Cybersecurity & Privacy Group Of The Year: Latham

By **Crystal Owens**

Law360 (February 7, 2025, 4:03 PM EST) -- Latham & Watkins LLP delivered a heavy hit last year to the U.S. Securities and Exchange Commission's efforts to expand regulatory authority over public companies' cybersecurity practices, winning a landmark victory for SolarWinds Corp. and landing it a spot as one of the 2024 Law360 Cybersecurity & Privacy Groups of the Year.

The global firm credits its cross-section of knowledge spanning data, technology and commercial issues for its success helping companies in all disciplines — from startups, unicorns and Fortune 50 to everything in between.

"Many of the practice's biggest accomplishments are ones we can't discuss. Some of our most amazing results must stay behind the curtain — the cases that don't get filed, or confidential investigations where we convince the regulators to close without enforcement," Michael Rubin, a partner at the firm, told Law360.

In the SolarWinds case, the team "gutted" the SEC's case against their client when U.S. District Judge Paul Engelmayer last July dismissed substantial portions of the federal agency's claims related to the software developer's disclosure of the 2020 Sunburst attack that compromised the networks of several federal agencies that relied on SolarWinds' software, the firm said.

Described as "a milestone in the SEC's evolving attempt to regulate how public companies deal with cybersecurity," the agency's lawsuit charged SolarWinds and its chief information security officer with securities fraud, disclosure control and internal accounting controls violations based on alleged failures to maintain inadequate cybersecurity controls and to disclose detailed information to investors about its cybersecurity posture.

Those allegations "impermissibly rely on hindsight and speculation," Judge Engelmayer ruled, because the company didn't know at the time that it disclosed the hack whether it could be linked to two earlier security incidents reported by SolarWinds customers.

"The court's ruling on the motion to dismiss was a major win not only for SolarWinds, but for public companies across the board. The SEC was trying to expand cybersecurity disclosure obligations well beyond what the law requires, and claim a mandate for substantively regulating cybersecurity that the agency does not have. We are pleased to have defeated this misguided attempt to regulate by enforcement," partner Serrin Turner, counsel to SolarWinds, told Law360.

That win was just one of the major accolades for the firm.

The firm secured two early dismissals before a divided Ninth Circuit panel in September 2023 on behalf of Apple after a proposed consumer class alleged the tech giant hid that its software fix for a security bug slowed its products' processing speeds.

The class alleged that nearly all iPhones, iPads, iPods and Apple TVs were defective because of two theoretical security vulnerabilities — nicknamed "Spectre" and "Meltdown" — that rocked the entire chip-making industry in 2018, according to the firm.

Although the vulnerabilities had never been exploited, they had the potential to affect nearly every smartphone, computer and other device with a central processing unit. Apple quickly patched the exposure after they were discovered; however, the plaintiffs sued, alleging that it diminished the value of their devices and that the company's mitigation efforts slowed their devices.

The Ninth Circuit in October 2023 upheld the 2-1 decision, finding that the plaintiffs failed to allege an actionable misstatement or omission related to the vulnerabilities.

The decision, according to Latham, sealed the win for Apple and saved the company potentially billions in damages claims.

"The Spectre/Meltdown litigation was focused on two theoretical security vulnerabilities that affected essentially every modern computer chip — but had never been exploited outside of a testing environment. As soon as Apple learned of the potential issues, it developed and released software fixes — before bad actors could exploit them against users. We were very pleased that the court agreed with us that Apple did not make any false or misleading statements and was not obligated to publicly highlight the theoretical vulnerabilities before it could protect users from them," Melanie Blunschi, Latham partner and counsel for Apple, told Law360.

As new technology continues to emerge, Rubin said he anticipates "increased and increasingly novel and complex litigation" related to privacy, cybersecurity and integrity issues to be brought against AI companies and companies integrating AI into their processes.

Litigation, he said, is also likely in relation to the full slate of AI laws that have emerged and are expected to be enacted in 2025 and beyond.

"Latham's AI practice, comprised of leaders from across the firm's litigation, regulatory and transactional practices, and including more than 150 lawyers from 30 practice areas and 15 offices globally, has been advising companies at every layer of the AI stack to help them understand and mitigate risks to help stave off disputes and investigations and navigate them when they can't be avoided," Rubin told Law360.

--Editing by Alyssa Miller.