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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Rising Star: Covington & Burling's Megan Crowley

By **Joyce Hanson**

Law360 (June 7, 2022, 2:02 PM EDT) -- Covington & Burling LLP partner Megan Crowley successfully guided TikTok in challenging the Trump administration's efforts to ban the app and also helped electronics company Xiaomi fight an unwanted U.S. Department of Defense designation, earning her a spot among the cybersecurity and privacy attorneys under age 40 honored by Law360 as Rising Stars.

WHY SHE'S A CYBERSECURITY AND PRIVACY ATTORNEY:

As a Covington litigator, Crowley represents leading technology companies in cutting-edge legal proceedings that relate to cybersecurity and data privacy. She says she has always been drawn to areas of the law that are rapidly evolving, noting that her practice focuses on complex commercial disputes and litigation under the Administrative Procedure Act.

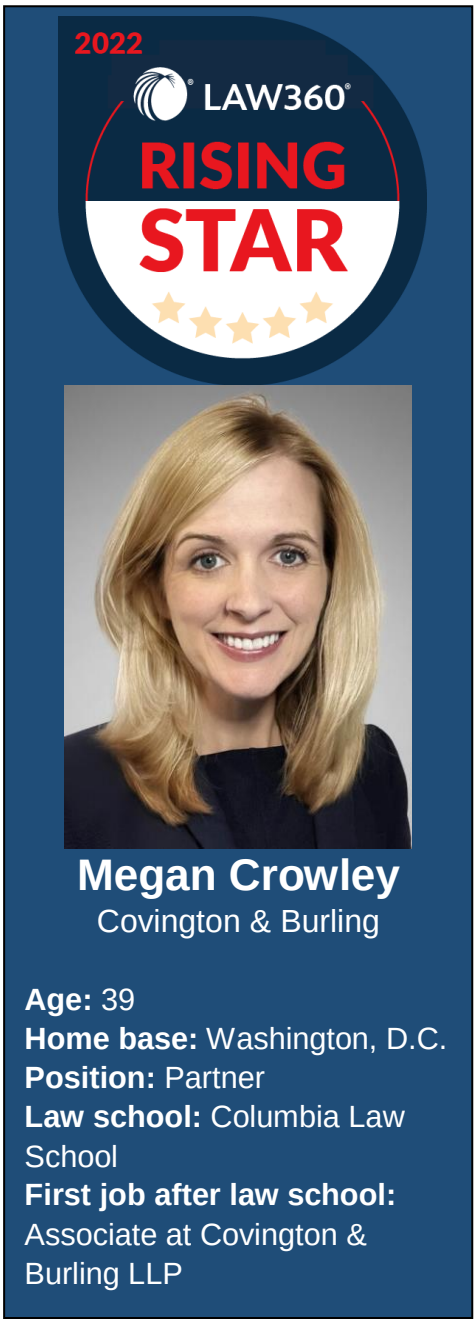
"They require fast-paced and creative thinking and intellectual curiosity," Crowley said. "Courts are still trying to parse how to handle technology that is advancing much faster than the law. It's a rewarding challenge to explain to judges how to apply often outdated law to a new technological context."

She began her career as an associate at Covington in Washington, D.C., right out of law school, then left the firm to clerk for U.S. District Judge Jesse M. Furman in the Southern District of New York and later Second Circuit Judge Susan L. Carney. Following those clerkships, she went to the U.S. Department of Justice's Federal Programs Branch for two years and defended executive branch agencies before returning to Covington in 2017.

"It was quite interesting and helpful, exposing me to different practice areas and approaches to legal problems, a cross-pollination if you will," Crowley said. "I have particular experience with government-facing litigation, and as the state and federal governments increase regulation of and involvement in privacy issues and data security, there's been an increasing need for litigators in this space. I'm drawn to that."

THE BIGGEST CASES OF HER CAREER:

Crowley says she relied on her Justice Department experience when helping



Covington win a landmark victory against the federal government on behalf of Chinese company ByteDance Ltd.'s social media app TikTok.

"It was an incredibly fast-paced case and extremely high stakes because ByteDance and TikTok's presence in the country were on the line, which made it challenging," Crowley said.

