonable authenticated notice** of intent to sell, which must be provided to the debtor, any secondary obligors, and any other interested parties that held a perfected security interest in the pledged equity within ten days before the notification date;
- **Sale of collateral** in a commercially reasonable manner with respect to method, manner, time, place, and other terms; and
- **Proper disposition of sale proceeds** in accordance with UCC priority rules.

Timing Matters. For public sales, the secured party must advertise or provide public notice and ensure the public has had a meaningful opportunity for competitive bidding. Although notice must be reasonable regarding manner, content, and time, the UCC provides that ten days' notice is generally deemed reasonable for non-consumer transactions. However, because the UCC requires a commercially reasonable sale, the actual timing for a Section 9-610 disposition typically ranges from 10 to 90 days, depending on the specific facts and whether the underlying company owns real estate.

In the context of foreclosing on the equity of distressed real estate companies, secured lenders pursuing their remedy of foreclosure will need to market the foreclosed equity with an appropriate broker and publish notice to potential purchasers containing a description of the equity or underlying property, the applicable debt securing the equity and/or the property, the bidding procedures, and any other terms governing the sale, including the time and place of any auction to be held and how interested parties become qualified to attend and bid at the auction. Secured lenders are entitled to "credit bid" (i.e., bid the cancellation of all or a portion of the outstanding debt as opposed to cash), meaning that any third party looking to purchase the collateral must bid in excess of what the lender is owed unless the lender agrees to accept less than its entire debt.

At a public sale, the lender has the right to purchase the collateral (UCC § 9-610(c)(1)), whereas at a private sale, the lender may only purchase collateral of the type that is customarily sold on a recognized market or that is the subject of widely distributed standard price quotations (UCC § 9-610(c)(2)). When the secured creditor or a related party purchases the collateral at its own foreclosure sale, UCC Section 9-615(f) provides that any deficiency must be calculated based on the amount of proceeds that would have been realized through a proper disposition to an unrelated purchaser.

UCC Section 9-620 Strict Foreclosure

An alternative to the public or private sale disposition is strict foreclosure under UCC Section 9-620, whereby the secured creditor accepts collateral in full or partial satisfaction of the debt. This is often the most attractive method of foreclosure when available because it typically involves lower transaction costs and is less likely to result in a dispute. Two requirements must be met: (1) the debtor must consent, and (2) the secured party must not receive a timely notification of objection from any party entitled to object, including any person from whom the secured party received authenticated notice of a claim of interest in the collateral and any secured party or lienholder that perfected its interest within ten days before the debtor consented.

Strict foreclosure may be particularly attractive when the secured creditor wishes to acquire the pledged equity directly rather than conducting a sale process. However, the consent requirement limits the availability of this remedy in adversarial situations where the debtor is unwilling to cooperate.

Case Studies in Enforcement

How do these remedies work in practice? Two recent cases illustrate the importance of strong documentation and the willingness of courts to enforce properly drafted pledge agreements and organizational documents.

Yanai v. Keinan, No. 2584CV00565-BLS2 (Mass. Super. Ct. 2025)

Yanai v. Keinan provides a compelling example of successful enforcement of voting rights under a pledge agreement. In *Yanai*, Scintilla Fund, L.P., an Israeli lender ("Scintilla"), made $38.2 million in loans to a Massachusetts limited liability company. The members of the borrower, who were Israeli citizens, pledged their membership interests as collateral to Scintilla. The pledge agreements provided that "upon the occurrence and during the continuance of an Event of Default … all rights of any Pledgor to exercise or refrain from exercising the voting … shall cease and all such rights shall thereupon become vested in [Scintilla]." After multiple defaults, Scintilla exercised its voting rights, removed the managing member, and appointed an independent replacement manager. The members of the borrower challenged these actions, seeking to bar Scintilla from exercising their voting rights.

The Massachusetts court upheld Scintilla's exercise of voting rights, concluding that Scintilla "was entirely within its rights under the Pledge Agreements" to exercise the members' voting rights and that the pledges granted Scintilla the "sole right to exercise such voting and other consensual rights" upon an Event of Default. The court observed that "each and every action Scintilla undertook was expressly provided for within the plain language of the Pledge Agreement[s]." The court also rejected the members' argument that the independent manager could not serve because he was not a member, noting that Massachusetts law permits non-member managers. The *Yanai* decision demonstrates that courts will enforce clear pledge language transferring voting rights upon default. It underscores the importance of incorporating such provisions in pledge agreements and ensuring compliance with applicable law regarding entity governance[1].

In re Ashley Stewart, Inc., No. 25-23314 (Bankr. D.N.J. Dec. 23, 2025)

In re Ashley Stewart, Inc. provides a complementary perspective on the importance of organizational documents. Courts evaluating disputes over corporate authority will look closely at corporate organizational documents to determine who has the power to authorize corporate actions. A well-drafted pledge agreement must work in conjunction with appropriate provisions in the company's organizational documents in order to ensure that the secured creditor can seamlessly step into the shoes of the equity holder upon default. The organizational documents should provide for proper governance control and clearly delineate the voting rights, the mechanisms for electing or removing directors or managers, and the authority required to take significant corporate actions.

In *Ashley Stewart*, shortly after a secured creditor conducted an Article 9 foreclosure sale of Ashley Stewart, Inc., two former board members purported to "reconstitute" the company's board and filed a Chapter 11 bankruptcy petition. The company's duly authorized board moved to dismiss the bankruptcy case, arguing that the petition was filed without the requisite corporate authority and that the alleged reconstitution violated the company's bylaws and related governance documents. No unanimous consent of the board was obtained, as required for corporate actions pursuant to a New Jersey state court consent order, and the sole independent director did not authorize or receive notice of the bankruptcy filing. The court granted the motion to dismiss, finding that cause existed to dismiss the case for lack of proper corporate authorization.

Strong Documentation Pays Dividends. The *Yanai* and *Ashley Stewart* decisions demonstrate how well-drafted pledge agreements and organizational documents provide the foundation for successful enforcement and powerful creditor protection.

Key Rules for Secured Creditors

Pledge Agreements are Valuable Tools for Secured Creditors. Equity pledges remain a cornerstone of secured lending transactions, providing creditors with

1. Chapman and Cutler LLP represented the secured lender Scintilla Fund L.P. in this matter.

flexible and powerful remedies upon default. The ability to exercise voting rights immediately upon default—installing independent governance and blocking adverse actions—offers secured creditors a valuable tool for protecting their interests without the delay inherent in foreclosure proceedings.

Drafting and Due Diligence are Critical. The key to successful enforcement lies in careful documentation at the outset of the transaction, thorough due diligence regarding organizational documents and potential consent requirements, and clear contractual provisions that will withstand judicial scrutiny.

Comply with UCC Requirements. When ownership transfer is the objective, Article 9 provides well-established procedures for disposition. Secured creditors must comply with the UCC's requirements for good faith and commercially reasonable conduct. Noncompliance may result in equitable remedies being ordered against the creditor, liability for damages, and, under the "rebuttable presumption" framework of UCC Section 9-626, the potential forfeiture of the creditor's right to pursue any deficiency against the debtor.

Seek Specialized Expertise. Drafting and enforcement of pledge agreements introduces both challenges and opportunities that require specialized expertise. For Israeli investors and lenders engaged in US secured financing transactions, understanding these mechanisms and ensuring they are carefully and properly documented is essential to protecting investment interests when borrowers fail to perform.

"Equity pledges remain a cornerstone of secured lending transactions, providing creditors with flexible and powerful remedies upon default."

Israeli M&A and AI: Navigating the Physical Turn

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AI continues to reshape technology mergers & acquisitions by expanding diligence, representations & warranties, and contractual risk allocation.

Artificial intelligence ("AI") M&A has matured rapidly over the past decade. Early transactions centered on software platforms, data analytics engines, and, more recently, the use of generative AI models. The transactional focus in those deals was relatively predictable: intellectual property ownership, open-source exposure, data rights, privacy compliance, and talent retention. A structural shift is now underway. AI is increasingly embedded in physical systems, autonomous drones, robotics platforms, medical devices, industrial automation systems, advanced driver assistance technologies, and defense-adjacent hardware. This emerging category, commonly described as "physical AI", fuses machine learning with hardware, sensor arrays, and real-time actuation systems.

For M&A practitioners, particularly in the US-Israel corridor, where cyber, robotics, med-tech, mobility, and defense technologies are highly active sectors, physical AI materially alters the negotiation and drafting of representations & warranties ("R&Ws"), indemnification structures, and IP risk allocation.

This short article aims to examine how AI is reshaping transactional practice and reframing diligence and documentation. It focuses on emerging AI R&Ws, AI tooling, and the alignment of AI risk allocation with traditional product-liability constructs in physical AI transactions.

Introduction: The Israeli M&A Market in 2025

Israeli technology M&A in 2025 reflected a market of contrasts: record exit values driven by a small number of concentrated mega-transactions, alongside continued discipline in broader deal pricing and volume. At the same time, AI has shifted from being a product feature to becoming a core enterprise value driver. In AI-centric transactions, value increasingly depends on data rights, training pipelines, governance controls, and where AI is embedded in physical systems, safety validation and product liability posture.

The Israeli M&A market in 2025 was defined not merely by resilience, but by pronounced concentration of value. According to year-end reporting by Startup Nation Central, Israeli high-tech M&A activity in 2025 reached approximately $74.3 billion across 150 transactions. When including follow-on deals and IPOs, the aggregate value of all tech exits and transactions reached approximately $89.8 billion according to PwC Israel, the second-largest total in Israeli tech history, surpassed only by the $100+ billion recorded during the IPO boom of 2021. A substantial portion of this figure was attributable to a limited number of mega-transactions, particularly in the cyber sector, including the $32 billion acquisition of Wiz by Alphabet, the $25 billion acquisition of CyberArk by Palo Alto Networks, and ServiceNow's $7.75 billion acquisition of Armis.

This concentration matters. In markets where a small number of headline transactions account for a material portion of annual value, valuation signals can become distorted. The "average deal" may look robust, while the "median deal" remains comparatively disciplined. Indeed, excluding Wiz, the average acquisition size fell 40% to approximately $160 million – a reminder that headline statistics can obscure the broader market. For transactional counsel, the practical implication is that buyer scrutiny often intensifies even as aggregate market statistics improve. Where strategic acquirers pay premiums for deep infrastructure capabilities, including cybersecurity architecture, AI platforms, proprietary datasets, and advanced R&D teams, diligence and drafting expand to address the specific failure modes of those assets.

Israeli M&A is structurally shaped by a high proportion of cross-border buyers and by the country's export-oriented technology sector. According to the Israel Innovation Authority, high-tech activity accounts for approximately 17% of national GDP (NIS 317 billion) and continues to dominate Israeli exports, reaching 56.4% of total exports in 2024 and rising to 57.2% by the first four months of 2025, the highest ratio ever recorded. As a result, the diligence baseline for Israeli targets is often set not by Israeli law alone, but by

the expectations of acquirers operating within US and EU regulatory environments. This cross-border importation of risk expectations increasingly influences the content of Israeli acquisition agreements, including AI-related R&Ws and more nuanced indemnification mechanics.

Another factor influencing Israeli M&A activity in recent months is the depreciation of the US dollar against the NIS, which has had a meaningful twofold impact on the market. As most Israeli M&A transactions and investment rounds are denominated in US dollars, while a substantial portion of companies' operating expenses – particularly salaries and local services – are incurred in NIS, the weakening USD effectively reduces the purchasing power of invested capital when converted into local currency. This dynamic places pressure on companies' operating budgets and runways, and in some cases prompts parties to revisit valuation assumptions, deal structures, or negotiation dynamics.

Enterprise Value in 2025: From Revenue Multiples to Technological Infrastructure

Technology acquisitions have historically emphasized revenue multiples, growth rates, and defensible intellectual property. In 2025, however, many AI-driven transactions appear to anchor value in what might be described as technological infrastructure: assets that may not be fully reflected in current revenue but are central to future scalability.

Such infrastructure includes proprietary datasets, curated and continuously refreshed training pipelines, integration layers between AI models and enterprise systems, and engineering teams capable of sustained iteration post-closing. In AI-centric targets, the legal durability of these components directly affects enterprise value. A model's performance depends, inter alia, on the legality and usability of its data pipeline. A platform's defensibility depends on enforceable toolchain terms, open-source compliance discipline, and robust assignment and confidentiality frameworks.

For transactional counsel, the key insight is that governance and value are no longer separable. Where the core asset is an AI system, its long-term utility is contingent on documented compliance with data rights, tool licenses, and information security controls. This linkage becomes even more pronounced when AI is embedded in physical systems.

From Software AI to Physical AI: A Transactional Inflection Point

According to Jensen Huang, founder and CEO of NVIDIA, "The ChatGPT moment for robotics is here. Breakthroughs in physical AI – models that understand the real world, reason, and plan actions – are unlocking entirely new applications". There is a growing consensus that AI is now entering the era of physical AI: creating systems that understand the real world, interact with it, and perform physical tasks, not merely generate text or images. Much of the public discourse surrounding AI has focused on software-only applications. Yet an increasing proportion of deep-tech innovation, within Israel and globally, is deployed into physical environments: robotics, medical devices, industrial automation, autonomous mobility, and other cyber-physical systems.

From an M&A perspective, physical AI materially alters the risk profile of target companies. While failures in software-based AI typically give rise to contractual disputes, data protection exposure, or regulatory scrutiny relating to data use, failures in physical AI systems such as robotics, autonomous devices, or AI-enabled hardware may lead to bodily injury, property damage, regulatory investigations, and multi-jurisdictional product liability claims. Because physical AI systems interact directly with the physical environment, their potential failure modes are broader and the magnitude of potential harm is significantly greater, fundamentally altering the risk calculus in M&A transactions.

As a result, diligence and risk allocation must assess not only model performance and data governance, but also real-world validation, system safety, and operational reliability. Buyers are increasingly requesting expanded and tailored R&Ws and covenants addressing product safety, regulatory compliance, and incident management. These requests are typically paired with more detailed disclosure obligations, including engineering documentation, safety validation and testing evidence, change-management or model-release procedures, and records of prior incidents or near-misses. The diligence exercise is therefore both retrospective and forward-looking: assessing whether systems have been tested under diverse operating conditions, whether model updates follow documented release and quality-assurance processes, and whether monitoring, incident response, and remediation practices are embedded within the organization. Where material gaps or uncertainties are identified, parties increasingly allocate lifecycle and product-risk exposure through targeted indemnities, enhanced warranty frameworks, and structured escrows or holdbacks.

Regulatory Context: Data Governance and Privacy

Although Israel did not enact a standalone AI statute, regulatory developments materially affect AI transactions. Amendment No. 13 to the Protection of Privacy Law, entered into force on August 14, 2025, strengthening enforcement authority and modernizing compliance obligations relating to personally identifiable information ("PII") processing.

More traditional AI diligence is often, in practice, data diligence. Training datasets may contain PII, proprietary information, regulated categories of data, or enterprise data subject to contractual confidentiality constraints. The transactional question is operational: whether the buyer can continue to use, refresh, and scale the dataset pipeline post-closing without violating legal or contractual restrictions.

> **"For transactional counsel, the key insight is that governance and value are no longer separable."**

In physical AI systems, these questions intensify. Sensor and telemetry data may be central both to model improvement and to safety monitoring. Data governance therefore intersects with product liability risk, reinforcing the need for integrated legal and technical diligence.

Looking ahead, the EU AI Act's phased implementation through 2026 and 2027 will impose new compliance obligations on high-risk AI systems, many of which are developed by Israeli companies for European markets. Practitioners should expect AI diligence to become as routine and rigorous as cybersecurity or environmental review.

AI Risk as an Allocation Problem

AI transactions consistently present a core allocation question: which party bears the risk that the AI asset is not legally durable, not operationally maintainable, or not safely deployable at scale?

From a seller's perspective, documentation readiness becomes critical. AI businesses often evolve iteratively, with datasets, tools, and workflows changing rapidly. Yet acquisition agreements increasingly require detailed disclosure of AI tools, products, and training datasets. Sellers must therefore treat AI exit readiness as governance readiness, ensuring that tool terms are reviewed, internal policies are adopted, and datasets are mapped in advance of a transaction.

Sellers also face pressure to provide R&Ws regarding ownership of models and outputs, and to confirm, inter alia, that AI tool providers retain no residual rights. These commitments depend not on abstract doctrine but on the granular terms of platform licenses and the structure of training workflows.

Buyers, for their part, increasingly treat dataset usability as the new analogue to IP ownership. A model trained on data that cannot lawfully be refreshed or integrated into the buyer's global R&D environment may degrade in value. Third-party AI tools and hosted model providers can also become hidden operational dependencies, affecting integration and scalability.

In physical AI transactions, buyers frequently extend this analysis into safety governance – the objective is not only to confirm performance at signing, but to understand the durability of that performance post-closing.

Contractual Evolution: AI Representations in Practice

Transaction documentation increasingly reflects these diligence themes. Two categories of AI R&Ws have become particularly salient in Israeli M&A practice: AI

tooling and generative AI usage R&Ws, and broader AI development and training representations.

In some acquisition agreements, sellers have provided stand-alone AI R&Ws addressing compliance with internal AI policies and third-party AI tool terms. Such provisions often include confirmations that sensitive PII, trade secrets, or other confidential information have not been included in prompts or inputs to external AI tools, subject to carefully drafted carve-outs for tools that do not train on user inputs. They may also address ownership of outputs and require disclosure of dependencies on AI technologies in the disclosure schedules.

Other agreements have gone further, requiring a complete and accurate inventory of AI tools, products, and training datasets used in development, operation, or improvement of AI systems. Sellers have represented that required licenses and permissions have been obtained for each training dataset and that controls have been implemented to mitigate risks of regurgitation, copyright infringement, trade secret misappropriation, or harmful outputs. In some instances, sellers have also represented ownership of models created, trained, or fine-tuned using the company's proprietary data.

These R&Ws serve a practical function: they translate evolving legal uncertainty into contractual risk allocation. Even where the legal status of AI outputs and training inputs continues to develop across jurisdictions, acquisition agreements allocate risk between the parties. Where AI is embedded in products, AI R&Ws increasingly appear alongside traditional product-liability R&Ws. Sellers may represent the absence of product recalls, governmental notices of violation, or material safety claims. In physical AI transactions, such provisions function as disclosure-forcing mechanisms and create pathways for targeted indemnities or separate liability caps where safety exposure is identified.

Software AI vs. Physical AI

Key Negotiation Differences

While AI-related diligence and R&W packages have become increasingly common across Israeli technology transactions, the negotiating center of gravity varies depending on the role AI plays in the target's business. In some cases, AI is merely adjacent to the core product or activity – for example, through the use of generative AI tools – whereas in others it is the primary value driver, whether deployed as software or embedded in physical products. From an M&A perspective, the distinction is therefore less about sector and more about the nature of the risks a buyer assumes at closing and the contractual mechanisms available to allocate those risks.

"...in modern AI M&A, enterprise value is determined not solely by what the company owns at signing, but by whether the buyer can lawfully, safely, and sustainably operate and evolve the acquired system over time."

In pure software AI transactions, the central risk categories typically include:

- ownership of core IP and employee invention assignment;
- open-source software contamination;
- lawful and durable rights to data and privacy compliance;
- dependency on third-party tooling or model providers; and

» contractual restrictions on IP transfer.

By contrast, in physical AI transactions, the buyer is not only acquiring code and data rights but also inheriting a system that interacts with real-world conditions. The legal and economic risk therefore tends to expand to include:

» safety and performance under diverse operating conditions;

» product defect exposure and regulatory certification dependencies;

» hardware-software integration risks and embedded firmware licensing;

» cyber-physical vulnerabilities and safety-critical algorithmic decision-making;

» post-deployment update governance; and

» the potential for recalls, warnings, and claims that may arise even where the underlying model performed accurately in a controlled environment.

Converging and Diverging Risk Profiles

Across both software and physical AI transactions, buyers increasingly treat training data as a core value driver whose legal usability must survive closing. Acquisition agreements therefore often require disclosure of training datasets and representations that all necessary licenses, permissions, and consents have been obtained.

These provisions address more than backward-looking compliance. Their central purpose is forward-looking: ensuring the buyer can continue operating and improving the model, refresh datasets, and integrate the AI stack into its broader R&D and product environment.

The issue becomes more acute in physical AI systems, where telemetry and sensor data frequently support both model improvement and safety monitoring. The key transactional question is whether those data streams remain usable post-closing without contractual or regulatory restrictions that could undermine system maintainability or performance.

More broadly, these R&Ws reflect a growing contractual allocation of AI-specific risks, including regurgitation and misappropriation. In practice, they both force disclosure of governance controls and create a remedy path for claims linked to pre-closing training practices or tool use.

Post-closing integration is another area where physical AI diverges from software AI. Post-closing changes, such as retraining, fine-tuning, and dataset refresh can materially alter system performance and risk profile. In software AI, this typically presents an output reliability risk. In physical AI, a model update can alter device behavior in safety-critical ways. Buyers increasingly evaluate whether the target has documented post-closing change control and validation governance. Where gaps exist, parties may respond through post-closing covenants, conditions precedent, or price protection mechanisms such as escrows tied to remediation milestones.

Finally, the remedy structure differs. In software AI transactions, breaches of AI, IP, or data R&Ws are often present as financial harm manageable via caps, baskets, and survival periods. In physical AI, harm may be non-linear: a single incident can cascade into claims, regulatory inquiries, corrective actions, and recall programs. This is why product-oriented R&Ws and targeted indemnity packages, often with separate liability caps and extended survival periods, become more prominent in physical AI acquisitions.

Conclusion

Israeli M&A in 2025 illustrates both the scale of strategic appetite for deep-tech innovation and the growing complexity of acquiring AI-intensive businesses. As AI becomes an enterprise-defining asset, and as physical AI expands the liability surface into the real world, diligence and documentation are adapting accordingly.

AI diligence is increasingly distilled into the R&W package, with provisions focused on training datasets and non-infringement, tool dependencies, model and output ownership, and controls aimed at AI-specific failure modes. In physical AI transactions, these provisions sit alongside product-liability representations addressing claims history, regulatory compliance, and recalls. Together, these trends reflect a broader shift: in modern AI M&A, enterprise value is determined not solely by what the company owns at signing, but by whether the buyer can lawfully, safely, and sustainably operate and evolve the acquired system over time.

For practitioners, these developments carry concrete implications. Sellers contemplating exits should conduct AI governance audits well before a transaction process begins, ensuring that training data provenance, tool licenses, and internal AI policies are documented and defensible. Buyers should integrate AI-specific diligence into their standard playbooks rather than treating it as a separate workstream, recognizing that AI risk cuts

across IP, data, product, and regulatory inquiries. Deal timelines may extend as diligence becomes more technical, and valuation negotiations increasingly turn on the durability of AI assets rather than merely their current performance.

The next decade of AI-driven M&A will not be defined solely by data and code. It will be shaped by machines that move, act, and decide in the physical world – and by the legal architectures built to manage the risks they create.

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Strategic Imperatives for US Investment in Israel's Energy and Infrastructure Market

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For US investors assessing where to deploy capital in 2026, Israel presents a rare alignment of national policy priorities and private sector opportunity. The market is defined by a state-supported pipeline of projects requiring international capital, engineering expertise, and sophisticated operators to modernize core infrastructure and ensure energy security.

