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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