

Rising Star: Covington's Ross Demain

By Jack Karp

Law360 (July 22, 2024, 2:03 PM EDT) -- Ross Demain of Covington & Burling LLP has represented and advised tech giants in several multibillion-dollar deals, including Amazon's \$8.5 billion purchase of MGM and Salesforce's \$27.7 billion acquisition of Slack, earning him a spot among the technology law practitioners under age 40 honored by Law360 as Rising Stars.

His most interesting case:

Demain co-led a team of Covington lawyers representing Salesforce.com Inc. in the U.S. Department of Justice's review of its \$27.7 billion acquisition of Slack Technologies Inc.

At the time one of the five largest technology transactions ever, the deal was closed after a "second request" merger investigation, with the DOJ taking no action, according to Demain.

"The deal was really interesting because it involved bringing together two innovative business-to-business technology providers in a way that had the potential to create new and really innovative offerings for customers," he said.

Representing Salesforce during the DOJ's review of the deal, which was announced in late 2020 and closed in 2021, was also challenging, he said, since it played out during the pandemic, when Demain and his team were forced to explain the advanced technologies to DOJ attorneys mainly virtually.

"We needed to engage with the DOJ and, in that more hybrid and remote environment, explain these complex and evolving technologies, the benefits that would come from the transaction, and to distill them in a way that really translated these modern technologies into fundamental economic and antitrust concepts," Demain said.

Demain also co-led teams that represented Amazon.com Inc. during the government's merger review process for multiple of the online giant's

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STAR



Ross Demain

Covington

Age: 39

Home base: Washington, D.C.

Position: Partner

Law school: New York University School of Law

First job after law school: Associate at Covington

transactions, including, most recently, Amazon's \$8.5 billion acquisition of MGM Studios, which closed in 2022, and its now-scuttled \$1.4 billion acquisition of iRobot.

His most significant case:

Demain helped lead a team of Covington attorneys representing Expedia Inc. in the DOJ's Antitrust Division's review of the travel booking site's merger with competitor Orbitz Worldwide Inc.

That deal, which played out in 2015, closed following a "second request," in-depth DOJ review in which the Justice Department reviewed tens of thousands of business documents, analyzed transactional data from the merging companies and interviewed more than 60 industry participants, according to Demain.

"We really needed to explain all those evolving dynamics and other key issues — for example, that travel service providers like hotels had alternative ways to attract customers — to the DOJ," Demain explained. "And we had to do that in a way that the DOJ could follow, could understand the dynamism and then confirm it with other industry participants."

"At the end of that transaction, the DOJ issued a closing statement, which is something they rarely do," he said. "That closing statement made clear that we'd been effective in conveying those core facts to them, and the DOJ ultimately concluded that the acquisition was unlikely to harm competition and consumers."

Why he's a technology antitrust attorney:

Demain said one of the things he most enjoys about practicing technology-focused antitrust law is the challenge of taking complex technologies and concepts, and distilling them into fundamental and core economic and legal principles for entities like the DOJ.

"I really enjoy learning about my clients' businesses, their industries, their competitors, and figuring out how to take complex and rapidly evolving technologies, and analyzing them in existing legal frameworks, most of which significantly predate those technologies themselves," Demain explained.

He said he also enjoys helping technology companies navigate an evolving regulatory landscape, particularly as those companies face increasing antitrust scrutiny, with the government and private plaintiffs putting "virtually every activity that technology companies undertake under a microscope."

"That scrutiny, combined with these rapidly evolving technologies and novel theories, underscores the need for companies to be careful and thoughtful in their practices and business dealings, and the need for them to have antitrust counsel that they can turn to and help them navigate that landscape," Demain said.

His proudest moment as an attorney:

Demain said he's "very proud" of the transactions he's worked on, but what makes him proudest is the pro bono work he's done over the years.

That pro bono work has included representing homeowners saddled with poorly constructed homes and engaging with the Washington, D.C., government concerning its practices for clearing homeless encampments, he said.

"Those are things that are far afield from technology, but those matters have allowed me, and the firm more generally, to assist people who otherwise would not have been able to have their rights vindicated and truly make real progress for them," he said.

In one case, Demain helped D.C. homeowners — whose houses were "falling apart" due to problems with foundations, mold, heating and ventilation, and code violations — bring a challenge against the developer and the manufacturer of the prefabricated homes and the home warranty company.

"After extended litigation and working with lots of experts, we were able to reach a favorable settlement for our clients, after we had actually won as plaintiffs in that matter on a summary judgment motion, which is rare on a negligence per se theory," Demain explained.

He added: "It really was a great outcome for our clients. They were able to be made whole, and those were claims that, absent our involvement, I'm not sure that they would have had their rights vindicated."

How he sees the future of his practice:

Technology's rapid evolution will keep the area of technology antitrust law busy, according to Demain, who pointed specifically to recent innovations around generative artificial intelligence and large language models.

"Those raise a lot of novel and interesting antitrust issues. The antitrust agencies here in the U.S. are thinking carefully and critically about how to examine these evolving technologies," Demain said.

One of the difficulties those agencies will face is anticipating how these technologies will evolve at the same time as they are trying to analyze and regulate them, he noted.

"There is almost this chicken-and-egg problem that will happen over the next several years, as has happened with other technologies," Demain said. "And so it's going to continue to mean that it's a busy time for that intersection of antitrust and technology going forward."

--As told to Jack Karp. Editing by Lakshna Mehta.

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2024 Rising Stars winners after reviewing nearly 1,200 submissions. Attorneys had to be under 40 as of April 30, 2024, to be eligible for this year's award. This interview has been edited and condensed.