Structural Drivers of Demand

Israel combines one of the highest population growth rates in the OECD with a rapidly expanding technology sector. This drives sustained increases in electricity consumption for data centers, transport electrification, and energy-intensive desalination. Since Israel operates as an "electricity island" with no physical interconnection to neighboring grids, it must maintain total self-sufficiency through redundancy and grid resilience – a structural condition that shapes every investment opportunity.

Key Investment Sectors

Transportation: The Tel Aviv Metro

Israel's planned Tel Aviv metro is the largest infrastructure procurement anywhere in the world right now, a USD 50 billion, 150km, three-line heavy rail network serving the country's economic core from 109 stations. The government has committed half the funding from its own budget, with the remainder to be raised through private and international capital. That sovereign backing, combined with a refined PPP concession structure, makes this a long-duration, investment-grade opportunity rather than a speculative bet.

The largest infrastructure project in Israel's history, the Metro is a defining test of the country's next-generation project delivery capability. NTA has launched pre-qualification proceedings for substantial works packages, with procurement documentation in English to encourage international participation. For investors, the significance of the Metro lies not only in size but in what it signals: Israel is now delivering transport projects large and structured enough to attract global infrastructure capital and multinational consortiums.

The Opportunity: The project entered active procurement in early 2026, with pre-qualification tenders for Stage 1 civil works. Eleven standalone work packages allow international consortiums, including US firms, to participate without assuming the full program. Beyond civil works, the Metro offers a multi-decade pipeline of BOT and PPP opportunities across tunnelling, systems integration, and rolling stock, with operations targeted for 2037 and decades of inflation-linked, demand-backed revenue thereafter.

Power Generation: IEC Privatization

A second major theme is the transformation of Israel's power generation landscape through the privatization of Israel Electric Corporation assets. The long-running reform of the electricity sector has not been cosmetic. It has fundamentally altered ownership patterns in power generation and accelerated the shift from a vertically dominant public utility model to a more competitive structure in which private ownership and operational optimization play a much larger role.

Major gas-fired stations, including Alon Tavor, Ramat Hovav and Hagit East, have already been sold, and IEC's own public reporting recorded the expected completion path for the sale of Eshkol as part of that broader reform trajectory. For investors familiar with brownfield power transactions in the United States and Europe, this should immediately resonate. Privatization in Israel is not just about acquiring operating assets. It is about entering a market where asset management, fuel strategy, dispatch economics, refinancing, and integration with storage and renewables are becoming increasingly sophisticated.

The Opportunity: For US investors, the attraction is straightforward: cash-generating assets in an advanced OECD market, backed by stable electricity demand and long-term offtake arrangements, without greenfield construction risk. With installed capacity expected to grow 67% by 2030, further privatization and private-build opportunities remain large and policy-driven. The next power plant to be privatized is the 1.3 GW Gezer powerplant, near Modi'in in central Israel.

Renewables and Storage

This brings us to the third major theme: renewables and storage. Israel aims for 30% electricity generation from renewables by 2030, with emphasis on storage, grid development, and dual land use. Land scarcity and electricity island constraints make dual-use solar, rooftop deployment, solar over infrastructure, and integrated storage central. Storage is indispensable for shifting generation into evening hours, reducing curtailment, supporting grid stability, and improving resilience.

more than black-letter legal advice. They need counsel who understand how projects are actually approved, financed, negotiated, and delivered in Israel; how ministries, regulators, state-owned entities, lenders, and local developers operate in practice; how transaction documents should be calibrated to reflect local realities; and how to bridge the expectations of international investors with the demands of the Israeli market. That is where market knowledge becomes a competitive advantage in itself.

The Opportunity: The government now mandates integrated battery energy storage systems (BESS)

"Because Israel operates as an "electricity island" with no physical interconnection to neighboring grids, it must maintain total self-sufficiency through redundancy and grid resilience – a structural condition that shapes every investment opportunity."

In Israel it is rapidly becoming core infrastructure. The country is effectively an electricity island.

It cannot export excess solar generation into neighboring markets during midday peaks and import balancing power at will in the way some interconnected systems can. That means storage is indispensable to making higher levels of solar penetration workable. It is critical for shifting generation into evening hours, reducing curtailment, supporting grid stability and improving resilience in emergency scenarios. Government documents and resilience initiatives increasingly reflect that logic, including programs specifically focused on energy resilience solutions that combine generation and storage. For foreign investors with experience in solar-plus-storage, standalone BESS, revenue stacking and grid services, Israel is therefore a market in which storage is not merely fashionable policy language. It is a structural requirement.

For precisely that reason, the role of experienced Israeli counsel is central. In strategic sectors such as energy and infrastructure, foreign investors need

for all new solar projects, and dedicated storage tenders are running continuously. US firms with grid-scale battery and solar-plus-storage expertise are particularly well-matched to what Israel actually needs, not just what it is willing to fund.

Upcoming BOT and PPP Pipeline

Israel's next infrastructure cycle is already underway. The Metro is advancing through procurement, the privatization of conventional generation has reshaped the electricity market, and renewables, storage and the broader BOT and PPP pipeline are creating a more mature opportunity set for foreign capital.

What makes this moment especially significant is not any one project or reform in isolation. It is the convergence of several mature and investable themes at once: transport megaprojects, conventional generation privatization, the operational centrality of storage, and a broader concession pipeline. Taken together, they mark a shift in how foreign capital can engage with Israel's infrastructure market, not opportunistically, but strategically.

Beyond the headline metro and energy privatizations, Israel has nearly 30 years of successful BoT (Build-Operate-Transfer) project delivery, and maintains an active pipeline spanning water, waste-to-energy, gas infrastructure, and light rail, all progressing through familiar concession structures with clear risk allocation and transparent procurement. Current opportunities span:

» **Desalination:** Following the success of Sorek B, the Ashkelon 2 facility is slated for tendering to meet rising water demand.

» **Light Rail Expansion:** Complementing the Metro, the Haifa-Nazareth (Nofit) Light Rail and the Blue Line in Jerusalem are progressing through PPP procurement stages.

» **Energy Storage**: The Ministry of Energy continues to roll out dedicated tenders for standalone BESS to support grid stability.

» **Gas Infrastructure**: New pipelines and expansion projects for offshore fields continue to create opportunities for long-duration contracts.

» **Waste** - Neot Hovav, Israel's first inter-ministerial waste-to-energy project, was awarded to BlueGen Water-Shapir Group-Dekel consortium under a 25-year PPP concession to process 300,000 tons of waste annually.

The Opportunity: Israel's mature infrastructure financing framework, built on decades of refined PPP and BOT models, offers a familiar and bankable environment for US investors. Projects have continued largely uninterrupted despite regional conflict, reflecting the structural resilience of the asset class.

Why Israel Now?

Israel's mature infrastructure financing framework is built on two decades of refined PPP and BoT models. Projects feature disciplined risk allocation and transparent procurement processes. For US investors accustomed to large-scale concessions, Israel offers a familiar, sophisticated legal and financial environment capable of supporting long-term project finance even in complex geopolitical climates.

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"Israel is therefore a market in which storage is not merely fashionable policy language. It is a structural requirement."

Israel's healthcare and life sciences sector: Why global investors are paying attention

Ron Abelski
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Epstein Rosenblum Maoz

Israel has long been recognised as one of the world's most concentrated centres of technological innovation. Over the past decade, that reputation has increasingly extended to the healthcare and life sciences sectors. A distinctive blend of engineering talent, advanced clinical infrastructure and sophisticated health-data systems has cultivated an ecosystem that consistently attracts global strategic interest.

For US healthcare companies and life sciences investors seeking international growth, partnerships, or acquisition opportunities, Israel stands out in 2025 and 2026 as a highly compelling market. It offers a rare combination of scientific capability, credible clinical-validation environments and an active cross-border M&A landscape.

However, successfully entering Israel's healthcare and life sciences sector requires a clear understanding of the country's regulatory environment, payer structure and transaction dynamics. Investors who perform best view Israel not merely as a one-off source of innovation, but as a strategic market where long-term collaboration, clinical validation and scalable growth converge.

Why Israel - and why now?

The first question many US healthcare investors ask is simple: why Israel, and why now? The Israeli ecosystem offers an unusually dense innovation environment that brings together engineering talent, clinical validation, regulatory sophistication and commercial scalability within a relatively small geography. That concentration often enables technologies to move through the healthcare innovation cycle more efficiently than in many other markets.

From the perspective of a corporate and M&A lawyer advising US and other international buyers entering the Israeli market, the most compelling "why Israel" case for 2025-2026 is straightforward: Israel compresses the healthcare innovation cycle - from engineering and clinical validation to real-world evidence and commercial scale - into a highly integrated ecosystem.

Innovation density. Israel has built a deep life sciences foundation across medical devices, digital health, diagnostics and therapeutics. It boasts thousands of active companies, including a significant cohort that is commercially mature and export-oriented. Importantly for US strategic buyers, this is not merely a "science fair" ecosystem; global regulatory foresight and go-to-market discipline are typically embedded from the outset.

Hospital infrastructure as an innovation platform. Israel's leading medical centres are not only high-quality clinical environments, but are also increasingly structured to run pilots, validate products and partner with industry. For example, Sheba Medical Center is consistently ranked among the world's leading hospitals, with other Israeli centres also featuring prominently in international rankings. For US companies, this translates into direct access to credible clinical partners, respected clinical researchers, and practical pathways for generating the evidence needed to support international regulatory and commercial strategies.

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Clinical data and speed to evidence. Israel's universal coverage model, combined with advanced digitisation, supports exceptionally robust longitudinal datasets and real-world evidence generation. The Ministry of Health has long emphasised national connectivity, enhancing continuity of care and data availability across the entire healthcare system. At the health-plan level, this sophistication is equally striking. Clalit Health Services, Israel's largest and, notably, one of the world's largest HMOs, maintains decades of longitudinal data spanning millions of patient records. This is particularly significant today, as buyers and payers increasingly expect evidence of outcomes, workflow impact and real-world performance, rather than promising prototypes alone.

Medtech strength, evidenced by strategic M&A. The strongest proof point for US investors is not marketing, but repeated acquisition activity by leading strategic buyers. Israel continues to serve as a vital source of clinically validated and increasingly de-risked innovation. Recent examples include:

» Johnson & Johnson's acquisition of V-Wave (up to $1.7 billion, milestone-based)

» Boston Scientific's agreement to acquire SoniVie (renal denervation / intravascular ultrasound; up to $540 million)

» Edwards Lifesciences' acquisition of the remaining stake in Vectorious (reported $497 million valuation)

» Datavant's acquisition of DigitalOwl (AI-driven medical data analysis), underscoring the depth of Israel's clinical-data and health-information tooling ecosystem

Deal-flow fundamentals. Even in a more selective venture environment, the sector remains robust. Reports from IATI and the Israel Innovation Authority highlight significant capital investment in Israeli life sciences in recent years, showing a discernible trend towards larger, more mature transactions. Broader market data similarly suggests that while the number of funding rounds in 2025 may have decreased compared with previous years, aggregate deal value has remained substantial - a trend consistent with a broader flight to quality.

Taken together, these dynamics create favourable conditions for cross-border M&A and structured growth investments. For US buyers, the current environment offers a particularly attractive entry point characterised by high-quality assets, more realistic valuations and sellers who increasingly prioritise certainty of execution and genuine strategic partnerships.

Where are the real opportunities?

While Israel produces a large number of innovative healthcare technologies, experienced investors increasingly recognise that the most durable opportunities are often built through platform strategies rather than isolated technology bets.

In the current market, US entrants achieve the strongest results when they move beyond one-off technology acquisitions and instead pursue a platform strategy - building scalable Israeli operating footholds that can be expanded through bolt-on acquisitions, clinical partnerships and disciplined commercialisation.

Provider platforms and hospital assets. There is a growing opportunity in private hospital and specialty-care platforms, particularly where operational excellence, service-line expansion and payer strategies can unlock value relatively quickly. In transactions we have advised on, such as the acquisition of a controlling stake in Herzliya Medical Center, sophisticated investors increasingly view Israeli provider assets not simply as stand-alone investments, but as comprehensive platforms for high-quality care delivery and broader innovation commercialisation.

A related indicator is the continued evolution of private provider networks - for example, the launch of a new

"Israel's capital markets and currency performance through 2025 and into early 2026 reflect strong investor confidence, even as they continue to price in geopolitical and macroeconomic risks. "

private hospital network featuring participation from two major health funds, Leumit and Meuhedet. For US investors, this type of structure is highly relevant, as it aligns access, contracting and distribution in a way that can significantly accelerate market adoption.

Medical devices. Israel remains exceptionally strong in cardiovascular, interventional, monitoring, diagnostics and miniaturised hardware/software systems - precisely the categories where large strategic buyers are most active. Recent transactions involving V-Wave, SoniVie and Vectorious demonstrate that US acquirers increasingly view Israel as a premier strategic source for innovation and product development.

Digital health and clinical-data infrastructure. The opportunity here is no longer simply "another app." Increasingly, real value lies in enterprise-grade tools that reduce friction across the healthcare system, such as clinical documentation automation, patient-flow optimisation, AI-assisted diagnostics, interoperability layers and data governance. Furthermore, Israel's regulatory environment is shifting towards more structured health-data sharing and secondary-use frameworks. When implemented effectively, these frameworks support highly scalable data partnerships. The Datavant-DigitalOwl transaction exemplifies a US buyer acquiring Israeli capabilities that integrate directly into the US healthcare value chain, spanning claims, records and medical-evidence review.

Biotech and bioconvergence. For US pharma and life sciences investors, there is renewed interest in bioconvergence - the intersection of biology, engineering, computation and data. Israel is not only producing cutting-edge companies in this space, but is also making significant national investments in the category. The opportunity set includes co-development, licensing and structured acquisitions where early technical risks can be balanced effectively through staged economics.

What surprises US entrants?

Even experienced global healthcare investors can encounter unexpected dynamics when first operating in Israel. The surprises rarely relate to the quality of innovation. More often, they relate to how the healthcare system is organised and how decisions are made.

The "four HMOs" reality and concentrated purchasing power. US entrants quickly learn that Israel has a structurally concentrated payer environment. The four national health funds (Kupot Holim) act as the principal gatekeepers for adoption, pilots and scaling. With Clalit covering roughly half the population and Maccabi more than a quarter, negotiating effectively with these HMOs - both commercially and clinically - is not optional; it is absolutely central to market access.

Faster pilots, but disciplined expectations. While Israel often approves pilots much faster than many US systems, the underlying expectations remain rigorous. Innovators must present clear clinical endpoints, measurable operational ROI and a realistic plan for integration across IT, workflow, cybersecurity and procurement.

Public/private mix and governance expectations. Many Israeli healthcare assets operate in a hybrid reality, balancing public-service obligations and regulated environments with sophisticated private-sector activity. This dynamic directly affects procurement mechanics, contracting approaches, decision-making processes and overall timelines.

Legal diligence points US buyers should not underestimate:

Government funding and grants. Where Israel Innovation Authority (IIA) support is involved, buyers should conduct targeted diligence and plan early for any restrictions and required approvals relating to the transfer of IP and know-how outside of Israel.

Data regulation and secondary use. Digital health businesses often succeed or fail based on the compliance, durability and scalability of their data models, particularly in light of strict Ministry of Health requirements, privacy laws and cybersecurity obligations.

Founder-led governance. While high-quality teams often move quickly, US investors sometimes underestimate how early they need to align incentives, decision rights and exit mechanics, particularly in founder-led companies.

Structuring entry into the Israeli market

From a legal perspective, proper transaction structuring is critical. Sophisticated investors generally seek to balance downside protection with sufficient flexibility to scale rapidly if the investment thesis proves correct.

The most effective structures achieve two objectives simultaneously: protecting the investor on entry, while preserving the ability to move decisively once the opportunity is validated.

Choosing the right entry lane. Most US entrants tend to use one of four principal structures: (i) minority growth investments (often coupled with enhanced governance rights); (ii) control acquisitions (whether immediate or staged); (iii) strategic partnerships or joint ventures (particularly where distribution, market access or clinical validation is the primary objective); or (iv) platform build-ups (establishing an initial foothold and subsequently pursuing Israeli add-on acquisitions).

In the Israeli healthcare sector, structured paths to control are often particularly attractive. For example, a minority entry combined with call options, staged closings or performance-based economics can be very effective. When designed carefully, these structures align incentives while significantly reducing integration and execution risks.

Minority protections and control mechanisms that matter in Israel. For minority positions, the protections that best preserve value include board representation and committee rights, robust information rights and veto rights over reserved matters. Additionally, investors should secure anti-dilution and participation mechanics tailored to likely follow-on needs, alongside clear exit arrangements, such as drag-along and tag-along rights, call options and appropriate coordination mechanisms for an IPO or an M&A exit.

Regulatory and cross-border approvals. Depending on the nature of the asset, investors should carefully map out Ministry of Health approvals and licensing implications. This is particularly crucial for provider assets and other regulated activities, as well as for navigating competition and antitrust considerations.

IP, know-how, and IIA issues. If the target has received funding from the Israel Innovation Authority, investors should adopt a concrete plan addressing all required approvals and notifications. This plan should account for realistic timelines, potential repayment or royalty implications, and a transaction structure that preserves operational flexibility.

Data strategy is now a transaction term, not merely a compliance point. For digital health and other data-intensive assets, investors should require a documented lawful basis for data use, a clear cross-border transfer strategy and a robust cybersecurity architecture. In addition, any partnership documentation should clearly allocate data rights, explicitly addressing ownership of derived insights, model weights and de-identified datasets.

A resilient healthcare market

Despite geopolitical volatility, Israel's healthcare sector continues to demonstrate notable structural resilience. That resilience derives from institutional stability, universal healthcare coverage, and sustained investment in innovation.

Israel's healthcare sector is structurally resilient for a straightforward reason: it is built on universal coverage, mandatory participation and strong system-wide institutions. The baseline demand for healthcare services is non-discretionary, and the operating model is firmly anchored by four nationwide, non-profit health plans that deliver a mandated benefits package.

Markets are signalling confidence while still pricing risk. Israel's capital markets and currency performance through 2025 and into early 2026 reflect strong investor confidence, even as they continue to price in geopolitical and macroeconomic risks. The Tel Aviv Stock Exchange's 2025 annual review reported that leading indices reached record levels, with significant gains observed in the TA-35 and TA-90 throughout the year.

Functionality under stress. Even under acute geopolitical stress, the system has continued to function seamlessly. For instance, during Operation Roaring Lion, markets remained fully open. Most strikingly for international investors, Israeli equities and the shekel have consistently shown resilience, often rebounding sharply during and after geopolitical developments. This combination - uninterrupted functionality paired with a market capable of rapid repricing - is a defining feature of Israel's investment environment.

Macro fundamentals remain supportive. Recent economic data indicates solid GDP growth in 2025, with central bank forecasts projecting even stronger growth in 2026, subject to broader stability assumptions, alongside easing inflation.

To make this resilience investable rather than merely theoretical, US investors should translate risk mitigation into practice through robust documentation and governance. This typically includes implementing MAC clauses and closing conditions calibrated to genuine operational risks. It also means conducting thorough business continuity diligence covering clinical staffing, supply chains, cyber resilience and contingency sites. In addition, investors should undertake comprehensive insurance reviews, manage currency and funding risks and allocate regulatory change risk clearly.

The broader point is that Israel's healthcare sector is not immune to uncertainty; no market is. However, it is

unusually experienced at operating through uncertainty, combining institutional durability with a concentration of innovation that US healthcare companies can deploy globally. For strategic buyers, growth investors and healthcare operators prepared to engage thoughtfully, this distinctive combination helps explain why Israel is likely to remain a leading source of transaction activity, partnership opportunities and long-term strategic value in the years ahead.

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When Washington Speaks, the World Listens: Four US Supreme Court Decisions That Resonate Beyond America's Borders

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The decisions of the US Supreme Court have always carried weight beyond the continental United States. In an era of global commerce, cross-border litigation, and interconnected legal systems, the Court's rulings on sovereign immunity, executive power, international arbitration, and immigration law have global significance. They are particularly important for lawyers operating across jurisdictions—whether advising multinational clients, enforcing arbitral awards, navigating trade regulations, or handling matters touching on state sovereignty.

This article examines four Supreme Court decisions from the Court's 2024 and 2025 Terms with significant implications for international legal practice. The first, *Republic of Hungary v. Simon*, 604 US 115 (2025), concerns the scope of the Foreign Sovereign Immunities Act's expropriation exception and the limits of suing a foreign sovereign for property seized decades ago—a question with deep resonance for Holocaust restitution and, more broadly, for any claim arising from historical state confiscation. The second, *CC/Devas (Mauritius) Ltd. v. Antrix Corp.*, 605 US 223 (2025), resolves a circuit split over whether the FSIA requires proof of "minimum contacts" for personal jurisdiction over a foreign state—a decision of immediate practical consequence for parties seeking to enforce international arbitration awards in US courts.

The third, *Learning Resources, Inc. v. Trump*, 146 S. Ct. 628 (2026), addresses whether the International Emergency Economic Powers Act authorizes the President to impose tariffs—a ruling that goes to the heart of the separation of powers and the boundaries of executive authority over international trade. And the fourth, *Urias-Orellana v. Bondi*, 2026 WL 598435 (2026), clarifies the standard of review that federal courts must apply when evaluating an immigration agency's determination of "persecution"—a question with implications for asylum systems worldwide. For Israeli legal professionals, these decisions offer both instructive parallels and cautionary lessons regarding the enforcement of foreign judgments and arbitral awards, executive authority, and the rights of asylum seekers. What follows is a concise analysis of each decision.

1. Republic of Hungary v. Simon: Holocaust-Era Property Claims and the Limits on the "Expropriation Exception" to the Foreign Sovereign Immunities Act

Background

Few cases before the Supreme Court carry the moral gravity of *Republic of Hungary v. Simon*. The plaintiffs/respondents were Jewish survivors of the Hungarian Holocaust and their heirs, seeking damages for property allegedly seized by Hungary and its national railway, MÁV, during the Second World War. Their complaint recounted that Hungarian officials stripped Jewish citizens of their possessions before transporting them to Nazi death camps, and that the Hungarian Government declared "all valuable objects owned by Jews" to be "art of the national wealth of Hungary." Winston Churchill described the Hungarian Holocaust as "probably the greatest and most horrible crime ever committed in the history of the world."

The plaintiffs/respondents brought suit in the United States under the expropriation exception to the Foreign Sovereign Immunities Act, 28 U.S.C.. §1605(a)(3), which permits suits against foreign states when "rights in property taken in violation of international law are in issue" and the property, or property "exchanged for" the expropriated property, has a commercial nexus to the United States. The plaintiffs alleged that Hungary had liquidated the stolen property, commingled the proceeds with government funds, and later used funds from those commingled accounts in connection with commercial activities in the United States—such as issuing bonds and purchasing military equipment in the 2000s.

The Court's Holding

In a unanimous opinion authored by Justice Sotomayor, the Court ruled that plaintiffs' claims did not meet the requirements of the expropriation exception, because "an allegation of commingling alone does not give rise to a plausible inference that specific property 'exchanged for' the expropriated property, i.e., the cash proceeds from the sale, is 'present in the United States." The Court said that §1605(a)(3) treats all property alike—tangible and fungible—and requires plaintiffs to trace either the specific expropriated property itself or particular property exchanged for it to the United States. The Court ruled that plaintiffs' commingling theory "stretches 'exchange' to the point of breaking."

