

APRIL 9, 2014

TOP INTELLECTUAL PROPERTY ATTORNEYS OF 2014

The most fascinating, and challenging, aspect of naming the intellectual property attorneys in California is the extraordinary variety of their achievements. While they share the same practice area, the lawyers — chosen from hundreds of nominations, along with a few staff selections — range from patent specialists who try cases before the U.S. International Trade Commission to Internet experts who fight the creators of malicious software “botnets.”

To qualify for the list, an attorney must be based in California, even if much of his or her work is done elsewhere, whether it's the ITC in Washington, D.C., the patent office in Virginia, or district courts in Delaware, Texas and other states. Their focus must be intellectual property, as opposed to general litigators who often handle such work.

The attorneys chosen for the list have helped to advance technological innovation and change the law during the past year, handling work critical to the future of the entertainment, medical and technology industries.

It's an increasingly difficult group to choose, but the impressive and diverse array of talent from across California is testimony to the state's leadership in intellectual property law.

—The Editors

TOP LITIGATORS OF INTELLECTUAL PROPERTY

DAVID H. KRAMER

FIRM:

WILSON SONSINI GOODRICH & ROSATI PC

CITY

PALO ALTO

SPECIALTY

COPYRIGHT

Last year, Kramer scored a victory in an almost seven-year copyright infringement battle that pitted the Football Association Premier League Limited and others against his client, Google Inc.

In that case, U.S. District Judge Louis Stanton of the Southern District of New York denied a motion to certify a class of copyright owners who claimed that their works had been posted on Google-owned YouTube without their consent. *Football Association Premier League Limited, et al., v. YouTube Inc., et al.*, 07-03582 (S.D. N.Y., filed May 4, 2007).

The judge called the case “a Frankenstein monster masquerading as a class action,” Kramer said.

“He recognized that there were so many different players, claims and issues that, while the plaintiffs could try to cobble them together into a Frankenstein, it would have no business

proceeding as a class action.”

Kramer added, “Judge Stanton issued a very well-reasoned opinion that I think will be cited for a long time by copyright defendants to resist the type of overreaching we saw in our case.”

The plaintiffs since have seen their claims dismissed with prejudice, Kramer said, “and have nothing to show for the lengthy lawsuit.”

For a time, the Premier League case ran parallel with the \$1 billion copyright lawsuit filed by Viacom International against Google and YouTube. *Viacom International Inc., et al., v. YouTube Inc., et al.*, 07-02103-LLS (S.D.N.Y., filed March 13, 2007).

In April 2013, Stanton granted Google's motion for summary judgment in that case, ruling that YouTube is protected by the Digital Millennium Copyright Act's “safe harbor.”

Last month, Viacom dismissed its



appeal, bringing an end to the long-running litigation.

“The dismissal leaves intact Stanton's decision, which, along with the prior opinions in the case, will have significant ramifications for the online world,” Kramer said.

— Pat Broderick

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TOP LITIGATORS OF INTELLECTUAL PROPERTY

STEFANI E. SHANBERG

FIRM:

WILSON SONSINI GOODRICH & ROSATI PC

CITY

SAN FRANCISCO

SPECIALTY

PATENT

Shanberg has been busy extinguishing infringement complaints brought by litigious patent holding companies over the last year.

The Wilson Sonsini partner secured settlements and dismissals in lawsuits filed by patent holders for both East Palo Alto-based Jive Software Inc. and Google Inc.-owned Motorola Mobility LLC. *Bascom Research LLC v. Jive Software Inc.*, CV12-6296 (N.D. Cal., Dec. 13, 2012); *e.Digital Corp. v. Motorola Mobility LLC*, CV13-780 (C.D. Cal., filed April 1, 2013).

Shanberg has noticed that other holding companies are increasingly turning to the Washington, D.C.-based U.S. International Trade Commission to try and win injunctive relief. She added that because of the influx of complaints, the trade commission is actively screening the qualifications of complainants.

“The ITC is going to have to maintain

its relevance and importance to American companies, but be cautious of [nonpracticing entities],” said Shanberg, who is also the treasurer for the International Trade Commission Trial Lawyers Association.

Shanberg is currently representing Google Inc. as an intervenor in a complaint filed by Black Hills Media LLC.

The Delaware-based holding company claims its patents were infringed by Google applications, including Play Music, Maps and YouTube, that were found in certain products manufactured by Samsung Electronics Co. Ltd., LG Electronics Inc. and other Asia-based Google hardware partners. *In the Matter of Certain Digital Media Devices, Including Televisions, Blu-Ray Disc Players, Home Theater Systems, Tablets and Mobile Phones, Components Thereof and Associated Software*, 337-TA-882 (ITC, filed May 13, 2013).

Google and the respondents claim that Black Hills lacks standing to pursue



an exclusion order. The parties argued before an administrative law judge in March and are awaiting a decision.

“The ITC is an important resource for American companies, but there is the potential for abuse,” Shanberg said. “Exclusion orders are extremely powerful remedies.”

— Kevin Lee

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The patent prosecutors and portfolio managers chosen for this year's list represent a wide variety of companies, from medical device and technology companies dealing with the new rules of the U.S.

Patent and Trademark Office to copyright attorneys handling high-profile Hollywood clients.

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TOP PORTFOLIO MANAGERS/PATENT PROSECUTORS OF INTELLECTUAL PROPERTY

VERN A. NORVIEL

FIRM:

WILSON SONSINI GOODRICH & ROSATI PC

CITY

SAN FRANCISCO

SPECIALTY

PATENT

Last year was filled with some rare happenings for Norviel, he said.

On June 13, the U.S. Supreme Court concluded that isolated fragments of genomic DNA are naturally occurring and therefore not patent eligible, while complementary DNA is not a product of nature and therefore is patent eligible.

The arguments adopted by the court, Norviel said, mirrored an amicus brief filed by him and Wilson Sonsini partner Gideon Schor on behalf of Eric Lander, a leading genomics researcher and the president of the Broad Institute of Harvard and MIT.

While the brief wasn't cited in the written opinion, the court did discuss the brief during oral arguments, Norviel said.

"I would have never dreamed they would discuss our brief," he said. "For

an IP guy, that's extremely unusual."

The esoteric subject matter involved the isolation of genes. "My role was to help explain why that was known a long time ago. It's not that complicated. It's a law of nature. A big one."

As for the decision's implications for drugmakers, Norviel said, "They need to make certain that their patents are done right, and that they're not covering natural products."

Investors, he added, "have to be careful and not buy into a bad one."

Norviel said another rarity last year happened when two of his clients got their drug approved by the U.S. Food and Drug Administration within one month.

They are Charleston Laboratories Inc., which focuses on pain products, and Ceptaris Therapeutics Inc., which is developing a product for the early treatment of some forms of cancer.



Overall, Norviel said, "There is enthusiasm and vigor in the industry and that has changed dramatically from last year. Money is more available now and the stock market has opened up. Private investors are more enthused."

— Pat Broderick