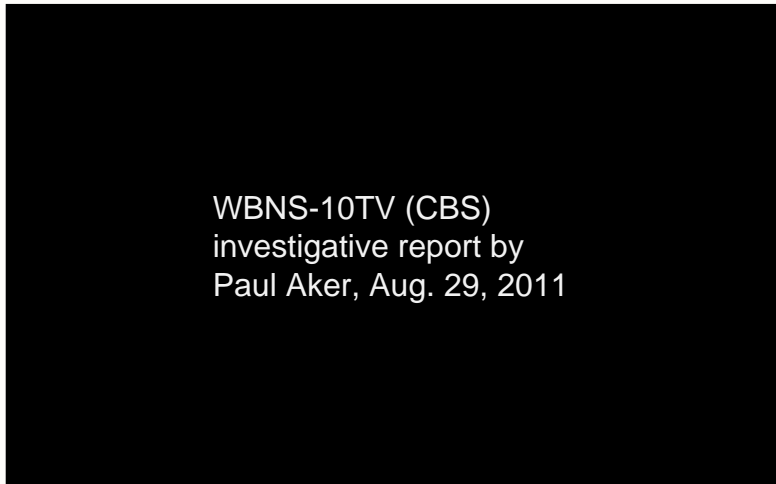


# Origin of Facebook's technology?

Important new facts have emerged from *Leader v. Facebook*

WBNS-10TV (CBS) Columbus, Ohio Aug. 29, 2011 – *Leader v. Facebook*



© WBNS The fight goes on. [Click to read Leader's Federal Circuit Opening Brief](#). The trial resulted in a **split verdict**. Leader won on "literal infringement" of 11 of 11 claims and no prior art. Facebook won on a technicality called on sale bar that "invalidates" the patent for this trial only if not overturned. Leader says Facebook confused the jury with attorney "trial theater" instead of "clear and convincing" evidence.



[Click here for an HTML version of this post](#)

Thursday, January 26, 2012

## How Facebook tricked the jury

OPINION: One blogger's perspective

Facebook doctored evidence as the basis for their only "win" in the patent infringement case *Leader v. Facebook* which is now on appeal at the Federal Circuit


**January 26, 2012**—The 2 min. 30 sec. animation below summarizes how Facebook experimented with a 70-person Delaware focus group to confuse the jury with innuendo dressed up to look like evidence of "on sale bar." As a matter of law, Facebook's "victory" cannot stand since it is founded on doctored evidence—a 60%-altered Interrogatory No. 9. (See [mock trial Comments in "Facebook's 'clear and convincing' burden of proof in \*Leader v. Facebook\*"](#).)

Click anywhere on the animation below to view it in the Blogger viewer (duration 2 min. 30 sec.). See static versions of this presentation at the end of this blog entry.



**Leader Technologies, Inc. v. Facebook, Inc., 08-cv-862 (D.Del. 2008)**

## Scroll down

 below CBS-TV news video to read posts

### ««« TABLE OF POSTS

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Facebook's prized "evidence" was a trick

Facebook's "clear and convincing" burden of proof in *Leader v. Facebook*

11/28/2011 - Leader's lawyers dismantle Facebook's "schizophrenic" response brief

Click here for SUMMARY "Bottom Line: American Innovation is on the line"