The Court did not foreclose all commingling-based claims, however. It offered illustrative scenarios in which a plaintiff might still satisfy the nexus—for instance, by identifying a US account holding segregated proceeds, as in *Banco Nacional de Cuba v. Sabbatino*, 376 US 398 (1964), or by showing that a foreign sovereign spent all funds from a commingled account in the United States shortly after the commingling occurred. The Court further declined to address the applicability of common-law tracing principles, leaving that question for another day while cautioning that any such principles "must be consistent with the overall FSIA scheme."

Broader Significance

The decision is a significant marker in the ongoing tension between accountability for historical injustice and the principles of sovereign immunity. The Court carefully balanced the FSIA's structure—designed to "avoid, where possible, producing friction" in international relations—against the moral imperative of the respondents' claims. The ruling underscores that the expropriation exception, while a departure from the restrictive theory of immunity, was not intended to be a "radical departure" from the system's basic principles. And the Court was careful to note that its holding concerned only what plaintiffs must plead to bring suit in US courts—not whether the underlying claims could be brought in another forum. In the Court's words, quoting the Government's amicus brief, "the moral imperative has been and continues to be to provide some measure of justice to the victims of the Holocaust, and to do so in their remaining lifetimes."

> ***"In an era of global commerce, cross-border litigation, and interconnected legal systems, the Court's rulings on sovereign immunity, executive power, international arbitration, and immigration law have global significance."***

For Israeli practitioners, this decision resonates on multiple levels. Israel has a deep institutional engagement with Holocaust restitution, and its courts and government agencies regularly encounter questions about the enforceability of claims against foreign states for wartime and historical expropriations. The Simon decision makes clear that the US path for such claims through the FSIA expropriation exception is extremely narrow—particularly for property liquidated long ago and absorbed into a sovereign's general treasury. The tracing methodology is not categorically excluded, but the standard of plausibility may prove impossible to satisfy in cases involving decades-old commingling across multiple regime changes and institutional upheavals.

2. CC/Devas (Mauritius) Ltd. v. Antrix Corp.: Personal Jurisdiction Over Foreign Sovereigns and the Enforcement of Arbitral Award

Background

CC/Devas v. Antrix began with a satellite-leasing agreement and ended with a sweeping clarification of

how US courts may exercise personal jurisdiction over foreign states. Antrix Corporation, the commercial arm of India's Department of Space, signed an agreement with Devas Multimedia to lease satellite capacity. After the Indian Government determined it needed greater satellite capacity for itself, Antrix terminated the contract under its force majeure clause. Devas invoked the contract's arbitration provision, and a three-member arbitral panel unanimously awarded Devas $562.5 million in damages plus interest. After successfully confirming the award in France and the United Kingdom, Devas sought confirmation in a US federal court, which entered a $1.29 billion judgment against Antrix.

The Ninth Circuit reversed, however, holding that the FSIA required not only an applicable immunity exception and proper service but also a traditional "minimum contacts" analysis under *International Shoe Co. v. Washington*, 326 US 310 (1945). Because Antrix's connections to the United States were slim, the appellate court found personal jurisdiction lacking—even though it did not question that Antrix qualified as a "foreign state" under the FSIA, that an immunity exception applied, or that service was proper.

The Court's Holding

In a unanimous opinion by Justice Alito, the Supreme Court reversed. The Court held that personal jurisdiction exists under §1330(b) of the FSIA whenever an immunity exception applies and service is proper—full stop. The FSIA's personal-jurisdiction provision imposes exactly two requirements: (1) subject-matter jurisdiction, which exists when an immunity exception applies, and (2) proper service under §1608. "Notably absent from the provision is any reference to 'minimum contacts,'" Justice Alito wrote, and "we decline to add what Congress left out, as the FSIA was supposed to 'clarify the governing standards,' not hide the ball."

The Court acknowledged that the FSIA's immunity exceptions themselves require varying degrees of domestic contact, but emphasized that this is because "the exceptions Congress wrote happen to meet that standard, not because the Act's personal-jurisdiction provision secretly incorporated the Court's due-process cases." Reading an additional minimum-contacts requirement into the statute would "weaken the link Congress forged" among the Act's tethered immunity and jurisdictional provisions and "create a gap in the Act's otherwise 'comprehensive framework.'" The Court expressly declined to reach three alternative arguments raised by Antrix—whether the Fifth Amendment itself requires minimum contacts, whether the claims fell within the arbitration exception, and whether the suit should be dismissed under forum non conveniens—leaving those issues for the Ninth Circuit on remand.

Broader Significance

For practitioners in international arbitration—a field of particular importance in Israel, which has an active arbitration community and is party to the New York Convention—CC/Devas is a watershed. The decision removes a significant obstacle to enforcing arbitral awards against foreign sovereigns in US courts. Under the Ninth Circuit's prior rule, even where an immunity exception clearly applied, a plaintiff might still be denied jurisdiction because the foreign state lacked sufficient US contacts. The Supreme Court has now clarified that the FSIA's immunity exceptions are the jurisdictional gatekeepers: if a plaintiff clears that threshold and serves the defendant properly, personal jurisdiction follows automatically.

The practical implications are substantial. Parties who have prevailed in international arbitrations against state-owned entities or sovereign instrumentalities now have a clearer, more reliable pathway to enforce their awards in the United States—one of the most important enforcement jurisdictions in the world. The case also serves as a reminder that the FSIA is a "comprehensive" statutory scheme that displaces common-law doctrines, an observation that has analogs in Israeli law, where statutory frameworks governing sovereign immunity and foreign judgments similarly define the boundaries of judicial authority.

It bears noting, however, that the decision does not resolve every question. The Court left open whether the Fifth Amendment's Due Process Clause independently requires minimum contacts in FSIA cases—a constitutional question that could yet impose limits on jurisdiction in future litigation.

3. Learning Resources, Inc. v. Trump: The Taxing Power, Emergency Authority, and the Limits of Presidential Tariff Power

Background

Learning Resources, Inc. v. Trump arrived at the Supreme Court amid one of the more controversial and consequential economic policy debates in modern American history and a centerpiece of the Trump Administration's economic policy. Shortly after taking office, President Trump declared national emergencies related to drug trafficking from Canada, Mexico, and China, and to "large and persistent" trade deficits. Invoking the International Emergency Economic Powers Act ("IEEPA"), the President imposed sweeping tariffs—25% on most Canadian and Mexican imports,

rates on Chinese goods that ultimately reached an effective 145%, and "reciprocal" tariffs of at least 10% on imports from all trading partners, with dozens of nations facing higher rates. The tariffs were modified repeatedly, with rates shifting from day to day and product categories moving in and out of the framework.

Two sets of plaintiffs—small businesses and a coalition of states—challenged the tariffs, arguing that IEEPA does not authorize the President to impose them. The lower courts agreed, and the Supreme Court granted certiorari on an expedited basis.

The Court's Holding

In a 6–3 decision, the Supreme Court held that IEEPA does not authorize the President to impose tariffs. Chief Justice Roberts, writing for the Court on the core statutory question, emphasized that Article I of the Constitution vests the taxing power—including the "very clear" branch of that power encompassing tariffs—in Congress alone, and that the "Framers did not vest any part of the taxing power in the Executive Branch."

IEEPA authorizes the President to "investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit . . . importation or exportation." The Court found that "regulate," as ordinarily used, means to "fix, establish, or control" or to "subject to governing principles or laws"—a definition that "is not usually thought to include: taxation." IEEPA's nine listed verbs authorize distinct actions a President might take in sanctioning foreign actors, but none includes the "distinct and extraordinary power to raise revenue." Moreover, when Congress has delegated tariff power in other statutes, it has consistently done so using explicit terms like "duty" or "surcharge" and has imposed strict limits on duration, amount, and procedure.

Three Justices—Roberts, Gorsuch, and Barrett—further relied on the "major questions doctrine," reasoning that the President must "point to clear congressional authorization" when claiming an extraordinary power. They found it "telling" that in IEEPA's half century of existence, no President had invoked the statute to impose tariffs, a "'lack of historical precedent,' coupled with the breadth of authority" that the President now claimed, suggesting the asserted power exceeded the statute's reach.

Justice Kagan, joined by Justices Sotomayor and Jackson, agreed on the statutory analysis but declined to invoke the major questions doctrine, concluding that "ordinary principles of statutory interpretation amply support today's result." Justice Kavanaugh, joined by Justices Thomas and Alito, dissented, arguing that the power to "regulate . . . importation" has historically been understood to encompass tariffs, and that the Court erred in applying the major questions doctrine in the foreign affairs context for the first time. Justice Kavanaugh argued that any "citizens or Member of Congress in 1977 [when IEEPA was enacted] who somehow thought that the 'regulate . . . importation' language in IEEPA excluded tariffs would have had their heads in the sand."

Broader Significance

Learning Resources is a landmark in the separation of powers, asserting that Congress's "birthright" taxing power cannot be delegated through vague statutory language, even in the context of declared national emergencies.

The internal disagreement among the Justices is also noteworthy. The six-Justice majority agreed on the result but divided on methodology. Three Justices relied on the major questions doctrine as a necessary supplement, and applied it, for the first time, in the sphere of foreign affairs, a move the dissent warned could "engender significant uncertainty over the Executive's exercise of statutory authority" in that realm. Three other justices viewed ordinary statutory interpretation as sufficient. This methodological fracture may prove significant in future cases testing the boundaries of presidential power under broadly worded statutes, particularly in the foreign affairs context.

For Israeli legal professionals, the decision is instructive on several fronts. Israel's own constitutional order, grounded in Basic Laws rather than a single written constitution, grapples with analogous questions about the scope of executive authority and the limits of emergency powers. The *Learning Resources* majority's insistence that "emergency powers tend to kindle emergencies" and that delegations of the taxing power require clear authorization echoes concerns familiar to any legal system in which executives have historically invoked security or economic crises to justify expansive action.

More practically, for any Israeli businesses engaged in trade with the United States, the decision provides a measure of certainty that IEEPA cannot serve as a vehicle for unilateral presidential tariffs—although the Court acknowledged, and the dissent emphasized, that other statutory authorities may authorize many of the same measures with additional procedural safeguards. The dissent specifically identified the Trade Expansion Act of 1962 (Section 232), the Trade Act of 1974 (Sections 122, 201, and 301), and the Tariff Act of 1930 (Section 338) as statutes that may continue to authorize presidential tariff actions. The practical upshot is that the executive's tariff toolkit remains

extensive; what *Learning Resources* curtails is the ability to bypass the specific procedural constraints Congress has embedded in those statutes by invoking IEEPA's broader emergency language.

4. Urias-Orellana v. Bondi: Deference and the Standard of Review for Persecution Determinations

Background

Urias-Orellana v. Bondi concerns a question of administrative law and immigration procedure, but its implications touch on the universal challenge of adjudicating claims of persecution. Petitioners Douglas Humberto Urias-Orellana, his wife Sayra Iliana Gamez-Mejia, and their minor child, all natives of El Salvador, entered the United States without authorization in 2021 and applied for asylum.

Under the Immigration and Nationality Act, an applicant qualifies as a "refugee" eligible for asylum if he "is unable or unwilling to return" to his country "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Urias-Orellana testified credibly that a hitman from his hometown had been targeting him since 2016, had shot two of his half-brothers, and had vowed to kill every member of his family. Despite relocating within El Salvador several times, he was repeatedly tracked down, threatened, and on one occasion physically assaulted.

The Immigration Judge credited his testimony but concluded it did not establish past persecution or a well-founded fear of future persecution, and the BIA affirmed. The First Circuit upheld the agency's determination, applying the deferential "substantial-evidence" standard of review. The question before the Supreme Court was whether the courts of appeals must apply this deferential substantial-evidence standard to the agency's determination of whether undisputed facts constitute "persecution," or whether they should review that legal application de novo.

The Court's Holding

In a unanimous opinion by Justice Jackson, the Court held that the INA requires substantial-evidence review of the agency's entire persecution determination—both the underlying factual findings and the application of the statutory standard to those facts. The Court grounded its analysis in *INS v. Elias-Zacarias*, 502 US 478 (1992), which had held that an asylum applicant must show that "the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." Congress's subsequent enactment of §1252(b)(4)(B)—providing that "administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary"—effectively codified the *Elias-Zacarias* standard.

"Parties who have prevailed in international arbitrations against state-owned entities or sovereign instrumentalities now have a clearer, more reliable pathway to enforce their awards in the United States—one of the most important enforcement jurisdictions in the world."

The Court rejected petitioners' argument that de novo review should apply because the persecution determination is a "mixed question of law and fact." The Court observed that the overall determination "primarily requires the IJ to make critical factual findings about a given applicant's experiences" and that IIRIRA's amendments tended to restrict, not

expand, judicial review of immigration determinations. The Court also distinguished its prior decisions in *Wilkinson v. Garland*, 601 US 209 (2024), and *Guerrero-Lasprilla v. Barr*, 589 US 221 (2020), noting that those cases addressed whether a mixed question qualifies as a "question of law" exempt from the INA's jurisdiction-stripping bar—a distinct inquiry from the standard of review applicable once jurisdiction exists.

Broader Significance

Urias-Orellana resolves a circuit split and establishes a uniform, deferential standard of review for persecution determinations across the federal courts. The practical effect is to make it harder for asylum seekers to obtain judicial reversal of agency findings—a result that has drawn both praise from those who view deference to agency expertise as appropriate and criticism from those who worry about the adequacy of protection for vulnerable individuals.

The decision also carries a notable doctrinal implication. The Court took care to note that its holding—that §1252(b)(4)(B) sets forth a deferential standard—meant there was no need to address petitioners' argument based on *Loper Bright Enterprises v. Raimondo*, 603 US 369 (2024), the recent decision overruling Chevron deference. This suggests that where Congress has enacted a specific statutory standard of review, that standard controls regardless of the broader shifts in administrative law deference doctrine.

The decision is of considerable interest to Israeli practitioners and policymakers. Israel's own asylum and refugee framework—administered under a system that has faced persistent criticism from human rights organizations—involves analogous questions about the standard of review applicable to administrative decisions on refugee status. The *Urias-Orellana* Court's emphasis on congressional intent to restrict judicial oversight of immigration determinations provides a useful point of comparison for any jurisdiction wrestling with the proper balance between agency expertise and judicial scrutiny in the asylum context.

More broadly, the case highlights the degree to which procedural standards—seemingly technical questions about burdens of proof and standards of review—can have profound substantive consequences. The Court's unanimous decision underscores its adherence to a deferential standard of review in the context of asylum cases.

The foregoing analysis is based on the full text of the Supreme Court's opinions in each of the four cases discussed. Practitioners are encouraged to consult the complete opinions for the detailed reasoning of the majority, concurring, and dissenting Justices.

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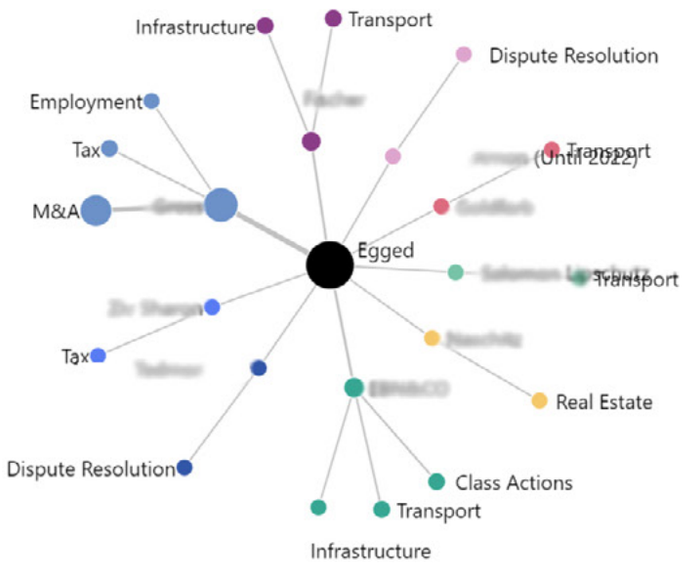

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Navigating US Patent Disputes: Strategic Lessons for Israeli Innovators

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Technology companies based outside the US often view US patent enforcement as an exceptional escalation — a last-resort legal escalation. Within US markets, however, enforcement actions function differently. In practice, for companies whose principal markets, acquirers, and competitors operate in the US, enforcement decisions can be part of ordinary commercialization strategy.

The US patent system rests on a disclosure-for-exclusivity exchange intended to promote innovation. The enforcement mechanisms that accompany the right to exclude are therefore not ancillary to the system, but one component of the balance it establishes.

The US remains the most consequential forum for patent enforcement—and the environment has tilted in ways that can favor well-prepared rights holders. Case filings increased in 2024-2025, design-patent suits surged, and annual patent damages hit a decade-high. Meanwhile, PTAB institution practices and venue dynamics continue to evolve, creating structured paths to early leverage and resolution for the parties who plan strategically. Where US markets determine enterprise value, the ability to capture market share — through licensing, negotiation, or litigation — directly affects valuation, pricing discipline, and bargaining leverage.

Despite this, many non-US companies continue to evaluate enforcement using assumptions formed with different conceptions about the value of patents and US patent law. Those assumptions can materially affect licensing leverage, portfolio value, and strategic flexibility.

Misconception #1: "US Patent Litigation Is Prohibitively Expensive"

A common assumption is that enforcement requires committing to a multi-year, multi-million-dollar litigation budget from the outset. That scenario can occur, but it is no longer the default posture from which enforcement decisions are evaluated.

Patent litigation unfolds in stages. Companies typically assess a matter through successive inflection points — pleadings, early discovery, claim construction, and dispositive motion practice — each refining expected value. Industry economic survey data indicates that disputes involving moderate exposure are frequently evaluated through claim construction at costs measured in the hundreds of thousands rather than full-trial figures, and many resolve through negotiated outcomes at still lower levels.

Correspondingly, fee structures have evolved. Hybrid and contingent arrangements, portfolio enforcement programs, and third-party litigation funding distribute risk and convert litigation expense into investment analysis[1]. These mechanisms do not eliminate cost; they change its character. The decision becomes whether projected recovery justifies staged investment, not whether a company can finance a full trial.

This staged structure matters because most disputes never approach trial. Contemporary litigation analytics consistently show that the overwhelming majority of patent cases resolve through settlement or procedural rulings before adjudication.

Litigation cost is therefore not binary; it is contingent and incremental.

1. Third-party funded patent litigation is an investment strategy in which an investor who is not named in a lawsuit agrees to provide funding to the plaintiff (the patent owner in this context) or to the plaintiff's law firm in exchange for a portion of the proceeds if the lawsuit is successful. Third-party funded patent litigation is typically nonrecourse, meaning that if the lawsuit is not successful, the plaintiff or law firm does not have to repay the funding. Third-party funded patent litigation has increased significantly since 2019 and now accounts for a substantial proportion of all patent litigation.

"The US remains the most consequential forum for patent enforcement"

Misconception #2: "Patent Litigation Is Primarily a Legal Issue"

Patent enforcement is often treated as a legal department decision. In reality, it is a commercial process implemented through legal tools.

Most patent disputes do not culminate in a courtroom verdict. They culminate in a business decision. Litigation analytics indicate that roughly ninety percent of patent cases resolve without trial, and the median time to termination is far shorter than the timeline required to reach a verdict. Disputes typically conclude once the parties can quantify infringement exposure and validity risk — often after claim construction or early dispositive stages.

This procedural structure explains why enforcement affects enterprise value independent of judgment: the litigation process clarifies legal exposure and enables commercial resolution.

Once exposure becomes measurable, commercial behavior changes. Licensing discussions accelerate, pricing strategies adjust, and partnership dynamics shift. Even absent a final ruling, the dispute alters competitive equilibrium.

Accordingly, effective enforcement analysis rarely begins with claim charts alone. It begins with market mapping — identifying who practices the technology and the revenue associated with that functionality — followed by legal analysis to determine whether leverage is achievable.

Enforcement decisions are driven by the intersection of legal strength and commercial relevance, rather than by either factor in isolation. Legal merits inform commercial leverage rather than define the decision itself.

Misconception #3: "PTAB Proceedings Neutralize District Court Enforcement"

Administrative review introduced the perception that district court litigation is routinely undone by patent office proceedings. Current practice is more nuanced.

Empirical outcomes show that a meaningful portion of petitions are never instituted, and among instituted proceedings results vary widely, including mixed decisions and settlements. Administrative review therefore operates less as a substitute forum and more as a coordinated one in which both parties refine risk assessments.

District court and administrative proceedings influence each other. Claim construction positions, expert theories, and timing strategy affect both simultaneously. As a result, effective enforcement programs integrate administrative considerations from the outset rather than treating them as a defensive reaction.

The interaction between forums does not eliminate enforcement leverage — it shapes it.

Misconception #4: "Filing Suit Ends Negotiation"

Companies sometimes assume that initiating litigation irreversibly escalates a dispute and forecloses business resolution.

In US practice, the opposite is often true. Enforcement commonly proceeds through staged engagement: investigation, licensing outreach, negotiation, and only then formal proceedings if necessary. Even after filing, most cases continue toward negotiated resolution once technical and

economic risk becomes measurable.

Because the vast majority of disputes resolve without adjudication, litigation frequently serves as a structured environment for negotiation rather than its termination. Filing a complaint does not end discussions; it often clarifies them.

The practical consequence is that enforcement strategy should be designed to support commercial resolution, not replace it.

Conclusion

Companies frequently accumulate patents during development cycles without reassessing them once markets mature. Competitors later adopt similar architectures, US adoption grows, yet the portfolio remains unused.

From a financial perspective, an unenforced but enforceable patent resembles underutilized commercial property. Market participants often distinguish between defensive portfolios and operational ones — not solely on validity but on demonstrated enforceability.

US patent enforcement is neither an extraordinary confrontation nor an inevitable escalation. It is a repeatable commercial capability within technology competition. Most disputes resolve early, costs are stage-dependent, and administrative and judicial forums function together to allocate risk.

The principal exposure for many foreign patent owners is therefore not adverse judgment but strategic inaction — treating patents as filing artifacts rather than economic assets.

A structured enforcement analysis does not predetermine litigation. It ensures that the decision — whether to enforce, license, or abstain — is made deliberately, with a clear understanding of its commercial consequences.

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At HSF Kramer, Ester collaborates closely with the firm's Israel group—an interdisciplinary team with a strong track record in advising Israeli clients on IP-rich matters, cross-border transactions, cybersecurity, energy, technology, and life sciences. Following the combination of Herbert Smith Freehills and Kramer Levin, the firm has significantly expanded its global capabilities, creating an integrated, transatlantic and transpacific legal powerhouse with deep US, UK, EMEA, and Asia-Pacific reach, and providing Israeli companies with enhanced resources for engaging with US markets, high-technology industries, and complex dispute resolution. Ester's practice operates at the intersection of technology and law, where she partners with clients to protect innovation, manage risk, and achieve strategic outcomes in rapidly evolving fields. Prior to joining HSF Kramer, Ester worked in the intellectual property groups of two prominent law firms in Israel.

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Drone Farms and Sky Rights: The Next Frontier in Real Estate Development

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When Airspace Becomes Infrastructure

For most of modern commercial history, the airspace above a building was legally defined yet economically dormant, as zoning height restrictions or transferable development rights rarely translated into operational or income-generating relevance for owners. What occurred above the roofline seldom influenced underwriting models, operating budgets, or asset valuations in any sustained way. That long-standing assumption is now dissolving as drone technology reshapes the functional meaning of airspace.

The integration of small unmanned aircrafts ("UAS"), commonly referred to as drones, into real estate operations represents one of the most underappreciated structural shifts in contemporary property markets, because what began as a marketing enhancement (high-resolution aerial photography for listings) has matured into operational infrastructure that reshapes how assets are inspected, monitored, insured, financed, secured, and valued. Drones are no longer peripheral tools; they are increasingly embedded components of asset management strategy.

