

Law Firm of the Year

for venture capital
and private equity

– U.S. News - Best Lawyers

Litigation Powerhouse

– Law360

IP Litigation Department of the Year finalist

– The American Lawyer

5x Privacy Group of the Year

– Law360

#1 for VC-backed IPOs for the last decade

– IPO Vital Signs

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Stephane Levy, Partner—Emerging Companies; and Bethany Lobo, Associate—Litigation: Privacy

Stephane Levy is a partner at Cooley. He represents emerging growth technology companies in all stages of their life cycle, as well as the investors in these companies. The counsel he provides to his clients ranges from general corporate advice to matters related to entity formation, seed investments, venture capital financings, mergers and acquisitions and initial public offerings.

Stephane regularly lectures on legal aspects affecting emerging companies and venture capital funds, including as an adjunct professor at Cornell University Law School where he teaches a course on emerging growth companies and venture capital, and to various tech community organizations.

Bethany Lobo is a senior litigation associate at Cooley. Her practice is focused on class action defense and privacy counseling, with particular emphasis on cyberprivacy, biometrics, data breaches, eCommerce, the Internet of Things, enforcement of online Terms of Service, and other Internet law issues.

Bethany has notable experience assisting social media and other technology companies in addressing privacy and copyright issues giving rise to litigation exposure. She is a member of Cooley's privacy & data protection practice, which was recognized by *Law360* as Privacy Practice of the Year, most recently in 2016.

Please provide an overview of what, substantively, your practice area entails.

Levy: My practice is principally focused on working with startups and venture investors. I provide advice on a wide range of legal issues arising in connection with formation and shareholder matters, hiring employees, entering into commercial contracts, raising outside capital and all kinds of liquidity events, including secondary sales of stock, mergers and acquisitions and initial public offerings.

Lobo: I am an Internet litigator who defends high-value privacy and data protection suits for clients.

What types of clients do you represent?

Levy: I work with companies that are looking to change the status quo. These companies believe the “old way” of doing things no longer works and they have a new innovative way of solving a problem. For example, I represent a company called The Investors Exchange (IEX), which is the new stock exchange featured in *Flash Boys*, the book written by acclaimed author Michael Lewis. I started working with the company and its founders when the company was just get-

ting off the ground and have represented the company on all of its major corporate transactions. The founders' mission when creating IEX was to usher in an era of transparency in the world of stock trading with the aim of attracting investors by promising to “play fair.”

Another example is a company called littleBits. Founded by an inspiring TED Fellow and MIT alum, Ayah Bdeir, littleBits is a platform of easy-to-use electronic building blocks that enables people to invent anything, from their remote controlled car, to a smart home device. One of the company's missions is to empower and encourage students to pursue STEAM fields of education, including science, technology, engineering, and mathematics, combined with art.

As New York City continues to shine as an exciting place to launch a startup, I am also increasingly representing foreign startups establishing themselves in NYC to launch their US operations.

Lobo: I work with a diverse array of technology companies, including Facebook, Google, eBay, Snap Inc. (creator of the Snapchat app and Spectacles), King.com (which makes

Candy Crush Saga), Niantic (creator of augmented reality game Pokémon Go), Oculus (designer of the Rift and other virtual reality technology), and Zenefits (a cloud-based software-as-a-service company in the human resources space).

What types of deals and/or cases do you work on?

Levy: I mostly focus on representing companies on their day-to-day legal needs, as well as on private financings (all stages, including seed rounds to later stage growth rounds), M&A transactions and IPOs. I also represent a number of venture capital firms on their investments in startups.

Lobo: I defend companies facing challenges to their business practices or business models, especially in the areas of privacy and data protection. For instance, I represent clients who face class action litigation challenging their data security practices after they release a product collecting new forms of consumer data, or after they suffer a data breach. I also counsel companies on key related issues, including privacy, data collection, data security, data breaches, collection and use of biometrics, preparation of online Terms of Service and Privacy Policies, enforcement of online Terms (including arbitration clauses), and legal issues in the wearables space.

How did you decide to practice in your area?

Levy: My clients are the most ambitious, innovative, creative, and hard-working people I know. And I get work with them while at a firm where I am surrounded by amazing people who have all of the same attributes (except for being a tad more risk averse). What more could I ask for?

Lobo: I initially became fascinated by disruptive technology because I attended college during the Napster era, which introduced me to two recurring challenges in the then-emerging field of Internet law. First, there is often tension between the power of new technologies (in the case of Napster, peer-to-peer filesharing networks) and the interests of established stakeholders (there, copyright owners). Second, it can be challenging to reconcile classic laws enacted before the digital era with emerging technologies. I went to law school specifically to wrestle with these interesting issues—as I now do every day as a member of Cooley's privacy and Internet law practices.

What is a typical day or week like in your practice area?

Levy: No day is the same. I work with numerous companies across a wide range of industries and I am often the first

person they call when any legal issue arises. Therefore, I get exposed to a very broad set of issues facing startups and founders, which often don't require a technical legal answer but simply sound business judgement. The result is that no day or month is ever the same, resulting in a highly dynamic and exciting practice.

