

WILSON SONSINI

David H. Kramer

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FOCUS AREAS

Class Action Litigation
Consumer Litigation
Digital Media and
Entertainment
FoodTech and AgTech
Internet Strategy and
Litigation
Litigation
Privacy and Cybersecurity
Trademark and Copyright
Litigation

HIGHLIGHTS

- **First-of-Its-Kind Group**
David heads the firm's internet strategy and litigation practice, a first-of-its-kind group focused exclusively on cutting-edge internet liability issues.
- **Notable Clients**
David currently represents OpenAI, Google, Pinterest, Shopify, and Dropbox, among many others.
- **Precedent-Setting Victories**
As lead litigation counsel for Google in a variety of matters, David has obtained numerous wins in lawsuits involving copyright law, online privacy, search rankings, and defamation.

EXPERIENCE

David Kramer is a partner at Wilson Sonsini Goodrich & Rosati, where he specializes in [internet strategy and litigation](#). David regularly provides clients with guidance on cutting-edge strategies and novel theories of liability. He currently represents OpenAI, Google, Pinterest, Shopify, and Dropbox, among many other clients. In addition to his client work, David has served as a member of the firm's board of directors.

As lead litigation counsel for Google in a variety of matters, David has obtained precedent-setting victories in lawsuits involving copyright law, online privacy, search rankings, and defamation:

- ***Viacom v. YouTube/Google & English Premier League v. YouTube/Google***: Successfully defended consolidated copyright infringement actions challenging YouTube's operations under the Digital Millennium Copyright Act. Secured orders [establishing](#) YouTube's entitlement to the DMCA's protections, [defeating](#) class certification, [barring](#) the recovery of punitive damages in copyright infringement actions, [requiring](#) that foreign plaintiffs register their copyrights in order to seek statutory damages under the Copyright Act, and [protecting](#) Google's source code and users' private videos from disclosure during discovery.
- David was lead counsel for Google and YouTube in a putative class action alleging copyright infringement and improper removal of copyright management information ("CMI") in violation of 17 U.S.C. §1202. After extensive discovery proceedings, the court rejected Plaintiff's motion for class certification, holding that neither the copyright claim or the CMI claim was an appropriate candidate for class treatment given the myriad individualized issues those claims entail. *Schneider v. Google LLC*, 2023 WL 3605981 (N.D. Cal. May 2023). After the Ninth Circuit rejected the Plaintiffs' request for interlocutory review of the class certification denial, the Plaintiffs dismissed their claims.
- ***United States v. Google***: David was lead counsel for Google during a months-long FTC investigation regarding Google's placement of cookies on Safari web browsers. The FTC's

complaint, alleging that Google violated a prior consent decree, was settled under an agreement in which Google denied liability. The settlement was then challenged and, over objection, was approved as serving the public interest. *U.S. v. Google Inc.*, 3:12-cv-04177. More than 20 federal class actions regarding the same matter have been consolidated into a multidistrict litigation in Delaware. Google's motion to dismiss that consolidated action was granted, and the matter is on appeal.

- *Langdon v. Google*: Successfully defended Google in action arising from Google's refusal to carry plaintiff's advertisements, and its alleged removal of plaintiff's site from Google's search results. Obtained order granting Google's motion to dismiss plaintiff's constitutional claims, as well as plaintiff's fraud and deceptive trade practices claims based upon Google's First Amendment rights and Section 230(c)(2) of the Communications Decency Act. *Langdon v. Google* 474 F.Supp.2d 622 (D. Del. 2007).
- *Field v. Google*: Successfully defended Google in copyright infringement action relating to the "Cached" links in Google's search engine results. Obtained favorable summary judgment on direct copyright infringement, fair use, implied license, and DMCA grounds, and award of attorneys' fees. *Field v. Google*, 412 F. Supp. 2d 1106 (D. Nev. Jan. 19, 2006).
- *Parker v. Google*: Successfully defended Google in action assertion claims for copyright infringement, defamation, and RICO violations arising from operation of Google Groups service. Obtained dismissal of case with prejudice. *Parker v. Google*, 422 F.Supp.2d 492 (E.D.Pa., Mar. 10, 2006). Decision was affirmed by the Third Circuit Court of Appeals. 2007 WL 1989660 (3d. Cir. 2007)
- *Kinderstart v. Google*: Successfully defended Google in putative class action arising from Google's alleged removal of sites from its search results. Obtained order granting Google's motion to dismiss plaintiff's constitutional claims, as well as plaintiff's antitrust, Lanham Act, unfair competition, and defamation claims. *Kinderstart.com LLC v. Google* 2007 WL 831806 (N.D.Cal. 2007).
- *Lewis v. YouTube*: Successfully defended YouTube in breach of contract and bad faith case arising from the company's removal of user content from the service. The California Court of Appeals affirmed dismissal of the case based on the language of the YouTube Terms of Service agreement.
- *Digital Envoy v. Google*: Successfully defended Google in trade secret action arising from operation of Google's AdSense service. Obtained summary judgment on all claims. *Digital Envoy v. Google*, 319 F.Supp.2d 1377, (N.D.Ga., May 21, 2004), 370 F.Supp.2d 1025 (N.D.Cal. 2005), and subsequent decisions.
- *Black v. Google*: Successfully defended Google in defamation action arising from its operation of its "Google Places" directory service, through which users can post and read reviews of various businesses. David argued that the plaintiff's claims that Google unlawfully sponsored/endorsed/solicited those reviews were barred by Section 230(c) of the Communications Decency Act. Both the district court and the Ninth Circuit Court of Appeals rejected the plaintiff's attempts to circumvent Google's statutory immunity.

