

/// 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)
3. Muppet Chat (PDF)

MOBILE QR-CODE:



Follow @DonnaKline1

Tweet

Tweet #TwitterStories

Tweet to

@DonnaKline1

RECENT POSTS

/// Facebook “Liked”
Leader’s source code ...
before it didn’t

{ 2012 03 29 }

/// Proof Fenwick & West LLP did not disclose Leader as prior art to Facebook

After a three-day “battle of experts” and mounds of evidence in *Leader v. Facebook*, a jury determined that Facebook infringes 11 of 11 Leader patent claims. In other words, Leader’s expert witnesses proved that Facebook “literally infringes” U.S. Patent

No. 7,139,761 owned by Leader Technologies. According to Leader this means that the engine running Facebook is their invention.

Another big part of the lawsuit that hasn’t garnered much attention until now is the subject of “[prior art](#).” Bottom line, if an alleged infringer can prove that a patent should not have been issued because of the existence of a prior invention that the Patent Office didn’t know about, that patent can be invalidated.

1. Leader knocked down ALL of Facebook’s prior art attacks

Facebook put forward nearly 100 pieces of alleged prior art during the litigation.

Leader’s experts succeeded in knocking down all 100 and proving that no prior art predated its invention. This means Leader proved that no published prior art to its invention exists.



Here’s where this law gets tricky, and I can certainly sympathize with the jury now in trying to keep all this straight (they clearly didn’t and Facebook’s attorneys made darn sure they would stay confused). The “on sale bar” accusation is a part of the prior art analysis. Essentially, if one offers one’s invention for sale too early, the concept is that one puts one’s own invention into play and it becomes prior art to itself!!! 😊 Score one for me! Soooo, this means that to prove “on sale bar” you have to have exactly the same kind of expert testimony as you have for prior art. Facebook provided no expert witness at all for “on sale bar.” See my Mr. Cricket illustration on the right.



This also means that from the time of Leader’s invention was first made public (June 24, 2004), future patent filers of related technology MUST

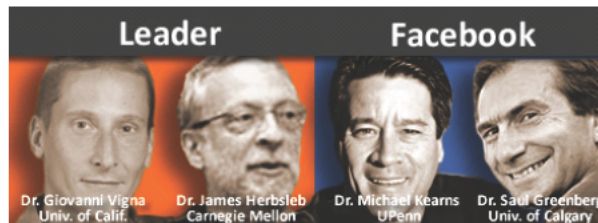


Fig. 1 – “Prior Art” is a “Battle of Experts” – Expert witnesses in *Leader v. Facebook*. FOR LEADER: [Dr. Giovanni Vigna](#), University of California, Berkley; and [Dr. James Herbsleb](#), Carnegie Mellon University. FOR FACEBOOK: [Dr. Michael Kearns](#), University of Pennsylvania; and [Dr. Saul Greenberg](#), University of Calgary [1]

What expert did Facebook use to prove their “on sale bar” accusation?

/// Proof Fenwick & West LLP did not disclose Leader as prior art to Facebook
 /// MF Global + JP Morgan + Goldman Sachs + Harvard Grads + Politics = A big mess
 /// What Facebook, Accel Partners, Goldman Sachs and Fenwick & West don't want us "muppets" to know
 /// Make up your mind, Fenwick & West LLP
 /// Muppet Mania
 /// Haughtiness in the face of "literal infringement"
 /// Facebook *ordered* pharma users to allow comments, yet will not return phone calls now
 /// First thoughts after leaving courthouse
 March 5, 2012
 /// Judges Selected
 /// San Francisco CBS-TV KPIX Coverage
 /// NBC-TV4 (Columbus) Interview with Leader founder Michael McKibben
 /// How Facebook tricked the jury – *YouTube*
 /// New friends?
 /// Did Someone Prod the Media?
 /// Facebook: The New 'Too Big To Fail?'
 /// Big trouble ahead for the Facebook IPO? – PBR / YouTube
 /// What happens on March 5th, 2012?
 /// More on FB's S-1 omissions & other conflicts of interest

disclose Leader's technology to the Patent Office as a reference once they become aware of it. If they don't, their patent can be invalidated. The rationale here is that patent examiners cannot be expected to search the planet for prospective prior art on each application they evaluate. Instead, it is the patentee's duty to do that; while the examiner often/usually finds additional references as well (as he did in the Andreessen patents below).



2. How is prior art identified?

How does an inventor determine if prior art exists? Patent lawyers use a handful of databases to search the planet for prospective prior art. They enter a selection of search words and then review each result for relevance. In addition, inventors comb through their personal research files and disclose anything relevant to the claimed invention.

During the course of the patent "prosecution" (the process of working on a patent application) both the Patent Office examiner and the patentee submit dozens of lists of references considered; these references are listed on any final issued patent. This process helps ensure that prior art that would otherwise invalidate a patent application cannot be found.

3. Here's where Fenwick & West—former attorneys for Leader and current attorneys for Facebook for both stock sales and patent filings—made their crucial mistake:

There are at least two "social networking" patents I could find that list Leader Technologies' U.S. Patent No. 7,139,761 as prospective *prior art* references considered. BOTH of them list Fenwick & West LLP as the attorney ("**the Andreessen Patents**"), and both were filed long before Facebook's patents.

