

## Rising Star: Gibson Dunn's Matthew D. McGill

By **Mike Cherney**

*Law360, New York (April 14, 2010)* -- With victories in the U.S. Supreme Court that range from the Citizens United campaign finance case to a patent ruling that saved Microsoft Corp. billions of dollars, Gibson Dunn & Crutcher LLP partner Matthew D. McGill has earned a spot on Law360's list of 10 appellate lawyers under 40 to watch.

McGill, 36, has authored or co-authored briefs in 13 cases before the country's top court, winning 77 percent of the time. He has represented medical technology companies, mining operations and nonprofit groups, and has dealt with issues ranging from constitutional law to the Clean Water Act.

McGill has been with Gibson Dunn since 2004 and made partner at the beginning of 2009. His life has been molded by the legal system — his father is an employment lawyer and his wife, Lori A. Alvino McGill, is an appellate attorney at Latham & Watkins LLP.

A recent victory for McGill came in *Citizens United v. Federal Election Commission*, in which the Supreme Court decided 5-4 that corporations, like individuals, cannot be restricted from spending money to engage in political speech under the First Amendment.

"The one thing I took away from it is that you can't be afraid to make the hard arguments," McGill said. "You should do so fully apprised of the risks and do so only when you think it will advantage your client, but it's in making those hard arguments that you can get the really great victories."

The case first began on a much narrower footing. *Citizens United*, a nonprofit corporation that made a movie suggesting Hillary Clinton would be a bad president, wanted to make the film available ahead of the 2008 Democratic primaries through the Video on Demand feature provided by many cable companies.

The FEC, however, prevented it because it would violate the Bipartisan Campaign Reform Act, which generally prohibited corporations from spending money for certain political broadcasts before elections. *Citizens United* sued and lost in district court, and its appeal went straight to the Supreme Court.

Gibson Dunn got involved after the case was already before the Supreme Court. Though it briefed the case on narrow issues of whether the BCRA applied to movies, McGill said the firm also sought to broaden the dispute.

"We really tried to open up the case a little bit to give the court a venue, if it wanted to go there, to address whether the whole framework of the government restricting the political speech of corporations and labor unions could be justified under the First Amendment," McGill said.

Previously, McGill took on a case in the Supreme Court over whether Microsoft could be liable for U.S. patent infringement through its foreign sales, which could have doubled or tripled damages Microsoft could have owed in future patent infringement disputes. In 2007, the court sided with Microsoft, which was battling against AT&T Corp.

McGill has since been retained as appellate counsel by Microsoft in several cases in which juries issued large verdicts against the company.

That includes a \$388 million verdict in *Uniloc USA v. Microsoft*, which is being briefed in the U.S. Court of Appeals for the Federal Circuit, and a \$200 million verdict in *i4i LP v. Microsoft*, which was upheld by the Federal Circuit but could be appealed further.

"The company has repeatedly and increasingly turned to us for appellate work in their complicated patent cases, and they go directly to Matt," said Theodore Olson, a partner at Gibson Dunn and former solicitor general who recruited McGill to the firm.

"It demonstrates his brilliance as a lawyer, but also his maturity, the way he's able to deal with and work with clients and inspire confidence."

Finally, McGill helped save a \$330 million investment for mining company Coeur Alaska Inc. that was jeopardized when environmental groups challenged a Clean Water Act permit.

A circuit court ruled against Coeur Alaska, but McGill and Gibson Dunn convinced the Supreme Court, which subsequently ruled in favor of the company, to take the case.

"The agency that issued the permit was opposing Supreme Court review of the decision invalidating the permit," McGill said. "Things looked pretty bleak, but we persuaded the court to take the case even in the absence of any real circuit split, which was an outcome few would have predicted."

McGill, who got interested in becoming a lawyer as a teenager when he began reading his father's court briefs in First Amendment cases, said his goal now is to continue to build the appellate franchise at Gibson Dunn and ensure the firm keeps getting big and important cases.

"The thing I like the most is the diversity of my practice, that I get to be a patent lawyer and an environmental lawyer and a First Amendment lawyer all at the same time," McGill said. "I very much enjoy the opportunity to be a generalist. It allows me to always be learning."