

Fenwick Partner Takes Fight to Copyright Bullies

Ask Andrew Bridges about government efforts to crack down on websites that post copyrighted material or to enlist Internet companies as copyright enforcers, and you may see his militant side. The Fenwick & West litigator is no fan of measures that restrict online expression in the name of intellectual property protection. And lately he's been winning those battles. After a Ninth Circuit panel ordered YouTube to take down an anti-Islamic video clip, Bridges fought the decision for clients including eBay Inc., Facebook Inc., Twitter Inc. and Yahoo Inc. The ruling was reversed en banc last month. And Bridges recently won a long-standing fight against litigious adult website Perfect 10. His team secured \$5.6 million in attorney fees and costs after defeating a copyright infringement case against Giganews and Livewire.

What keeps you up at night?

There's the terror part and the enthusiasm part. I'll start with the enthusiasm part. I absolutely love my client base. These people are working very, very hard to come up with ex-



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citing new products and services for the public and they inspire me. I feel like I get to represent the public interest in a commercial setting because I am representing those people who are trying to empower the public and deliver products and technologies and services and solutions that the public finds attractive ... The terror is that I have seen how powerful the forces are that try to thwart in-

novation and try to control the public by limiting the public's access to exciting technologies and services. I have seen enough glimpses of the government's efforts to clamp down on technologies and the government's violations of the rule of law to make me believe that, very seriously, our American constitutional system and the rule of law in the United States are indeed under threat. Part

of my job as a lawyer is to stand up for the rule of law and to hold accountable those who would wield the awesome power that they have against innovation and against progress and against the public.

The threats you mentioned—is it legislation, certain rulings, or general sentiment and attitude within the government? In my practice we see it in the effort back at the beginning of 2012 with the Stop Online Piracy Act and the Protect IP Act. I was very active in opposing those, but the sad thing is that they have become the law. Congress didn't pass anything, but the government has privately been going around and I believe twisting arms at various companies, to do in effect what that law was trying to create. It is being done in a non-legal manner and I find that disturbing. I like to say we're in a world not of SOPA but of soft-SOPA. That's number one.

Number two, the Trans-Pacific Partnership—the legislation about providing trade promotion authority. We see a real potential for surrender of Congress' appropriate role in creating intellectual property policy in the United States because the trade agreement would very, very possibly force Congress to enact certain laws, and prohibit Congress from enacting certain laws or changing certain laws. That is intolerable because domestic interests do not get heard in the making of trade agreements. Only multinational interests get heard and have any influence in the creation of trade agreements, so it creates a strongly tilted playing field in favor of the largest multinationals against domestic interests and against citizens because citizens are generally

not multinational. I'm talking about new laws in response to your question, but even under existing laws there is reason to be concerned.

Can you give an example when you've butted up against those laws? I've been opposite the government in homeland security, one way or the other, about five different times. I defended the owner of [the domain name "dajaz1.com"] which [the Department of] Homeland Security seized on the grounds that it was linking to infringing music. The website was a hip-hop blog by a well-known hip-hop blogger. The owner said he had gotten music from labels and from artists, but that didn't stop Homeland Security from seizing it. Under the procedure, I was allowed to file a demand for return of the seized property, and that gave the government 90 days to file a complaint, and then it would proceed like a lawsuit. The 90 days came and went and nothing happened.

I won't take you through the whole story as it takes 20 minutes, but the point is, they got three secret extensions where I didn't get to see a single piece of paper the entire time. And I was told even the fact of the seizures were secret. Not merely the reasons. A full year after they seized the domain, they then wrote back and said 'On further investigation, the government has decided not to seek forfeiture and it will be returning the domain name in due course.'

We've spoken a lot about the threats in your practice, can you name any legislation or rulings that help the consumer? I don't know enough about it, but this recent decision holding the mass phone surveillance illegal under Section 215, I think that's important.

I happen to have won some good cases that are making the right kind of law. Hmmm, I'm feeling kind of flat footed on this question. I may need to get back to you on that.

Does that show that we aren't living with a wealth of consumer-protecting laws? I think that's right.

Who do you go to for questions on these issues? The Hellenic Law Society has started having a series of programs on these big issues. It's had a forum on Snowden and surveillance and the Fourth Amendment and free speech. It started the program in the past year, but it's really started having very, very serious programs on these big issues in a very, very thoughtful way. It is a model of what lawyers should be engaging in because in part, it's partly our job to be public thinkers and to stand up for the rule of law. Sort of like Certified or Chartered Public Accountants, CPAs, they don't just have private duties, they have public duties. I think that our job is to be public thinkers and guardians of the rule of law and to speak out and become educated on these issues.

What do you do outside of work? I enjoy travel, although I don't like travel for business. I enjoy languages. I know ancient Greek and Latin, and modern Greek, French and Italian.