1. Mark Zuckerberg used Leader white paper to build Facebook

2. Jury transforms disbelief into evidence

3. No evidence? No problem. Fabricate it.

4. Facebook's 'trial conduct

5. Facebook's "court room theater"

6. Facebook's "I'm tired" tactic

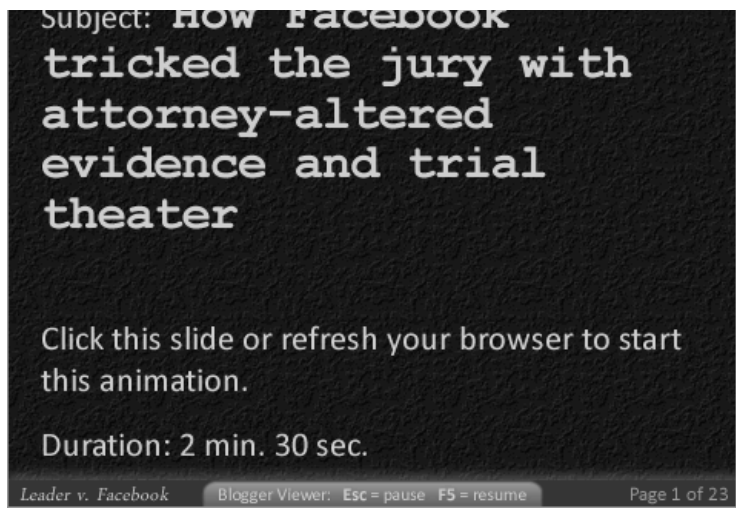
7. Missing Facebook Documents

8. Expert witness practiced "dark arts"

9. Patent Office records disprove Facebook

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**Fig. 1 - How Facebook tricked the jury.** For a thorough analysis of the trial evidence, go to <http://facebook-technology-origins.blogspot.com/> and click through the Table of Contents on the right of the screen. That table is contained on the right of this blog page as well.

## Lessons in fooling a mostly blue collar jury

Do you find it hard to believe that Facebook's Cooley Godward attorneys would doctor evidence, much less make it the centerpiece of their on sale bar attack? See for yourself at these blog entries:

Facebook's prized "evidence" was a trick. See also [No evidence? No problem. Fabricate it.](#); [Missing Facebook Documents](#). Follow other related link in this blog's Table of Posts (on right).

The revelation that [Facebook paid 70 people almost \\$500 each](#) to test how best to fool the jury with pseudo-evidence is further proof that Facebook had no evidence, and instead, resorted to attorney games—"dark arts" that are so destructive to the public's confidence in our legal system.

\* \* \*

Screen captures of the animation slides above (click on any one and the Blogger slide viewer will enable you to view each slide at your own pace):

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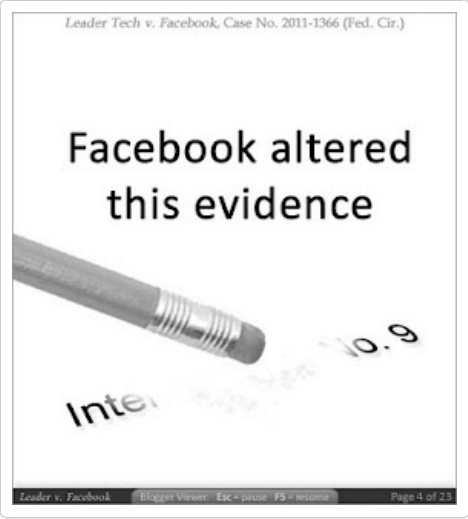
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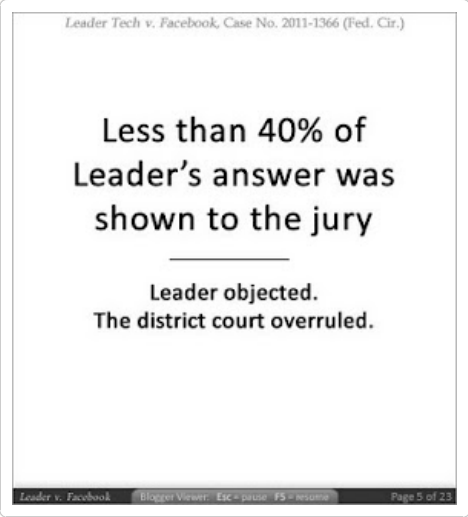
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Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.)

**“Possibilities of error lie in trusting to a fragment of an utterance without knowing what the remainder was.”**

**Wigmore, Evidence, 3rd ed.  
(on the doctrine of completeness)**

Prof. Wigmore is an often-cited legal authority.

