

Technology Group Of The Year: Weil

By **Andrew Karpan**

Law360 (January 29, 2025, 4:03 PM EST) -- Weil Gotshal & Manges' tech lawyers litigated antitrust issues over Microsoft's \$69 billion takeover of Activision Blizzard, defended Apple from customers who claimed they were scammed by an app they downloaded from the App Store, and handled the bankruptcy of a major bitcoin miner, earning the firm a spot among the 2024 Law360 Technology Groups of the Year.

Microsoft has been using Weil attorneys for a range of different matters since the early 2000s, including using the firm to handle deal issues in its major video game buys, like its \$7.5 billion acquisition of Fallout maker Zenimax in 2021 and its \$68.7 billion purchase of Call of Duty maker Activision Blizzard three years later.

The firm was particularly involved in the Activision Blizzard deal, said Michael Moiseyev, co-head of the firm's antitrust practice in the U.S.

"Weil was the global quarterback on that deal, handling the overview of all the jurisdictions, working with local counsel in certain jurisdictions but handling the key ones in the United States, the [European Commission] and the U.K.," Moiseyev said.

Moiseyev said the tech giant was able to get the deal through the U.K.'s Competition and Markets Authority by making a "pretty novel remedy" that involved selling the cloud streaming rights for Call of Duty and all other Activision Blizzard titles to French video game rival Ubisoft Entertainment.

"Microsoft was able to close that transaction last year and avoid a massive [\$3 billion] termination fee as well as moving forward with their strategic vision in gaming," Moiseyev said.

The deal is still being litigated in the U.S. The Ninth Circuit refused to temporarily block the deal, allowing it to move forward, while the court continues mulling the larger antitrust issues. The Federal Trade Commission told the court last year that Microsoft has already used the diminished competition in the marketplace to raise prices of its game streaming services.

Microsoft, however, believes its acquisition of Activision had the effect of "democratizing gaming," Moiseyev said. Before he started working with Microsoft and other Weil clients, Moiseyev spent 16 years running a key unit at the FTC that reviews deals in the pharmaceutical and technology industries.



"Regulators have been paying particular close scrutiny to major tech transactions, and we're operating in a world where regulators were certainly very concerned that they were missing the next big thing, which is always a challenge from the regulatory side," Moiseyev said.

"They seized on Microsoft's vision for the future, the open platform, and cloud gaming and game streaming in particular, as these [were] new frontiers in gaming ... they were worried [the scales] could be tipped with a new transaction of this size. That led to a labyrinthine regulatory review process," he added. "It raised cutting-edge innovation [and] competition issues that regulators were particularly sensitive to at that time."

Handling litigation over Microsoft's deal with Activision Blizzard isn't the only work that the firm has taken on for the technology giant. Moiseyev said Microsoft also hired the firm to deal with regulatory scrutiny targeting the company's ongoing \$10 billion investment in OpenAI, the startup behind the ChatGPT software that has drawn litigation since its launch in 2022.

"Microsoft is obviously a massive company ... [but] it's not a provocative company, and I think it does a really good job of being a good corporate citizen," Moiseyev said.

Another massive company among Weil's clients is Apple, which the firm has been working with since the late 1990s. In recent years, Weil was hired to defend Apple against an appeal mounted by App Store customers who said they downloaded a phishing app posing as a digital wallet that stole people's cryptocurrency.

"Apple had nothing to do with it. They just created a platform where somebody was able to download some cryptocurrency app," said David Lender, who co-chairs Weil's global litigation department. Lender pointed to a Ninth Circuit ruling last year the firm landed that found Section 230 of the Communications Decency Act, the federal tech immunity law, shields Apple from an array of fraud and wiretapping claims.

"The App Store is open. People can go on there and offer their apps. Apple is not going to be responsible for what somebody else is doing on the App Store," Lender said. "People aren't going to be able to look to Apple if somebody does something amiss on the App Store."

For some of Weil's other clients, the firm has been there for when things go wrong in the cryptocurrency world. The firm had been representing cryptocurrency mine operator Core Scientific since 2018, including leading the company through a Chapter 11 restructuring plan that was approved last year and that cut the mining outfit's debt by \$400 million.

Lender said he appreciated learning more about cryptocurrency mining.

"What I found most interesting was just learning the business of mining, how complicated it really is. The inputs, the variables, the high energy costs. Even understanding how people go about mining these algorithms, these computers that are running 24/7 in these places in the middle of Texas," he said. "It was a great case to work on."

--Editing by Janice Carter Brown.