

/// Market Impact in an Evolving World

By Donna Kline — www.DLKIndustries.com

Donna Kline Now!



/// Donna Kline is a reporter for *Pittsburgh Business Report* and a former reporter for *Bloomberg New York*.

LEADER V. FACEBOOK PRESS BACKGROUND

1. Brief Summary (PDF)
2. Backgrounder (PDF)

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/// **Did Someone Prod the Media?**

/// **Facebook: The New 'Too Big To Fail?'**

/// **Big trouble**

{ 2012 02 27 }

/// Facebook: The New 'Too Big To Fail?'

Someone answer a question for me: Why hasn't the mainstream media picked up on the *Leader v. Facebook* patent infringement case?

When I was first notified of the pending Federal trial, I was shocked to find that this had not already been discussed *ad nauseum*.

We are not talking about a small-time case here. If *Leader Technologies* were to prevail on appeal, Facebook could be subject to hundreds of millions, if not billions of dollars in damages. If a judge saw fit, FB could also be forced to cease operations (that's what an injunction is.)

With Facebook's February filing of intent to issue common shares, shouldn't that be considered 'material' enough to be mentioned in their S-1 document? Don't potential investors have a right to know how damages resulting from this trial could impact FB's bottom line? And possibly cause them to shut down?



What about the conflict of interest between FB's IPO attorneys (Fenwick & West LLP) and the case of *Leader v. Facebook*? These are the same attorneys that represented *Leader Technologies* in 2002, the pivotal period under question regarding the validation of the disputed patent. Is that OK? I don't think so. You?

I am currently uncovering other 'smelly' items that aren't disclosed by FB. (Stay tuned!)

Why am I the 'only one' doing this?

I *hear* that a CBS News San Francisco affiliate (KPIX) will be reporting the story this week. One delay they are having is that this reporter has not been able to get any comment from Facebook. (Which is the same problem I had.)

Too big to return phone calls?

What? Is Facebook 'Too Big' to return a phone call? Do they have too much money behind them to worry about us

Big trouble ahead for Facebook's IPO?
YouTube / PBR

Fig. 1 – Big trouble ahead for the Facebook IPO? Donna Kline reports for *Pittsburgh Business Report* and is a former reporter for *Bloomberg*.

ahead for the Facebook IPO?

PBR / YouTube

/// What happens on March 5th, 2012?

/// More on FB's S-1 omissions & other conflicts of interest

/// Big trouble ahead for Facebook IPO?

Backgrounder

/// My take on the MF Global debacle: It could have been a customer

/// Comments on EU reform announced Oct 27, 2011

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/// Thoughts on rating agency S&P

March 2012

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- Steve Williams on /// Facebook: The New 'Too Big To Fail?'
Donna Kline on /// Facebook: The New 'Too Big To Fail?'
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have too much money behind them to worry about us sniveling reporters? Maybe they think we will be too afraid to report without comment, so if they ignore us, we will go away? Does that seem right to you?

Have we not learned after Enron, Madoff, Worldcom, Allan Stanford & AIG?

This is a classic David v. Goliath story if you ask me. One worth pursuing. Haven't we learned our lesson with the likes of Enron, Madoff, WorldCom or Stanford? These were all major conglomerates who ended up losing hundreds



of millions to billions of investor money. These are also entities that were audited regularly by the SEC. The SEC is supposed to catch these crooks before there is too much damage. They did catch Allen Stanford (I suppose), but Madoff turned himself in and it took employees of Enron and WorldCom to bring attention to the their cases. It took a \$182.5 billion American taxpayer bailout of AIG to save it from catastrophic subprime mortgage losses—the largest bailout in American history. And even then, investors lost mucho dinero.

Presidential candidates 'Like' infringed technology



So what is it? Are too many people reliant on FB for communication and income? I know that President Obama is utilizing FB for his 2012 campaign run. Heck, so is Mitt Romney. (FYI Obama has over 25 million 'likes' and Romney has just under 1.5 million. Perhaps a new indicator in the works? I bet the media grabs ahold of that one. LOL)

Could it be that FB is so engrained into our society that reporters are fearful of taking on the story?

145,000 man-hours to invent; less than two weeks to copy?

How many lines of computer code?

