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Intellectual Property 2013

One of the striking things about picking the list of top intellectual property attorneys, aside from the difficulty of choosing among hundreds of highly qualified nominees, is the diversity of their achievements. The litigators chosen travel the country to do battle for their clients.

While these attorneys' work has stretched worldwide, some of the biggest cases of the past year took place in California. To qualify for the list, an attorney must be based in California even if much of his or her work is done elsewhere, such as the U.S. International Trade Commission in Washington, D.C., the U.S. Patent and Trademark Office in Virginia, and district courts in Texas, Delaware, Illinois and elsewhere. And their focus must be on intellectual property, as opposed to general litigators who sometimes handle such work.

Top 75 Intellectual Property Litigators

Kelly M. Klaus

Munger, Tolles & Olson LLP | Los Angeles

Copyright, trademark



The high-profile copyright infringement battle between Klaus' client, video game publisher Electronic Arts Inc., and social gaming company Zynga Inc. attracted attention on a variety of fronts, Klaus said.

With Munger Tolles partners Carolyn Hoecker Luedtke and Jonathan Blavin, he represented EA in a suit alleging Zynga's "The Ville" mobile game infringed on EA's copyright on its popular game, "The Sims Social." *Electronic Arts Inc. v. Zynga Inc.*, CV12-4099 (N.D. Cal., filed Aug. 3, 2012).

The suit settled in February 2013.

"The case really did capture a lot of notoriety — not just the social gaming press, but a number of copyright scholars looking at how copyright law applies to online social games," Klaus said.

Another area of law that continues to be hot, he added, are cases involving Internet sites that induce or facilitate infringement of movies or music.

"Many cases are resolved at the District Court level," Klaus said. "As a result, much of the law in this area is developing at the District Court level, on rulings on preliminary injunction motions or motions of summary judgment."

He added, "Slowly, but surely, a number of cases are making their way to the appellate level."

The fact that technology changes much more quickly than

the law can make the issues complex for both copyright owners and technology companies, Klaus said. "Even for cases with preliminary injunctions requested, it can be a couple of years before they actually get a decision at the appellate level."

In another high-profile matter, Klaus represents the music publishing company Universal Music Corp. in litigation filed by the Electronic Frontier Foundation. *Lenz v. Universal Music Corp.*, CV07-3783 (N.D. Cal., filed July 24, 2007).

Plaintiff Stephanie Lenz alleges that Universal sent a knowingly false takedown notice to YouTube concerning her posting of Prince's "Let's Go Crazy #1," which featured her toddler son dancing along to the tune.

In January 2013, the District Court denied both parties' cross-motion for summary judgment.

They both have asked the court to certify the order for immediate appeal to the 9th U.S. Circuit Court of Appeals. The petitions are still pending.

"There is a principle that extends to millions of takedown decisions made on a monthly or yearly basis," Klaus said. "The case, at first, might seem rather inconsequential, but there is a big issue at stake of what will be required of copyright owners in order to send a takedown notice."

— Pat Broderick