This transformation did not occur in isolation but emerged from deliberate rulemaking by the Federal Aviation Administration ("FAA"), first through Part 107 in 2016 and now through the anticipated adoption of Part 108, together marking a progression from limited permission for commercial use to scalable enterprise integration. Under Part 107, drones became legally usable within defined constraints; under Part 108, they may become economically transformative at portfolio scale.

The Regulatory Foundation: Part 107

In 2016, the FAA implemented Part 107, formally titled the Small Unmanned Aircraft Rule, thereby creating the first comprehensive federal framework governing commercial drone operations in the United States. The rule required remote pilot certification, imposed operational limitations, and standardized safety obligations so that commercial drone activity could occur within a predictable regulatory structure. Flights were generally required to remain within visual line of sight, under specified altitude limits, and clear of certain controlled airspace unless additional authorization or waivers from local air traffic control ("ATC") or the FAA, as required, was obtained. Operations over people or moving vehicles required separate approvals with compliance responsibility resting on the remote pilot in command.

Although intentionally cautious in order to protect the integrity of the national airspace, Part 107 delivered regulatory clarity that proved enormously valuable to institutional real estate markets. Developers began using drones to document construction progress with greater frequency and accuracy, asset managers deployed them for roof and façade inspections that reduced reliance on scaffolding and lifts, brokers enhanced marketing materials with aerial imagery, and insurance carriers adapted underwriting practices to accommodate structured drone usage within enterprise risk frameworks.

Yet Part 107 embedded a structural limitation that constrained scale because the visual line-of-sight requirement meant drones generally had to remain within the remote pilot's direct sight, while Beyond Visual Line of Sight ("BVLOS") operations were permitted only through individualized waivers that were limited in number, complex to obtain, and operationally restrictive. As a result, drones functioned as valuable but episodic tools that improved discrete processes without fundamentally reconfiguring enterprise-level property operations.

The Shift to Enterprise Scalability: Proposed Part 108

The proposed Part 108 signals a fundamental shift in regulatory philosophy by moving away from a pilot-centered compliance model toward an enterprise

authorization framework under which organizations operating structured drone programs would assume responsibility for safety management systems, maintenance protocols, operational oversight procedures, and technological safeguards such as detect-and-avoid capabilities. Most significantly, routine BVLOS operations are anticipated to become permissible without individualized waivers provided performance-based safety standards are satisfied, thereby removing the central constraint that limited Part 107 to the individual remote pilot in command.

This transition transforms drones from dispatched service devices into embedded infrastructure systems capable of operating across multi-building campuses, distributed logistics portfolios, and large-scale mixed-use developments without continuous human visual supervision. The practical distinction between these models is profound, because what was once an efficiency tool deployed on demand could become a continuously operating layer of aerial intelligence integrated into daily asset management.

Operational Transformation in Real Estate

Under an enterprise BVLOS regime, the operational model of real estate ownership evolves from periodic inspection to continuous monitoring, because property owners would be able to automate inspections across entire portfolios rather than dispatching teams asset by asset. Storm damage could be documented in real time, aerial data could feed directly into centralized asset management platforms, and artificial intelligence tools could analyze roof conditions, façade integrity, drainage patterns, or solar panel performance before minor deterioration escalates into significant capital expenditure.

Inspection cycles would therefore shift from scheduled intervals to ongoing assessment, while maintenance strategies would transition from reactive repair to predictive intervention based on data trends. Workplace injury exposure associated with ladders, scaffolding, and elevated inspections would decline, insurance claims could be substantiated within hours rather than weeks, and lenders as well as equity partners would gain improved transparency into asset condition through structured reporting.

As these efficiencies compound across portfolios, underwriting assumptions and valuation metrics may adjust to reflect reduced operating volatility and improved capital planning accuracy, making drone integration not merely a technological enhancement but a structural contributor to asset stability.

Sports, Stadiums & Event Venues: Lessons from the Olympics

Large sports venues and stadium properties present a particularly visible example of how drone integration is reshaping real estate operations and airspace utilization. During global events such as the 2026 Winter Olympic Games, drones have been deployed for broadcast cinematography, perimeter security, crowd monitoring, and coordinated aerial light displays that function as dynamic entertainment infrastructure. These uses illustrate how airspace above a venue can be programmed, managed, and monetized as part of the event experience.

Modern stadiums, including facilities such as SoFi Stadium, the sports and entertainment venue located in Inglewood, California serving as the home for the NFL's Los Angeles Rams and Los Angeles Chargers, are increasingly designed as technology-forward assets that integrate advanced surveillance systems, high-capacity connectivity, and digital fan engagement platforms. Drone operations complement these systems by enabling real-time perimeter sweeps, structural inspections of roof trusses and lighting rigs, and rapid post-event damage assessments without disrupting event schedules. In high-security environments, coordinated drone monitoring may augment traditional surveillance by providing aerial perspectives of ingress and egress points, parking facilities, and surrounding infrastructure.

"Drones are no longer peripheral tools; they are increasingly embedded components of asset management strategy."

"Well-capitalized operators capable of implementing comprehensive safety management systems and advanced technological safeguards are likely to dominate the sector."

From a real estate perspective, this evolution suggests that stadium rooftops and adjacent parcels may serve as permanent drone staging areas, docking and charging hubs, or broadcast platforms, particularly as BVLOS authorization expands under Part 108. Venue operators may incorporate drone corridors, secure launch zones, and integrated command centers into facility design, treating airspace as a programmable extension of the property. As sports franchises and venue owners compete for marquee events, the ability to safely integrate drone-based broadcast, security, and entertainment systems may become a differentiating attribute in site selection and capital planning.

Logistics Integration & Building Design

The implications of Part 108 extend beyond inspection into the physical and economic design of buildings, because enabling routine BVLOS operations without individualized waivers may allow logistics providers to integrate commercial properties directly into autonomous delivery networks. In this environment, warehouses, multifamily towers, hotels, and office campuses may require designated drone landing zones, rooftop access corridors, charging stations, and digital airspace management protocols that position buildings as active nodes within distribution ecosystems rather than passive endpoints. Companies such as Amazon and Walmart are currently testing such drone use in places such as Texas and Arizona for delivery and logistics.

Proximity to drone corridors and compatibility with autonomous delivery systems could influence tenant demand, site selection decisions, and asset valuation, much as access to highway interchanges or broadband connectivity once differentiated properties. Buildings that fail to accommodate drone-enabled logistics may encounter competitive disadvantages similar to those experienced by properties that resisted earlier infrastructure transitions.

From Cost Efficiency to Revenue Generation: Rooftop Drone Farms

Beyond operational savings, Part 108 introduces the possibility of monetizing rooftop airspace through what may be described as drone farms, particularly on industrial and logistics properties where large, flat roofs represent underutilized horizontal infrastructure. Under a routine BVLOS framework, these rooftops could host docking stations, charging hubs, maintenance enclosures, and autonomous fleet deployment systems that collectively function as micro-distribution and service nodes. Control over such fleets could be transferred among different operators similar to the leasing of commercial aircraft.

In such a configuration, drones could launch and return autonomously for inspection services, security patrols, environmental monitoring, or delivery partnerships, while property owners lease rooftop space to drone logistics operators or technology providers in arrangements analogous to telecommunications equipment leases. Once regulatory clarity stabilized the telecommunications sector, rooftops transitioned from passive structural components to recurring revenue sources, and a comparable evolution may occur with drone infrastructure as enterprise operations become institutionalized and standardized. Real estate owners could contemplate entering into easements and other restrictive covenants that may be needed to account for necessary, aeronautical access.

Valuation, Transactions & Portfolio Strategy

As drone integration matures, its influence extends into valuation methodology and transactional practice because automated inspections reduce recurring operating expenses, enhance capital planning

accuracy, and introduce supplemental revenue streams through rooftop leasing arrangements that may be capitalized alongside traditional rental income. Enhanced data transparency also improves lender confidence and may influence financing terms, particularly for portfolios demonstrating consistent predictive maintenance performance.

Accordingly, due diligence processes are likely to expand to include rooftop structural assessments, aviation compliance reviews, proximity analysis to restricted airspace, and evaluation of data governance policies associated with drone operations. Transaction documents may address regulatory adherence and allocate responsibility for maintaining drone-related systems, while investors increasingly assess whether properties are designed or retrofitted for efficient integration into autonomous aerial networks.

US National Security, CFIUS Considerations & Executive Orders

The expansion of drone infrastructure introduces national security considerations into real estate analysis, particularly as the Committee on Foreign Investment in the United States ("CFIUS") has broadened scrutiny of foreign acquisitions involving properties located near sensitive government facilities or critical infrastructure. While historically focused on corporate transactions, CFIUS now evaluates certain real estate transactions when geographic proximity could enable intelligence collection, and drones intensify this concern by transforming buildings into potential data platforms.

A drone operating from a rooftop can capture high-resolution imagery of neighboring facilities, observe access patterns, and map infrastructure components, while modern systems transmit and store digital files through cloud-based architectures that may implicate foreign supply chains or overseas data access. Regulators may therefore examine not only property ownership but also who controls the technology operating above it and how the resulting data is stored, accessed, and secured.

Recent executive orders (Executive Order "Unleashing American Drone Dominance" (signed June 6, 2025) and Executive Order "Restoring American Airspace Sovereignty" (signed June 6, 2025)) issued by President Donald Trump seek to simultaneously expand US drone innovation and strengthen airspace security, directing the FAA to accelerate integration of unmanned aircraft systems into the national airspace while enhancing safeguards against unauthorized or malicious drone activity. The orders promote routine BVLOS operations, faster regulatory approvals, support for American-made drone manufacturing and exports, and expanded commercial and public safety applications. At the same time, they establish stronger counter-unmanned aerial system coordination, improved detection capabilities around critical infrastructure and major events, and heightened enforcement against unlawful drone use—reflecting a dual focus on economic competitiveness and national security.

Such orders signal that foreign ownership or operation of large-scale drone farms could attract heightened review, particularly for properties located near military installations, ports, energy facilities, or telecommunications nodes. As a result, sophisticated investors may evaluate drone operator ownership structures, data storage policies, and proximity to restricted airspace as part of routine transaction analysis.

Legal Structuring & Risk Allocation

Monetizing rooftop airspace requires disciplined legal and operational structuring, because structural engineers must confirm load capacity and roof integrity, insurance policies must address aviation-related exposures, municipal zoning ordinances may affect launch activity, and contractual arrangements

"Rooftops may evolve into drone farms, airspace may become monetized infrastructure, and continuous autonomous oversight may emerge as a standard feature of professional asset management."

must clearly allocate responsibility for compliance, maintenance, and data governance. Additionally, owners need to analyze privacy rights and trespass issues as well as proximity to certain restricted airspace. Although markets tend to adapt quickly once regulatory frameworks stabilize, early adopters must navigate evolving standards and allocate risk with precision in order to avoid mispricing operational exposure.

Well-capitalized operators capable of implementing comprehensive safety management systems and advanced technological safeguards are likely to dominate the sector, and real estate investors positioned to partner with such platforms, or to develop internal capabilities, may secure durable competitive advantages as enterprise drone operations scale.

Real Estate Structuring, Investment Strategy & Regulatory Overlay

As drone infrastructure becomes embedded within property operations, investors must approach airspace not merely as a technological add-on but as a regulated asset layer requiring structured governance, contractual clarity, and capital planning discipline. The introduction of rooftop drone farms, autonomous inspection fleets, and delivery corridors creates a hybrid regulatory environment in which aviation law, land use controls, insurance frameworks, privacy laws, and private lease agreements intersect.

From a structuring perspective, property owners contemplating rooftop drone operations must determine whether to retain operational control, enter into ground or rooftop lease agreements with third-party operators, or create joint ventures that allocate revenue and compliance responsibilities. Lease documentation will need to address airspace access rights, indemnification provisions, insurance minimums, maintenance obligations, reciprocal easement agreements, real estate covenants, hours of operation and termination triggers tied to regulatory changes, as well as potential costs of abandoned or malfunctioning equipment. In mixed-use projects or condominium regimes, governance documents may require amendment to clarify who controls rooftop airspace and whether drone-related revenue is treated as common income or allocated to a specific ownership interest.

Regulatory compliance will extend beyond FAA authorization. Municipal zoning ordinances may restrict launch activity, noise levels, or equipment placement, particularly in dense urban environments. Environmental review may be triggered if drone infrastructure alters rooftop structures or introduces lighting systems. In certain jurisdictions, state privacy statutes and biometric data laws may apply to aerial imagery capture, particularly where facial recognition or advanced analytics are involved; in fact, many local jurisdictions outright forbid any drone operations. As a result, investors must coordinate aviation counsel with land use attorneys and data governance professionals to avoid fragmented compliance. Zoning counsel may be needed in order to analyze future jurisdictional limits.

Capital expenditure planning also becomes more nuanced. Rooftop reinforcement, power upgrades, secure enclosures, and network integration may require upfront investment that must be evaluated against projected operational savings or lease income. Investors may model drone-related improvements similarly to solar installations or telecommunications infrastructure, analyzing internal rates of return based on long-term service agreements or energy-equivalent operational savings. Where drone farms generate recurring revenue, appraisers and lenders will need to determine whether such income is contractual and durable enough to support capitalization within net operating income calculations.

Insurance markets will play a critical role in shaping investment behavior. Policies must address aviation liability, cyber risk associated with data transmission, and potential property damage from equipment malfunction. Insurers may require documented safety management systems consistent with Part 108 enterprise authorization, effectively making regulatory compliance a condition of coverage. Over time, properties that demonstrate disciplined drone governance and documented operational performance may benefit from favorable underwriting treatment relative to assets lacking structured oversight.

Finally, institutional investors must evaluate portfolio-level strategy. Early adoption may create competitive differentiation and operational efficiency, yet regulatory evolution remains ongoing. Investors with geographically diverse holdings may face varying local restrictions and airspace classifications, requiring asset-by-asset feasibility assessments. Capital allocation decisions will therefore hinge on a combination of regulatory certainty, tenant demand, technological maturity, and projected revenue durability.

In this environment, airspace transitions from a passive legal abstraction into a managed, regulated, and potentially income-producing component of the capital stack. Those who treat drone integration as a strategic real estate initiative—rather than a peripheral operational experiment—will be better positioned to capture long-term value as aviation governance and property economics continue to converge.

Conclusion: Sky Rights as an Emerging Asset Variable

The evolution from Part 107 to Part 108 marks the institutionalization of drone infrastructure within property economics, as the former validated commercial viability within a cautious regulatory envelope while the latter has the potential to unlock scalable enterprise systems capable of reshaping cost structures, operational models, and revenue strategies. The technical issues currently under FAA review will materially influence the speed, scalability, and cost profile of advanced drone integration. Additionally, evolving federal procurement and security policies may indirectly shape market demand by incentivizing US-manufactured or security-vetted platforms in defined operational contexts. Together, these regulatory and policy variables will determine not only how quickly BVLOS becomes routine, but also which operators and business models can scale sustainably under the emerging compliance framework.

Rooftops may evolve into drone farms, airspace may become monetized infrastructure, and continuous autonomous oversight may emerge as a standard feature of professional asset management. Historically, certain rooftops were considered economically dormant absent additional development rights, yet drone technology reimagines air rights by allowing the airspace above a building to generate independent return that may rival traditional development premiums.

For disciplined investors in the United States and abroad, the opportunity lies not merely in regulatory compliance but in strategic capitalization, because aviation law is increasingly intersecting with real estate economics in ways that reward early recognition and thoughtful integration. The horizon is no longer theoretical; it is regulatory, operational, and investable.

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Labor Law at a Crossroads: Regulatory Expansion and Judicial Scrutiny Reshape Employer Obligations in Israel

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Introduction

Israeli labor law continued to evolve significantly throughout 2025, shaped by legislative amendments, extension orders, and increasingly assertive Labor Court jurisprudence. These developments further narrowed managerial discretion in areas traditionally governed by internal policy, including equality, privacy, wage regulation, and complaint handling. At the same time, the ongoing security situation continued to generate tailored employment protections.

For employers operating in Israel — including multinational companies, service recipients, and investors — the legal environment is characterized by heightened procedural expectations. Courts are examining not only outcomes, but also the quality of decision-making processes, documentation, and proportionality. Regulatory enforcement has likewise expanded, particularly in data protection and contractor engagement.

This article reviews the principal labor law developments of 2025 and outlines their implications for employers preparing for 2026.

The Continued Impact of the Security Situation

The security situation remained a defining backdrop in 2025, with labor regulation continuing to respond to prolonged reserve service and its consequences.

An extension order issued at the beginning of the year prolonged key benefits and protections granted to reservists and their spouses during 2024. These include additional paid absence days for spouses, continued accrual of annual vacation, and protection against dismissal for 60 days following reserve service. The extension also reinforced prohibitions on unpaid leave and deterioration of employment conditions. These protections currently remain in force through the end of 2025.

In parallel, the Knesset approved an amendment to the Families of Fallen Soldiers Law, significantly expanding employment protections for relatives of fallen IDF soldiers. Employers are prohibited from dismissing such employees, reducing their position or salary during the three months following the death, and from dismissing or placing them on unpaid leave during the first year thereafter, unless specific authorization is obtained from the Ministry of Defense Employment Committee.

These measures reflect continued legislative intervention in employment relationships during periods of national strain, requiring employers to closely monitor extension orders and statutory amendments.

Equality in Employment: Substantive Standards and Procedural Burdens

Equality and non-discrimination remained central to labor jurisprudence in 2025. Across multiple contexts — gender, disability and age — the Labor Courts emphasized substantive equality, shifting evidentiary burdens and the importance of transparent, documented decision-making.

Gender Equality and Equal Pay

In litigation involving Clalit Health Services, the Labor Court addressed alleged systemic wage gaps between roles predominantly held by women and those predominantly held by men. Although the regional court initially certified the matter as a class action, the claim was dismissed following a detailed examination of the positions' characteristics, responsibilities and required skills. The court concluded that the roles did not constitute "work of equal value" under the Equal Pay Law. An appeal is pending before the National Labor Court.

By contrast, in the Investor Relations case, the Labor Court held that a female executive met the prima facie burden under the Equal Pay for Male and Female Employees Law by demonstrating a wage gap relative to a male colleague performing substantially similar

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work. Once this threshold was met, the burden shifted to the employer, which failed to establish legitimate and proportionate justification. The court ordered payment of wage differentials for the relevant period.

These decisions reinforce a consistent judicial approach: once a prima facie wage gap is shown, employers must justify it with evidence rather than general assertions.

Age Discrimination

Age discrimination also featured prominently in 2025. In the Kalner case, the Labor Court examined the dismissal of a long-serving civilian flight instructor following a safety incident. Although the role involved sensitive safety considerations, the court found that age played an improper role in the decision-making process. The termination was procedurally flawed, with evidence indicating that the outcome had been predetermined and that contemporaneous materials contradicted claims of professional decline.

The ruling underscores that age alone cannot justify termination without a proper, evidence-based process.

Privacy and Monitoring in the Workplace

Employee privacy emerged as a central regulatory theme in 2025, driven by legislative reform and judicial interpretation.

Workplace Surveillance

In the Elkaner case, the National Labor Court addressed the use of cameras in the workplace. While installation alone does not constitute a material deterioration of working conditions, the court emphasized that employers must satisfy a proportionality analysis, including identifying a legitimate purpose, assessing the scope of the privacy infringement, and ensuring transparency and appropriate employee notification.

The judgment highlights the need for clear internal policies governing monitoring technologies.

Amendment 13 to the Privacy Protection Law

Amendment No. 13 to the Privacy Protection Law, which entered into force in August 2025, significantly expanded employers' obligations regarding the collection and processing of personal data. Employers must now provide detailed privacy notices addressing, among other matters, the consequences of refusing to provide data, details of the database controller, and employees' rights to access and correct information.

For many organizations, compliance requires a comprehensive review of data governance practices, including appointment of a data protection officer where applicable.

Sexual Harassment Prevention and Complaint Handling

Sexual harassment prevention continued to evolve in 2025 through legislative amendment and case law.

Amendment No. 16 to the Prevention of Sexual Harassment Law expanded its application to service recipients who receive services through contractors, extending protections to contractor employees.

Judicial decisions further underscored the importance of proactive prevention and proper complaint handling. In the Shoham Local Council case, the court reaffirmed that employer obligations may extend beyond the express wording of the statute where workplace dynamics influence relationships.

In the Amal U'Maavar case, the court-imposed liability for emotional distress arising from the manner in which a complaint was handled, even though the underlying conduct did not constitute sexual harassment under the law. The ruling emphasized the expectation that employers define behavioral norms in advance, particularly during company events, and manage complaints transparently and consistently.

Wage Components, Commissions and Overtime

In the Castro case, the Labor Court addressed the inclusion of commissions in calculating overtime. The court held that commissions may form part of the base wage for purposes of the Hours of Work and Rest Law, depending on their nature and role within the compensation structure.

The judgment rejected a blanket approach, emphasizing that each case must be examined on its merits. Employers using commission-based remuneration are therefore advised to reassess their wage structures.

Engagement with Contractors and Service Providers

Developments in 2025 expanded obligations for organizations engaging contractors, particularly in regulated sectors such as security, cleaning and catering.

New regulations governing salary components and monitoring mechanisms came into effect on 1 January 2025, requiring updates to existing agreements. In addition, the National Labor Court ruled in the Koach LaOvdim case that service recipients may, in certain circumstances, be deemed employers for specific purposes, including collective dialogue obligations. This has implications for tender processes and engagement with unionized contractor workforces.

Looking Ahead to 2026

The developments of 2025 point to continued tightening of labor regulation in Israel. Employers should prioritize robust procedures, documentation and compliance mechanisms, particularly in relation to equality, privacy, harassment prevention, and contractor engagement.

As judicial scrutiny increasingly focuses on how decisions are made, rather than intent alone, early planning and procedural discipline will be essential tools for managing legal and operational risk in 2026.

"...once a prima facie wage gap is shown, employers must justify it with evidence rather than general assertions."

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About the Authors

This article was prepared by members of Herzog's Labour & Employment Department, the largest and most comprehensive practice of its kind in Israel, both in scope of services and breadth of client base. The department is consistently recognised by leading legal directories and international publications as a top-tier practice.

The team combines deep subject-matter expertise with the resources of a leading full-service international firm. It offers the focused experience typically associated with a specialist employment boutique, together with the multidisciplinary capabilities of a major firm, including corporate, regulatory, and dispute resolution support. The department regularly advises on complex, cross-border and high-profile matters, and is closely involved in some of the most significant workplace developments in the Israeli market.

Moria Tam-Harshoshanim, Head of the Labour & Employment Department, is a senior partner with over 25 years of experience and is widely regarded as one of Israel's leading employment lawyers. She advises major domestic and international employers on strategic workforce management, collective labour relations, executive employment matters and complex litigation, and is regularly involved in precedent-setting cases and sensitive organizational processes.

Chagai Vered is a partner in the department with extensive experience advising employers across a broad range of employment matters, including collective labour issues, workplace restructuring, regulatory compliance and representation before the labour courts. He supports clients in navigating evolving legal standards and managing risk in dynamic and unionised environments.

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Together, the department advises a broad domestic and international client base across the private and public sectors. Its work spans routine employment counselling, unionisation, employee incentive schemes, pensions, privacy, immigration, prevention of sexual harassment, and the employment aspects of M&A transactions and restructurings. Clients include major public entities and leading multinational corporations operating in Israel.

