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TOP CYBER LAWYERS 2020

Jonathan H. Blavin

Blavin aids clients in untangling legal challenges involving the Communications Decency Act, the Children’s Online Privacy Protection Act, the Computer Fraud and Abuse Act and the Electronic Communications Privacy Act, among others. His clients include Facebook Inc., Square Inc., Snap Inc. and Airbnb Inc.

As 2020 arrived and a fraught election season kicked off, Blavin successfully defended Facebook in its efforts to turn away disinformation campaigns. In September, a federal judge in San Francisco denied one group’s bid for a temporary restraining order against Facebook’s placement of a “Russia state-controlled media” label on its pages. *Maffick LLC v. Facebook Inc.*, 3:20-cv-05222 (N.D. Cal., filed July 29, 2020). That litigation is ongoing.

Earlier, Blavin’s successful defense of Facebook against a suit by a Russian “news” website was another part of the battle against political disinformation campaigns. The Russian site sued the social media giant for having removed its profile in 2018. *Federal Agency of News LLC v. Facebook Inc.*, 5:18-cv-07041 (N.D. Cal., filed Nov. 20, 2018).

“The issue for Facebook was that following the 2016 presidential election, there was an investigation of disinformation efforts,” Blavin said. “Facebook removed a number of accounts connected with disinformation efforts.”

The plaintiff was one of the groups found to have been involved in the 2016 campaign.

It was allegedly controlled by the Internet Research Agency, a Russia-based group backed by an ally of President Vladimir Putin to promote his government’s interests. A U.S. intelligence report described the IRA as an agency of “professional trolls whose likely financier is a close Putin ally with ties to Russian intelligence.” The IRA and its offshoots started to advocate for Donald Trump as early as December 2015, the report concluded.

In January, U.S. District Judge Lucy H. Koh of San Jose dismissed the Federal Agency of News suit with prejudice, ruling that Facebook was shielded from the claims under Section 230 of the Communications Decency Act. “Numerous courts have held that Section 230 immunizes a website’s removal of political speech,” Koh wrote, rejecting the plaintiff’s arguments that Facebook is a public forum or that the company acted with the U.S. government to deny its constitutional rights.

“Only the government can violate your First Amendment rights,” Blavin remarked. “The twist here was that the plaintiff claimed Facebook worked so closely with the government that it should be considered a state actor. Judge Koh considered and dismissed that argument.”

The dismissal set a tone for future social media actions as the 2020 election campaigns proceeded. “It was an important precedent to get in advance of the election,” Blavin said. “It confirmed an important principle of law.”

— John Roemer



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