

Shelter Capital and Spark Capital Prevail in Copyright Lawsuit

2009-05-06

United States District Court Judge Howard Matz of the Central District of California again ruled in favor of Veoh Network investors and WilmerHale clients Shelter Capital and Spark Capital—in dismissing with prejudice an amended Complaint filed by Universal Music Group (UMG) on February 23, 2009. This follows Judge Matz's dismissal of the copyright lawsuit with leave to amend in February 2009.

Judge Matz's most recent ruling regarding the scope of secondary copyright liability is significant for venture capital companies as it helps draw a clearer line between conduct that will—and will not—be considered free of copyright liability for those who invest in, and sit on, the Boards of new media companies in the internet space.

In September 2007, UMG sued Veoh Networks, a YouTube competitor, for direct, contributory and vicarious copyright infringement and for inducement of copyright infringement. Almost a year later, in August 2008, UMG named three of Veoh's investors—Shelter Capital and Spark Capital being two of the three—as defendants on the three theories of secondary liability.

UMG sought to hold these two venture capital companies liable for secondary copyright infringement by virtue of their investment in, and Board positions in, the underlying invested company, Veoh Networks. UMG's approach, if vindicated, would have had a chilling effect on investments in the Internet space. However in his February 2009 ruling, Judge Matz found that the mere act of being an investor or board member of a company facing copyright issues and fulfilling those normal duties does not constitute infringement. In now ordering dismissal with prejudice of UMG's claims, Judge Matz reconfirmed and reinforced his prior ruling.

[Robert Badal](#) led the WilmerHale team, which included [Maria Vento](#), [Amanda Walker](#) and [Joel Cavanaugh](#).