

## Illinois Powerhouse: Edelson PC

By Diana Novak Jones

*Law360, New York (October 5, 2017, 6:05 PM EDT)* -- Out of its Chicago headquarters, plaintiffs firm Edelson PC has built a national reputation for filing lawsuits meant to ensure companies developing new technology keep their customers' privacy in mind, and in the past year it's also found success in more traditional areas like robocalling and sports concussions.

Edelson has brought several first-of-their-kind consumer protection suits over privacy issues in web-enabled consumer goods, customer records and online advertising, and it's also scored a mammoth Telephone Consumer Protection Act settlement along with a lead role in multidistrict litigation over injuries to college athletes. That combination has earned Edelson a barrage of headlines and a place among the heavyweights on Law360's 2017 Illinois Powerhouses list.

Since the firm's launch in Chicago in 2007, it has been focused on breaking new legal ground. So the tech industry — then more of a legal curiosity than the booming industry it is today — became a natural source of business from the start, firm founder and CEO Jay Edelson told Law360.

"I started filing suits against the new companies that were operating on the internet because I found the business models interesting," Edelson said. "I'm not a big techie. I was really just attracted to those issues because they tended to be issues of first impression."

When Edelson's in-house lab of computer forensic experts uncovered a web-enabled sex toy that allegedly collected data on its users' habits, the firm didn't think twice about filing a suit.

Edelson said that suit, which settled for \$3.75 million in August, is the first-ever settlement involving the internet of things, or objects with web connectivity. Those products, which Edelson calls the "Wild West" of consumer goods, have led to two more suits in recent months and are the reason the 27-attorney firm is expanding its workforce and its office right now.

The firm's lab is key to Edelson PC's ability to keep up with new developments in technology and the privacy and cybersecurity risks they pose to consumers, Edelson said. The vast majority of the firm's cases originate from the lab's work, and they're churning out more cases than it can handle, he added.



"Where most plaintiffs firms wait until The New York Times reveals there's been some sort of privacy breach, our suits are breaking the news," he said.

The lab is made up of four attorneys and three computer forensics experts. The experts aren't attorneys — one is a former intelligence systems analyst with the Marines, while another is a professor at the Illinois Institute of Technology — but they become well-versed in consumer protection law as they tinker with the new products littering the office.

There are about 25 different products getting the Edelson treatment in the office now, according to partner Christopher Dore, who leads the firm's lab.

"When we are doing discovery, we have a perspective no one else has," Dore said, adding that often Edelson attorneys have such an extensive knowledge of a product's functionality that they speak directly with the defendants rather than going through their lawyers.

As companies began using more information collected about their employees and customers to track their activity and target their interests, Edelson was among the first to use existing Illinois laws to bring suits over the potential privacy violations. This year, it used Illinois' Right of Publicity Act to sue companies like Groupon, Spokeo Inc. and Intelius Inc. over claims the companies used their customers' identities in advertising without their consent.

It also has six suits pending under Illinois' Biometric Information Privacy Act against companies that allegedly gathered and stored biometric information from their customers and employees without their consent. The firm reached what it calls the first settlement under the law in December, netting Illinois customers \$1.5 million to resolve claims L.A. Tan improperly collected their biometric data.

Edelson PC's ongoing suit against Facebook over its facial-recognition technology has grabbed media attention around the country, but that's just the start, Edelson said. This information, which can include fingerprints and other measurements of unique physical characteristics, is being used more and more to track customer habits.

As the firm's focus on technology intensified, it opened an office in San Francisco last year, but Chicago remains its home base. Although the Midwest may seem like a puzzling choice for the headquarters of a firm focused on Silicon Valley, Edelson says the firm has really benefited from its location. He moved to Chicago after law school at his wife's request, but it ended up being a good place to build a strong plaintiffs firm, he said.

"I realized when it comes to class actions, the judges have dealt with as many or more than any in the country, both in Cook County [Circuit Court] and federal," Edelson said. "The judges are very direct and to the point ... it just made us into tough litigators."

Plus, Illinois has some of the nation's toughest privacy laws, and the firm hasn't shied away from getting involved to keep them in place. When an Illinois state senator tried to amend the biometrics law last year to exclude photographs — the heart of the Facebook suit — the firm lobbied to shut that down, Edelson said.

Like Edelson, the most successful firms in Chicago have really focused on specific niches within the law, according to legal consultant Kent Zimmermann of Zeughauser Group.

"You want to be among the highest quality and best relative to your area of focus," Zimmermann said.

While new technologies and related privacy issues make up about 80 percent of the firm's cases, this year brought some major wins in more traditional class action territory.

Just days before they were set to go to trial in a Telephone Consumer Protection Act class action involving nearly a million robocalls advertising cruises, Edelson attorneys were able to negotiate a settlement that the judge said was among the largest recoveries under the act he had ever seen.

The deal, announced in September 2016, could have cruise marketers Caribbean Cruise Line Inc., Berkley Group Inc. and Vacation Ownership Marketing Tours Inc. paying out up to \$76 million to class members who can show they received the robocalls. As the claims process progresses, Jay Edelson said class members are likely to receive around \$100 per call, with some collecting close to \$10,000.

Edelson PC has also found a space in the multidistrict litigation over concussion-related injuries suffered by college athletes based in Illinois federal court.

While representing the lead objector to the settlement reached to resolve concussion claims against the National Collegiate Athletic Association, Edelson urged the judge to preserve the class' personal injury claims.

Those claims were ultimately split off into a separate track, and Jay Edelson was appointed co-lead counsel for the plaintiffs in November 2016.

--Editing by Jeremy Barker.