

Just Say No to New Crypto Rules Figuring Out Festo

WORLDWIDE



SUMMATION

A LAWYER WHO RUNS WITH LITERARY LIONS

AN INTERVIEW WITH KOHN, SWIFT & GRAF'S MICHAEL BONI

When Michael Boni, 44, a partner at Philadelphia's Kohn, Swift & Graf, became a lawyer, he never dreamed that part of his job would include attending Manhattan literary lunches. And he didn't anticipate that his client roster would read like a Who's Who of American authors. He recently found a message slip on his desk instructing him to return Scott Turow's call. "I'm still saving that slip," he says.

Boni is off and running with the literati because he's working on two significant IP lawsuits involving authors' rights. He's representing The Authors Guild Inc. in a class action seeking to halt publication of freelance authors' works in electronic databases without their permission. He's also representing e-book publisher Rosetta Books LLC in a copyright case brought by Random House, Inc. ["Egad, Here Come E-Books," July].

Boni had never even planned on becoming a lawyer, much less an IP litigator. He had earned a master's degree in psychology in 1980 from the University of Connecticut. He spent five years working as a therapist for a drug treatment center. "It was emotionally gut-wrenching," he says. "So when somebody put a bug in my ear to go to law school, I never looked back." He received his law degree from the University of Pennsylvania School of Law in 1988.

His psychology training, though, does come in handy. "I use a lot of reverse psychology," he says. "In an adversarial situation, you are going to get blind resistance. So if you phrase it right and ask for the opposite, your adversary will give what you want."

After law school, he worked at Philadelphia's Schnader Harrison Segal & Lewis for three years. Then he worked at the Philadelphia class action firm Chimicles & Tikellis. He moved to Kohn, Swift & Graf in 1994.

Boni made a splash as a class action litigator. In 1996, he settled a Detroit case for \$4.5 million against a manufacturer of a hair straightening product—Rio Hair Naturalizer System—on

behalf of African-American women. The product had caused the plaintiffs' hair to fall out in clumps. Earlier this year, Boni settled a \$50 million price-fixing class action suit against several manufacturers of laser equipment used for vision-correcting eye surgery.



Michael Boni: master of reverse psychology

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The class action work landed him the Authors Guild case. A law school classmate was general counsel of the Authors Guild, which wanted to bring a class action after the Supreme Court issued a favorable ruling in the so-called Tasini case involving similar issues. "I had plenty of class action experience," he says.

Boni likes to sit at his kitchen table and read old cases. "There are times when the lightbulb goes on and you know you are at the point at which you will win the crucial issue."

The lead plaintiff in the Authors Guild lawsuit is feminist writer Letty Cottin Pogrebin, president of the 8,000-member organization. Defendants include Lexis/Nexis and Dow Jones Reuters Interactive. In the wake of the U.S. Supreme Court's Tasini ruling this summer, which held that authors are entitled to payment for electronic republication of their work, Boni's clients are seeking a determination of how much they should be paid for past uses of their writings. That case is being tried in federal court in New York.

Boni is also representing Rosetta Books, who is a defendant in the Random House suit. The publishing giant sued to enjoin Rosetta from selling electronic versions of Random House books, authored by the likes of Kurt Vonnegut and William Styron. In July, New York federal judge Sidney H. Stein denied Random House's motion for an injunction. Random House has

appealed the ruling ["Electronic Rights Decisions May Prove To Be Mixed Blessings," September].

"If on my legal tombstone it said I was known as a champion of authors' rights, I'd be very happy," he says.

—Victoria Slind-Flor