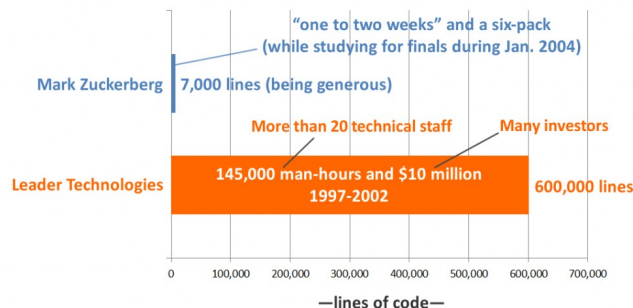


Fig. 2 – Leader Technologies says their (now) patented technology took 145,000 man-hours and \$10 million to make a working platform comprised of 600,000 lines of computer code by the end of 2002. By contrast, Mark Zuckerberg testified in ConnectU (the Winklevoss Twins) that he created the first working version of Facebook in "one to two weeks" while studying for finals in January 2004 (Facebook launched Feb. 4, 2004).

Are people having a hard time believing that Zuckerberg

Fail?’
winston smith on ///
**Facebook: The
New ‘Too Big To
Fail?’**
Steve Williams on ///
**Facebook: The
New ‘Too Big To
Fail?’**

PAGES
/// ‘Frauds’ Exposed:
/// About Me
/// Disclaimer
/// Economic Myths
/// Pittsburgh
Business Report
Videos
/// Smart People
/// The Funds I trade
– Bull and Bear
/// Unit

actually copied a patent to create the FB platform? Are they more inclined to believe that he wrote the code for FB in “one to two weeks”? When the platform in question took Leader Technologies 145,000 man hours and \$10 million to create? Seriously?

America Invests Act: Real or Ruse?

When Barack Obama signed the [patent reform law](#) back in September of 2011, which is intended to change the laws from ‘first-to-invent’ to ‘first-to-file’. The head of the [USPTO, David Kappos](#) released a statement saying that the the bill gives the USTPO “the tools it needs to deliver cutting-edge technology to the marketplace sooner.” “[But Silicon Valley entrepreneurs are skeptical that the bill will ease the nation’s patent litigation process and hurt the small start-up.](#)”

Is this bill just a way to railroad inventors that *don’t* have they’re hand in someone’s proverbial political pocket?

Protecting the American inventor or the big infringer?

If the current administration is truly a representative for the middle class and working Americans, seems as though they would be very interested in making sure that the relatively small company called Leader Technologies, who has succeeded in proving that FB is infringing on their patent, is treated fairly in a Federal Court.



What do you think? Is the name Facebook such a mainstay in our society that it could influence a Federal Court decision? Do you think that it affects a reporters desire to dig into a story that may be a negative for FB? Does it scare the SEC away from an investigation? Seriously. Does it?

* * *

CREDITS: Fenwick & West LLP Logo. Link source: <http://www.fenwick.com>. D. Baldinger Cartoon. Link source: http://www.dbaldinger.com/opinion_cartoons/first_page/images/2_enron_bw.jpg. Like hand. Link source: <http://www.thefanpageessentials.com/likeit/images/Like-Button-psd61067.png>. A Bright Idea light bulb. Link source: http://www.whrabel.com/cavortinc/images/bright_idea.gif.

Posted by [Donna Kline](#) on Monday, February 27, 2012, at 5:44 pm.

Filed under [Investigation](#).

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Comments


1. **Steve Craddock** | February 27, 2012
at 9:01 pm | [Permalink](#)
If this case has the merit as you suggest why wouldn't 20/20 or Dateline run all over the story?




2. **Mike Strall** | February 27, 2012 at 9:38 pm | [Permalink](#) 

Donna has it read right ;yes the federal courts will fall in line as directed by the political powers to be. Sad isn't IT!
3. **Aok** | February 27, 2012 at 11:16 pm | [Permalink](#) 

Maybe because of this?
<http://mobile.bloomberg.com/news/2010-07-28/facebook-wins-infringement-trial-as-jury-finds-leader-patent-is-invalid.html>. Am I missing something?
Did the patent somehow become valid in the meantime?
4. **Steve Williams** | February 28, 2012 at 6:53 am | [Permalink](#) 

Amen Donna! We've been wondering all along why no one is willing to run with this story (nationally). Thank God there are people in your profession, like yourself, who actually do their job- report news as it is, not as you would have us believe!!!
5. **Linda W** | February 28, 2012 at 9:37 am | [Permalink](#) 

I am hearing only the sound of crickets from my New York and Washington media colleagues to your posts. Usually they at least reply to me! Big infringers should not be allowed to steal just because our politicians "Like" the stolen technology (great point).
6. **Donna Kline** | February 28, 2012 at 10:11 am | [Permalink](#) 

Thank you for your comment! Finally some opposing feedback! I encourage you to read through the entire article you linked above and look for these details: Leader did prevail on 11 of 11 claims of patent infringement. This means that Facebook did copy Leader's idea, and were not able to disprove that fact. The 'on sale bar claim.' if true, does invalidate a patent for that trial. So, even if someone copied it verbatim, they would not be subject to damages. What the reporters on this story did not mention is the spin process used by Facebook to confuse the jury. FB did not offer *any evidence* to support their claim, but provided heavily redacted

(portions deleted) commentary re: 2009 products and presented it as an answer regarding 2002 use of the product. This is what Leader is appealing in court on March 5th. I have gone over the briefs filed with the Federal Court with a patent litigator, and he tells me that without 'clear and convincing evidence' there is no way the jury's decision will be upheld in court. Thanks again for your comment. Please post more!

