



VIRTUAL VISIONARIES

HOW 7 FIRMS GOT OUT FRONT ON
VIRTUAL REALITY AND AUGMENTED REALITY

BY TODD CUNNINGHAM

LADIES AND GENTLEMEN OF THE LEGAL PROFESSION, STRAP ON YOUR HEADSETS.

That simple advice won't solve the many mysteries surrounding the mainstream emergence of virtual reality (VR) and augmented reality (AR), but it's fun and will give you a feel for what the kids are talking about-and the format's potential to revolutionize how we view the world and each other.

"Even at this point, when I mention VR or AR to investors, or attorneys, or a lot of consumers, they say, 'Oh yeah, I'm familiar with that,'" says Jason Schneidennan, partner in Perkins Coie's emerging companies and venture capital law practice. "Then, when I get them to put on the goggles or headset, it 'Oooohhh yeah, I get it!' You can almost see the light bulb come on over their heads."

You can still be a naysayer, at least for another year or two, but it's a switch worth flipping. The VR and AR market is expected to hit \$108 billion by 2021, with AR (where the virtual is introduced and augments an individual's reality) driving the lion's share at \$83 billion and VR (where the user is immersed in their own virtual world) at \$25 billion, according to the latest projections from industry tracker Digi-Capital. By 2025, it is projected to overtake television in terms of market value.

There are no projections yet on the number of billable hours-or headaches-this will cause for attorneys.

There will be disputes over the ownership of VR intellectual property, patents, trademarks and designation of ownership. If you doubt that, consider that each of those issues came up earlier this year in a single case in March, when **ZeniMax Media Inc.** sued Oculus VR LLC and was awarded \$500 million. Ocu-



lus, the startup for which Facebook Inc. plunked down \$2 billion in 2014, was found by a jury to have misappropriated VR tech secrets from ZeniMax, which recently filed to double the award and take 20 percent of the revenue from future sales of the Oculus Rift headset.

Then there is liability, which could come in the real or virtual world. And if there is trespassing, couldn't there be crimes of all ilk?

While many may still be trying to figure out what AR and VR stand for, some lawyers and law firms are out ahead of the trend integrating it into their firm's practice or launching their own practice. They range from the former in-house counsel at Oculus who launched his own firm after brokering the \$2 billion sale of the VR headset company to Facebook, to a woman whose experience patenting sex toys led to the launch of an online clearinghouse for patents on VR technology. Also among these lawyers are two very high-tech personal injury attorneys, a couple of large firms and a boutique.

The specialties of the attorneys are as varied as the needs of the start-ups in the VR space, who are seeking investment capital, strategic advice, patents on hardware and software, content development, copyrights and protection from liability, among other things.

Most in the market predict AR will lead the way because it's easier to create, experience and market, and Madison Avenue is delivering it to us. Maybe you've seen the Pepsi commercial that shows people at a London bus stop being narrowly missed by a rocket shell, tracked by a tiger, snatched by a tentacled monster and visited by aliens? That's AR. That smart phones will provide the entry point for most consumers is another reason AR has a head start, observers predict.

The success of Pokemon Go last year jumpstarted consumer interest in the format. What's still unclear is when consumer acceptance will hit critical mass, and which technology will benefit. The search is on for the next Pokemon. It could be another game or live VR sports, or it could be industrial applications in the medical field, architecture or real estate. Maybe it will be porn, which sped broad acceptance of VHS, DVDs and the internet. Jonatlian Pearce, an attorney at SoCal IP Law Group, believes the price point for VR and AR is critical. "Cell phones didn't take off until they got down to \$200," he notes.

Boosting business isn't the only reason to embrace VR and AR, lawyers in the sector say.

"This is a paradigm shift," says Perkins Coie's VR specialist Kirk Soderquist. "It's a whole new way that we will go through our lives."

Here's a look at how lawyers are influencing and using AR and VR.



