

WSGR ALERT

JUNE 2010

NEW YORK FEDERAL JUDGE GRANTS SUMMARY JUDGMENT FOR GOOGLE/YOUTUBE

LANDMARK DMCA VICTORY IN VIACOM LITIGATION

On June 23, 2010, Judge Louis Stanton of the U.S. District Court for the Southern District of New York granted Google's motion for summary judgment in a \$1 billion copyright lawsuit filed by Viacom and a group of putative class action plaintiffs, including the Premier League (the top English soccer league) and the National Music Publishers Association. Wilson Sonsini Goodrich & Rosati represented Google and YouTube throughout these high-profile matters.

The plaintiffs brought claims against Google and YouTube for direct and secondary copyright infringement based on YouTube's hosting of content posted to the service by its users. YouTube argued that it is immune from infringement liability because it qualifies for the protection of the § 512(c) safe harbor of the Digital Millennium Copyright Act (DMCA). The parties cross-moved for summary judgment. In his decision, Judge Stanton agreed with YouTube and granted summary judgment "against all of plaintiffs' claims for direct and secondary copyright infringement." The summary judgment opinion can be found at http://www.google.com/press/pdf/msj_decision.pdf and Google's summary judgment papers can be found at http://www.google.com/press/youtube_viacom_documents.html.

Of particular significance to the court was YouTube's responsiveness to copyright

holders' notices of alleged infringement sent pursuant to the DMCA. The court concluded that YouTube's conduct demonstrated "that the DMCA notification regime works efficiently." The court also held that "[g]eneral knowledge that infringement is 'ubiquitous' does not impose a duty on the service provider to monitor or search its service for infringements" and affirmed that copyright owners are best positioned to identify allegedly infringing content online. In addition, the court distinguished the U.S. Supreme Court's 2005 *Grokster* decision, noting that YouTube's DMCA compliance was antithetical to *Grokster*-style inducement liability.

Judge Stanton's opinion validates the operations of many leading Internet companies that provide access to materials uploaded by users. The court's order establishes that an online service that works cooperatively with copyright owners, installs a rigorous DMCA compliance regime, and removes specific content identified as allegedly infringing is entitled to a safe harbor from copyright liability.

The Wilson Sonsini Goodrich & Rosati team representing Google in this matter is led by David Kramer, Maura Rees, Michael Rubin, and Bart Volkmer. For additional information about the *YouTube* decision, the Digital Millennium Copyright Act, or assistance with your company's Internet strategy, please

contact David Kramer at (650) 320-4741, Maura Rees at (650) 320-4780, or Michael Rubin at (650) 849-3311.



Wilson Sonsini Goodrich & Rosati
PROFESSIONAL CORPORATION

This WSGR Alert was sent to our clients and interested parties via email on June 29, 2010. To receive future WSGR Alerts and newsletters via email, please contact Marketing at wsgr_resource@wsgr.com and ask to be added to our mailing list.

This communication is provided for your information only and is not intended to constitute professional advice as to any particular situation. We would be pleased to provide you with specific advice about particular situations, if desired. Do not hesitate to contact us.

650 Page Mill Road
Palo Alto, CA 94304-1050
Tel: (650) 493-9300 Fax: (650) 493-6811
email: wsgr_resource@wsgr.com

www.wsgr.com

© 2010 Wilson Sonsini Goodrich & Rosati,
Professional Corporation
All rights reserved.