

## Technology Group Of The Year: Gibson Dunn

By **Kevin Penton**

*Law360 (February 5, 2020, 1:24 PM EST)* -- Gibson Dunn & Crutcher LLP represented Facebook as the social media giant secured a historic \$5 billion privacy settlement with the Federal Trade Commission, earning the firm a spot as one of **Law360's Technology Groups of the Year**.

The deal, which the Republican-led FTC approved in a 3-2 vote along party lines in July, required Facebook to both pay the record monetary penalty and take steps such as setting up a board-level committee to oversee its privacy efforts and submit to stiffer third-party audits.

The 20-year settlement also required the social network to overhaul the way it makes privacy decisions, institute changes to its privacy practices, and conduct pre-implementation privacy reviews for every new or modified offering on Facebook, WhatsApp and Instagram.

Orin Snyder, co-chair of the firm's media, entertainment and technology practice group, said that while there is little Gibson Dunn can publicly say about the details of the settlement, the firm was proud to represent Facebook and secure the widely reported deal.

"It was a paradigm example of how clients and law firms can work together to achieve a result for the client," Snyder said.

There has been no shortage of criticism for the deal, with opponents in recent weeks challenging the provision that would broadly release Facebook from liability for any alleged privacy-related violations known by the commission before June and the sweeping access the deal would give the federal government to Facebook users' data.

Gibson Dunn is also representing Facebook as the company deals with civil litigation related to the alleged misuse of user data by Cambridge Analytica and other outside entities. In September, a California federal judge dismissed a stock-drop suit against Facebook related to the purported scandal.

U.S. District Judge Edward J. Davila went line by line in assessing 36 allegedly false and misleading statements from CEO Mark Zuckerberg and executives Sheryl K. Sandberg and David M. Wehner related



to the Cambridge Analytica breach and data privacy at Facebook, ultimately finding none met the threshold for pleading securities fraud.

Brian Lutz, co-chair of the firm's securities litigation practice group, said the case was a good example of how Gibson Dunn attorneys strive to digest technological issues before presenting information in a persuasive way that courts and the public can understand.

"That's what sets us apart and what helped us achieve this really great result in this case," Lutz said.

Gibson Dunn has also represented HomeAway.com Inc., an Expedia subsidiary, as it has challenged regulations enacted by state and local governments that seek to compel the handover of customers' personal information.

The firm represented HomeAway as it convinced a New York federal court in January 2019 to block a New York City ordinance that would require short-term rental platforms to hand over hosts' personal information.

U.S. District Judge Paul A. Engelmayer granted the preliminary injunction bid filed by HomeAway and Airbnb Inc., finding the ordinance runs contrary to both the Fourth Amendment and Article 1 Section 12 of the New York Constitution by requiring the companies to turn over the user information, and that it would result in both companies suffering irreparable harm.

"We were able to persuade the federal court ... to enjoin that ordinance on the grounds that it violated the Fourth Amendment," firm partner Kristin Linsley said.

Looking ahead to 2020, Snyder said that as all levels of government continue to add regulations to technological innovations that have revolutionized commerce worldwide, Gibson Dunn will continue to defend companies and their business models from being unfairly penalized.

"The technology industry is moving at a mach speed, and the law is trying to catch up," Snyder said. "Gibson Dunn is the go-to firm in the tech industry when there needs to be a harmonization of statutory and common law to this rapidly evolving industry."

--Additional reporting by Allison Grande and Dean Seal. Editing by Philip Shea.