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Rising Star: Jenner & Block's Luke Platzer

By **Erin Coe**

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Handling the first jury trial to test the copyright infringement theory of "willful blindness," Jenner & Block LLP partner Luke Platzer secured a multimillion-dollar jury award for record label EMI in its long-running case against music storage service MP3Tunes, earning him a spot on Law360's list of top media and entertainment attorneys under 40.

Luke Platzer

The 36-year-old Rising Star has been an attorney with the firm for more than 10 years and has focused his practice on high-stakes copyright litigation involving the Internet and new technology platforms. He is based out of the firm's Washington, D.C., office.

In March, a federal jury in New York awarded EMI $48 million, finding that MP3Tunes and its founder were liable for violating more than 2,000 copyrights in sound recordings, compositions and cover art owned by EMI and EMI Music Publishing Ltd. The jury also found that because the defendants displayed "willful blindness" to infringement by MP3Tunes' users, they were not protected by the safe harbor provisions of the Digital Millennium Copyright Act.

"It was the first time that the question of what it means for service providers to be willfully blind to infringement had gone to a jury," Platzer said. "And it was the first time that a service provider had been disqualified from the Digital Millennium Copyright Act's safe harbor based on willful blindness."

The jury award was later reduced by the judge to $12 million, one of the rulings that EMI is currently challenging.

The theory of "willful blindness" that Platzer successfully advanced in the EMI case was initially established in another case Platzer helped work on years earlier for Viacom Inc. in its high-profile suit alleging Google Inc.'s YouTube LLC engaged in intentional copyright infringement of Viacom's entertainment properties on YouTube's website. In a precedent-setting decision, the Second Circuit in 2012 reversed the trial court's grant of summary judgment in favor of YouTube, determining that the

DMCA did not protect service providers who exhibit “willful blindness” toward infringing conduct.

“Before this case came along, the decisions were all trending toward the idea that as long as a service provider took down infringing files in response to take-down notices, it didn’t have to do anything else — even if its business was built on a model of infringement and even if it knew how its services were being used,” Platzer said. “The Viacom decision was one of the watershed cases in this area of copyright law.”

In addition to the Viacom win, Platzer was a key part of a team that clinched a major victory for Columbia Pictures, Disney and other film studios in 2013 when a Florida federal court **ordered** file-hosting site Hotfile Corp. to pay $80 million and stop operations unless it used copyright filtering tools to prevent infringement of the studios’ works. The ruling was the first to disqualify a service provider from the DMCA safe harbor based on the inadequacy of its “repeat infringer” policy.

“The Viacom and Hotfile cases have helped provide copyright owners with more meaningful tools to combat infringement by service providers that turn a blind eye to what their users are doing,” Platzer said.

Platzer said the ruling for EMI in the MP3Tunes case helped to further shift the law in the direction of providing greater ammunition for content owners to challenge online services that enable large-scale infringement.

At Jenner & Block, Platzer also has developed a significant pro bono practice and has concentrated on representing same-sex couples fighting for marriage rights.

Last year, he was part of a team representing unmarried same-sex couples in Virginia and same-sex couples in Virginia who had married in a different jurisdiction in Harris v. Rainey, and he successfully argued a motion certifying the plaintiff couples as representatives of the statewide class. The Fourth Circuit upheld a lower court ruling striking down Virginia’s ban on gay marriage, which affected nearly 14,000 same-sex couples in Virginia and led to the invalidation of similar bans in North Carolina, South Carolina and West Virginia.

Before Platzer earned his law degree in 2003 at Stanford Law School, he believed he was going to end up doing civil rights work at a nonprofit. But when he summered at Jenner & Block, he had the opportunity to work on Lawrence v. Texas, in which the U.S. Supreme Court in 2003 struck down Texas’ sodomy law and nixed sodomy laws in more than a dozen other states.

“It really helped persuade me that it was possible to pursue a civil rights law career at a private law firm,” he said. “While the passion that brought me to law school is not what I ended up doing full time, it is driving my pro bono practice. The fact that I can wear both hats and pursue both areas of law is something I immensely appreciate about Jenner & Block.”

--Editing by Chris Yates.