DANIEL OFFNER
Offner & Associates,
Blue Heron Ventures,
Alcon Interactive
Los Angeles

WHY HE MATTERS: One of the more high-profile "close-ups" for virtual reality will come October 6, when Oculus will offer an exclusive VR release of "Blade Runner 2049," starring Harrison Ford and Bradley Cooper. It will be the first time that a movie will be available to be viewed in VR on the same day that it debuts in theaters. Offner was named interim head of A.Icon Interactive, film company A.Icon Entertainment's interactive division. It marks a reunion of sorts for Offner, who was general counsel at Oculus through its sale to Facebook. He then returned to private practice, founding O&A, as well as the investment firm Blue Heron.

FRONT BURNER: One top priority will be helping client Spaces Inc., successfully launch a \$30 million VR theme park in China with that country's Sonchen Performance.

DID YOU KNOW?: This won't be the first virtual reality film for "Blade Runner 2049" director Ridley Scott. His 2015 film "The Martian" got the treatment as well.



**ERIC GALEN (left),
JESSE SAIVAR**
Emerging tech, new media;
entertainment, IP
Greenberg Glusker
Los Angeles

WHY THEY MATTER: Greenberg Glusker prides itself on being a full-service law firm that works for some of Hollywood's top actors, writers and directors. But the strategy is also a nice fit for the startups they represent, like Spatialand, which said in June it will team with Intel to create Linkin Park Destination in VR. And you'll be seeing the mobile VR platforms of another client, Awesome Rocketship, in theaters soon. But the system wouldn't work nearly as well without "venture catalyst" Galen, who has serious tech, music and startup chops, and Saivar, the IP department chair known for landing big deals for small clients. "[Other]



firms might be as strong as we are in a particular aspect," Saivar says, "but none that can take a startup from financing, tech development and patents to contracts, IP, trademarks, branding and content the way we do." Client Tom Cruise went weightless for IMAX's "The Mummy Zero Gravity Experience" but the firm's talent has yet to be fully utilized for VR. "A lot of us are waiting to see what hardware, what platforms will emerge," Saivar says. "There's no universal language for the storytellers yet."

FRONT BURNER: They'll try to extend the hot streak for client Jeff Nicholas, Live Nation's point man on VR, who broke ground with the January launch of "On Stage," a VR-based Hulu original series on music hosted by Lil Wayne.

DID YOU KNOW?: Another client, director Brett Leonard, who partnered with Josh Shore to form the VR studio Virtuosity Entertainment in 2015, is seen as a VR visionary based on his 1992 film "The Lawnmower Man," the first cautionary film about the format, and his visual effects work since.



**JAMES GOODNOW (left),
MARC LAMBER**
Personal injury
Fennemore Craig
Phoenix

WHY THEY MATTER: "We can take a judge and jury right to the point of impact in a car crash," says Lamber. They haven't taken VR to trial yet, but are using it in several cases. The precise and graphic look at what actually happened in accidents involving catastrophic injuries could hasten settlements. "People are naturally skeptical, especially in the law where protocol and procedures become ingrained and wide-acceptance of any new technology takes time," Lamber says.

FRONT BURNER: They're out front on self-driving cars, too. Redrawing fault allocation in the tort system will be a challenge in this rapidly evolving space. "If we can make the roads safer, that's a good thing," says Goodnow.

DID YOU KNOW?: Yellow legal pads are scarce at the firm's high-tech Phoenix offices. Google Glass, iPad video demand letters and 3D-printers are in. Some team members wear activity and stress monitors, and stand-up and treadmill desks are available.



**AMY SIEGEL, BRUCE
TOBEY, DAVID
MAKARECHIAN (left),
ANDOR TURNER**
Financing, IP and licensing
O'Melveny & Myers
Los Angeles

WHY THEY MATTER: O'Melveny & Myers has played in the big leagues since its arrival in Hollywood in the 1930s, and that's the approach it's taking with VR and AR. The firm helped NextVR raise more than \$110 million in financing, which has made it the leading producer of live events in VR. The company showcased its National Basketball Association deal—the first involving a major U.S. sports league—in the recent NBA Finals, and has also produced VR coverage of Notre Dame football, NCAA basketball, postgame coverage of the NFL, the Kentucky Derby and one of last fall's Democratic debates. The Void is another key client, and O'Melveny helped broker deals with Sony Pictures and Madame Tussauds in New York to create the hyper-reality "Ghostbusters: Dimension" interactive installation. It also brought giant screen titan IMAX together with Chinese investors for VR experiences.

