

Daily Journal

APRIL 18, 2012

INTELLECTUAL PROPERTY 2012

TOP 75 INTELLECTUAL PROPERTY LITIGATORS



David H. Kramer
Wilson Sonsini Goodrich &
Rosati PC
Palo Alto

With an appeals court sending Viacom Inc.'s copyright infringement lawsuit back to district court in New York earlier this month, Kramer will have more work to do now that YouTube's summary judgment victory in the case has been vacated.

Kramer is part of a legal team that has argued that YouTube and its corporate parent, Google Inc., are entitled to safe harbor protection under the Digital Millennium Copyright Act because YouTube removed infringing videos when asked to do so.

The outcome of that case remains uncertain, but Kramer said in the meantime he has been getting back to representing cutting-edge Silicon Valley companies, as well as Google, in Internet litigation.

"We are securing work for a remarkable group of Web 2.0 companies that are turning to a small number of law firms," said Kramer, whose clients include companies such as microblogging

site Twitter Inc. and Square Inc., which allows credit users to pay bills on their mobile devices.

Kramer has been defending clients against a number of privacy lawsuits. He represents Google in several of those cases, which involve claims that the Mountain View-based technology giant inadvertently collected Wi-Fi data, mishandled user information on Android devices, or defamed businesses because of customer reviews.

Kramer defeated a defamation lawsuit filed by the owner of a roofing business who sued over an anonymous, negative review in Google's business directory. The owner claimed Google endorsed the review.

Google is protected by Section 230(c) of the Communications Decency Act, Kramer argued, which immunizes online sites for commentary by outsiders. A 9th U.S. Circuit Court of Appeals panel agreed last November, affirming the district court ruling "because plaintiffs seek to impose liability on Google for content posted by a third party." *Black v. Google*, 10-16992 (9th Circ., filed Nov. 1, 2011).

In the Wi-Fi case, Kramer won dismissal of all the state claims against Google, and will be arguing before the 9th Circuit on whether the federal Wiretap Act should apply to "transmissions over open and unencrypted Wi-Fi networks."

Kramer also is defending Meltwater News, a news aggregation service, against a lawsuit filed in February by the Associated Press in New York federal court for copyright infringement.

— Craig Anderson

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TOP 25 PORTFOLIO MANAGERS



Vern Norviel

Wilson Sonsini Goodrich &
Rosati PC
Palo Alto

Norviel figures he just might be the first attorney in history to have undergone a complete genome sequencing. "Since I'm in the industry, I thought that it would be good to be a participant," Norviel said.

Wasn't he worried about what would turn up?

"There are very few things for which no action can be taken to reduce risk," he said.

So far, he's found out that he has an elevated risk of macular degeneration.

"I can take vitamin C or E and help delay or eliminate the onset," he said.

DNA sequencing, Norviel said, "is changing the game of research and diagnostics."

He represents Ion Torrent Systems in patent matters related to next-generation DNA sequencing; Tokai Pharmaceuticals in patent matters related to prostate cancer treatments; and Pacific Biosciences, a developer of single-molecule technology for biological analysis, in patent matters related to its \$200 million initial public offering. Other representations include QuantaLife in its patent and contract matters relating to its formation and sale to BioRad Inc. for more than \$200 million.

Norviel also represented Intellikine, a venture-backed biotech company focused on developing small-molecule drugs, in a collaborative agreement with Infinity Pharmaceuticals valued at up to \$488 million.

"Healthcare investments from the venture folks were up in all of our major markets," Norviel said.

"Since it takes a long time to get a drug or diagnostic to market, they've always had a much longer time horizon. When times are rough, they're still looking farther out."

Norviel said his practice focuses on developments that "really matter."

"This is the greatest job in the world," he added, "because this is totally changing the world."

— Pat Broderick

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Stefani E. Shanberg
Wilson Sonsini Goodrich &
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Palo Alto

Shanberg is a busy attorney who counts Google Inc., among her clients and can find unusual ways to win a case.

In one recent example, Shanberg discovered that her client, Check Point Software Technologies Ltd., had an excellent defense against patent infringement claims filed by holding company Tallgrass Prairie Management LLC.

Noting that non-practicing entities often change their names, Shanberg did a little research and discovered that the plaintiff was a successor of a company that had previously sued her client and had negotiated a licensing agreement.

"By virtue of an earlier licensing agreement, Check Point was licensed," Shanberg said, and therefore had an ironclad defense against the new complaint. She does not believe

Tallgrass's attorneys even realized it, but they quickly dismissed Check Point from the case in December. *Tallgrass Prairie Management LLC v. Microsoft Corp.*, 11-00411 (E.D.Tx., filed Sept. 14, 2011).

"I'm always interested in an aggressive and creative approach to litigation," Shanberg said.

She is quick to use reexamination proceedings in the U.S. Patent and Trademark Office to try to help her clients defend against infringement complaints. In one of her Google cases, she filed a successful motion to stay a lawsuit filed by Pragmatus AV LLC until the proceedings conclude. *Pragmatus AV LLC v. Facebook Inc.*, 11-00494 (N.D. Cal., filed Feb. 3, 2011).

The ruling could be pivotal to winning the case, regardless of the outcome, because the patents expire next year. That means Pragmatus could run out of time to pursue damages even if the patents survive another look, especially now that the case has been transferred out of the famous "rocket docket" of the Eastern District of Virginia into the much slower Northern District of California.

She also got a case stayed in a competitor lawsuit over technology used on ocean carriers. Aside from multiple Google cases, Shanberg also represents Symantec Corp. in several others.

— Craig Anderson