

## Rising Star: Jenner & Block's David Singer

By **Sindhu Sundar**

*Law360, New York (March 28, 2012, 8:53 PM ET)* -- Behind Fox Broadcasting Co.'s successful defeat of sweeping document requests by former college athletes in a contentious antitrust fight was Jenner & Block LLP's David Singer, selected as one of Law360's five rising media and entertainment law stars under 40 for his role in distribution and liability cases that have shaped an industry transformed by technology.

The 37-year-old litigation partner helped persuade a magistrate judge in February that the athletes, a group of former basketball and football players accusing the NCAA and others of stiffing them in the use of their likenesses, had made unreasonable document demands on his clients — Big Ten Network LLC and News Corp. unit Fox — third parties who are not named as defendants in the suit.

The players had issued subpoenas to Fox and BTN for documents including confidential television broadcast agreements and all of Fox's licensing agreements, demands that Singer argued were unduly burdensome and irrelevant to the suit.

"It was a veiled threat to the business of televising college sports," Singer said. "Merely showing sporting events on TV or online, like any news event, is a protected activity — it's a matter of public interest and a well-established exception to the right of publicity."

The NCAA case, which raises issues of right of publicity, copyright law and discovery disputes, exemplifies the type of broad industry knowledge that attorneys in media and entertainment must cultivate, Singer said.

"I'd worked on advising clients on all these different issues," Singer said. "What you bring to the table is knowledge about the industry and business, as opposed to just being an expert in a particular area of law."

The ruling on the requests was among Singer's latest wins for News Corp., whose former social networking unit MySpace had banked on him in its headier days. In 2007, he helped the company field accusations that it was responsible for damages suffered by teenage girls who had been assaulted by men they had met on the social networking site.

MySpace won the suit, which ranked among the foundational legal cases at the beginning of the social networking era that clarified the extent of Internet companies' liability for user-generated content, Singer said.

A California appeals court affirmed the victory in 2009, finding that websites can be shielded by Section 230 of the Communications Decency Act, which protects interactive computer service providers from liability for content posted by third parties.

The plaintiffs claimed MySpace had been negligent and violated its duty to take steps to ensure that sexual predators could not communicate with minors through the site. MySpace's immunity under the CDA upended this contention, Singer said, but because of the sensitive nature of the issue, he had to frame his argument in a way that was sympathetic to the plaintiffs.

"The biggest challenge here was that the case involved plaintiffs who were the parents of teens who had been the victims of sexual predators online," Singer said. "That was my foray into working for big media clients where you need to be sensitive to the public's point of view and not just be the big, bad lawyer."

The ability to deploy tact and maturity in arguing cases is Singer's distinctive approach, belying his youth, said Jenner & Block media and entertainment partner Richard Stone, whom Singer credits as a mentor during roughly eight years together at Hogan Lovells in Los Angeles before their move to Jenner & Block in November.

"He's aggressive, but he's intelligently aggressive," said Stone, with whom Singer worked on the MySpace case. "He knows exactly when he needs to be forceful."

Singer made partner in January 2008 at Hogan Lovells, known as Hogan & Hartson LLP before its 2010 merger with London-based firm Lovells. Singer bounded up the associate ranks following his graduation from the University of Pennsylvania with his law degree in 1999.

Stone accounted for this accelerated track to partnership in his characterization of Singer as an eager attorney who piled on responsibilities, taking charge of cases even as an associate.

Stone recalled that in their defense of NDS Group PLC in a piracy suit by Dish Network LLC, Singer personally flew to his native Canada in 2007 to meet with third-party witnesses for NDS, a group of satellite technology experts including amateur hackers.

The dispute wound up in NDS' favor in 2008, when a California federal jury awarded actual damages of \$45.69 against NDS. Dish Network had sought \$1.6 billion, accusing NDS of contributing to a security breach in its system.

"By speaking to those witnesses, he developed an understanding of the big picture of the case, which is an unusual skill to have at that age," Stone said. "David would often be doing so much and making partner-level decisions even before he made partner."

While the media and entertainment industry tends to draw younger attorneys eager to cut their teeth on cases involving the distribution and potential exploitation of entertainment-related property, changes in the industry landscape brought on by Internet piracy and other trends have shrunk the field and made it increasingly competitive, Jenner & Block partners said.

"Prior to this century, we were dealing almost exclusively with physical products," said Andy Bart, co-chair of Jenner & Block's content, media and entertainment practice. "In the Internet era, the entertainment world has shrunk, and the most obvious contraction is in the music industry, which is a fraction of the size it was in the '90s and '80s, because so much of the product is being stolen."

For young attorneys keen to thrive in the changing field, Singer stresses the value of building industry knowledge by taking on a wide range of cases rather than fixating on just a "particular set of statutes."

"You start working on all the small stuff and position yourself as the young associate eager to work on anything," Singer said. "A licensing dispute here, a copyright claim there — by the time a big case comes along, you're ready to bring a broader-based understanding of the business."

--Editing by Kat Laskowski.

All Content © 2003-2011, Portfolio Media, Inc.