

/// Market Musings

By Donna Kline — www.donnaklinenow.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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/// More on FB's S-1 omissions & other conflicts of interest

Big trouble ahead for the Facebook IPO? *PBR / YouTube*

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

Updated 2/18/2012 12:24 AM

Pay close attention to the **BULLET POINTS IN BOLD**.

- Leader Technologies founded in 1997
- Invented Internet collaboration technology utilizing 145,000 man hours and \$10,000,000
- Filed patents in December 2002
- Issued technical “white papers” in 2003
- Emailed technical white paper to son at Harvard on October 22, 2003
- Infamous “hacking” occurs October 28, 2003
- Leader conducts confidential beta tests with several firms including clients of Accel Partners throughout October 2003
- Zuckerberg claims he wrote the code for the FB

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February 2012

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platform in one or two weeks in January of 2004.
(During ConnectU trial testimony)

- Facebook is launched in February 2004
- Leaders patent application publishes in June 2004
- Facebook adds “groups” functionality in July of 2004
(As is described in the patent application)
- Accel Partners official Jim Breyer invests \$12.5 Million in FB
- Leader’s patent is awarded in November 2006
- Leader files patent infringement lawsuit against FB in November 2008
- Trial begins July 19, 2010
- Trial ends in split verdict July 29, 2010. Leader prevails on “literal infringement” of all 11 of 11 claims and no published prior art. FB prevails on “on sale bar” term
- White, Red and Gray briefs filed in the Federal Court of Appeals
- First and only judgment against FB to: 1) have a jury trial, and 2) make it to the Federal level
- Facebook files S-1 public offering disclosure
- No mention of the trial and/or pending appeal
- **Legal team for FB is Fenwick & West LLP and was Leader’s counsel in 2002 (the same period of the “on sale bar” claim) This was not disclosed as a potential conflict of interest.**
- **There may also be a problem with the reporting between Fenwick & West, FB, and the accountants for FB IPO etc, who have not included this information in their valuation of the pending stock issuance.**
- **The damages in this case could be more that 25% of FB gross revenues from 2006 to 2021 (life of patent), which could dramatically change the value of FB stock.**
- **Is there a “material” risk to investors that has not been disclosed?**
- **The “big winners” in the FB IPO would be James Breyer, Jim Swartz and Ping Li of Accel Partners. All Harvard graduates.**

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- **Leader CEO McKibben states that he shared Leader's confidential business plans with Swartz and Li on October 12, 2005, McKibben says those documents put Accel on notice of PATENTS PENDING. Any infringement thereafter can be shown to be "willful" and thus subject to three times the monetary damages.**
- **Goldman Sachs HAD been offering private investment in the FB pre-IPO, but halted sales to U.S. investors suddenly as questions about this lawsuit arose.**
- **Facebook filed with the SEC on [Oct. 14, 2008](#) to be exempted from the 500 shareholder rule (with Fenwick & West LLP as counsel), then sold those insider shares for billions of dollars in private markets brokered by Goldman Sachs. Over 20% of Facebook's insider stock was sold to a Russian oligarch.**

**BTW, at the time of this writing, ZYNG was down 15% in two trading days. The two days following my "Trouble Ahead For Facebook IPO" blog post and over 1,300 hits on Scribd ([available from this link](#)).

Posted by [Donna Kline](#) on Tuesday, February 14, 2012, at 4:59 pm.

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