

MVP: Munger Tolles' Kelly Klaus

Law360, New York (December 18, 2017, 6:32 PM EST) – Munger, Tolles & Olson LLP's Kelly Klaus landed a massive win this past year on behalf of major Hollywood film studios that sued movie filtering service VidAngel Inc. for infringing their copyrights, earning him a place among Law360's 2017 Media & Entertainment MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

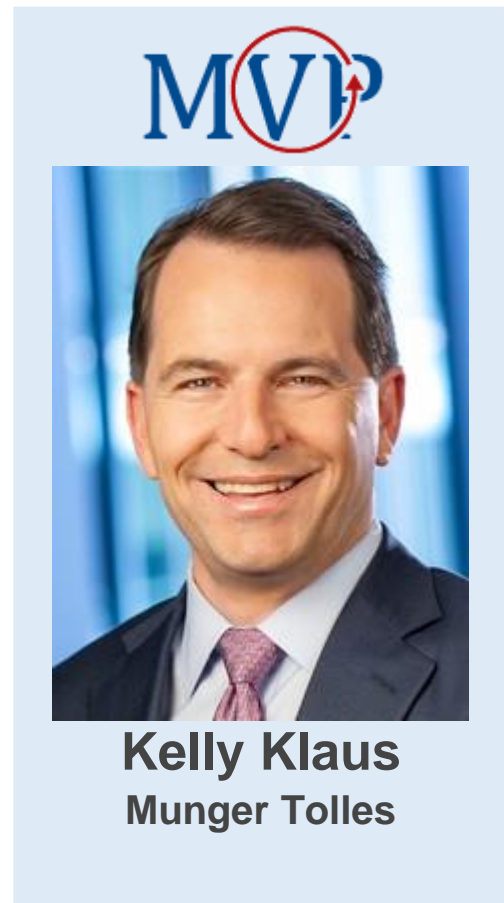
Representing Walt Disney, Twentieth Century Fox and Warner Bros., Klaus won a preliminary injunction against VidAngel — which allows users to edit films to remove nudity and violence — by convincing a California federal judge last December that the service was infringing the film studios' copyrights and violating the Digital Millennium Copyright Act's ban on circumvention of digital encryption measures.

At the Ninth Circuit, VidAngel attempted to argue that its service was shielded by the Family Home Movie Act, which allows for technology to edit objectionable material from movies at home.

The Ninth Circuit wasn't buying it though and affirmed the injunction in August, after concluding that letting the service hide behind the FMA would “create a giant loophole in copyright law” and would sanction infringement.

The appellate court also rejected VidAngel's argument that it was protected by copyright's fair use doctrine and upheld the ruling that VidAngel violated the DMCA's protections for digital encryption when it ripped the movies to its servers, a sweeping victory for Klaus' clients.

“Any time you get a circuit ruling on copyright law, that's always a big deal. They don't address a whole lot of those cases,” Klaus said. “I thought the analysis and reasoning was terrific and helps to really



Kelly Klaus
Munger Tolles

advance the law. Any time you can be part of a litigation that produces a very high quality appellate decision it's enormously gratifying."

WHAT MOTIVATES HIM:

For Klaus, one of the most motivating parts of the job is the experience of sitting down and working with clients to try and understand how their business operates, how it's changing and what their objectives are moving forward, and then partnering with them to reach those goals.

He also can't stop from devouring the latest issues affecting his practice area, which have changed rapidly over the past few decades.

"While it's sort of the case that working late into the evenings or through the weekends or under stressful circumstances is never a lot of fun, this is exactly the area of law I've wanted to practice in since I was in law school, and the issues keep getting more, not less, interesting every year that I practice," Klaus said.

WHY HE'S A MEDIA AND ENTERTAINMENT ATTORNEY:

When Klaus was a third year law student at Stanford, he took an introductory class on copyright and intellectual property with famed IP law professor Paul Goldstein and was instantly hooked, finding copyright issues endlessly fascinating.

Lucky for Klaus, he landed at a firm that represented a number of companies within the entertainment space, and he dug in immediately.

"I started working on copyright issues as soon as I could find them when I joined the law firm and tried to get involved in those matters," Klaus said. "I was incredibly lucky to be able to work on those cases, particularly at a time when, over the past couple of decades, copyright has only become more important."

HIS ADVICE FOR OTHER ATTORNEYS:

There's no special secret to being a media and entertainment lawyer over any other type of attorney, Klaus said, but you've got to know the law and stay abreast of current legal developments; not just knowing the issues surrounding how content is consumed and created today, but what the issues are going to be tomorrow.

It also helps to really know your clients, because, ultimately, as a lawyer you're representing them, so know what they are doing, Klaus noted.

"If you're a litigator like I am, my advice is also to practice with integrity before courts and dealing with opposing counsel and taking the high road," Klaus said. "Then, always doing your best work."

— As told to Steven Trader

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2017 MVP winners after reviewing more than 1,000 submissions.

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