Through close familiarity with the regulatory environment, labour authorities and key market players, Herzog's Labour & Employment team delivers commercially focused, tailored solutions aligned with clients' operational and strategic objectives.

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Preparing for a Breakout Year for Israeli Companies in the US Capital Markets

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With innovation in technology, artificial intelligence, defense, and life sciences driving investor demand, Israeli companies are poised to capitalize on a strengthening US IPO market in 2026.

Israeli companies have a long and successful track record in the US capital markets. Since the 1980s, hundreds of Israeli companies have listed on the Nasdaq or NYSE, and approximately 100 are currently listed—more than from any other foreign country apart from China and Canada. This leadership reflects Israel's position as a global hub for innovation. US-listed Israeli companies span diverse industries, with fast-growing technology and life sciences companies particularly well-represented. Following a strong recovery of the initial public offering (IPO) markets, and significant M&A and foreign investment in the Israeli technology sector in 2025, the stage is set for continued momentum in 2026.

The US capital markets offer unparalleled opportunities for Israeli technology and life sciences companies to raise the capital necessary to achieve growth and global scale. A listing on a US exchange provides access to the world's deepest pools of institutional and retail capital, attracting investment from both US and international investors. An NYSE or Nasdaq listing delivers liquidity, visibility, and credibility—often catalyzing strategic partnerships, M&A opportunities, and enhanced brand recognition. As the IPO market strengthens and investor appetite for innovation-driven companies intensifies, the window of opportunity for Israeli issuers is widening.

The US market continues to offer premium valuations for innovative technology and life sciences companies compared with other global markets. Israeli companies are well-positioned to benefit from this dynamic, potentially achieving stronger valuations that enable them to raise more capital on favorable terms. For Israeli founders, investors, and growth-stage companies, the path to the US public markets presents a strategic opportunity to accelerate growth, reward early stakeholders, and expand global reach.

Market Overview and Outlook

The US capital markets demonstrated continued recovery in 2025, with both IPO deal count and proceeds raised reaching their highest levels since 2021. A total of 202 IPOs raised approximately $44 billion in proceeds—a notable increase from 2024's 150 IPOs raising $29 billion, and substantially exceeding the combined totals of 2022 and 2023. While this upward trajectory is encouraging, a deeper analysis reveals a market characterized by volatility and uneven activity. The year began strongly but stalled in April, regained momentum over the summer, and was then significantly cooled by a US government shutdown. The median deal size of approximately $15 million underscores a bifurcated market: While headline proceeds were driven by landmark billion-dollar offerings—including Medline, Venture Global, CoreWeave, SailPoint, and Klarna—nearly 65 percent of IPOs raised less than $100 million, reflecting substantial activity among microcaps. Notably, the number of IPOs raising more than $100 million remained below the 10-year average. Foreign issuers accounted for 115 (57 percent) of the year's IPOs. Three Israeli companies completed IPOs in 2025: Odysight.ai, eToro, and Nasus Pharma.

The technology sector led the 2025 IPO market, producing 44 offerings that raised $9.6 billion. Key themes included software, e-commerce, cryptocurrency, and artificial intelligence. The health care sector contributed 34 offerings raising $10.7 billion—more than half attributable to Medline—though deal flow was constrained by a continued drought in biotech. The financial sector also showed relative strength, with 27 IPOs raising $9.2 billion, driven by digital asset managers, insurance, and crypto exchanges.

The special-purpose acquisition company (SPAC) market staged a meaningful comeback in 2025—with 144 blank check companies raising approximately $30 billion through IPOs—the third-largest year ever for SPAC activity after 2020 and 2021, and a substantial increase from 2024's 57 SPACs raising $10

"Following a strong recovery of the initial public offering (IPO) markets, and significant M&A and foreign investment in the Israeli technology sector in 2025, the stage is set for continued momentum in 2026."

billion. SPAC IPO terms also became more favorable for sponsors. Industries targeted by SPACs include artificial intelligence, space, cryptocurrency, quantum computing, and nuclear power. While the number of completed de-SPAC transactions continued to decline—43 deals with $38 billion in deal value, down from 73 deals and $42 billion in 2024—this largely reflects the decreasing pool of 2020 and 2021 vintage SPACs. Despite seeing higher-profile names enter the market (including Webull in 2025), de-SPAC activity continued to be challenged by high redemption rates and uneven post-listing performance. Nevertheless, a number of SPACs remain active and in search of targets heading into 2026, and SPACs and de-SPACs will likely continue to provide pathways to the public markets for small- and mid-cap issuers.

Looking ahead, the outlook for 2026 is constructive. The IPO environment is expected to benefit from moderating inflation and anticipated interest rate relief. A significant backlog of "IPO-ready" companies are poised to access the market. Proceeds and deal volumes are expected to increase year over year, with the market anticipated to skew toward technology, potentially driven by artificial intelligence and fintech companies. The life sciences and biotech sectors could experience a resurgence as M&A activity recycles capital and stimulates investment. Digital assets and defense-focused companies are also emerging as notable themes. Continued political uncertainty and market volatility in the United States remain risks that could disrupt plans, and actions taken by the current administration, geopolitical developments, tariffs, and global decoupling may introduce additional execution risk.

For Israeli companies, 2026 presents a particularly compelling opportunity. Israel's strengths in technology, artificial intelligence, defense technology, and life sciences align closely with the sectors expected to drive US capital markets activity. Israeli companies in these high-growth industries are well-positioned to capitalize on strong investor appetite and favorable market conditions. De-SPAC transactions will continue to offer viable alternatives to traditional IPOs, particularly for small- and mid-cap issuers with innovative business models. As the US capital markets environment normalizes and investor interest in innovation-driven sectors intensifies, 2026 is positioned to be a takeoff year for Israeli companies seeking access to the world's deepest and most liquid public markets.

Benefits of Being a Foreign Private Issuer

Israeli companies that access the US capital markets are subject to US federal securities laws. With the goal of making the US capital markets more attractive to foreign issuers, the Securities and Exchange Commission (SEC) makes available certain accommodations to alleviate some of the burdens of being a public company in the United States. Generally, to take advantage of these accommodations, an Israeli company must qualify as a foreign private issuer (FPI). FPIs benefit from more relaxed reporting requirements under SEC rules and regulations, including annual reporting on Form 20-F, exemption from Form 8-K current reporting requirements, exemption from US proxy rules, and flexibility to report financial statements under International Financial Reporting Standards (IFRS). In addition, the NYSE and Nasdaq provide more relaxed rules for FPIs, including certain rules related to stockholder approval for securities offerings, making access to capital potentially more streamlined.

The regulatory landscape for FPIs is evolving, however. In June 2025, the SEC issued a concept release seeking public comment on whether to revise the definition of "foreign private issuer." The release reflects concerns that many FPIs now trade predominantly or exclusively in US markets and may not be subject to meaningful home-country oversight—the premise underlying the FPI accommodations. Approaches under consideration include updating US ownership thresholds, adding foreign trading volume requirements, requiring listing

on a "major" foreign exchange, and incorporating an SEC assessment of foreign regulatory robustness. The SEC has not indicated timing for any proposed rulemaking. In addition, in December 2025, the US Congress enacted a law to end the long-standing FPI exemption from Section 16(a) beneficial ownership reporting obligations for directors and officers of public companies.

Importantly, SEC Chairman Paul Atkins has indicated that the SEC is considering exempting Israeli companies from planned tightening of the FPI rules, which would allow the vast majority of Israeli issuers to continue operating under established regulatory accommodations. This potential exemption reflects Israel's strong existing regulatory framework for capital markets and the long-standing track record of Israeli companies in the US public markets.

Corporate Governance Considerations

Generally, FPIs are permitted to opt out of most NYSE and Nasdaq corporate governance requirements and may instead follow home-country practice. These companies must publicly disclose the ways in which their corporate governance practices differ from those followed by US domestic issuers. Additionally, under the Israeli Companies Law, Israeli "public companies," which include those with shares listed on the NYSE or Nasdaq, are required to appoint at least two external directors. If such companies do not have a controlling shareholder (as defined in the Companies Law), they may (but are not required to) elect to opt out of the requirement to maintain external directors and certain board committee composition requirements.

Board Independence

US domestic companies are required to have a board composed of a majority of independent directors within 12 months of listing. Most issuers have a majority independent board at time of listing. FPIs may opt out of this requirement and apply home-country practice. As noted above, Israeli companies are required to have at least two external directors unless they are eligible and so elect to opt out of this requirement.

Audit Committees

FPIs are required, just as US domestic companies are, to have an independent audit committee that meets the requirements of Exchange Act Rule 10A-3. Audit committees under NYSE and Nasdaq rules must:

» Be composed of only independent directors.

» Have at least one audit committee financial expert.

Both US domestic companies and Israeli FPIs are required to have audit committees composed of at least three directors. If an Israeli company has not opted out of the audit committee composition requirements under the Companies Law, its board would also be required to include all external directors and be chaired by an external director. The board chair as well as directors or affiliates of any controlling shareholder(s) should not serve on the audit committee. Under the Companies Law, the board of an Israeli public company must also appoint an internal auditor recommended by the audit committee.

"Israel's strengths in technology, artificial intelligence, defense technology, and life sciences align closely with the sectors expected to drive US capital markets activity."

Other Committees

US domestic companies are required by both the NYSE and Nasdaq to have (i) a compensation committee and (ii) a nominating and corporate governance committee, each composed of independent directors. Generally, each of these committees consists of three directors. FPIs may opt out of these additional committee requirements and apply home-country practice.

If an Israeli company has not opted out of the compensation committee composition requirements under the Companies Law, the compensation committee generally must be comprised of at least three directors, including all the external directors, who must constitute a majority of the members of the compensation committee. The chairperson of the committee must be an external director. In general, under the Companies Law, a public company must have a compensation policy that the board has approved after receiving and considering the recommendations of the compensation committee.

Israeli companies are not required to have nominating and corporate governance committees; however, many companies that list on the NYSE or Nasdaq do establish them.

Financial Statement Requirements

FPIs may take advantage of several accommodations under the SEC's rules with respect to financial statement requirements and additional accommodations if they qualify as an emerging growth company (EGC) under the JOBS Act. Generally, an EGC is defined as a company with less than $1.235 billion in annual gross revenue.

Financial Statement Requirements for Registration Statements

	EGC	Non-EGC
Annual Financial Statements*	Two years of audited annual financial statements	Three years of audited annual financial statements
Interim Financial Statements**	Interim financial statements covering the most recently completed quarterly period	Same

* For FPIs, the date of the last audit cannot be more than 12 months prior to the filing of a registration statement, subject to limited exceptions.

** For FPIs, interim financials covering at least the first six months of the year are required to be filed nine months after the fiscal year-end. In the offering context, however, auditor comfort letters may require the issuer to include more current interim financial statements.

In addition to including its own audited annual and interim financial statements in a registration statement, an issuer may be required to provide acquired company financial statements and pro forma financial statements of recently acquired businesses, depending on the significance of the acquisition.

Auditing Standards

US domestic issuers must file financial statements with the SEC in accordance with US Generally Accepted Accounting Principles (GAAP). Financial statements of FPIs may be prepared in accordance with US GAAP, International Accounting Standards Board (IASB) IFRS, or local GAAP. Where FPIs utilize IASB IFRS, no reconciliation to US GAAP is required. Where FPIs utilize local GAAP, financial statements must include appropriate reconciliations to US GAAP. Many Israeli companies that are listed in the United States elect to use US GAAP. While the Tel Aviv Stock Exchange generally requires listed companies to follow IFRS, if a company is dual-listed in the United States, it may choose to report in US GAAP.

Process for IPOs and Alternatives

An IPO is a company's first underwritten sale of stock to public market investors. Prior to an IPO, a company may be owned by its founders, its employees, and private investors, such as venture capital firms. Companies may pursue an IPO to raise growth capital, to provide liquidity to its investors, and for reputational reasons. Preparations usually commence up to two years in advance of an IPO but begin in earnest with an organizational meeting with the company's selected underwriters. An IPO can be completed in as few as four to six months following this kickoff. Key milestones for an IPO include confidential and public SEC filings, testing-the-waters meetings with investors, the launch of the road show, the pricing of the offering, the first day of trading, and the closing of the offering.

Alternatives to a traditional IPO include direct listings, reverse mergers, and de-SPAC transactions. A direct listing is a process through which a company goes public by allowing existing shareholders to sell their shares directly to the public on a stock exchange, without the need for an underwriter or issuance of new shares, essentially bypassing the traditional IPO process and costs associated with investment banks. Many foreign issuers that are already listed on a non-US exchange utilize direct listings to achieve a second listing on the NYSE or Nasdaq. Reverse mergers involve a private company merging with a publicly listed company and acquiring control of such a public company, making the private company public.

De-SPACs are a more structured version of the reverse merger whereby publicly listed shell companies are formed for the sole purpose of completing a business combination with a promising private company to bring it public. An Israeli company considering a US public listing should carefully consider each path and alternative to determine which is most well-matched to its goals and objectives.

> ***"With 2026 shaping up to be a breakout year for Israeli companies in the US capital markets, now is the time to prepare."***

Evaluating the de-SPAC Path

A de-SPAC transaction may be an attractive alternative to a traditional IPO for small- and mid-cap companies, those with limited public company peers, or issuers with a more complex investment thesis. De-SPACs allow companies to negotiate valuation in advance of public disclosure, potentially providing greater certainty and flexibility in deal economics—including the ability to structure earnouts tied to post-closing milestones. Lockup requirements in de-SPACs are also typically limited to insiders and affiliates, offering greater flexibility for other shareholders compared with the 180-day lockups customary in IPOs.

However, de-SPACs present significant challenges. Both IPOs and de-SPACs carry market risk, but de-SPAC closings are contingent on market receptivity to the deal and avoiding shareholder redemptions. Since 2021, redemption rates have increased substantially, leaving less capital available to fund the business combination. Target companies should anticipate the possibility of renegotiating deal terms post-announcement to address redemption concerns and ensure favorable post-closing trading.

Additional considerations include the need to replace the SPAC's public shareholder base through extensive marketing efforts, and the absence of underwriter-facilitated research analyst coverage that typically accompanies an IPO. Finally, if a de-SPAC transaction fails after public announcement, the disclosed valuation and company information remain in the public domain, potentially complicating future public offerings or strategic alternatives.

Preparing To Go Public

Israeli companies should begin preparations 18-24 months before a potential NYSE or Nasdaq listing. Key readiness areas include:

- **Financial Statements**: At least two years of audited financial statements are required, prepared by a Public Company Accounting Oversight Board (PCAOB)-registered auditor that meets SEC and PCAOB independence requirements. Companies should address differences between private and public company accounting rules in advance.
- **Internal Controls:** SOX 404 requires management to evaluate and report on internal controls over financial reporting. Material weaknesses must be disclosed in the registration statement. Many companies engage third parties to assess and remediate control issues prior to listing.
- **Capitalization and Shareholder Rights:** Review the existing capital structure and shareholder rights to identify required consents, waivers, and amendments. Evaluate registration rights, approval or veto rights, and lockup obligations.
- **Board and Management:** Assess board composition to ensure that it meets independence requirements and to enhance diversity and expertise. Evaluate whether additional accounting, finance, or investor relations staff—or senior management changes—are needed to meet public company demands.
- **Diligence Preparation:** Underwriters, counsel, and (in a de-SPAC) the SPAC acquirer will conduct extensive legal and business diligence, including review of corporate records, material contracts,

and documentation supporting prospectus claims. Companies should assemble these materials well in advance of the initial SEC filing.

How Lowenstein Sandler Can Help

With 2026 shaping up to be a breakout year for Israeli companies in the US capital markets, now is the time to prepare. Lowenstein Sandler is uniquely positioned to guide Israeli companies through every stage of the process—from early-stage planning through listing and beyond. With deep expertise in capital markets transactions; extensive experience in the technology, artificial intelligence, digital assets, fintech, defense tech, and life sciences sectors; and a proven track record advising Israeli companies and investors, we provide strategic, solutions-oriented counsel tailored to the needs of high-growth businesses.

Our long-standing relationships with key market players—including investment banks, institutional investors, and leading Israeli law firms—enable us to deliver seamless, pragmatic advice that balances legal complexities with business realities. Whether preparing for an IPO; structuring a SPAC, de-SPAC, or reverse merger transaction; navigating new FPI reporting requirements; or addressing corporate governance and ongoing SEC obligations, Lowenstein Sandler delivers the insight, execution, and commitment that Israeli companies need in order to capitalize on the opportunities ahead. The window is open—let us help you move decisively.

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The firm represents leaders in virtually every sector of the global economy, with particular emphasis on investment funds, life sciences, and technology.

Recognized for its entrepreneurial spirit and high standard of client service, the firm is committed to the interests of its clients, colleagues, and communities.

The Bear Hug of Artificial Intelligence: Risks and Responsibilities in Patent Practice

The Israeli Perspective

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Protecting Intellectual Property Since 1869

Abstract

Artificial intelligence (AI) has rapidly become embedded in the daily workflow of patent professionals. From prior-art searching and technical summarization to translation, classification, and drafting assistance, AI promises efficiency gains that are difficult to ignore in a profession characterized by time pressure and information overload. At the same time, the use of AI in the conception, development, and documentation of inventions raises profound and still underappreciated legal risks. This article examines those risks through an Israeli lens, focusing on confidentiality, public disclosure, novelty, inventive step / non-obviousness, enablement and sufficiency of disclosure, inventorship and entitlement, and evidentiary challenges in litigation and opposition. It argues that AI should be treated as a powerful but inherently indiscreet assistant: valuable when used for mechanical and administrative tasks, but potentially destructive when relied upon during inventive activity or strategic claim development. The article concludes with concrete best-practice recommendations for patent practitioners seeking to harness AI while preserving clients' patent rights and professional obligations.

Introduction: AI as the New Normal in Patent Practice

In contemporary intellectual property practice, it has become almost impossible to conduct a professional conversation without invoking "artificial intelligence." Large language models (LLMs) and related systems are now routinely used by patent attorneys, patent agents, in-house counsel, and inventors themselves. Tasks that once consumed hours or days—reviewing lengthy disclosures, translating foreign-language documents, summarizing technical literature, preparing first drafts of descriptions, or generating claim-style language—can now be performed in minutes. The economic incentive is obvious: more output, faster, and at lower cost.

Yet patent law was not built around tools that "learn" from interactions or that generate novel-looking outputs by probabilistic inference over vast corpora. Patent law relies on relatively crisp distinctions: between private development and public disclosure, between the inventor's mental act of conception and later reduction to practice, between what is "known" and what is "made available to the public," and between the skilled person's common general knowledge and the frontier of inventive contribution. AI blurs these boundaries in ways that current doctrine does not yet cleanly resolve.

This mismatch creates a practitioner's problem. Until courts and patent offices articulate stable rules for AI-mediated disclosures and AI-assisted invention, risk management is largely a matter of professional discipline. The Israeli courts are a long way from tackling the issue. The same workflow that saves time can later become the seed of a novelty attack, an inventorship dispute, an entitlement challenge, or an enablement objection. In other words, AI can offer a "bear hug:" it feels supportive at first, but tightens until it compromises the very rights it was meant to help secure.

AI Is Not a Legal Person—But It Is Not a Neutral Tool

The Israeli patent office (ILPTO) and the courts pay attention to developments in the United States and the EP regarding IP. Both the United States and Europe remain committed to human inventorship, and so does the ILPTO. In the United States, inventorship is governed by 35 U.S.C. § 100(f) and refined by Federal Circuit doctrine framing conception as a mental act. In Europe, Article 81 EPC and Rule 19 EPC require the designation of an inventor, understood as a natural person, and in Israel, the patent owner can be the inventor or his successor, also understood as a natural person. The widely publicized DABUS decisions in all three jurisdictions reinforced that an AI system cannot be named as an inventor under current law.

It would be tempting to infer from this that AI is legally irrelevant: if AI cannot be an inventor, then it is simply a tool. That inference is too simplistic. Traditional tools—search engines, spreadsheets, drafting templates—do not internalize confidential information in a way that may influence outputs provided to other users. Many modern AI systems are trained on large datasets and may incorporate user interactions into future behavior,

whether through explicit training, fine-tuning, retrieval augmentation, telemetry-driven updates, or other mechanisms. Even when user data is not retained verbatim, the system may abstract patterns. For patent practitioners, that distinction is crucial: an abstraction can still leak the inventive essence.

The legal system's "tool" framing, therefore, creates blind spots. Patent law presumes that the boundary between private and public is policed by human confidentiality obligations, contractual duties, and controllable dissemination channels. AI introduces an additional channel that is often opaque. Even if providers offer contractual assurances, the practical ability to prove what was stored, what was used for training, and what was later emitted is limited. Practitioners should treat this as a structural risk, not a mere technical detail.

Anthropomorphism and the Illusion of Private Consultation

The risk is amplified by psychology. LLMs converse fluently and contextually. Users tend to experience the interaction as consultation rather than computation. For patent professionals, this anthropomorphism can be hazardous because it encourages the sharing of half-formed concepts, problem–solution formulations, and strategic claim directions that would not be disclosed to an external party. The "friendly" nature of the interface can lead to careless disclosure.

In professional-responsibility terms, this interacts with duties of confidentiality. Attorneys and agents owe duties to clients; in many jurisdictions, confidentiality is broader than privilege. If a practitioner inputs confidential invention details into an AI system without adequate safeguards, that act may be scrutinized later as a breach of duty, even if no harm is immediately apparent. A practitioner-warning perspective is therefore warranted: the reputational and ethical consequences may arrive before the doctrinal answers do.

Confidentiality, Disclosure, and "Public Availability"

The doctrinal core question is whether disclosure to AI can constitute making information "available to the public" (EPC Art. 54 and IL Section. 4) or otherwise constitute prior art (35 U.S.C. § 102). Neither system has yet produced a definitive, widely applicable precedent addressing AI chat disclosures. But patent law already contains tools for analyzing functional equivalents.

"AI can offer a "bear hug:" it feels supportive at first, but tightens until it compromises the very rights it was meant to help secure."

Israel and Europe: "Made Available to the Public" Under Article 54 EPC or "Made Public" Under IL Section 4

Israeli law (Section 4) is pretty straightforward, stating that an invention is novel unless it was "made public." Under the EPC, the state of the art includes everything made available to the public "by means of a written or oral description, by use, or in any other way." The Boards of Appeal have long held that a disclosure is public if at least one member of the public could access it without confidentiality obligations and could understand it. The mechanism does not matter; what matters is accessibility and availability.

If an AI system, after receiving a user's confidential input, can provide substantively similar guidance to another user not bound by confidentiality, an opponent may argue that the invention's teaching was made available to the public "in any other way." Even if the output is not verbatim, the EPC recognizes implicit

disclosure and general teaching. Israel recognizes the "essence of the invention," and if that essence has become public, it must follow that the invention is no longer novel. This is especially problematic because the novelty inquiry is unforgiving: there is no general grace period for the inventor's own disclosures. A single leakage event before filing can be fatal.

United States: Prior Art and Grace Periods Under § 102

US law defines prior art broadly, including patents, printed publications, public use, on-sale activity, and other public disclosures before the effective filing date. The America Invents Act introduced a limited one-year grace period for disclosures made by the inventor or derived from the inventor. In a best-case scenario, an inventor who disclosed to AI might argue that subsequent dissemination was derived from the inventor and therefore falls within the grace period.

