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TOP CYBER/ARTIFICIAL INTELLIGENCE LAWYERS 2018



Perry J. Viscounty

Latham & Watkins LLP
Costa Mesa and San Francisco

Practice: Intellectual property

Specialties: Internet and digital media, information technology



U.S. District Judge Maxine M. Chesney last August in favor of Craigslist that found damages of \$31 million, including \$25.6 million in CAN-SPAM Act damages and \$5.4 million in damages for breach of Craigslist's terms of use. The defendant was Instamotor Inc., an online car-buying service that scraped car sales ads from Craigslist. *Craigslist, Inc. v. Instamotor Inc.*, CV17-02449 (N.D. Cal., filed April 28, 2017).

The judgment followed a similar Craigslist lawsuit against online real estate rental listing service RadPad Inc., in which U.S. District Judge Charles R. Breyer issued a permanent injunction and a \$60.5 million judgment against RadPad. The judgment included \$40 million in CAN-SPAM damages and \$20.4 million in copyright damages. *Craigslist, Inc. v. RadPad, Inc.*, CV16-01856 (N.D. Cal., filed April 8, 2016).

Viscounty supported Breyer's decision in an amicus brief recently filed in a closely watched scraping case pending before the 9th U.S. Circuit Court of Appeals between hiQ Labs Inc. and LinkedIn Corp. He wants the appellate court to follow that decision instead of a trial court decision that's in favor of hiQ Labs Inc. *hiQ Labs Inc. v. LinkedIn Corp.*, 17-cv-16783 (9th Cir., filed Sept. 6, 2017).

"Companies have built these sites with a lot of hard work and money, and then a lot of other companies come along with robots and spiders and copy all the content and use it for their own business," Viscounty said. "You've got to



protect that and it's just not going away."

"No matter what the laws are, people will come to your website and steal it and sell it all over," he continued. "I think my team is going to be very busy with these cases for some time."

Viscounty's practice also includes trade secret cases and a range of other intellectual property litigation with his team at Latham, which he said works "seamlessly" to maximize productivity and results.

"I could never do it by myself. It's really fun having talented people around me who write better than anyone, who research better than anyone, who argue in court better than anyone," Viscounty said.

— Meghann M. Cuniff