President Donald Trump's executive order was based on data privacy concerns, alleging TikTok automatically captured vast swaths of information from its users and shared that data with the Chinese government. But with Crowley serving as co-lead counsel, Covington helped TikTok successfully challenge the administration's efforts in 2020 to ban it in the United States.

"There was a national security overlay, with the executive order based on purported data security concerns," Crowley said. "In litigating against the government, there's always a presumption of deference to the government, and in national security matters it's particularly heightened deference. Dealing with that complication as a legal matter really upped the stakes of the challenge before us."

Crowley said that on Sept. 27, 2020, "hours before the ban was set to take effect," Covington delivered the winning argument that led U.S. District Judge Carl Nichols to issue an injunction blocking the first phase of the ban that would have removed the popular social media platform from U.S. app stores.

Covington again delivered the winning argument at another hearing in November 2020, which led to a further preliminary injunction by Judge Nichols in December 2020 against the remainder of the ban. In June 2021, President Joe Biden issued an executive order revoking Trump's ban of TikTok.

"It was an exhilarating case to work on and really involved a cross-section of Covington's litigation, regulatory and appellate practices," Crowley said.

She also points to her representation of Xiaomi Corp. in its successful challenge to the Department of Defense's designation of the Chinese electronics business as a "Communist Chinese military company" in the waning days of the Trump administration in January 2021.

The designation banned U.S. persons from transacting in its securities, and the company immediately lost $10 billion in market capitalization — at which point Xiaomi retained a team of Covington lawyers, with Crowley as co-lead. After Covington delivered a convincing argument at a hearing, U.S. District Judge Rudolph Contreras in March 2021 issued a preliminary injunction blocking the designation. In May 2021, the Department of Justice agreed to a final order vacating Xiaomi's designation.

HER PROUDEST MOMENT AS AN ATTORNEY:

Crowley counts as her proudest moment her pro bono work challenging the federal government's rescission of the Deferred Action for Childhood Arrivals program, which preserved administrative protections for hundreds of thousands of young unauthorized immigrants who have lived most of their lives in the United States.

"The DACA population is a group of people who came here to the United States as children, and know the U.S. as their home," Crowley said. "They have offered so many benefits to this country and contributed so much to our society. Trump's rescission of this program without adequate explanation or consideration of the impact it would have on these individuals' lives was both unlawful and quite disheartening to see."

She said she played a central role on the Covington team representing the University of California in its challenge to the rescission, helping to win a nationwide injunction that reinstated the program and, ultimately, a 5-4 victory in the U.S. Supreme Court.

"It was just an incredibly meaningful experience, an issue I care about a lot," Crowley said. "We had a huge team of plaintiffs working together for this important cause. When we received the Supreme Court's 5-4 decision in June 2020, finding that the Trump administration's termination of the program was done in an arbitrary and capricious manner in violation of the Administrative Procedure Act, it was an incredibly fulfilling and satisfying result after years of hard work."

WHAT MOTIVATES HER:

As a litigator, Crowley says, she's motivated to take on hard intellectual questions in her practice while also offering great service to clients.

"I find it very motivating to provide top legal advice delivered in a practical manner," she said. "Figuring out the pieces of a puzzle and crafting a winning argument are fun to me. I think they make me a good litigator."

And working at Covington also motivates her because the law firm is a good fit for her, according to Crowley.

"Covington is a wonderful place to practice law," she said. "The firm often says, and I have 100% seen this to be true, that 'we will bring the best people to the job in a collaborative culture.' For my practice, that means frequently pairing my leading litigation group with my colleagues in our privacy group, which is also a top-notch group."

HOW SHE THINKS HER PRACTICE AREA WILL CHANGE IN THE NEXT 10 YEARS:

Privacy and data-related regulations have proliferated not only at the state and federal level but also among foreign governments, Crowley said. She anticipates that over the next 10 years, this evolution will lead to an explosion of litigation.

"Cross-border issues also have increasing relevance, as we see conflicts that arise between U.S. law and foreign law regarding how to deal with privacy and data security issues," she said. "We are in an incredibly interconnected world, and litigation mirrors what is going on in the world."

— As told to Joyce Hanson

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2022 Rising Stars winners after reviewing more than 1,350 submissions. Attorneys had to be under 40 as of April 30, 2022, to be eligible for this year's award. This interview has been edited and condensed.

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