

Elkin Argues Before Ninth Circuit on Behalf of Online Technology Companies

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On December 20, 2011, the Ninth Circuit Court of Appeals handed an important victory to Web site owners and operators that offer user-generated content and depend on the safe harbor provisions of the Digital Millennium Copyright Act (DMCA). The decision will help define how we use the Internet and the parameters of the law for video sharing websites.

The Court of Appeals affirmed the decision of the U.S. District Court for the Central District of California, ruling that the conduct of Veoh Networks, a San Diego-based online video company, fell within the section 512(c) safe harbor provisions of the DMCA, and rejecting Universal Music Group's (UMG) contentions that Veoh's copying, processing and offering access to uploaded video content disqualified Veoh from safe harbor immunity.

UMG, the world's largest music company, alleged that Veoh was violating copyright laws by permitting third-party users to share user-generated video containing musical performances with UMG's songs. Illustrating the significance of this win, a June 23, 2010 ruling awarding [summary judgment to YouTube](#) in a similar highly anticipated copyright infringement case in the Southern District of New York, adopted much of Winston & Strawn's key legal arguments that prevailed in the [UMG Recordings et al. v. Veoh Networks, Inc. et al.](#) case. That case is now awaiting a decision from the Second Circuit Court of Appeals.

Intellectual property partner [Michael Elkin](#), based in the firm's New York office, was lead counsel for Veoh and argued the case before the Ninth Circuit. Elkin, a lawyer who once represented record labels, publishers and artists like Prince, James Taylor and Bob Dylan, is now fighting on the side of the online technology companies because he believes it is critically important for the new media world which relies on users to fill sites with content. According to Elkin: "The Ninth Circuit's decision today is a victory for the online business community. It recognizes that on line service providers are not responsible for unauthorized content posted on their websites unless they have actively participated in any wrongful conduct."

Winston & Strawn partner [Jennifer Golinveaux](#) assisted in representing Veoh in the matter.

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