

Competition Group Of The Year: Cravath

By **Christopher Cole**

Law360 (February 20, 2025, 4:02 PM EST) -- Cravath Swaine & Moore LLP scored a trailblazing antitrust verdict for Epic Games when a California federal jury decided Google's Play Store illegally dominated the Android app market, making Cravath one of the 2024 Law360 Competition Groups of the Year.

The firm's lawyers also won key circuit court rulings and successfully led Cisco Systems Inc. through complex antitrust issues tied to its \$28 billion acquisition of cybersecurity company Splunk Inc., as well as Aon PLC's \$13 billion deal to take over insurance broker NFP Corp.

Cravath spent months laying the groundwork for client Epic Games Inc. to take on Google LLC in a jury trial challenging what the Fortnite game developer claimed was Google's unlawful dominance using the Play Store and its in-app payment system.

The trial ended in a win for Epic in December 2023 when jurors, after deliberating for less than four hours, agreed Google "willfully acquired or maintained monopoly power" in the Android app distribution and billing services for the worldwide market excluding China, and struck deals with other game developers that unreasonably restrained trade and unlawfully tied Play Store use to Google's own billing system for in-app purchases.

Less than a year later, a California federal judge ordered Google to offer third-party options for downloading apps on Android phones and take other steps in response to the jury verdict, another key development Cravath played a role in.

Gary Bornstein, co-head of Cravath's litigation department, told Law360 that Epic's trial win was critical because it represented "the first big trial verdict against a big tech company in an antitrust case in a really long time," and the case ended up compelling Google to make "material changes to its app store and the way that it contracts with developers" and others.

"It's a really significant decision," both as the first major ruling Google faced on antitrust grounds and for Big Tech antitrust generally, he said. "It's taken on a global dimension, too, where there's a lot of scrutiny in other jurisdictions now with the same issues — both for Apple and for Google — around the way their app stores are structured."



"We think we had a really smart jury, and it was great to be able to just present it to them cleanly, plainly, and have them totally get it, which they did," he said.

While Epic's headline-making win against Google was a standout achievement, Cravath's team enjoyed other big antitrust successes over the course of the year starting in fall 2023.

Cravath also won eventual dismissal of all claims against Meta Platforms Inc. in putative class action and individual antitrust litigation filed around the country over the social media giant's role in the multibillion-dollar digital advertising industry.

Digital ad buyers and media companies that publish ads claimed Meta agreed not to compete with Google in digital advertising markets in return for preferential treatment in Google's advertising auctions. Following dismissal motions led by Cravath, the newspaper plaintiffs later voluntarily dismissed their complaints, and in March 2024, a New York federal court narrowed the claims brought by advertisers, including wiping out their federal Sherman Act claim. A month later, the ad plaintiffs agreed to drop their remaining California state law antitrust claims.

Cravath also led the retail trading platform Robinhood Markets Inc. to success in the Eleventh Circuit, where the company in June 2024 beat antitrust claims in closely watched "meme stock" litigation. Plaintiffs had claimed Robinhood conspired with Citadel Securities to head off losses from a January 2021 "short squeeze" by limiting the trading of stocks for companies like GameStop Corp., which was being fueled by online memes.

Cravath's achievements were not limited to the litigation arena. Among other things, the firm also guided two major technology tie-ups through the intricacies of antitrust clearance.

Last March, Cisco Systems and Splunk closed their multibillion-dollar acquisition deal much earlier than they anticipated after unveiling the plan just months before. Cravath helped nail down antitrust approvals from a dozen antitrust authorities, including in the United States and European Union. Cisco is now one of the world's largest software companies, said Cravath, which described an "exceptionally smooth" antitrust process.

Like Aon deal's closing a month later, the Cisco-Splunk agreement did not trigger a second request for information from the U.S. Department of Justice, effectively giving it clearance needed alongside approval from other countries' enforcers.

"We certainly anticipated that the DOJ would be curious about the space generally," said Maggie Segall, a litigation partner in Cravath's antitrust practice. But she said the parties clearly explained their goals for the transaction, and how there was not really any "material overlap" in the market and that "it's highly competitive right now."

"Ultimately, I think it's one of those instances where just the facts on the ground themselves helped the government understand why the deal wouldn't raise any sort of concern, just given what a dynamic space it is," she said.

Segall said generally it's best to have "a clear and straightforward dialogue" with the DOJ and making sure clients are fully answering the government's queries once the review kicks off.

Going in with a message right off the bat about the merger's benefits is "obviously very important," but so is "ensuring that you're really listening closely to any questions you get, so you can be as responsive as possible," Segall added.

--Additional reporting by Bonnie Eslinger, Katryna Perera and Jade Martinez-Pogue. Editing by Kristen Becker.

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