Lobo: One of the most attractive things about a career in privacy litigation and counseling is the absence of a typical week. In the same week, you might counsel a client who has experienced a data breach on their litigation exposure, prepare and argue a dispositive motion in a consumer class action, mediate and settle a claim involving Internet-flavored questions of first impression, respond to a regulator's inquiry concerning a client's retention of sensitive data, and advise a client how to maximize their chances that a court will treat their website's Terms of Service as a legally enforceable contract. And more often than not, each of these tasks will offer an opportunity to learn about a cutting-edge technology.

What is the best thing about your practice area?

Levy: I love people who wake up every morning thinking about how they will change the world. I feel incredibly fortunate to have figured out how to work as a lawyer in a big law firm and be surrounded by these people every day. The genuineness, positive ambition, and intellect I am exposed to every day, from clients and colleagues alike, is what keeps driving me in my career.

Lobo: I value the opportunity to work with clients who are making tremendous contributions to society—whose products and services enrich my life (and/or the lives of many others) on a daily basis.

What is the most challenging aspect of your practice area?

Levy: The most challenging aspect of my practice is to balance being highly responsive to a growing client base, while at the same time focusing on the very important tasks of mentoring and training the next generation of lawyers. While I do my best, including by having associates audit the course at Cornell I teach, there is always room for improvement here given how critical a task it is for the firm to foster and enable a young associate's career.

Lobo: At Cooley, we pride ourselves on practicing "where innovation meets the law." But our clients often work in areas where innovation exceeds the law: where there are no statutes or regulations directly addressing a client's technology,

but there are likely to be in the next five years. It is challenging (but tremendously rewarding) to work with companies to identify business strategies that will minimize their risk of litigation and regulatory exposure, without the benefit of a crystal ball showing what the privacy and cyberlaw scenscape will look like in the next several years.

What training, classes, experience, or skills development would you recommend to someone hoping to enter your practice area?

Levy: While general knowledge of business, computer coding, and excel could be very useful, many highly successful practitioners are liberal arts majors. That said, I think the most important “experience” in order to succeed in our field of work is a rich life experience, including having worked prior to or during college or law school, travelled extensively, and/or started a business. In terms of skills, having an open mind and a can-do attitude rank pretty high up on my list. I also think a genuine interest in technology, startups, etc. is very helpful.

Lobo: First and foremost, do everything you can to be the best litigator you can be. Work hard without reservation. Build a solid foundation with key doctrinal classes (federal courts, administrative law, privacy/Internet law). Augment that foundation with clinical (trial advocacy workshop, privacy/Internet law) and summer experiences (consider doing your 1L summer at a government or non-profit office focused on Internet law issues and your 2L summer at a firm with a strong privacy and data protection practice). Seek out every opportunity to hone your research, analysis, and writing skills.

Then, immerse yourself in the subject matter; stay current both on the technological and legal developments. And take every opportunity to escape the office (or law school library) in favor of interacting with entrepreneurs, investors, engineers, and other business people in your fields of interest. Learning about the issues on their minds will make you a better lawyer and business counselor, and may lead to opportunities for you to help them out with legal issues down the road.

What misconceptions exist about your practice area? What do you wish you had known before joining your practice area?

Levy: I think some students assume we have a highly specialized and narrow practice and to acquire broad experience in corporate law, you have to go to join a more traditional, white-

shoe corporate law firm. Nothing could be further from the truth. The nature of our practice enables our corporate associates to work on a small startup financing one day and an IPO or M&A transaction the next. As a result, they get exposed to a wide spectrum of legal issues, many of which they have to be intellectually flexible and capable enough to solve themselves at very early stages in their careers. In an era of specialization within big law firms, I think this is a truly unique aspect of our practice.

Lobo: While privacy is a white-hot field and privacy lawyers are in great demand, many members of the public (including law students) still don't know that it's an option as an area of specialization.

What is unique about your practice area at your firm?

Levy: Aside from a disproportionate number of us who wear jeans to work, I think we emerging companies lawyers tend to be viewed by our clients and colleagues as lawyers who have a good balance between IQ and EQ. We are viewed as true counselors to our clients, a role which often spills over into the non-legal realm. As a result, we tend to build real, long-lasting relationships with our clients based on shared interests and passions.

Lobo: Cooley's privacy group is highly cross-disciplinary—from litigators to transactional lawyers to regulatory specialists, with deep domain expertise in fields as diverse as healthcare, employment, securities, eCommerce, mobile gaming, cybersecurity, telecommunications, financial services, and energy. This breadth and depth of experience means that if I'm not the right person to respond to a particular client privacy or data security question, I'm consistently able to put the client in touch with the right Cooley lawyer to do so.

What activities do you enjoy when you are not in the office, and how do you make time for them?

Levy: I have an amazing wife and four incredible little boys so my out-of-office activities inevitably revolve around family. I feel I am able to strike a good balance. It all just comes down to time management and setting priorities.

Lobo: At home in San Francisco, I'm an avid swimmer and violinist. I enjoy hiking throughout the beautiful Bay Area and exploring the city's ever-evolving restaurant scene (Japanese food is a particular passion). The dedication required of a litigator will always pose some challenge to outside interests, but I feel lucky to work at a firm that encourages us to take time for ourselves and keep up those interests.

TECHNOLOGY

While I work very hard when in the office, I also make sure to take 1-2 vacations a year to indulge my love of travel; I've just returned from an awesome vacation to New York and France, including a Broadway outing to see Hamilton and a bubbly-tasting visit to the Champagne wine region.

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Bethany Lobo, Associate