David was lead counsel for Pinterest in a copyright infringement lawsuit challenging the basic operation of its popular online service. In its defense, Pinterest invoked the safe harbor protections of the Digital Millennium Copyright Act and it prevailed on summary judgment, with the court applying the DMCA to bar the Plaintiff's claims. *Davis v. Pinterest, Inc.*, 601 F. Supp. 3d 514 (N.D. Cal. 2022). On appeal, the 9th Circuit affirmed the win for Pinterest.

David was lead counsel for Dropbox, Inc. in a trademark infringement lawsuit against Thru, Inc., which claimed to hold rights to the "Dropbox" name. Dropbox, Inc. prevailed on summary judgment on the grounds that Thru's claims were barred by laches. Dropbox also established as a matter of law that Dropbox, not Thru, was the senior rights holder. Following the summary judgment orders, the court awarded Dropbox \$2.3 million in attorneys' fees and costs, after finding that the case was "exceptional" based on Thru's delay and its conduct in the litigation. The 9th Circuit affirmed the summary judgment ruling and the award of attorney's fees.

David was lead counsel for Flipboard in a trademark infringement lawsuit against the makers of the Flowboard software application, and secured a permanent injunction barring use of the Flowboard name after trial. *Flipboard v. Treemo*, 53 F.Supp.3d 1342 (W.D. Wash. 2014).

David was counsel to RealNetworks in the first-ever case brought under the anti-circumvention provisions of the Digital Millennium Copyright Act and secured a preliminary injunction prohibiting the abuse of RealNetworks' ubiquitous technology. *RealNetworks v. Streambox*, 2000 WL 127311 (W.D.Wash., Jan 18, 2000). On behalf of Cybermedia, David successfully prosecuted a claim for copyright infringement against Symantec, obtaining a sweeping preliminary injunction requiring Symantec to conduct a nationwide recall of its popular "Uninstall Deluxe" and "System Works" products. *CyberMedia v. Symantec*, 19 F.Supp.2d 1070 (N.D.Cal. 1998).

David successfully defended Acxiom Corporation against a nationwide class action alleging violations of the Electronic Communications Privacy Act and related state law claims, obtaining an early dismissal of the case with prejudice. *In Re Jet Blue Airways*, 379 F.Supp.2d 299 (E.D.N.Y. 2005). He also defended Acxiom against a nationwide class action alleging invasion of privacy and negligence, again obtaining early dismissal with prejudice. *Bell v. Acxiom* 2006 WL 2850042. In addition, David defended XO Communications in a putative class action seeking \$150 million in statutory damages under the Telephone Consumer Protection Act (TCPA) and obtained rulings in both the trial and appellate courts barring class certification in the case. *Levine v. 9 Net Ave., Inc.* 2001 WL 34013297 (N.J. App. Div. 2001).

CREDENTIALS

Education

- J.D., Georgetown University Law Center
Magna Cum Laude
- B.A., Dartmouth College
Cum Laude

Honors

- Selected as a 2018 "IP Star" by *Managing IP* magazine
- Named in the 2009-2023 editions of *Chambers USA: America's Leading Lawyers for Business*, with one source describing him as "an extraordinarily gifted attorney" and another commenting that "his litigation skills are as good as they come, but beyond that he understands our business and cares deeply about our success"
- Honored among the "Top 75 Intellectual Property Litigators" in California for 2012, 2013, and 2014 by the *Daily Journal*
- Recognized in the Intellectual Property: Trademark, Copyright & Trade Secrets category of the 2014-2019 editions of *Chambers Global: The World's Leading Lawyers for Business*
- Selected for inclusion in *IP Law & Business's* 2008 "Top 50 under 45" list
- Named one of the *Daily Journal's* 2008 "50 Leading IP Litigators in California"
- Selected for inclusion in the *Daily Journal's* 2008 "Top 20 under 40" list
- Named to *Lawdragon's* 2006 "500 New Stars, New Worlds List"
- Selected for inclusion in the 2005-2018 editions of *Northern California Super Lawyers*

Admissions

- State Bar of California