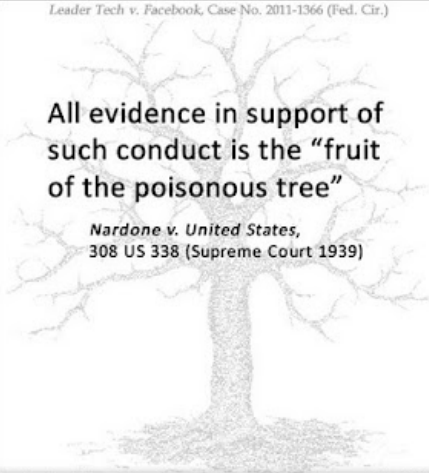
Leader v. Facebook | Blogger Viewer | Esc = print | F5 = reload | Page 6 of 23

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Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.)

**All evidence in support of such conduct is the “fruit of the poisonous tree”**

**Nardone v. United States,  
308 US 338 (Supreme Court 1939)**



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**Part 2**

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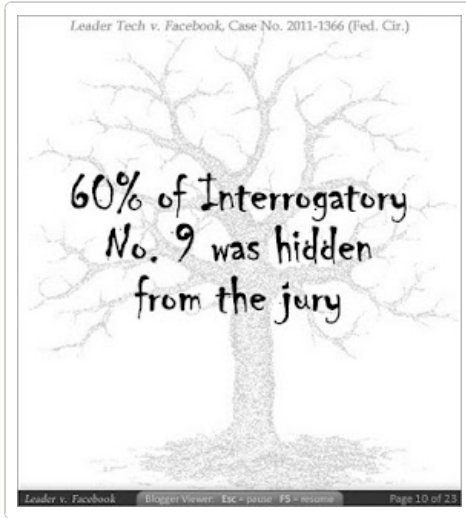
**Facebook based their “on sale bar” attack on attorney-altered evidence**



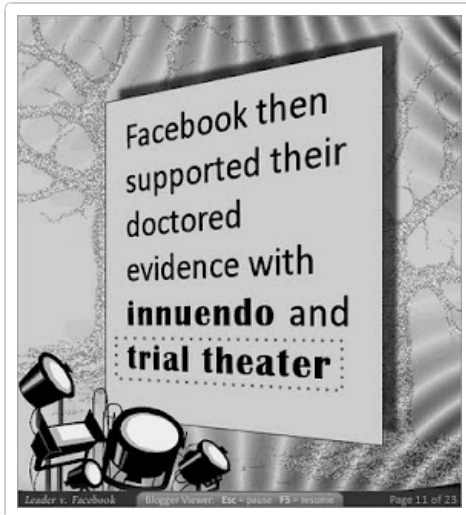
Leader v. Facebook | Blogger Viewer | Esc = print | F5 = reload | Page 9 of 23



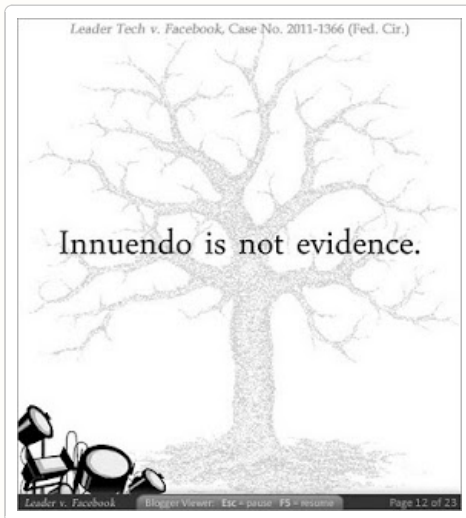
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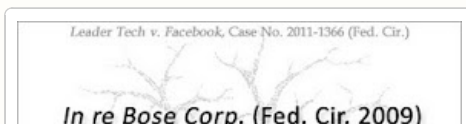
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"There is no room for speculation, inference or surmise . . . .  
 . . . any doubt must be resolved against the charging party."  
 ↑  
 [Facebook]

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Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.)

On May 1-2, 2010 Facebook tested their **trial theater** tricks with 70 unsuspecting Delaware citizens at the Riverfront Center, Wilmington, Delaware  
 (participants have come forward)

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Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.)

"Clear and convincing evidence" requires "hard facts."  
 Colorado v. New Mexico (Supreme Court 1984)

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Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.)