However, that argument is evidentiary and litigation-heavy. Who can prove what the inventor disclosed to AI? Who can prove that later AI outputs were "derived" from that disclosure? Can the inventor obtain logs? Will a provider produce them? And even if derived, the grace period does not help outside the United States. A global filing strategy cannot be built on a fragile domestic safety net.

Novelty and Prior Art: Practical Risk Scenarios

To make these issues concrete, consider three recurring scenarios in practice.

Scenario A: "Is this idea patentable?" An inventor pastes a detailed invention disclosure and asks an AI system to assess patentability and draft claims. Even if the AI response is helpful, the act of disclosure creates a risk that the core idea enters the model's generalized behavior or a provider's data pipeline. If a similar prompt later yields a similar claim set for another user, novelty attacks may follow, especially in Israel and in Europe.

Scenario B: "Help me solve this technical bottleneck." An engineer describes a specific technical problem and provides experimental constraints. The AI proposes a solution. If the solution is later echoed elsewhere, an opponent may argue that the solution was publicly available at the relevant date. Even if the AI's solution is obvious in hindsight, the presence of AI-mediated dissemination complicates the novelty story and can undermine perceived inventiveness.

Scenario C: "Translate and improve my draft." A practitioner provides a draft application containing proprietary details and asks the AI to improve clarity, restructure embodiments, and propose dependent claims. This blends mechanical editing with substantive invention disclosure. It also risks introducing AI-generated language that is not fully understood or verified, which can later become a Sec. 4/§112/Art.83 vulnerability.

These scenarios illustrate a practical rule: the closer AI use gets to inventive substance and strategic claim architecture, the higher the legal risk.

Inventive Step / Non-Obviousness: The "Skilled Person" Meets AI

Even when novelty survives, inventive step (IL Sec. 5 and EPC Art. 56) and non-obviousness (35 U.S.C. § 103) may be affected by widespread AI use. These doctrines ask whether the invention would have been obvious to a person skilled in the art at the relevant date.

Europe: Problem–Solution Approach Under the EPC

EPO practice typically applies the problem–solution approach: identify the closest prior art, define the objective technical problem, and ask whether the claimed solution would have been obvious. AI tools can influence each step. They can rapidly identify the candidate closest prior art, propose problem formulations, and suggest "routine" modifications. As AI becomes a common tool in the field, opponents may argue that certain combinations are standard because AI makes them easy to find.

A subtle but important point is that the EPO's skilled person is not omniscient, but is assumed to have access to the common general knowledge and to routine experimentation. If AI-assisted searching and reasoning become routine, the baseline may shift in practice. Practitioners should anticipate arguments that "any skilled person would have found this" because an AI tool can do so quickly. While that argument should not be accepted uncritically, it may become persuasive in oppositions where fact patterns matter.

United States: Obviousness and Hindsight

US obviousness analysis under §103 is framed through Graham factors and often litigated with hindsight concerns. AI introduces new hindsight pathways: if an AI can generate a solution instantly today, decision-makers may unconsciously assume it was easy then. Practitioners should therefore document why the path was non-trivial at the relevant priority date—what failures occurred, what constraints mattered, and why the solution was not apparent without the inventor's insight.

Israel: Obviousness

Despite the obvious differences between Israeli law and US or EPC law, inventive step is assessed in very similar ways across all three jurisdictions. Furthermore, because most patent applications filed in Israel are also filed in the US and the EPO, the conclusions reached in those jurisdictions have an impact on how an Israeli patent application is perceived.

Enablement and Sufficiency: Fluent Text Is Not Adequate Disclosure

AI-assisted drafting creates a different class of risk: applications that read well but do not teach. Under Section 12 of the Israeli law, a patent specification must contain sufficient information to allow a person skilled in the art to carry out the invention. Under 35 U.S.C. §112(a), the specification must enable the full scope of the claims and provide adequate written description. Under Article 83 EPC, the application must disclose the invention in a manner sufficiently clear and complete for it to be carried out by the skilled person.

AI can produce plausible descriptions, but plausibility is not enablement. A well-written embodiment that omits critical parameters, experimental conditions, or algorithmic details may fail under Section 12, §112, or Art. 83. AI is also prone to generating "generic" descriptions that overreach, which can later invite enablement challenges when claims are broad.

For practitioners, the lesson is straightforward: AI may help with language, but it cannot replace technical verification. Every AI-generated technical statement should be treated as untrusted until confirmed. If AI suggests an embodiment the inventor never built or tested, the practitioner must decide whether the disclosure is sufficiently supported or whether inclusion increases risk.

Inventorship Versus AI Assistance: Doctrinal Fault Lines

Inventorship is not a formality; it is a validity and ownership gateway. AI-assisted ideation pressures the doctrine in all three jurisdictions, albeit differently.

United States: Conception, Joint Inventorship, and "Recognition" Problems

In the United States, conception is "the formation in the mind of the inventor of a definite and permanent idea of the complete and operative invention." Federal Circuit decisions emphasize that an inventor must contribute to conception of at least one claim element; mere reduction to practice, routine experimentation, or assistance does not suffice. Pannu v. Iolab Corp. highlights that incorrect inventorship can render a patent invalid, though correction may be possible under certain circumstances.

AI complicates this analysis when the human's role is primarily prompt design and evaluation. If a user asks an AI system for solutions and the AI proposes the key inventive feature, a later challenger may argue that the human did not conceive the feature—only recognized it. Recognition may not be enough if the human cannot show a mental conception independent of the AI output. In litigation, the distinction could become central: did the inventor have the definite and permanent idea before interacting with AI, or only after the AI proposed it?

The problem is not theoretical. In inventorship disputes, courts examine contemporaneous evidence: lab notebooks, emails, drafts, and declarations. If the record shows that the "first appearance" of the key feature was an AI output, a challenger may frame the human as a selector rather than a conceiver. While courts have not yet articulated a stable rule for "AI selection," practitioners should not assume selection is safe.

AI also complicates joint inventorship. If multiple team members independently prompt an AI system and converge on a similar output, their individual contributions may be blurred. If an AI tool is widely shared within a company, overlapping AI-assisted ideation may create entitlement disputes between groups. Practitioners should encourage structured invention disclosure processes that capture who contributed what and when, with an emphasis on human insight, constraints, and reasoning.

Europe: Formal Designation, Entitlement, and National Court Spillover

European patent law requires the designation of an inventor, but the EPC does not litigate "conception" in the same way during examination. Nevertheless, inventorship and entitlement disputes can arise under national law (e.g., employee invention disputes, ownership challenges, and validity actions). AI-assisted ideation can become relevant when a party argues that the named inventor did not make the inventive contribution or that the invention was derived from another source.

Moreover, European practice can be unforgiving if AI use creates a prior-art problem. Even if inventorship is formally correct, an AI-mediated disclosure can destroy novelty. Thus, European risk management should treat AI involvement as a disclosure hazard as much as an inventorship hazard.

Israel: The Problems Down the Road

Israeli patent law does not require the designation of an inventor a priori, but questions of inventorship may arise in various forms. For instance, since the patent owner is the inventor or his successor, ownership is rooted in inventorship. Moreover, questions of service invention are not uncommon, and AI may severely complicate them.

Practitioner Guidance: Document Human Conception Before AI

A conservative approach is to treat AI as permissible for expression, verification, and non-confidential assistance, but to avoid using AI as the origin of inventive features. Practitioners should (i) capture a human-authored invention disclosure describing the core concept before AI interaction; (ii) maintain dated records showing the inventor's reasoning and constraints; and (iii) use AI only after that conception record exists. This is not because AI "cannot help," but because, in future disputes, a clean narrative matters.

> ***"The most dangerous mistake is to anthropomorphize AI—to treat it as a trusted colleague rather than as a probabilistic system optimized for producing helpful outputs."***

Evidentiary and Litigation Risks: The Problem of Proof

Patent disputes are evidence-driven. AI use introduces unique proof problems: what was disclosed, when, and to whom? Even if an AI provider is cooperative, logs may be incomplete, and internal model behavior may

be non-transparent. Opponents may demand discovery on prompts, outputs, and internal AI policies, raising confidentiality and privilege issues.

The uncertainty itself is risk. When the ability to prove a clean story is impaired, settlement values shift, and enforcement becomes harder.

Best Practices for Patent Professionals: A Practitioner Checklist

A disciplined AI policy should distinguish safe from risky use cases and should be implementable without halting innovation.

Safe(ish) uses

» Summarizing non-confidential public prior art.

» Translating public documents (with human review for nuance).

» Formatting, grammar, and style improvements on redacted drafts.

» Generating administrative checklists, timelines, and filing reminders.

Higher-Risk Uses That Require Controls

» Drafting claims based on confidential disclosures.

» Generating embodiments or alternatives not validated by inventors.

» Patentability opinions on unpublished inventions.

» Searching for "solutions" to technical problems during development.

If such uses are permitted, firms should adopt safeguards: enterprise tools with contractual confidentiality commitments, disabling training on user data where possible, strict redaction, internal logging, and mandatory human verification.

Documentation Practices

» Create a dated human invention disclosure before AI interaction.

» Record what prompts were used and what outputs were generated (privately).

» Maintain a clear separation between public-art analysis and confidential invention development.

» Document tests and experimental results supporting disclosed embodiments.

» Confirm that AI-generated technical assertions are supported by inventor knowledge.

Client Counseling

Clients should be advised—early—that casual AI use can jeopardize global patent rights. The counseling should emphasize that the US grace period does not save European rights, and that AI-mediated disclosure may be difficult to detect until it is too late.

Conclusion

AI will remain a powerful force in patent practice. The goal is not to prohibit its use, but to prevent careless use from undermining patent rights. The most dangerous mistake is to anthropomorphize AI—to treat it as a trusted colleague rather than as a probabilistic system optimized for producing helpful outputs. If practitioners treat AI as a good but talkative assistant, limit it to safe tasks, and document human conception rigorously, they can gain efficiency without sacrificing rights. Otherwise, the bear hug may tighten: first as a time-saver, then as a novelty problem, and finally as an enforceability risk.

Professional Responsibility, Privilege, and Cross-Border Practicalities

Beyond patentability doctrine, AI use intersects with professional responsibility and privilege in ways that matter in real disputes. Accordingly, AI governance

should be viewed as part of a firm's risk management system rather than as a personal productivity choice. A sensible policy includes: (i) a default prohibition on uploading client-confidential invention substance into consumer AI tools; (ii) an approved list of enterprise tools with clear contractual terms, data-segregation commitments, and training opt-outs; (iii) redaction protocols and "minimum necessary disclosure" guidelines; and (iv) periodic training so that engineers and attorneys understand that "asking AI for help" can be the functional equivalent of disclosing to an uncontrolled audience.

The practical aim is simple: preserve a credible narrative. In later proceedings, the patentee should be able to show a dated human-authored disclosure, a filing strategy aligned with global novelty rules, and an AI-use record that did not create uncontrolled dissemination. That narrative will often be more valuable than any short-term drafting convenience.

"Synthetic" representations and warranties insurance in M&A transactions

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The rapid growth in representations and warranties (R&W) insurance utilization in the Israeli market has paved the way for more "synthetic" coverage frameworks, redefining post-closing recourse in complex transactions.

Representations and warranties (R&W) insurance, known in some jurisdictions as warranty and indemnity insurance, is a transactional risk insurance product designed to allocate financial exposure arising from breaches of representations and warranties in mergers and acquisitions.

Over the past few years, the use of R&W insurance has significantly increased in Israeli mergers and acquisitions as a risk allocation tool, with a growing number of policies used on various types of Israeli M&A and investment transactions. As such, R&W insurance has evolved from being a niche solution available on the Israeli market to an increasingly commonplace tool. One of the impacts of this growth is that insurance markets are becoming better acquainted with Israeli companies and the way that Israeli M&A deals are conducted. There is significantly more insurer appetite to support less-standard structures of Israeli M&A or investment transactions than before.

The mechanics of R&W insurance

R&W insurance is designed to protect against financial losses arising from a breach of any of the sellers' representations given in the underlying purchase agreement. R&W insurance benefits both the buyer and the seller as it typically allows for losses to be shifted from the deal parties to third-party insurance providers.

In a conventional acquisition, the seller provides a series of contractual representations regarding the condition of the target company. These representations typically address the accuracy of shares ownership and title, financial statements, tax compliance, ownership of assets, intellectual property rights, material contracts, regulatory compliance, litigation status, employment matters, and environmental exposure, among others. The purpose of these representations is to allocate pre-closing risk. If a representation proves inaccurate and results in a financial loss for the buyer, the buyer may assert a claim under the indemnification provisions of the purchase agreement.

The indemnity framework in a standard transaction is heavily negotiated. It includes survival periods, caps on liability or deductibles, materiality qualifiers and knowledge qualifiers. These provisions reflect the tension between a buyer seeking protection from unknown liabilities and a seller seeking to limit post-closing exposure. The negotiation of indemnity terms often becomes one of the most time-consuming and contentious aspects of transaction documentation.

R&W insurance materially alters this dynamic. Under a buyer-side policy, the dominant structure in today's market, the insurer agrees to indemnify the buyer directly for covered losses resulting from breaches of the representations contained in the acquisition agreement. The seller's liability is correspondingly reduced to a retention amount or limited exclusively to cases of fraud. This has numerous benefits for the seller; it (i) allows the seller to achieve a cleaner exit while providing the buyer with recourse against a creditworthy insurer; (ii) provides an alternative risk allocation solution to escrows, guarantees, and holdbacks; (iii) expedites and eases the negotiation of the representations package between the parties; and (iv) protects key relationships where management or former shareholders remain involved in the business or retain holdings in the company post-closing. On the back of such trends, it is becoming increasingly common to see transactions where the seller's liability is capped at nil or US$1.

The underwriting process for an R&W policy is diligence-driven. Insurers review the transaction documents, diligence reports (legal, financial, tax, technical, and environmental, as applicable), and disclosure schedules. They assess both the substance of the target's business and the materiality level of the buyer's diligence. The insurer's risk assessment is not theoretical; it is grounded in the quality and completeness of the diligence performed.

On most transactions, policy limits generally range between 10% and 30% of enterprise value or the transaction value, with additional capacity available

"There is significantly more insurer appetite to support less-standard structures of Israeli M&A or investment transactions than before."

through layered placements. Over time, this product has become an integral component of modern M&A structuring, embedded directly into deal architecture and treated as a standard workstream alongside legal, financial, and tax diligence in both private equity and strategic acquisitions.

Yet the traditional model requires that the seller has provided material representations in the acquisition agreement. In certain deal environments, that assumption does not hold. Where sellers are unwilling or unable to provide meaningful business warranties, a more advanced structure becomes necessary. That structure is synthetic representations and warranties insurance.

For which types of M&A transactions or deal structures would synthetic R&W insurance be appropriate?

Although representations are a material element of most private M&A transactions, there are circumstances in which sellers provide minimal or no operational representations. These situations arise not as anomalies, but as predictable outcomes of specific commercial pressures and structural realities.

Distressed transactions are perhaps the most prominent example. When assets are sold by a court-appointed administrator, receiver, or liquidator, the seller is often unwilling or legally unable to provide business representations beyond title and authority representations, which confirm that the seller legally owns the shares or assets being sold and has the proper corporate power and approvals to validly enter into and complete a transaction.

The fiduciary's mandate of such a position is to maximize value for creditors, not to assume liabilities that may survive closing. In such contexts, comprehensive representations are commercially unrealistic and are usually not provided.

Public M&A transactions present a different dynamic. In public-to-private acquisitions, representations may be constrained because target shareholders are numerous and dispersed. The buyer relies primarily on publicly available disclosures, audited financial statements, and securities filings. The mechanics of shareholder approval and disclosure obligations limit the scope of indemnification frameworks typically seen in private transactions, up to the point of no indemnification at all.

Private equity fund wind-down scenarios create another context in which representations may be limited. As funds approach the end of their lifecycle, general partners seek to distribute proceeds and close out the vehicle. Long-tail indemnity exposure complicates distribution waterfalls and may require reserve mechanisms inconsistent with fund economics.

Competitive auction processes can also result in minimal seller representations. Where multiple bidders compete for a high-quality asset, sellers may leverage market dynamics to demand "no indemnity" or "zero recourse" structures. Buyers seeking to remain competitive may accept limited representations as part of their bid strategy.

The commercial motivations underlying these scenarios are consistent. Sellers seek to eliminate liability, preserve capital efficiency, and avoid contingent exposures. Buyers, conversely, remain exposed to unknown pre-closing risks. Without representations, the buyer lacks a contractual hook for post-closing claims. This imbalance may give rise to a fundamental risk allocation challenge. We argue that synthetic R&W insurance is precisely designed to address this challenge.

The mechanics of synthetic structures

Synthetic R&W insurance represents a structural innovation within the broader transactional risk market. Unlike traditional R&W policies, which insure representations contained in the acquisition agreement, synthetic coverage introduces an independent schedule of representations directly into the insurance policy.

Under a synthetic structure, the acquisition agreement may contain only fundamental representations, such

as title, authority, and capacity. Operational and financial representations are either limited or entirely excluded. The insurance policy then defines a set of synthetic representations that mirror market-standard representations. These representations are negotiated between the insured and the insurer, rather than between buyer and seller.

This shift fundamentally alters the architecture of risk allocation. The policy becomes the primary instrument for transferring pre-closing business risk.

The drafting of synthetic representations requires precision. Because these representations are not tied to negotiated disclosure schedules in the purchase agreement, insurers must rely heavily on the quality and scope of buyer diligence. The language of each representation is scrutinized carefully to determine whether it aligns with diligence areas and avoids forward-looking or speculative formulations. Insurers typically resist broad, undefined statements and instead require carefully circumscribed language tied to objective standards.

Underwriting in synthetic transactions is materially more rigorous than in traditional placements. In a conventional policy, the seller retains some liability exposure, which serves as a structural alignment mechanism. Disclosure schedules provide additional context and help identify risks. In synthetic placements, these safeguards are diminished or absent. The insurer's underwriting discipline must therefore compensate for this structural difference.

Diligence quality becomes dominant. Insurers evaluate not only the conclusions of diligence reports but also the methodology employed. They assess whether financial diligence included a comprehensive quality-of-earnings analysis, whether tax diligence addressed historical compliance, and whether legal diligence covered material contracts and regulatory permits in detail. Areas lacking substantive diligence may be excluded from coverage or subject to narrowed representations.

Management engagement plays a significant role in underwriting comfort. Insurers often require direct access to management during underwriting calls to evaluate internal controls, financial reporting systems, compliance culture, and historical dispute history. These qualitative assessments influence both pricing and scope of coverage.

The absence of seller alignment may also affect retention structures. In synthetic placements, insurers may impose higher retentions, reflecting the fact that they are assuming primary economic exposure above the deductible layer. The policy's retention becomes the sole buffer before insurer liability attaches.

Synthetic coverage is particularly valuable in distressed and insolvency contexts. In such transactions, the seller's inability to provide meaningful representations would otherwise leave the buyer exposed. By inserting synthetic representations into the policy, the buyer can obtain protection that would not be available under the contract. The availability of synthetic coverage can be decisive in enabling the transaction to proceed.

"Synthetic structures provide a mechanism to bridge structural gaps in indemnity frameworks in distressed transactions, public acquisitions, take-private structures, competitive auctions, fund wind-down scenarios, and cross-border deals with enforcement uncertainty."

In public M&A, synthetic structures allow acquirers to secure recourse beyond publicly available disclosures. Insurers focus on audited financial statements, securities filings, and litigation history. The policy effectively supplements public disclosure with insured protection against inaccuracies. For many buyers in take-private scenarios, this could be a game-changer: a move from nil recourse transactions to transactions where recourse is attainable.

Carve-out transactions present another fertile ground for providing synthetic representations. Operational separation risk, standalone financial statement reliability, and transitional service dependencies create uncertainty. Synthetic representations can be tailored to address these exposures, subject to the depth of diligence performed.

Synthetic R&W insurance often interacts with other transactional risk products. Tax liability insurance may address identified tax exposures that may potentially be excluded from synthetic coverage. Contingent liability policies may insure discrete known legal risks. Environmental impairment coverage may supplement environmental representations. In complex transactions, an integrated insurance program may allocate distinct risk categories across multiple policies.

From a strategic perspective, synthetic R&W insurance is not merely a substitute for absent seller representations. It is an independent risk allocation mechanism capable of reshaping transaction dynamics. In competitive auctions, buyers armed with synthetic solutions can accept limited indemnity structures without sacrificing protection. In cross-border transactions, buyers can rely on insurer solvency and policy law rather than uncertain enforcement regimes.

The broker's role in synthetic placements is significant. The broker structures the representation framework, aligns diligence workstreams with underwriting expectations, negotiates policy language and exclusions, and manages competitive insurer processes under compressed timelines. Given the absence of seller alignment, technical precision in drafting and placement strategy is critical. An experienced broker effectively bridges legal, financial, and underwriting disciplines to secure optimal coverage architecture.

The growth of synthetic placements reflects both market sophistication and evolving transaction realities. Insurers have developed dedicated underwriting teams with sector expertise, enabling more nuanced risk assessment.

Implementation considerations

Synthetic R&W insurance represents a significant evolution in transactional risk transfer. Where traditional R&W insurance supplements negotiated contractual protections, synthetic coverage replaced them, positioning the insurer as the primary bearer of unknown pre-closing business risk.

Synthetic structures provide a mechanism to bridge structural gaps in indemnity frameworks in distressed transactions, public acquisitions, take-private structures, competitive auctions, fund wind-down scenarios, and cross-border deals with enforcement uncertainty. Although synthetic placements involve heightened underwriting scrutiny, elevated pricing, and careful drafting discipline, they may enable transactions that might otherwise stall due to risk allocation constraints.

When structured thoughtfully and supported by strict diligence, synthetic R&W insurance is not a compromise solution. It is a strategic instrument capable of delivering transaction certainty, capital efficiency, and meaningful downside protection in complex deal environments.

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For over 25 years, Marsh's transactional risk team has helped organizations manage complex risks across the investment lifecycle, keeping deals on track with innovative solutions. Every day, our specialists work with clients to help them identify and address the various risks in mergers and acquisitions and other transactions through a range of data-driven solutions, such as tax insurance, no matter where the deal is happening.

MARSH

Copyright Law and the Metamorphosis of Creativity in the Age of Generative AI

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The traditional status of the "human Author" is blurring, sometimes to the point of total dissipation, necessitating a profound rethinking of the rules and presumptions that govern copyright law.

Introduction: The Promethean Moment

For centuries, the traditional understanding underlying copyright law has been built upon a single, unshakable foundation: the human author. From the Statute of Anne in 1710 to following copyright laws, the legal architecture of copyright law assumed that "authorship" was uniquely human. We viewed the author as an individual, whose unique perspective provided the "creative spark" necessary to transform raw ideas into protected expression. This legal perception of human effort was not merely a technicality; it was a moral and economic pact designed to foster human culture.

However, we have reached a Promethean moment. Generative Artificial Intelligence (GenAI)—embodied by Large Language Models (LLMs) and diffusion models like Midjourney, Stable Diffusion, and GPT-4—has not merely entered the creative arena; it has rewritten the rules of engagement. As legal practitioners, we are no longer looking at tools that help humans create; we are looking at systems that simulate the creative process itself. This shift is not merely incremental; it is ontological. It challenges the very definition of what it means to "create" when the mechanical "how" is divorced from the human "why," and when the speed of generation allows for the production of millions of "works" in the time it previously took a human to sketch a single outline.

