

Cybersecurity & Privacy Group Of The Year: Kecker

By Crystal Owens

Law360 (February 6, 2025, 4:04 PM EST) -- Kecker Van Nest & Peters LLP successfully secured a \$62 million settlement while resolving six proposed class action suits against Google, freeing the tech giant from many consumer privacy claims and pumping vast funding to internet privacy nonprofits, earning it a spot among the 2024 Law360 Cybersecurity & Privacy Groups of the Year.

During the five-year litigation — with final approval handed down in May — the team secured several key victories, including a March 2022 dismissal of all the plaintiffs' statutory claims in the location history dispute and setting a precedent for earlier dismissals in lawsuits against technology companies.

However, that decision was just one of the firm's precedent-setting accomplishments last year.

In March, its team scored a landmark victory in the Ninth Circuit for Google in a decision that will enhance the ability of tech companies to get rid of privacy claims on the pleadings.

The appellate panel refused to revive a proposed class action alleging Google's "Lockbox" program secretly collected information about Android owners' non-Google app use, saying the search engine giant clearly disclosed in its privacy policy that it tracks activity in third-party apps.

In *Hammerling v. Google*, the plaintiffs' initial complaint sought to represent a class that "likely consists of millions" of Android users.

"There was a real trend, I think, among the district courts to let these cases go past the pleadings, even where sometimes the allegations were sort of directly rebutted by, for example, the company's privacy policies," Ben Berkowitz, a partner at the firm, told Law360.

In December 2022, the firm's motion to dismiss convinced a federal district court to toss the suit with prejudice. The plaintiffs, according to the decision, failed to plead that Google's alleged privacy intrusion was "highly offensive" and that the company learned the "contents" of their interactions with third-party apps.

Kecker began developing its privacy and cybersecurity practice in earnest in 2018, according to Berkowitz, and the experience has been "pretty incredible" in those high-stakes cases.



"We've gotten to represent the leading technology companies in the world. And we get to work with them on these really challenging cases that involve us diving deep into the technology stacks, but then also into the kind of public policy issues around what consumers want, such as broader access to new and developing technologies, while also protecting people's privacy," Berkowitz told Law360.

The San Francisco-based firm of 140 attorneys doesn't have dedicated practice groups, although each lawyer has their own area of expertise.

The firm takes a "generalist" approach, meaning its attorneys can take any case to trial that's going to make sense to a jury and people from a variety of backgrounds, Erin Meyer, who specializes in cybersecurity, consumer and class action lawsuits, said.

"I think it definitely benefits the attorneys at the firm who get to do really interesting cases, and we don't ever get bored. And it benefits our clients, because I do think that we have a different approach to cases than other law firms do, or they have blinders on and are doing the same kind of cases day in and day out," Meyer told Law360.

That overall approach is credited by the firm for its successful defense of Twitter, now X, in a series of lawsuits after rogue employees of the social media platform improperly accessed account information while acting as covert operatives for the Saudi Arabian government.

The plaintiffs brought a slew of claims against Twitter — including racketeering, unfair competition law, invasion of privacy, concealment and negligent supervision — hoping to hold it liable for the employees' actions.

Keker obtained dismissals with prejudice for lack of standing and failure to state a claim in two cases: Omar Abdulaziz v. Twitter in 2021 and Ali Al-Ahmed v. Twitter in 2022.

A third case — Al-Sadhan v. Twitter — was dismissed in February 2024 with the judge finding no plausible claim that the company engaged in a conspiracy with Saudi Arabia.

In December 2023, the firm defended X in the Ninth Circuit in the Abdulaziz appeal, and that decision may have broad implications for companies facing potential liability for espionage and other misconduct by foreign state actors, according to Berkowitz.

"I think the significance of the espionage decision, and of all of these decisions, is that they set some precedents for American companies to look at the degree to which they can be liable when they're victims of foreign state-sponsored espionage," Berkowitz said. "Unfortunately the way the world is now, I think we are going to see a lot more foreign state-sponsored espionage against American companies and particularly companies like our clients who hold a lot of private data."

--Editing by Janice Carter Brown.