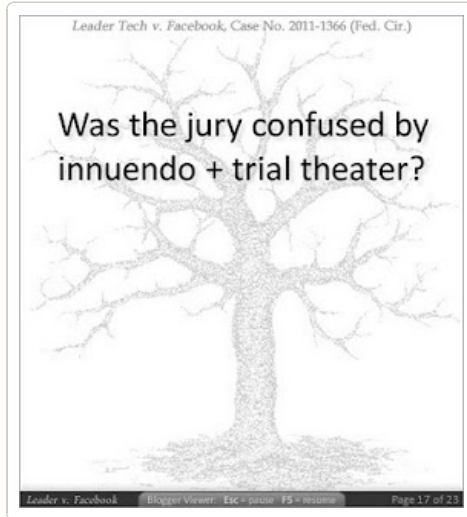
**Facebook offered no hard evidence**

1. No source code
2. No element-by-element test
3. No third party testimony
4. No UCC commercial terms test
5. No expert testimony
6. No engineering records
7. No programmer testimony
8. No secrecy "deeds test"
9. No defenses for dispositive proofs:
  - a. "evaluation only" NDA clauses
  - b. registered trademark dates
  - c. experimental testing evidence
  - d. "no legal effect" NDA clauses
  - e. "no buyer/seller relationships" clause
  - f. "no-reliance" NDA clauses
  - g. 2009 present tense answer
  - h. admission that source code was needed

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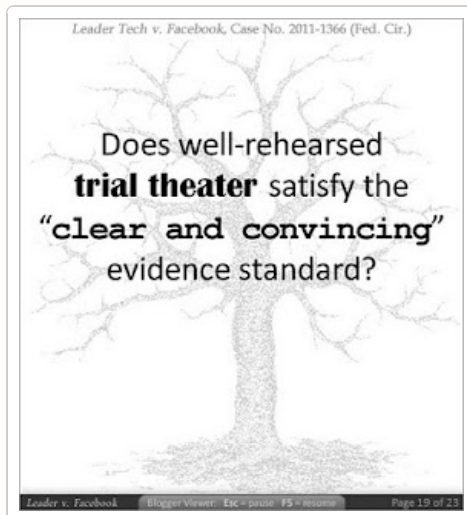
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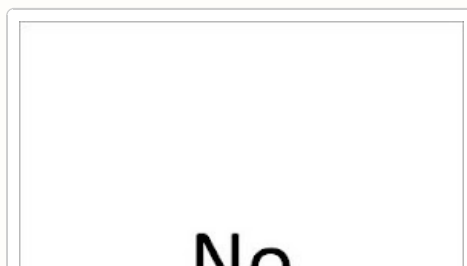
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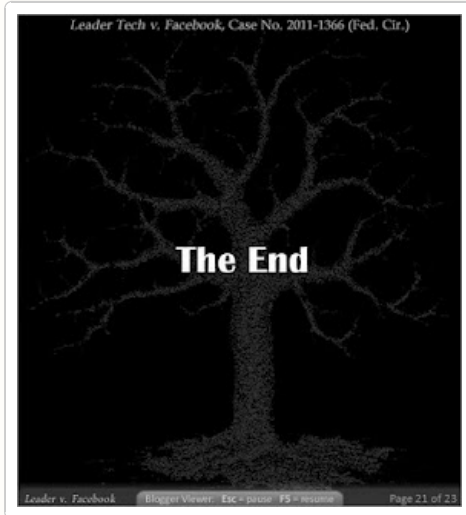


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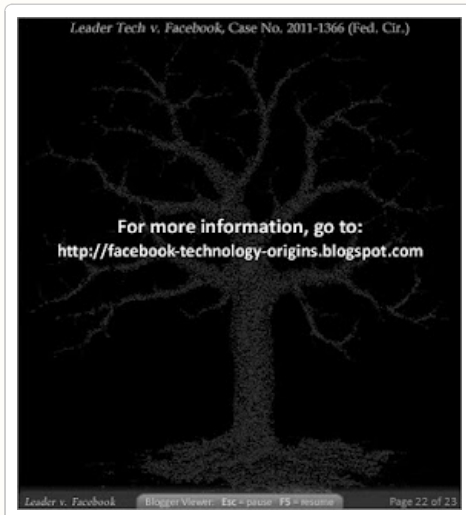




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