

Rising Star: Wilson Sonsini's Michael Rubin

By **Derek Hawkins**

Law360, New York (April 04, 2012, 7:19 PM ET) -- Wilson Sonsini Goodrich & Rosati PC's Michael Rubin helped convince a federal court to pare back a challenge to Google Inc.'s Street View program in one of three high-stakes MDLs against the company he's currently handling, earning him a spot among Law360's top five privacy lawyers under 40.

Rubin, 37, works out of Wilson Sonsini's Palo Alto, Calif., office, where his practice revolves around counseling and litigation involving privacy, copyright and other issues related to high-tech and Internet-based businesses. He joined Wilson Sonsini in mid-2007 and became a partner in January 2010.

Rubin attained his position by developing close relationships with his clients since stepping into his role at the firm.

"It's an honor to have companies turn to you with their most challenging legal matters," Rubin said. "And because my clients are technology companies working in a rapidly evolving space, the issues they face are evolving, too. Being on that cutting edge is one of the best parts of my job."

In a sprawling MDL involving claims that Google violated the federal Wiretap Act and state laws by inadvertently collecting Wi-Fi data with its Street View vehicles, Rubin's team convinced a federal court last summer to dismiss all state wiretap and unfair competition claims. That left only an issue of first impression under the federal Wiretap Act claim, currently on appeal to the Ninth Circuit.

Rubin also represents Google in an MDL targeting Google's Android devices and related service. Plaintiffs in nine putative class actions allege that the company mishandled their private data, including details about their locations.

Just last month, Google tapped Rubin and his team to represent them in what has grown to be more than 15 suits alleging that Google improperly installed Web cookies on Safari browsers. Those cases are awaiting consolidation from the U.S. Judicial Panel on Multidistrict Litigation.

Rubin also counts Spotify Ltd., creator of the popular music streaming site, among his clients. He currently represents the company in litigation alleging that it was a customer of a company that improperly tracked users' Web browsing habits in violation of federal and California state privacy laws.

Rubin said a lifelong passion for technology has driven his desire to help companies navigate the country's complex — and largely outdated — legal and regulatory structure for privacy.

"We see privacy scrutiny not just in the form of class action litigation, but also from regulatory authorities in Washington, data protection authorities in Europe, and Congress," he said. "It's a perfect storm that is gaining strength and is an enormous challenge for companies of all sizes to deal with."

Rubin doesn't have any formal training in the technology at issue in his representations, but said the natural expertise he's developed in his work has been an asset.

One of Rubin's biggest accomplishments came in 2010 as a key member of the Wilson Sonsini team defending Google and YouTube in a \$1 billion copyright infringement suit brought by Viacom International Inc. The firm secured summary judgment for Google and YouTube following what Rubin called a compelling argument on the protections offered by the Digital Millennium Copyright Act.

"We demonstrated that the DMCA was designed to provide a safe harbor for service providers like YouTube and that the contrary view of the statute that Viacom presented would have terrible results for the entire Internet," he said.

Rubin and the Wilson Sonsini team also scored a major privacy win during that litigation by securing protection for YouTube users' private videos. In a first-of-its-kind ruling, they convinced the court to extend the protections of the Electronic Communications Privacy Act to private videos, placing them off-limits from civil discovery.

Although Rubin counts majors like Google among his clients, a lot of his work involves counseling small startups and entrepreneurs — "the two guys in the proverbial garage," he said. Helping them strategize and shape their products and services so they can introduce them to the public without getting hamstrung by litigation is the most fulfilling part of the job, according to Rubin.

"A substantial amount of my practice is taking all the lessons I've learned, seeing what can go wrong and applying it to companies of all sizes," Rubin said. "What I consider to be my most successful matters are the lawsuits that aren't brought. What's most satisfying is knowing how many maturing companies have avoided the disruption of litigation because of advice we've provided along the way."

--Editing by Katherine Rautenberg.