7. **Brooke Campbell** | February 28, 2012 at 3:12 pm | [Permalink](#)
Who even watches 20/20 or dateline???



8. **AI** | February 28, 2012 at 5:38 pm | [Permalink](#)



Experience shows us that if things "don't add up," there's probably another agenda happening. The national media should be all over this story. They certainly were gushy about the Facebook IPO filing. Maybe the national media are waiting for the appeal hearing on March 5th to focus on this story.

Remember that Watergate started as just a little break-in story and blossomed into a national disaster leading directly to the White House and President Nixon. They tried to contain and stonewall the investigation. But truth finally prevailed thanks to the tenaciousness of Woodward and Bernstein.

This situation leads not just to the leaders of the U.S., but has serious international implications. There are other major efforts that have succeeded in undermining cyber security, too. Those could be another part of your investigation.


Keep up the great work, Donna! You're on the right path.


9. **Steve Williams** | February 28, 2012 at 5:39 pm | [Permalink](#)




In reference to AOK, comment to #3 on this page. That Bloomberg link is a biased news report, in that it inaccurately portrays the outcome of the original Leader v Facebook trial. Facebook did NOT WIN the trial as your link indicates! In the split verdict, Facebook was found GUILTY of 11 OUT OF 11 COUNTS of infringing upon


Leader's patent. The only thing that Facebook won in that trial was a "supposed on sale bar". This technicality will be overturned, in the district court trial, as a MATTER OF LAW. In regards to the patent in question, Leader was reaffirmed by the US Patent Office last year. I would suggest to read and reread this entire blog (follow links) before commenting.

10. **Aok** | February 28, 2012 at 6:31 pm |  [Permalink](#)
Condescension does you no favors? Steve, nor does assuming I didn't read. Why will the patent be found valid on appeal when it wasn't at the initial trial? That is all I'm asking.


11. **KCraine** | February 28, 2012 at 7:41 pm |  [Permalink](#)
Interesting turnabout. Early in Leader v. Facebook the blogosphere was condescending (saying Leader's patent was nothing special; nothing innovative, and that McKibben was a "patent troll"... e.g., Venturebeat). Now Facebook-lovers have turned to defending the "on sale bar" verdict — this new view is the polar opposite. It takes the position that Leader's patent is valid and innovative, but that Leader tried to sell it too early. Read the trial transcript which is online. Facebook attorneys did everything except swing from the chandeliers to confuse the jury on this issue. Somebody in Delaware came forward and revealed that Facebook practiced these parlor tricks with a 70 person focus group months before trial. Oh what webs we weave . . . The cat's out of the bag. Go Leader!

12. **Steve Williams** | February 28, 2012 at 8:54 pm |  [Permalink](#)
AOK!!! I'm not trying to be condescending; I'm just pointing out the flaws of the link that you provided to get your point across. Whether you (read) the whole blog or not was presumptuous on my part (my bad). The fact that, in the trial, the jury ruled on invalidation is irrelevant. Leader, following that ruling, spent time and money getting the patent revalidated from the US Patent Office. The patent in question now resides with Leader Technologies, Lewis Center, Ohio. (not Facebook, Palo Alto, California). I


have but one question for you: Having been found guilty of 11 counts of literal patent infringement, does it not beg to question the entire validity of Facebook itself?

13. **winston smith** | February 28, 2012 at 9:27 pm | [Permalink](#) 

This whole case, as far as I'm concerned, is shameful at best. It brings into question the integrity, frankly, of the entire Federal Judiciary. The Hon. Leonard Stark of Delaware, newly appointed to the bench, should have never allowed this split verdict to stand. There were so many inaccuracies and flaws in Facebook's arguments, and given the way they conducted courtroom theatrics, the jury ruled out of confusion; and in doing so even ruled against the judge's own instructions. Is this not a case of dereliction of duty by the judge? There is absolutely no evidence of any on sale bar that could warrant the jury's ruling for Facebook in this matter. Facebook had absolutely no evidence; that's why they resorted to their dark arts (tricks).