The core of the legal debate, as outlined in recent scholarly works, is that GenAI disrupts the traditional "creative chain." In traditional creation, the chain is linear: Idea -> Intent -> Execution -> Work. With AI, the chain is fractured. When the distance between a human prompt and a finished work collapses into a millisecond of algorithmic processing, where does the "creative spark" reside?

This article explores the seismic shifts in copyright law, analyzing whether our current legal frameworks can survive the transition from human-centric to machine-augmented creativity.

The integration of AI in various fields—from fine arts and music to coding and literature—is contributing to a new kind of creativity. However, this development challenges the very bedrock of copyright law.

The Ghost in the Machine: The Crisis of the "Romantic Author"

To understand why AI is so disruptive, we must first examine the historical and ideological foundations of copyright law. At its core, our legal system is built upon the concept of **authorship**, a term that remains one of the most elusive and debated in the field. Traditional copyright regimes, particularly the Anglo-American tradition, are deeply anthropocentric—they place the human being at the center of the creative universe.

For centuries, we have been captivated by the image of the **"Romantic Author**." This is the image of the solitary genius, working under a spark of divine or near-magical inspiration to create something ex nihilo—out of nothing. Legal scholars note that our view of creativity is often a myth; it hides the collective nature of cultural production. Yet, this myth is woven into our laws.

Generative AI (GenAI) shatters this paradigm. Unlike "narrow AI," which specializes in specific tasks like facial recognition or data analysis within fixed rules, GenAI is trained on billions or even trillions of parameters, learning patterns to produce entirely new content. When

"The question for the courts is whether "prompt engineering" is a creative act of authorship or merely a request for service, akin to a patron commissioning an artist."

a machine produces a photorealistic image, a compelling text, or a symphonic movement in response to a short "prompt," it challenges the notion that creativity is a unique human attribute.

The Changing Nature of the Creative Process

To understand the legal crisis, one must also understand the technological metamorphosis. Historically, technology acted as a "passive instrument." The camera, once feared as the death of painting, still required the photographer to choose the angle, the lighting, the focal point, and the decisive moment of capture. The computer allowed for digital editing and sophisticated manipulation, but the artist remained the primary conductor, making thousands of micro-decisions—from the pressure of a digital pen to the opacity of a layer—that shaped the final work.

From Tools to Autonomous Agents

We are witnessing a transition through three distinct phases that redefine the human-machine hierarchy and, by extension, the legal standing of the resulting output:

AI as a Tool: Traditional software where the human maintains full, granular control. Think of Photoshop filters or spell-checkers; these are digital extensions of the human hand, requiring active direction at every stage. In this phase, the machine's role is purely subservient to the human's "intellectual labor."

AI as a Collaborator: Systems that offer suggestions, co-write code, or provide variations on a theme. Here, the machine begins to show a form of "proactive" assistance, such as an autocomplete function that anticipates a writer's intent or a generative design tool that offers multiple architectural iterations based on fixed parameters. The legal challenge here begins to simmer: if the machine suggests the "hook" of a pop song, who owns the melody?

AI as a Generative Agent: Systems that produce high-fidelity outputs based on abstract, natural language instructions (prompts). In this phase, the human retreats from the "execution" of the work to the "curation" and "direction" of the output. The AI makes the expressive choices—the specific hues of a sunset, the cadence of a poem, or the harmonies in a symphony.

In this third phase, the "labor" of creation—the literal brushstrokes, the painstaking mixing of colors, or the arduous drafting of sentences—is automated. This automation strikes at the heart of the "Sweat of the Brow" doctrine (which, though largely rejected in favor of originality, still informs our intuition about value) and the "Modicum of Creativity" standard. We are moving from a world where we reward the "doing" to a world where we are asked to reward the "asking." This shift threatens to commoditize creativity, reducing the value of human skill in favor of the efficiency of the prompt.

The Dilution of Human Authorship

As generative AI becomes more autonomous, the human's role is becoming "thinned" or even "evaporated." In the past, the artist was the "efficient cause" of the work. Today, when a user types "A sunset in the style of Van Gogh," the AI interprets millions of statistical relationships between pixels to generate an image. The human did not choose the specific placement of a single brushstroke or the specific blending of hues; the machine's latent space did.

The question for the courts is whether "prompt engineering" is a creative act of authorship or merely a request for service, akin to a patron commissioning an artist. If I tell a painter to "paint me a portrait of my dog in a regal setting," I am the source of the idea, but the painter is the author of the expression. GenAI blurs this line because the "painter" is now a set of weights and biases in a neural network. If the user provides no further input, they are acting as a curator rather than an author, a distinction that has profound implications for whether the output deserves the robust protections of copyright law.

The Pillar of Originality: Can a Machine be "Original?"

In copyright regimes worldwide, "originality" is the sine qua non of protection. In the United States, the landmark *Feist Publications v. Rural Telephone Service*[1] established that originality requires independent creation plus a "modicum of creativity." In the European Union, the standard is even more personal: the "author's own intellectual creation," reflecting the author's personality.

The Human Requirement

The US Copyright Office has remained steadfast: copyright is limited to works created by human beings. This was famously cemented in the "Monkey Selfie[2]" case (Naruto v. Slater), where the court ruled that a macaque cannot hold copyright because the statute refers only to human beings. More recently, the *Thaler v. Perlmutter*[3] ruling regarding the "Creativity Machine" reaffirmed that "human authorship is a bedrock requirement of copyright."

The Prompt as a Creative Vector

However, the boundary is shifting. Can a prompt be "original?" If I write a 500-word prompt detailing every shadow, texture, camera lens, and philosophical subtext of an image, have I exercised enough "creative control" to claim the output? The USCO's decision on the graphic novel Zarya of the Dawn suggests a complex, "fragmented" middle ground: the human (Kristina Kashtanova) owns the copyright in the selection and arrangement of the images and the text—the "creative compilation"—but the individual images themselves, generated by Midjourney, remain uncopyrightable.

This creates a complicated copyright landscape. A work is protected as a whole, but its individual parts are in the public domain. For commercial licensing, this is problematic. Imagine a film studio licensing a comic book for a major franchise, only to find that anyone can legally print the individual panels on merchandise because those panels lack a human author. This legal uncertainty could destabilize the entire copyright supply chain in the entertainment industry.

It should be mentioned that the legal battle is not just about the output; it is about the input. GenAI models are trained on billions of copyrighted works. This involves the mass ingestion of books, paintings, code, and music without the explicit consent of the original authors. Is the act of "scraping" copyrighted art to train a model a transformative "Fair Use," or is it "copyright infringement?" But this question is beyond the scope of this short article.

Philosophical Underpinnings: Why Protect Anything?

Theoretical Justifications

As legal experts, we must ask: what is the purpose of copyright? Is it to protect the rights of the authors, or to ensure a steady supply of content for the public?

Copyright law aims to balance private and public interests through three main theoretical justifications. The personality theory views creative works as extensions of the author's identity, deserving natural

> ***"We cannot force the AI genie back into the bottle, nor can we allow it to incinerate the livelihoods of millions of human authors."***

1. (Feist Publications, Inc. V. Rural Tel. Serv. Co., 499 US 340 (1991

2. NARUTO V. Slater, 888 F.3d 418 (9th Cir. 2018

3. Thaler v. Perlmutter, 687 F. Supp. 3d 140 (D.D.C. 2023).

protection. The labor theory emphasizes the author's right to the fruits of their creative efforts. The utilitarian theory, which treats copyright as a statutory (not natural) right, seeks to incentivize creativity by granting authors exclusive rights, thereby encouraging the production and dissemination of original works for social welfare and cultural advancement.

The Romantic Author vs. The Industrial Reality

To a certain extent, we still cling to the "Romantic" notion of the lone genius toiling in an attic. But in the modern world, most creation is industrial and collaborative. If an AI can produce a cinematic score that is indistinguishable from Hans Zimmer, does the "soul" of the author matter to the listener? If the law only protects the "human soul" through the lens of authorship, but the market only cares about the "efficient sound," copyright law risks becoming an obsolete relic.

However, various scholars, including Dan Burk for example, noted that the implications of automating this initial creation stage are that artificial intelligence will replace the type of work that has until now been exclusively reserved for human creativity. In other words, it will provide a "synthetic substitute for human creativity," leading to the concern that AI will soon be able to create a large or infinite number of works, which could lead to the suppression of authentic human creativity. Ultimately, there is a risk that innovation will slow over time and contribute to the deterioration of collective innovation.

Navigating the Ownership Labyrinth: Who Owns the Output?

Ownership of AI-generated works presents a fundamental challenge to copyright law, requiring a balance between four competing interests: individual rights (personal enjoyment, autonomy, and self-expression), private economic interests (author compensation and incentives), public interest (promoting innovation and societal welfare), and governmental interests (fair regulation and policy-setting). Any allocation must be based on principles of justice, fairness, and cooperation that recognize the needs of both author and the public.

If we accept that AI-generated works have value, the question becomes: who should own the rights? There are several competing theories, each with its own justifications and flaws:

The Developer or Company

Some argue that the programmer or the company that developed the AI should own the copyright. This is based on a utilitarian approach: providing a reward to those who invested massive resources and took risks to develop the technology. However, the developer often has no direct connection to the specific output created by a user, making this attribution feel legally "stretched."

"It is important to ensure that copyright law is recalibrated to adapt itself to these fascinating technological innovations, and to create the appropriate balance between the need to foster human creativity and the need to develop knowledge, creativity, and progress."

We may be moving toward a "Post-Copyright" era where value is derived not from the ownership of a work, but from the authenticity of its origin or the speed of its deployment. The law must decide if it wants to protect the laborer or the investor.

The User (The "Prompter")

From an economic perspective, the user invests time and effort in guiding the AI to produce a specific result. Attributing ownership to the user encourages the "democratization of creation," allowing people without traditional artistic skills to compete in the marketplace.

Yet, the "prompt" is often seen as a mere "suggestion" rather than an "instruction," and the AI's autonomous role in generating the final result weakens the user's claim to being the "author."

The Machine

While some scholars propose recognizing AI as a copyright owner, this approach faces fundamental obstacles. AI lacks legal personhood, cannot enforce rights, and doesn't need financial incentives to create. Granting AI copyright would undermine the law's purpose of incentivizing human creativity, make moral rights unjustifiable, and potentially harm human authors by reducing human-generated works.

Joint Authorship

Could the human and the AI be "joint authors?" This doctrine requires a collaborative intent and a significant contribution from each party. While conceptually intriguing, machines lack legal personality and the capacity for "intent," making this a difficult fit for current statutes.

The "Work Made for Hire" (WMFH) Model

Some scholars, like Annemarie Bridy, suggest using the legal fiction of WMFH. Just as a corporation can be the "legal author" of a work created by its employees, we could treat the AI as an "employee" and the user/developer as the employer. This provides a practical path to ownership without needing to grant the AI itself legal rights.

The Public Domain

Finally, a strong argument exists for placing AI-generated works in the public domain. Since machines do not need financial incentives to "create," and since they are trained on the collective heritage of human culture, their output should be free for all to use. The risk, however, is an "anti-incentive" for human authors, who might find themselves overwhelmed by a flood of "cheap" or "synthetic" creativity.

Toward a New Legal Framework: Sui Generis and Public Domain

How do we resolve the tension? We cannot force the AI genie back into the bottle, nor can we allow it to incinerate the livelihoods of millions of human authors. Several potential paths have been suggested for the next decade of jurisprudence:

Instead of trying to fit AI into the 18th-century "Copyright" box, we could create a new, sui generis (unique) right. This right would be significantly shorter-term (e.g., 10–15 years) and specifically for "Algorithmically Assisted Content." This would acknowledge the investment and "curation" effort of the human prompter while ensuring that these works enter the public domain much faster than human works (which last 70 years post-mortem). This maintains a "hierarchy of value" that prioritizes human biological creativity over machine-generated efficiency.

Other scholars argue that copyright law does not provide the most appropriate legal framework for ownership and rights in computer-generated works. Senftleben and Buijtelaar for example, recommend adopting a Neighboring Rights approach, currently applied to music recording producers, due to its more flexible solutions and adaptable protection framework. The rationale underlying this category of techno-economic rights is investment protection.

Conclusion: Guarding the Creative Spark

The evolution of AI is not merely a technical challenge; it is an existential one for the legal profession and for culture at large. As discussed, the "automation of the creative process" risks decoupling effort from reward. If we allow the creative process to become a "black box" where humans only provide the abstract input and machines provide the entire expressive soul, we may find ourselves in a culturally sterile landscape—filled with perfect images that mean nothing because they cost nothing to produce.

We should ensure that the law remains a tool for human flourishing, not just industrial efficiency. We must protect the "small" human author from being drowned out by the "large" algorithmic echo. The future of copyright is not about choosing between humans and machines; it is about defining the terms of their coexistence. We must ensure that while the machine may hold the brush, the hand that guides it—however distantly—remains tethered to human intent, human ethics, and human meaning.

The brush has changed. The canvas is now digital, latent, and infinite. But the reason we create—to communicate the incommunicable and to leave a mark of our brief existence—must remain the north star of our legal evolution. We protect art not because it is beautiful, but because it is human. As we move forward, let us ensure that our laws do not forget the "author" in favor of the "algorithm."

It is important to ensure that copyright law is recalibrated to adapt itself to these fascinating technological innovations, and to create the appropriate balance between the need to foster human creativity and the need to develop knowledge, creativity, and progress, in an era where humans and machines are becoming partners in the creative process.

About the Author

Dr. Eyal Brook is a prominent figure in Israel's legal and technological landscape and heads the AI group at S. Horowitz. He advises clients across various industries on the development, licensing, protection, and use of artificial intelligence technologies, addressing complex legal, regulatory, and ethical challenges. He is widely recognized as a leading expert in AI, copyright, and intellectual property law, with particular expertise in the media and entertainment sectors.

Dr. Brook combines deep legal knowledge with technological insight and hands-on experience in the media and music industries, bringing a unique multidisciplinary perspective to innovative projects. Alongside his professional work, he is an active researcher and lecturer, has published in leading international journals, and has received multiple excellence scholarships. He also serves on a government advisory forum on artificial intelligence, contributing to the development of national policy in this field.

AI PRACTICE

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We guide and advise organizations through all aspects of AI development, licensing, protection, and deployment, while addressing compliance, ethics, intellectual property, and risk management concerns. Our goal is to deliver strategic value by proactively mitigating risks, while also providing experienced representation when litigation becomes necessary.

An Overview of the US PE Funds and the M&A Market and the Continued Investment Growth in Israel

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Introduction

As the world continues to be shaped by geopolitical uncertainty, the M&A market has weathered significant headwinds with an encouraging rebound in 2025. US private equity ("PE") has remained the leading source of capital and liquidity for companies of all sizes, with buyout values rising 44% from 2024 to $904 billion and exit values jumping 47% from 2024 to $717 billion, the highest it's been in both categories since the deal boom of 2021[1].

Behind these numbers, however, is a more nuanced picture. Capital is harder to raise, dry powder is aging, holding periods on portfolio companies are longer, and the regulatory landscape remains unpredictable. PE funds that are performing well have done so not by waiting out these pressures, but by adapting to them — deploying capital more selectively and with greater discipline than in prior cycles.

This article looks at forces shaping the current M&A market for PE funds. Market dynamics and liquidity constraints are now reshaping how PE funds operate leading to extended holding periods on assets. Sector-specific investment trends in aerospace and defense, retail, healthcare, renewables and energy, and technology now define the M&A market. The article addresses the current M&A market in the US and globally, and the continued growth of US PE and strategic investors in the growing Israeli economy.

Part I – the Current PE M&A Market

2025 was defined by megadeals, with 13 transactions in the $10 billion-and-above category — the highest aggregate deal value in that tier over the past ten years[1]. The majority of these megadeals were driven by sovereign wealth funds and corporate buyers with deeper pockets than PE funds. PE funds, in turn, have been hampered by heightened competition, higher interest rates, and elevated valuations, all of which have contributed to more selective limited partners ("LPs").

Against this backdrop — and with over $1.3 trillion in dry powder, much of it raised in 2022 and 2023 — PE funds are increasingly targeting companies with stronger EBITDA growth profiles in order to achieve successful distributions and attractive returns on capital. Ten years ago, 5% annual EBITDA growth was sufficient to hit a target return. Today, however, most funds target 10–12% annual EBITDA growth as the threshold necessary to generate a 2.5x return[2].

This dynamic has caused average holding periods of portfolio companies to increase from five years in 2010 to approximately seven years in 2025. The rationale is if a portfolio company's EBITDA has not grown sufficiently to justify a sale at a price that would deliver the targeted returns, the fund should hold the company longer to allow for earnings to improve. However, the data cautions against over-reliance on this strategy. While many General Partners ("GPs") appear to be extending hold periods in an effort to drive EBITDA growth, internal rate of return tends to stagnate around year seven and decline thereafter.

Faced with a constrained exit environment, GPs have turned to a range of alternative mechanisms to generate liquidity without requiring an outright sale. GP-led continuation vehicles grew 62% year over year and 37% annually since 2022. The leading strategic drivers for these vehicles are generating liquidity through existing LP cash-outs, securing new capital for M&A, and resetting the investment horizon for longer-hold assets.

GPs have also looked to minority interest sales, dividend recapitalizations, secondaries, and NAV loans to generate liquidity and reduce the need for incremental capital calls, with 30% of portfolio companies undergoing some form of liquidity event and $410 billion raised through these mechanisms. These tools help generate cash and allow GPs to retain assets until returns mature, but they are not replacements for exits.

1. Bain & Company, Global Private Equity Report 2026, p. 4.
2. Id at 5.
3. 2 Id at 32.

There has also been increased regulatory scrutiny of GPs that utilize secondaries and NAV loans. The SEC has released guidance with a particular focus on fund managers' conflicts of interest. SEC examiners will scrutinize fairness in valuation policies, procedures, and practices, as well as the adequacy of disclosures and the procurement of proper consents from all LPs and other applicable parties. This heightened oversight would require obtaining fairness and valuation opinions from independent providers and prohibit any preferential treatment or side letters benefiting any single investor.

This means that PE funds must communicate clearly to their LPs that there is a distinction between holding a company to improve value and holding a company because the exit market is unfavorable. The former can be justified on economic grounds. The latter risks compounding both return and reputational damage, while also increasingly drawing legal and regulatory scrutiny around GP disclosure obligations and fiduciary standards.

Part II – The Industries that Define the Current Market

Against this challenging macro backdrop, private equity's most forward-looking funds are placing strategic bets on industries positioned to counter these headwinds. Nowhere is this more visible than at the intersection of PE with aerospace and defense, retail, healthcare, renewables and energy, and technology. Each of these industries demands deep institutional knowledge and trusted advisors who understand the complex and evolving regulatory frameworks that affect them. To succeed, PE funds must bring a coherent and forward-looking operational strategy.

Aerospace and Defense

Aerospace and defense has emerged as one of the most compelling and structurally supported sectors for private equity investment in the current cycle — and one of the most legally intricate. Driven by a fundamental shift in the global security environment, defense budgets across NATO member states, the Indo-Pacific region, and the Gulf have expanded at a pace not seen since the Cold War era. The Russia-Ukraine conflict and ongoing Middle East tensions, including the Iran-Israel conflict, have translated into sustained, multi-year government spending commitments that have made the aerospace and defense sector more attractive to PE investors than many other sectors.

The ongoing modernization of defense platforms and the push by governments to onshore and secure critical defense supply chains are generating significant demand for the kind of capital-intensive transformation that PE is well positioned to fund. The sector also benefits from high barriers to entry. Established defense contractors and their supply chain partners operate under security clearances, long-term approved supplier relationships, and highly specialized technical certifications that are extraordinarily difficult for new entrants to replicate. PE funds already established in the space have a distinct advantage.

At the same time, aerospace and defense is among the most legally and regulatorily complex sectors in which private equity can operate. US defense businesses and their international counterparts frequently involve technologies, products, and services subject to export control regimes — most notably the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR) in the United States, and equivalent frameworks in the UK, EU, and internationally. PE-backed defense businesses are subject to a complex web of government contracting regulations, including cost accounting standards, truthful cost or pricing

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data requirements, and organizational conflict of interest rules, and are scrutinized under foreign direct investment and national security review frameworks. In this environment, engaging experienced advisors is not merely advisable — it is essential. As defense budgets continue to expand and governments across the world invest in platform modernization, supply chain resilience, and next-generation capabilities, aerospace and defense will remain one of the most attractive, but also one of the most demanding, sectors for private equity capital.

Retail

Of all the sectors tracked, retail produced the most growth. Retail deal value grew 197% year over year in 2025, despite retail deal count falling 6%, making it the fastest-growing sector by deal value in the entire buyout universe. The retail surge is the best example of the boom in corporate M&A and the public-to-private wave that defined much of 2025's deal activity, including the buyout of retail pharmacy chain Walgreens Boots Alliance for $23.7 billion.

PE funds operating in the retail space must contend with constantly shifting consumer patterns that require significant operational expertise. Real estate portfolios, private labels, loyalty programs, and supply chains are all critical factors in operating a successful retail business while staying ahead of disruption cycles. PE funds must retain credible advisors to navigate consumer protection regulation, product liability, data privacy obligations, and employment law compliance — considerations that may extend cross-border. However, given the deal values at stake, these compliance burdens are well worth bearing.

Healthcare

Healthcare deal value grew 115% in 2025, making it among the fastest-growing sectors in the buyout universe by deal value — yet healthcare deal count fell 2%. More capital is flowing into fewer, larger, more carefully selected transactions. Within healthcare there is a broad spectrum of subsectors: (i) healthcare provider facilities and services; (ii) pharma and biotech; (iii) medtech and healthcare equipment; and (iv) life sciences tools and services. This diversification across subsectors is appealing, as each offers a PE fund a distinct risk and return profile.

For PE funds and their advisors, genuine expertise in this space commands a premium — but one that can yield significant rewards. Regulations, reimbursement frameworks, anti-kickback compliance, and foreign ownership restrictions are all considerations that must be carefully navigated. Yet this complexity has not deterred sophisticated PE funds from investing in the sector.

Renewables and Energy

Utilities and energy deal value grew 75% in 2025, and deal count grew 5% — one of only two sectors, alongside industrials, to see both volume and value increase simultaneously. This combination signals broad, sustained demand across transaction sizes rather than a handful of megadeals.

The global boom in AI and data infrastructure is creating extraordinary demand for new energy capacity. Aligned Data Centers, acquired for $40 billion and subsequently sold to BlackRock and a consortium of technology groups seeking AI computing capacity, was among the defining transactions of the year.

Large funds are both competing and partnering with capital sources such as sovereign wealth funds and strategic corporations in this space. The volume of capital pursuing energy and infrastructure assets is unprecedented, compressing private equity's share of deal flow — but also creating co-investment and structuring opportunities for those with the relationships and legal infrastructure to execute complex multi-party transactions.

PE funds and their advisors with expertise in this space will be essential to these co-investment opportunities, demonstrating operational value beyond capital. These investments require navigation of regulatory regimes, permitting timelines, environmental compliance, and cross-border considerations — including those affecting supply chains. Despite these complexities, energy and infrastructure remain among the few sectors benefiting from sustained structural tailwinds in the current market.

Technology

Technology deal value grew 30% year over year in 2025, while deal count fell 11% — one of the sharpest volume declines of any sector. Over the past decade, revenue growth has accounted for 52% of value creation in the software sub-sector, while multiple expansion has contributed 42%, leaving margin improvement to account for just 6%. However, this historical pattern may no longer be a reliable indicator of future performance.

