

## TOP INTELLECTUAL PROPERTY ATTORNEYS in California for 2016

When we're listening to pre-1972 music on rotation in our smartphones or reaching for a ketchup bottle at lunch, intellectual property doesn't come to mind. But these are just a few examples of the work behind the California attorneys we chose on our list for their efforts protecting the intellectual property belonging to companies of all sizes across the country and around the world.

As technology makes vast improvements year after year across the industry spectrum, intellectual property attorneys — litigators and patent prosecutors — are rolling up their sleeves to stay ahead of the game. In California, established Silicon Valley and booming Silicon Beach have created global hubs for such innovation to take place in on-demand services, social media, health care, consumer technology and other various fields. But the fight to protect patents, copyrights and trademarks can start on a local court level and move to the appellate courts, while also heading to the U.S. Patent and Trademark Office, the U.S. International Trade Commission and the U.S. Supreme Court.

Intellectual property attorneys face many hurdles as they try to protect the branding of companies for consumers and a range of venues for those who want to protect their innovations. The attorneys in this issue took those challenges head-on and pushed technological progress forward.

—The Editors

### Michael G. Rhodes

#### FIRM

Cooley LLP

#### CITY

San Francisco

#### SPECIALTY

Patent and commercial litigation



The developers of “Candy Crush,” a virtual reality technology provider, and Facebook Inc. have at least one thing in common. They both called on Rhodes for help with their intellectual property litigation matters.

King.com Ltd., developer of the “Candy Crush” mobile games, called Rhodes to defend it in a patent infringement suit brought by Inventor Holdings LLC.

“The patent at issue described a very basic way in which you could unlock benefits in the

game,” Rhodes said. “It described the process by which the system tracks how the user navigates through the game.”

“We said this is merely an abstract concept, and it isn't patentable simply because it happens to be in the context of a computerized game,” he said.

Rhodes cited a recent U.S. Supreme Court decision, *Alice Corp. v. CLS Bank International*, in King's defense.

“The Supreme Court teaching is that ideas that are known in context of their abstract form don't become patentable simply because they are implemented in a computerized context,” Rhodes said.

He said he used real world examples to help simplify the concept for the court.

“For example, if we think about storing information in the non-computerized world, like using file folders with labels or indexing like a card catalogue, a database patent that contains the very same basic ideas may not be patent-eligible if all that is happening is the patent uses the same abstract concepts as implemented by a computerized system,” he said.

U.S. District Judge Leonard P. Stark of the District of Delaware agreed with Rhodes' argument in September 2015 and found the patent was an abstract idea that could not be patented.

Stark also found that the patent did not include an inventive concept that would transform the idea into a patent-eligible concept. Inventor Holdings has not filed an appeal.

*Inventor Holdings LLC v. King.com Inc.*, 14-CV01070 (D. Del., filed Aug. 19, 2014)

Oculus VR LLC, a virtual reality company in Menlo Park that makes wearable devices, relied on Rhodes, along with his future colleague Bobby Ghajar, then at Pillsbury Winthrop Shaw Pittman LLP, when it was hit with a trademark infringement suit by Oculu LLC, an online video hosting company in Aliso Viejo.

The company accused Oculus VR of trademark infringement, claiming it had registered the “Oculu” mark for use in connection with “streaming of audio and video by means of the Internet.” Oculu alleged that Oculus VR chose a brand name that causes confusion within the industry and among consumers. *Oculu LLC v. Oculus VR Inc.*, et al, 14-CV00196 (C.D. Cal., filed Feb. 9, 2014)

Rhodes used the plaintiff's own internal documents in his client's defense.

“The evidence showed that the plaintiff really had no proof of any real intent to go into that secondary market and thus there could be no possible customer confusion over the competing marks,” he said.

Rhodes also advises Facebook, which bought Oculus VR last year, in several matters. He said he relies on a great team to help him get favorable results for his clients.

“Litigation, and IP litigation in particular, is a team sport,” he said. “I'm given way too much credit for our wins.”

—Melanie Brisbon