

MVP: Dechert's Brenda Sharton

By Allison Grande

Law360 (October 28, 2024, 12:02 PM EDT) -- Dechert LLP partner Brenda Sharton helped the developer of a popular "magic avatar" app shake sprawling class claims that its AI-generated portraits unlawfully harvest Illinois residents' biometric data, earning her a place among the 2024 Law360 Cybersecurity & Privacy MVPs.

Her biggest accomplishments this year:

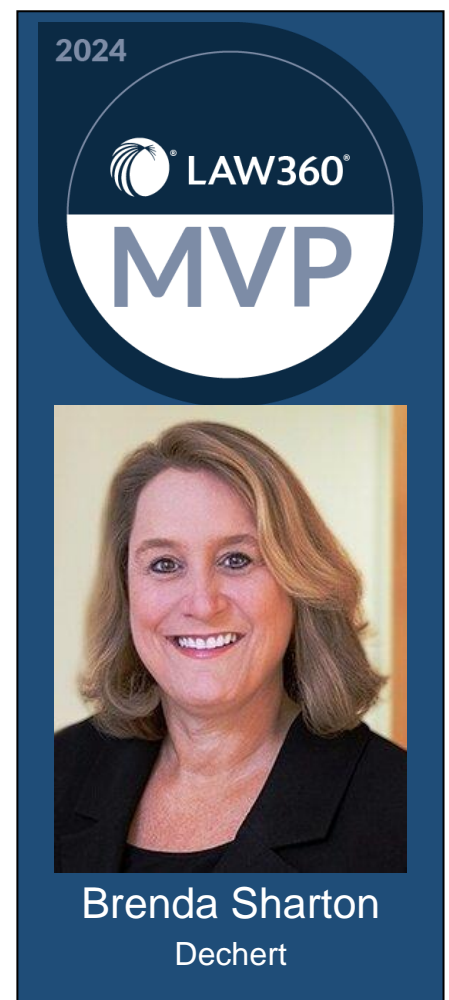
During the past year, Sharton and her team have made significant strides in the rapidly evolving privacy litigation space and in their long-running work to advise major companies on complex data breach response efforts.

On the litigation front, Sharton — the global chair of Dechert's cyber, privacy and AI practice — secured favorable outcomes for Prisma Labs Inc. in separate proposed class actions accusing the maker of the popular Lensa AI app of violating Illinois' Biometric Information Privacy Act by capturing facial geometries from photos contained in a third-party company's database it used to generate the app's Magic Avatar feature.

"While there's been a lot of litigation filed recently in the AI space, these cases are huge because they're some of the first that have come to a decision," Sharton said.

In an August ruling, an Illinois federal judge tossed one of these cases, which sought to recover potentially billions of dollars in damages on behalf of a massive proposed class of all Illinois residents who had ever had at least one photo of themselves uploaded to the internet. The judge held that the suit could not proceed because the plaintiff, who did not allege that he had ever used or directly uploaded his photos to the Lensa app, had failed to show that his information was included in the massive image database relied on by the company.

The ruling came on the heels of a California federal judge in August 2023 agreeing with Prisma in another proposed class action being pressed by Lensa app users that their biometric privacy claims belonged in arbitration because the users had agreed to settle disputes out of court during the app's sign-up process.



"This AI-related litigation reminds me of the early privacy litigation that we saw at the start of the internet, where no one is really sure at first how it's going to shake out, and we see the laws we have in place already applied to novel facts," Sharton said of her groundbreaking work in the field.

Sharton and her team have also been leveraging their decades of experience with managing large data breaches to represent clients such as Microsoft unit Nuance Communications Inc., which is one of hundreds of companies facing claims in one of the largest multidistrict litigation matters ever after a massive 2023 data breach involving Progress Software's MOVEit file transfer tool.

The cyberattack, which exploited a cybersecurity flaw in the MoveIt software, led to the exposure of records belonging to government agencies and organizations such as Nuance — which provides AI-powered medical dictation software to healthcare systems and hospitals — around the globe that relied on the compromised tool. The unprecedented incident has resulted in scores of cases being filed by individuals whose personal information was compromised against both Progress and the tool's users, including the multiple suits that Sharton and her team are handling for Nuance.

Her biggest challenge in the past year:

With the "crushing volume" and "the 24/7 nature" of the litigation and data breach response work on her plate, Sharton said one of the most significant challenges from the past year has been managing resources and "avoiding burnout" on her team.

"I do whatever I can to protect our associates from the worst of this," Sharton said, adding that the consistently interesting nature of the work they are engaged in has proven to be a vital "saving grace."

"It is an exciting, dynamic and cutting-edge practice," Sharton said. "That does make it easier to keep morale up."

Her rewarding pro bono work:

Aside from her rewarding AI privacy and cybersecurity work, Sharton also maintains an active pro bono practice that has been the source of some of her proudest moments from the past year.

Sharton recounted the privilege she had in December of being able to tell a young woman who was an Afghan refugee that she had been granted political asylum after a nearly three-year wait.

"It was a very emotional moment — for her and for us — when we told her," Sharton said.

Sharton first spoke with the woman, who held a position in the Afghan government, when she was in hiding in Afghanistan shortly after the government fell in August 2021. They had to establish some code words to signal when it was safe for the woman, who was being hunted by the Taliban, to talk, and the woman endured a "harrowing journey" to get out of Afghanistan and to the U.S., according to Sharton.

"She's now thriving, and I couldn't be more proud of her and our work for her," Sharton said, adding that Dechert received an award from the pro bono immigration legal services provider PAIR for its advocacy.

Sharton added that Dechert was also recently recognized by the Victim Rights Law Center for their pro bono work on behalf of the victims of rape and sexual assault over the years, which includes efforts to

keep "private records from being disclosed and protecting the privacy of rape and sexual assault victims."

Why she's a privacy & cybersecurity attorney:

Even after decades of work in the field, Sharton said that she continues to "genuinely enjoy being at the forefront of the novel, cutting-edge work that this practice area affords." This includes her efforts to help clients through high-stakes cybersecurity incidents and negotiating ransoms, which she called "super rewarding."

"This year, I had an executive at a corporate client moved to tears upon hearing that we had successfully thwarted the public disclosure of personal information, as her information was among the data affected," Sharton said. "It is important as lawyers that we never forget the human element to the work we are doing."

She also is able to stay engaged with her work through the novel scenarios it continues to present, including one of her favorite "crazy" ransom negotiations "where the likely organized crime threat actor that was extorting the client said they had to run our latest offer 'by their legal team.'"

"That was a first, and gave us a laugh," recalled Sharton, whose vital work in the field also led to her being named a Law360 MVP in 2022.

Her advice for junior attorneys:

In a practice area that is evolving at a rapid clip, Sharton said that one of her biggest pieces of advice for more junior attorneys would be to "always be looking around the corner."

Being on the lookout for "what's coming next" or "what's the next big thing," and then "figuring out how that will manifest in the law" will help put junior attorneys in the best position to "be at the forefront of new and exciting trends," according to Sharton.

"By gaining expertise that few else have, you'll be making your skill set so much more valuable," Sharton added.

She also stressed the broader importance of making sure "to take time for your family and nurture those relationships."

"At the end of the day, that is what will matter the most," Sharton said.

--As told to Allison Grande. Editing by Vaqas Asghar.

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2024 MVP winners after reviewing nearly 900 submissions.