FRONT BURNER: The firm would love to see NextVR land that elusive deal for live NFL games. The league maintains that the camera technology for mobile phones and NextVR's storytelling ability aren't yet at its standards.

DID YOU KNOW?: Imagine Dragons, Lady Antebellum, Third Eye Blind and Prince will broadcast upcoming summer concerts in VR in a deal between Citi, Live Nation and NextVR, shepherded by O'Melveny & Myers.



MAXINE LYNN
IP, patent infringement
Keohane & D'Alessandro
Chicago

WHY SHE MATTERS: While patenting a sex toy she'd developed, Lynn was struck by the opportunities for tech innovation. She positioned herself at the nexus of VR tech and sex's new cyber frontier with the online launch of the Sex Tech Patent Index via her company, Unzipped Media, Inc. It provides updated global patent info, data analysis and projections on VR, teledildonics and sex robots, and features Lynn's blog and podcast, "UNZIPPED Sex, Tech and the Law" and "UNZIPPED The Business

"IT'S CRITICAL WE DEVELOP OUR OWN SET OF REGULATIONS, OR GOVERNMENT WILL STEP IN AND MAKE THEM FOR US."

-KIRK SODERQUIST OF PERKINS COIE

of Sex," respectively. Adult entertainment drove hardware innovations like high-definition and multi-cam options for DVDs and could well do the same for VR. When the anticipated tidal wave of patent litigation hits, Lynn could well be hanging ten.

FRONT BURNER: Lynn wants to take full advantage of the recent Supreme Court decision (*TC Huntland v. Kmft Food Group Brands*), which limits the ability of nonpracticing entities-patent trolls, who often prey on underfunded inventors in the adult sector-to forum shop.

DID YOU KNOW?: Innovations in teledildonics (transmitting tactile sensation via data stream) and mind-controlled computers (freeing up your hands) will change porn, and potentially society, profoundly. The former should be available in five years, the latter in 10.



**KIRK SODERQUIST (left),
JASON SCHNEIDERMAN**
Interactive entertainment, emerging companies, venture capital
Perkins Coie
Seattle

WHY THEY MATTER: Perkins Coie's early entry into the VR arena was a natural outgrowth of the firm's involvement with the videogame industry and its historical work with innovative companies. Soderquist and Schneiderman helped oversee a 2016 survey conducted with UploadVR of 650 startup executives, investors and consultants to see how the fledgling VR industry felt about itself. Surprisingly, a lack of compelling content was cited as the biggest obstacle to widespread acceptance for VR. The duo believes that mobility-as in smartphones-will be key to the format's advance, but that AR will become ubiquitous while VR will become a nice niche play.

FRONT BURNER: Advocating responsibility and urgency as the legal system tries to catch up with the inevitable lag

behind VR and AR technology. "It's critical we develop our own set of regulations, or government will step in and make them for us," Soderquist says.

DID YOU KNOW?: Perkins Coie is a major legal player in two other emerging technologies, blockchain technology and digital currency, as well as in drone aircraft.



JONATHAN PEARCE
Intellectual property
SoCal IP Law Group
Los Angeles

WHY HE MATTERS: Pearce is the VR man at the boutique law firm SoCal IP Law Group, which was IP counsel to Oculus until the Facebook sale and has become a go-to for startups in the region. His client list is heavy on the fun and games: smartphone headset company Merge VR; the stealth face-tracking firm Pinscreen, which been having some fun with animation; the game studio INVRSE; and HyperVR, the company behind the "wrap-around" headsets. He's a VR advocate but pragmatic. "Maybe I'm more of a pessimist," Pearce says, but I don't think VR will take off until the price comes down."

FRONT BURNER: Pearce's bet for the Next Big Thing is "something 'Pokemon'-ish, one that involves some sort of AR on the screen, or on your headset, that involves someone else. I think the killer app would be at a location and playing other people."

DID YOU KNOW?: When things slowed down seriously at the U.S. Patent Office last year, SoCal IP Law Group raised consciousness and hackles with its print ad, "Patent Assassins" which facetiously offered to take matters into its own hands.

Email: tzl11111ingh11111@lmcw111.