14. **Steve Williams** | February 28, 2012 at 10:00 pm | [Permalink](#) 

The only thing that invalidated the patent was the so called "on sale bar" ruling by the jury. This is a technicality that will be overturned by the appeals court, because there was no factual evidence to substantiate the ruling; the jury ruled out of confusion due to courtroom theatrics and misdirection of evidence by Facebook's lawyers. And, with regards to this patent in question, Leader has since applied and has been reaffirmed their patent by the US Patent Office. With that being said, this same patent, legally belonging to Leader Technologies, is the SAME patent that Facebook was found guilty of infringing 11 of 11 counts.

15. **Donna Kline** | February 29, 2012 at 4:07 pm | [Permalink](#) 

I received this Email for comment:

"Here's my two cents. Donna asked why the mainstream media has not picked up this story. I have been an active investor in the stock market for more than 25 years and I'm an executive in

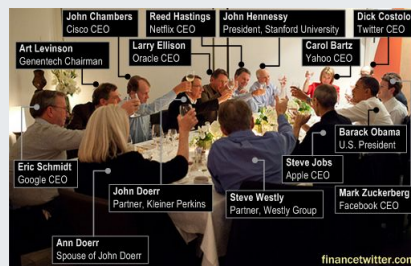
the food industry. The Facebook IPO is teed up for the elites (commerce, government, mainstream media, unions, Facebook insiders). It's like Donna said, if Leader Technologies prevails (and Facebook holds out pig-headedly), this case could shut down a large part of the tech economy. Remember how panicky Washington insiders became when they thought their precious Blackberries might be turned off? That was a patent infringement case too.

With over 25 million "Likes" on Facebook, it seems impossible to me that President Obama will do the right thing and align himself with Leader rather than Facebook who stole Leader's technology. C'mon Mr. Obama, surprise us! Somewhere on Donna's blog is a cozy picture of Mr. Obama and Zuck.

Phase 1 of Facebook's IPO is only open to large institutional investment groups. Only after that will the public at large be allowed in. By that time, all the big profit gains will have been gobbled up by the elites—Hollywood types, big banks, unions, media moguls, Goldman Sachs, JPMorgan, their Russian business partners whom they used to cash out most of the Facebook insiders already (Fortune mag said the money had dubious origins), politicians, and (dare I say it) judges? By that time the price per share will be out of reach of most investors.

I am very hopeful that RIGHT wins out, but I am frankly pessimistic about the right-fulness of many of our judges. Let's hope that integrity, credibility and honor win out over lies and corruption."

Click [here](#) to see that picture again. Enjoy!



Here are links to the Russian investment articles that I also posted in the [Backgrounder](#):

* "Facebook's friend in Russia."
Fortune, Jessi Hempel, Oct. 4, 2010.
Accessed Feb. 10, 2012

<<http://tech.fortune.cnn.com/2010/10/04/facebook-friend-in-russia/>>.

* "Sorry, Americans: Goldman kicks U.S. clients out of Facebook deal." *CNN Money*, Laurie Segall, Jan. 17, 2011. Accessed Feb. 2, 2012

<http://money.cnn.com/2011/01/17/technology/goldman_facebook/index.htm?iid=EAL>.

* "Facebook investor DST comes with ties to Alisher Usmanov and the Kremlin – Three Goldman Sachs bankers, Alexander Tamas, Verdi Israelian and John Lindfors joined DST over the past three years." *The Guardian (UK)*, Simon Goodley, Jan. 4, 2011. Accessed Feb. 11, 2012

<<http://www.guardian.co.uk/technology/2011/jan/04/facebook-dst-goldman-sachs>>.

16. **Steve Williams** | February 29, 2012 at



5:18 pm | [Permalink](#)

I would first and foremost like to point out that a person duly sworn to protect and defend the U.S. Constitution cannot openly and publically circumvent it. As far as separation of powers is concerned the President may only appoint federal judges to the bench, not direct the judges' courtroom proceedings. Whether President Obama, as you cite, chooses to openly take sides in this matter, is irrelevant. Also, let's remember that the federal judiciary is under the guise of Congress (Article 2, U.S. Constitution). That means that there are many in Washington, i.e. Republican House members, who would not stand for those shenanigans by our illustrious President. I'm sure that any involvement by Obama would call for "heads to roll" (Articles of Impeachment?). Obama may have 25 million likes on Facebook; who cares? And as far as the media is concerned, yes, there are many who are willing but apprehensive to step out at this point in time. Let's not kid ourselves here; Facebook is a very large and important entity on the Internet, and many (media included) are very entrenched in its usage. With that being said, who would want to bite the hand that's feeding them?

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