Valuation has become the central challenge. IT budgets have come under pressure across the economy, meaning robust growth is less certain for many software companies. At the same time, intense competition for deals continues to keep technology valuations near all-time highs, despite elevated interest rates and financing costs.

The emergence of AI adds a further layer of both urgency and opportunity. Leading PE firms are racing to unlock meaningful value in their portfolios through generative AI tools. While most portfolio companies remain in early-stage experimentation, an increasing number are identifying tangible use cases with the potential to produce real returns on investment. Private investors representing $3.2 trillion in assets under management have reported that a majority of their portfolio companies are in some phase of generative AI testing and development, with nearly 20% having operationalized generative AI use cases.

Given the trajectory of these emergent technologies, there is strong reason to believe that software growth will continue to accelerate over the long term. However, valuations already reflect elevated expectations, competition for deals has never been more intense, and an uncertain macroeconomic environment continues to cloud the shorter-term outlook. PE funds must approach this sector strategically and cannot afford to rely on a growth-only thesis for value creation.

Part III – The 2026 Market in a Time of Conflict

As the conflict in the Middle East has intensified, the global M&A market has remained optimistic. By the time of US Operation Epic Fury and Israel Operation Roaring Lion, deal values were up on a year-over-year basis. The global conflict has not caused deals to pause; rather, timetables have been stretched and due diligence has become more focused. Tom Swerling, Global Head of Equity Capital Markets at Deutsche Bank, noted: "At the end of the day, we have a lot of clients that still need to do deals." A clear example of the confidence investors have in the Israeli market, is the closing of the Vix acquisition in March 2026.

With respect to deal structuring, transactions in the region in 2026 are anticipated to feature more complex earn-out structures, deferring a portion of the purchase price until the business demonstrates resilience in a post-conflict environment, thereby bridging the valuation gap between cautious buyers and optimistic sellers. Due diligence is also expected to require deeper "Operational Stress Testing," with advisors evaluating how a business handles supply chain blockades or sudden increases in maritime insurance premiums. Representations and warranties insurance ("RWI") insurers are further expected to begin scrutinizing, and in some cases excluding, risks associated with the evolving US/Israel/Iran conflict. This may take the form of targeted exclusions, heightened diligence on supply chain and operational exposures, or narrower coverage for impacts connected to regional instability.

For well-capitalized PE funds, there are still significant opportunities. While some cyclical sectors may experience temporary distress, others — particularly those focused on cybersecurity, energy logistics, or defense technology — may actually see a valuation uplift as the region prioritizes security and sovereignty. Israel's industrial base has also reached a level of maturity that positions it as a compelling destination for US PE funds. Established Israeli companies across the aerospace and defense, retail, technology, renewable energy, and healthcare sectors have demonstrated sustained growth trajectories and deep sector expertise. These are attributes that align closely with the return profiles PE funds are targeting in the current cycle with the volume of dry powder available for deployment. As the current conflict subsides and new peace agreements reshape the region's geopolitical landscape, the conditions for cross-border investment are expected to improve materially. The normalization of diplomatic and commercial relations — building on the framework established by the Abraham Accords — is anticipated to accelerate US PE fund deployment into Israel, as reduced geopolitical risk premiums, expanded market access, and strengthened bilateral economic ties create a more favorable environment for deal origination, execution, and exit. As Adam Katz, CIO at Irenic Capital Management, noted: "Time is risk and there is no reason to believe opportunities available today will necessarily be available tomorrow."

Part IV – Sheppard at the Intersection of Private Equity, Regulated Industries and Israel

Sheppard's global PE practice advises funds across the full transaction cycle — from structuring and financing through portfolio management, capital markets, and exit. Sheppard's experienced, full-service sector teams support PE funds and corporate clients across key industries, including aerospace and defense, retail, healthcare, technology, life sciences, energy, and food and beverage, bringing deep transactional experience that helps funds move quickly in competitive processes without cutting corners on diligence or regulatory risk. These capabilities are particularly valuable in cross-border contexts.

Sheppard's Israel practice works closely with companies and investors operating in and across Israel and the broader region, drawing on the firm's sector depth and cross-border experience to navigate the legal, regulatory, and transactional landscape unique to the market. This includes foreign investment approvals, defense and security-related regulatory frameworks, intellectual property protections, and commercial

structuring considerations specific to the region. Sheppard's team advises on the full spectrum of M&A, joint venture, and capital markets transactions involving Israeli businesses, bringing on-the-ground knowledge and established relationships that enables the firm to guide clients through every phase of a transaction — from initial diligence and deal structuring through regulatory clearance and closing. Sheppard is uniquely positioned to help clients identify, evaluate, and execute on opportunities in Israel and the region.

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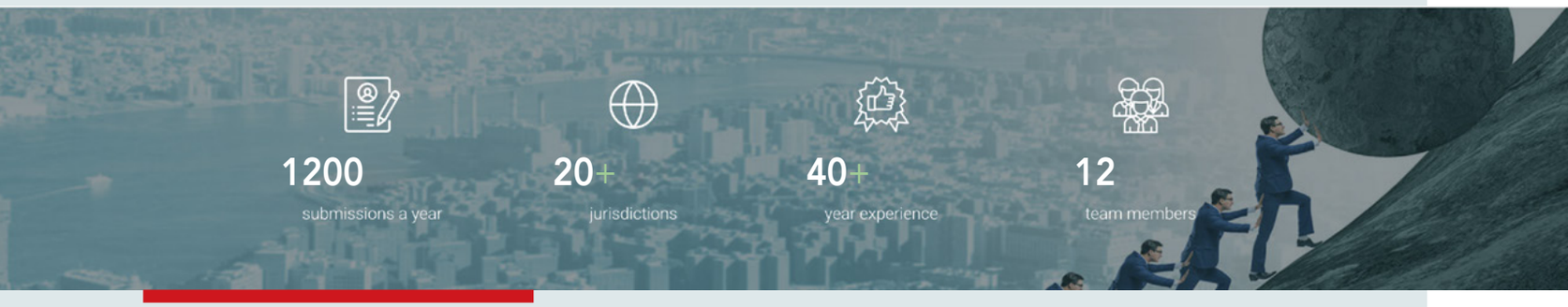

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Resilience Under Fire: Israeli Tech Companies Navigate the US Capital Markets

Jonathan Neumann,
Partner, Shibolet & Co.,
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From a transformative SEC regulatory reset and landmark insider-reporting rules to the shadow of ongoing regional conflict, Israeli issuers face a pivotal inflection point in the US capital markets.

There is a particular kind of resilience that defines the Israeli technology sector. Call it the startup nation spirit, or simply the compulsion to keep building – whatever its source, the Israeli tech industry has spent the past two and a half years demonstrating it in conditions no boardroom simulation could replicate. Missiles, reserve call-ups, credit downgrades, geopolitical fracture lines, and an almost perpetual state of national emergency: these are the background conditions against which Israeli companies listed on US exchanges - and their lawyers, advisors, and investors - have been operating.

And yet, by almost any headline metric, the story is one of extraordinary performance. The Tel Aviv 35 Index hit record levels in 2025. Israeli tech exits surged to approximately $59 billion in new M&A and IPO activity - a staggering 340 percent increase over 2024 - anchored by Google's $32 billion acquisition of Wiz, the largest cybersecurity deal in history, and Palo Alto Networks' $25 billion purchase of CyberArk. Israel's startup ecosystem raised $15.6 billion in private capital through December 2025. The Tel Aviv Stock Exchange shifted to Monday-through-Friday trading in January 2026, aligning itself with global markets in both the literal and figurative sense.

But behind these numbers lies a more complex picture - one that the clients who call our firm's US Capital Markets practice are acutely aware of. The regulatory landscape in Washington has undergone its most consequential reset in years, and several of the changes carry particular weight for Israeli issuers. The question of foreign private issuer status - long a cornerstone of the cost-benefit calculation for Israeli companies choosing to list in the United States - is under active review by the Securities and Exchange Commission for the first time in more than two decades. New insider-reporting obligations that have never before applied to FPI directors and officers took effect in March 2026. The SEC's enforcement posture has shifted dramatically in the post-Gensler era. And throughout all of it, our clients are still navigating disclosures that need to account honestly for what it means to operate a technology company headquartered in Tel Aviv when Iran and Israel fought a twelve-day war in June 2025 - and when that conflict escalated dramatically again in late February 2026.

What follows is an honest assessment of what is on the agenda for Israeli issuers in the US capital markets today.

The FPI Status Question: A Ticking Clock for Israeli Issuers

On June 4, 2025, the SEC issued a concept release soliciting public comment on the definition of "foreign private issuer" - the regulatory classification that has enabled Israeli companies to access US public markets under a framework of meaningful regulatory accommodations since the 1980s. The release represented the first time the Commission had undertaken a broad review of FPI eligibility in more than two decades, and the data it presented made clear why Israel found itself at the center of the conversation.

FPI status matters enormously. Companies that qualify may prepare financial statements under IFRS or home-country GAAP rather than US GAAP; they are not required to file quarterly reports on Form 10-Q; they are exempt from US proxy solicitation rules; they have extended deadlines for annual reports; and - until very recently - their insiders were not required to file Section 16 reports. These accommodations were premised on the historical assumption that most FPIs would be traded in their home markets as well as in the United States, and would therefore be subject to "meaningful disclosure requirements" in their home jurisdictions.

The SEC's own data reveals how much the FPI population has changed. Approximately 55% of all FPIs now appear to trade exclusively in the United States. Of the FPIs that are US-exclusive, companies headquartered in China/Hong Kong and Israel together account for more than half of the total. Israel is the second-largest jurisdiction of FPI headquarters among US-exclusive issuers, trailing only mainland China. The concept release raised pointed questions about whether companies in this category - those that benefit from FPI accommodations but are not subject to meaningful foreign market regulation because they do not trade abroad - should continue to receive them.

For Israeli companies, the proposed approaches in the concept release vary significantly in their potential impact. A foreign trading volume requirement, for example, could be particularly disruptive: SEC data indicates that a 1% minimum foreign trading volume threshold would exclude over 60% of Israeli-incorporated FPIs. A major foreign exchange listing requirement raises similar concerns for companies that have chosen to list only in New York. On the other hand, a mutual recognition framework - akin to the Multi-Jurisdictional Disclosure System long in place for Canadian issuers - could potentially offer Israeli companies an enhanced pathway, given the deep structural alignment between Israeli securities law and its US counterpart.

The Israel Securities Authority responded to the concept release with a substantive letter to the SEC, noting that Israeli FPIs have historically been incorporated and headquartered in Israel, are subject to Israel's Companies Law and robust corporate governance requirements, and are already supervised by a professional, independent regulator. The ISA proposed the establishment of a dedicated task force with the SEC to explore mutual recognition as a formal framework. It remains to be seen how the current SEC leadership under Chairman Atkins - whose deregulatory mandate is generally favorable to reducing compliance burdens - will proceed. The concept release has not yet resulted in a proposed rule, and the comment period closed in September 2025. But the direction of travel is clear, and any Israeli company that has not thought carefully about whether its listing strategy and trading footprint would survive a revised FPI definition is not paying sufficient attention.

Our advice to clients: the time to plan is now. The dual-listing structure is no longer merely a legacy consideration - it may become a legal necessity.

Section 16 Comes to FPIs: A Governance Sea Change

While the FPI definition review remains at the concept stage, one reform moved from concept to law with striking speed. Tucked into the National Defense Authorization Act for Fiscal Year 2026, signed on December 18, 2025, were the provisions of the Holding Foreign Insiders Accountable Act. The HFIAA amends Section 16(a) of the Exchange Act to extend insider beneficial ownership reporting obligations to directors and officers of foreign private issuers - obligations from which those individuals had been entirely exempt since the modern FPI framework was established.

The original compliance deadline was March 18, 2026, ninety days from enactment. On or before that date, every officer and director of an FPI registered with the SEC must file an initial Form 3 disclosing their beneficial ownership of the company's securities -

"Call it the startup nation spirit, or simply the compulsion to keep building – whatever its source, the Israeli tech industry has spent the past two and a half years demonstrating it in conditions no boardroom simulation could replicate."

even if they hold no shares. Going forward, Form 4 filings will be required within two business days of any transaction. Annual Form 5 filings will also apply. The SEC adopted implementing rules on February 27, 2026.

This is not a minor compliance addition. For Israeli companies - this represents a structural governance change. Practical coordination challenges are considerable: multiple directors sitting on Israeli technology company boards may serve on several boards of public companies simultaneously, meaning the HFIAA affects not individual companies in isolation but the entire infrastructure of the Israeli tech governance ecosystem.

An important and welcome development emerged on March 13, 2026 - one that reflects both the severity of the ongoing security situation and the responsiveness of the SEC staff when presented with a well-reasoned case. Our US Capital Markets practice identified, shortly after the Israel-Iran war began, that the original March 18, 2026 compliance deadline created a genuine hardship problem for Israeli FPI directors and officers whose ability to comply had been materially disrupted by the Iran War. We raised this concern directly with our friends at Skadden, Arps, Slate, Meagher & Flom LLP, and advocated for an approach to the SEC seeking possible relief.

That approach bore fruit. On March 13, 2026, the SEC's Division of Corporation Finance issued a no-action letter - obtained by Skadden on behalf of one of its clients - granting directors and officers of FPIs organized and headquartered in Israel, or in any other jurisdiction in the geographical region directly affected by the Iran War, until April 20, 2026 to comply with the new Section 16(a) reporting requirements, provided their ability to meet the original filing deadline was materially affected by the direct effects of the conflict. The extension represents a meaningful and well-deserved relief for a community of issuers managing compliance obligations in extraordinary circumstances, and the result is a credit to the coordination across the Israeli capital markets bar that made the request possible.

All Israeli FPI directors and officers who benefit from this extension should be under no illusion that the reprieve changes the underlying obligation. The April 20 deadline is firm, and the substantive compliance work - Form ID applications, EDGAR access credentials, pre-clearance procedures, and board education - must be completed by that date. Companies that have not already made substantial progress on this work should treat it as their most urgent near-term corporate governance priority.

The SEC Under Atkins: Deregulation With Caveats

The change in SEC leadership following the Trump administration's return to Washington has produced a meaningfully different regulatory environment.

For Israeli issuers, the Atkins SEC presents a mixed picture. On the positive side, the SEC's Spring 2025 Regulatory Flex Agenda signaled consideration of amendments to expand accommodations for emerging growth companies and to rationalize filer categories to reduce compliance burdens - developments that would generally benefit smaller and mid-cap Israeli tech issuers. The overall rate of enforcement actions dropped significantly after the change in administration, and the SEC has walked back several Gensler-era priorities, including certain climate disclosure mandates that had imposed significant costs on international registrants with complex global operations.

At the same time, the Atkins SEC has signaled that enforcement in its priority areas will be vigorous. Insider trading, accounting fraud, and material misrepresentation cases are described as the new Commission's primary focus. For Israeli companies - which face the particular challenge of operating in a country where geopolitical developments can create sudden, material information asymmetries - the combination of heightened insider trading scrutiny and the new Section 16 reporting regime creates a compliance environment that requires active management. The SEC's Cyber and Emerging Technologies Unit, successor to the Crypto Assets and Cyber Unit, has also signaled active pursuit of cases involving misrepresentation of artificial intelligence capabilities - a risk that is particularly relevant for Israeli tech companies as AI claims have become central to investor communications.

The conversation about quarterly reporting has also reemerged. President Trump has urged the SEC to revisit the mandatory quarterly reporting cycle, and Chairman Atkins has described this as among his early priorities. For FPIs - who are already not subject to quarterly reporting - the potential move toward semi-annual reporting for domestic issuers would narrow one of the most significant advantages that FPI status currently confers. Israeli companies should track this development carefully, as it could influence the cost-benefit analysis of maintaining versus surrendering FPI status.

War, Disclosure, and the Impossible Risk Factor

No honest account of the situation facing Israeli companies listed in the United States can avoid addressing the security environment. The October 7, 2023 Hamas attack and the subsequent multi-front conflict - in Gaza, Lebanon, and ultimately against Iran itself - created a disclosure challenge unlike anything Israeli companies had previously encountered. How does a publicly traded company headquartered in Tel Aviv accurately, completely, and non-misleadingly describe its operational and financial risk environment when that environment includes the possibility of ballistic missiles striking office parks?

The twelve-day Israel-Iran conflict of June 2025 - the most direct confrontation between the two countries in history, culminating in joint US-Israeli strikes on Iranian nuclear and military facilities and a US-brokered ceasefire on June 24 - demonstrated both the resilience of the Israeli tech sector and the limits of that resilience. Israel declared a state of maximum alert. Schools and public gatherings were shut down. Ben-Gurion Airport suspended commercial flights. Over 100,000 Israelis stranded abroad during the fighting required repatriation. The damage from Iranian missile strikes exceeded one billion dollars in claimed property losses. Twenty-nine Israelis were killed.

The situation escalated again in late February and early March 2026, when a joint US-Israeli operation targeted Iranian leadership, killing Supreme Leader Ali Khamenei and triggering an ongoing, wider regional conflict that at the time of writing continues to unfold. Iranian forces have widened their strike campaign across Gulf states and restricted traffic through the Strait of Hormuz, driving oil prices above $100 per barrel and prompting global energy market volatility. For Israeli companies with operations, employees, and infrastructure in Israel, this is not an abstract geopolitical risk - it is a current operational reality.

The SEC requires public companies - including FPIs - to disclose material risks to their businesses. The challenge for Israeli issuers is calibrating those disclosures in a way that is honest without being so alarming that it triggers investor flight, and specific without being so detailed that it becomes impossible to maintain accuracy in real time. Companies have wrestled with how to describe government-mandated reserve call-ups affecting a material percentage of their technical workforce, how to account for potential damage to physical infrastructure, and how to characterize the indirect effects of a prolonged security emergency on hiring, retention, and the ability to attract international talent.

The 2025 experience provided some reassurance: the tech sector's fundamental resilience held. High-tech exports continue to account for nearly 20% of Israeli GDP and approximately 60% of total exports. Investment in Israeli tech startups remained robust, with foreign funds - predominantly American - accounting for 60% of total capital deployed. The TASE performed strongly throughout the period. But the disclosure obligation is not satisfied by resilience after the fact; it requires honest prospective disclosure of the risks that materialized. Companies that have not revisited their risk factors in light of the current conflict should do so immediately.

There is also a reputational and ESG dimension that has grown increasingly difficult to manage. Israeli companies face heightened scrutiny from international institutional investors, some of whom have adopted policies that effectively preclude investment in companies associated with Israeli defense or security technology. The constellation of boycott campaigns, UN special rapporteur reports naming corporate actors with Israeli connections, and European regulatory pressure creates a compliance and investor relations environment that requires active management by boards and executive teams - and careful attention in SEC filings to the potential materiality of these issues.

M&A Exits, IPO Revival, and the Incorporation Question

Against this backdrop, the exit environment for Israeli tech companies tells a counterintuitive story. Total Israeli tech exits in 2025 reached approximately $59 billion in new transactions - a 340% surge year-over-year - with Google's acquisition of Wiz and Palo Alto Networks' purchase of CyberArk accounting for the headline figures. The IPO window also reopened meaningfully, with eToro completing a $700 million Nasdaq listing and Via Transportation listing on the NYSE, signaling renewed public market appetite for Israeli-founded issuers. The number of Israeli companies publicly listed on US exchanges stands at approximately 135, making Israel the fourth-largest national source of Nasdaq-listed companies worldwide, after the United States, Canada, and China.

But the exit data masks structural tensions that our practice encounters constantly. The average acquisition size in 2025, excluding the mega-deals, fell approximately 40% to around $160 million. The number of startup funding rounds hit its lowest level in a decade. A growing bifurcation between well-capitalized companies in AI and cybersecurity - which command premium valuations and attract the world's

leading strategic buyers - and the long tail of smaller companies facing funding pressure and distressed conditions is evident in the data and in the flow of client calls we receive.

Perhaps the most consequential structural trend for the Israeli tech ecosystem - and one that carries direct regulatory implications - is the sharp increase in Israeli founders incorporating their companies in the United States rather than Israel. According to data presented at a late-2025 industry conference, more than 80% of Israeli-founded companies are now choosing to register in the United States, compared with approximately 20% in 2022. This trend is driven by a combination of factors: perceived tax efficiency, ease of fundraising from US venture investors, and - particularly since 2023 - concerns about governance instability in Israel and the implications of the ongoing security emergency for business formation.

The FPI implications of this trend are significant. A company incorporated in Delaware or another US state, even if predominantly operated from Tel Aviv, is a domestic issuer under US securities law - not an FPI - and loses all the accommodations discussed above. For companies that have already made this choice, or are contemplating it, the FPI analysis now needs to be part of the planning conversation at the very earliest stage of company formation and capital raise structuring. The momentum toward US incorporation may be commercially rational for individual companies, but at the ecosystem level it creates a regulatory ratchet that reduces the structural advantages the Israeli tech sector has historically enjoyed in US capital markets.

Looking Ahead: What Israeli Issuers Must Do Now

The confluence of factors we have described - the FPI status review, the Section 16 compliance deadline, the deregulatory but enforcement-focused Atkins SEC, the ongoing and escalating security situation, and the structural shift in incorporation patterns - creates a demanding agenda for Israeli companies in the US capital markets in 2026 and beyond. We offer the following observations for boards and management teams navigating this environment.

"The number of Israeli companies publicly listed on US exchanges stands at approximately 135, making Israel the fourth-largest national source of Nasdaq-listed companies worldwide"

FPI status planning should be treated as a board-level governance issue, not a periodic legal formality. The concept release process may lead to proposed rules within the next 12 to 24 months. Companies that are currently listed exclusively in the United States should model the impact of a trading volume or exchange listing requirement on their FPI status, and evaluate whether voluntary dual-listing on the TASE - or enhanced engagement with Israeli institutional investors to increase home-country trading volume - is warranted.

Section 16 compliance requires immediate action where it has not yet been addressed. Every officer and director of every FPI registered with the SEC should already have EDGAR filing credentials, pre-clearance procedures should be in place, and boards should have received substantive education. The ISA's parallel role in coordinating Israeli FPI compliance with the new requirements should be monitored closely.

Risk factor disclosure is not a static document. The security situation in the region is evolving in real time, and the materiality analysis that underpinned a company's Form 20-F risk factors filed in early 2025 may be inadequate in light of subsequent developments. Companies should treat risk factor review as a

continuous process, not an annual exercise. The obligation to provide current, accurate, non-misleading disclosure does not pause between filing periods.

The AI disclosure challenge deserves specific attention. Israeli companies are among the most active developers and deployers of artificial intelligence technologies. The SEC's Cyber and Emerging Technologies Unit has explicitly flagged "AI washing" - the misrepresentation of AI capabilities in investor communications - as an enforcement priority. In a market environment where AI claims command premium valuations, the temptation to amplify capability narratives is understandable. The enforcement consequences of doing so inaccurately are severe.

Finally, the decision about where to incorporate deserves serious legal and strategic consideration at the earliest possible moment in a company's life. The trend toward US incorporation among Israeli founders has real commercial logic, but it carries legal consequences - for regulatory classification, for FPI status, and for the governance framework applicable to the company - that need to be fully understood before the decision is made. There is no universal right answer; there is only an informed one.

The Israeli technology sector has always operated under pressure. What is different now is the complexity of the regulatory and geopolitical environment bearing down simultaneously on companies that are, in many cases, also managing extraordinary commercial opportunities. The clients we work with are resilient - the question for 2026 is whether their legal and compliance infrastructure is equally so.

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