

Cybersecurity & Privacy Group Of The Year: Gibson Dunn

By Ben Kochman

Law360 (January 27, 2020, 4:29 PM EST) -- Gibson Dunn & Crutcher LLP helped Facebook reach a historic \$5 billion privacy settlement with the Federal Trade Commission while continuing to represent the social media giant in ongoing multidistrict litigation stemming from its data harvesting scandal, earning the firm a place among Law360's 2019 Cybersecurity & Privacy Groups of the Year.

The settlement reached in July resolved federal probes into a slew of Facebook's privacy breaches, including the company's admission that it improperly allowed an app developer to share tens of millions of users' personal data with the political consulting firm Cambridge Analytica. The \$5 billion fine is by far the highest penalty that the FTC has secured in a privacy case. But the deal also includes several terms favorable to Facebook, including a clause granting the company a massive liability shield for its past behavior.

Helping Facebook navigate through the Cambridge Analytica fallout remains a uniquely challenging juggling act, and not just because the company's user privacy issues have become a hot-button topic among elected officials and the public, said Alexander Southwell, co-head of Gibson Dunn's cybersecurity, privacy and consumer protection group.

At the same time that Gibson Dunn attorneys were helping the tech giant reach an agreement with the FTC, lawyers at the firm were trying to fend off Cambridge Analytica-related claims filed by state attorneys general and private litigants, he said. The firm also worked on Facebook's wide-ranging internal probe into app developers' access to user data, which so far has resulted in the company suspending tens of thousands of apps from using its platform.

"The work in this space has gotten much more complex and serious, and the Facebook case is a testament to that," said Southwell, who is based in New York City, in an interview.

"What we're seeing in the market is a separation between the more routine data breach matters and much more complex matters like this one," Southwell said, adding that "we are at the forefront of those more complex cases."

Among the cases on the group's plate now are challenges to Facebook's FTC settlement pending in D.C.



federal court, and multidistrict litigation stemming from the Cambridge Analytica episode that has been consolidated in California. In September, Gibson Dunn's attorneys were able to convince a judge to narrow some of the social media users' claims in the Cambridge Analytica case, although the majority of consumer claims remain.

The firm also represents other tech industry titans like Yahoo, which it helped reach a \$117.5 million settlement to resolve sprawling litigation over multiple data breaches involving approximately 194 million user accounts. In July, U.S. District Judge Lucy Koh preliminarily approved a new version of that deal, after rejecting previous versions of the settlement for being too vague and inadequately describing the breaches at issue.

Gibson Dunn has more than 100 attorneys in its cybersecurity, privacy and consumer protection group, many of whom are veteran ex-prosecutors like Southwell, formerly of the U.S. Attorney's Office for the Southern District of New York. Ryan Bergsieker, a partner based in the firm's Denver office and himself a former federal cybercrimes prosecutor, said some of the biggest companies in the world continue to turn to the multinational firm based on the breadth of its resources and experience.

"We work closely with our colleagues both in other practices and across the globe, including our very strong practice in Europe," Bergsieker said, adding that the firm's expertise allows it to "think not just about the specific problems that the client is facing, but to look at what additional problems the client might face going forward."

The firm expects the workload of its cybersecurity and privacy practice group to grow in the coming years, particularly given the new regulation being passed in the area. Most recently, the California Consumer Privacy Act went into effect in January, giving consumers new rights to ask companies for access to their data and to opt out of their data being sold to third parties.

"That law is very expansive in its scope, expansive in its applications, and many companies will be in the sweep of the law," said Michael Li-Ming Wong, a Gibson Dunn partner based in San Francisco and Palo Alto. "I expect that it will keep a lot of lawyers busy."

—Additional reporting by Dorothy Atkins. Editing by Bruce Goldman.