- **Patent No. 7,756,945 Marc L. Andreessen**. Filed Aug. 2, 2005; awarded Jul. 13, 2010.
- **Patent No 7,603,352 Steven Vassallo, Marc L. Andreessen**. Filed Aug. 26, 2005; awarded Oct. 13, 2009.

4. Patenting for Muppets

When a patent application is filed, a patent examiner is assigned to the case. This person determines if the application describes something that "invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof..." subject to the conditions and requirements of the law. See [this link](#) for more on the patent application process.



Part of the examination process is for the Patent Examiner to evaluate all relevant references of prior work in the field to help ensure that the claimed invention is truly "novel." All these references get listed on patents awarded. Inadvertent omissions can invalidate a patent. Willful omissions are considered fraud against the Patent Office and certainly invalidate the patent.

In addition, "all business with the United States Patent and Trademark Office (USPTO or Office) should *be transacted in writing*. Other patent correspondence, including design, plant, and provisional application filings, as

CALENDAR:

April 2012						
M	T	W	T	F	S	S
					1	
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						
« Mar						

ARCHIVE OF POSTS

Select Month

RECENT

COMMENTS

Adelle Grayson on ///
Facebook “Liked”

Leader’s source code ...
before it didn’t

BCaine on ///
Facebook “Liked”

Leader’s source code ...
before it didn’t

RobertC on ///
Facebook “Liked”

Leader’s source code ...
before it didn’t

Darren Mitchell on ///
Proof Fenwick & West

LLP did not disclose
Leader as prior art to
Facebook

Linda W on ///
Facebook “Liked”

Leader’s source code ...
before it didn’t

Steve Williams on ///
Facebook “Liked”

Leader’s source code ...
before it didn’t

Donna Kline on ///
New friends?

tabata on /// New
friends?

BradH on /// Proof

5. Translation: There is a public record of ALL written correspondence between the USPTO and the applicant. (AHA! This is how I found the proverbial “smoking gun”).

5a. U.S. Patent No. 7,756,945 Andreessen et al

Filed **August 2, 2005**; Lists Yasin M. Barqadle as the examiner; Lists Marc Andreessen et al.

On **April 2, 2008**, Fenwick & West is named as attorneys for the patent.

On **April 3, 2009**, Examiner Barqadle filed a PTO-892 form entitled “Notice of References Cited” that lists four existing patents that are required to be listed as prior art. One of those is U.S. Patent No. 7,139,761 McKibben et al (Leader Technologies’ CEO). **In other words, the Patent Examiner put Fenwick & West on public notice of the Leader social networking prior art.**

[USPTO Patent Wrapper for Andreessen U.S. No. 7,756,945 – Fenwick and West LLP – Mar 23, 2012](#)

Click here for USPTO documents re. U.S. Pat. No. 7,756,945 at p. 8.

Scribd

– + of 11 ← →

Fig. 2 – Selected documents from the “patent wrapper” for U.S. Patent No. 7,756,945 Andreessen et al, filed Aug. 2, 2005, issued Jul. 2010. Highlighted here is page 8 of this set showing the Examiner’s “Notice of References Cited” (form PTO-892) on Apr. 3, 2009 identifying U.S. Patent No. 7,139,761 McKibben et al, filed

Fenwick & West LLP
did not disclose Leader
as prior art to Facebook
Donna Kline on ///
Proof Fenwick & West
LLP did not disclose
Leader as prior art to
Facebook
winston smith on ///
Proof Fenwick & West
LLP did not disclose
Leader as prior art to
Facebook
Steve Williams on ///
Proof Fenwick & West
LLP did not disclose
Leader as prior art to
Facebook
Jules on /// Proof
Fenwick & West LLP
did not disclose Leader
as prior art to Facebook
Tex on /// Proof
Fenwick & West LLP
did not disclose Leader
as prior art to Facebook
**Michael Kennedy
on ///** Proof Fenwick &
West LLP did not
disclose Leader as prior
art to Facebook
**Justice must prevail
on ///** Proof Fenwick &
West LLP did not
disclose Leader as prior
art to Facebook
Steve Williams on ///
Proof Fenwick & West
LLP did not disclose
Leader as prior art to
Facebook
SEC Watchdog on ///
Proof Fenwick & West
LLP did not disclose
Leader as prior art to
Facebook
BG761 on /// Proof
Fenwick & West LLP
did not disclose Leader
as prior art to Facebook
Kayce Maria on ///

Dec. 10, 2003, issued Nov. 21, 2006, and assigned to Leader Technologies, Inc., as prior art. These documents are publicly accessible from <http://portal.uspto.gov/external/portal/pair>.

On **July 13, 2010**, this patent is awarded. On the **FIRST PAGE** of the patent document, U.S. Patent No. 7,139,761 McKibben et al. is cited as a reference (prior art). See Fig. 2, p. 10. **GOTCHA!**

5b. U.S. Patent No. 7,603,352 Vassallo & Andreessen

Filed **August 26, 2005**; Lists Aleksandr Kerzhner as the examiner; Lists Steven Vassallo (& Marc Andreessen).

On **April 2, 2008**, Fenwick & West is named as attorneys for the patent.

On **July 24, 2009**, Fenwick & West filed an “**INFORMATION DISCLOSURE STATEMENT BY APPLICANT**” which lists 17 items of prior art. One of those is U.S. Patent No. 7,139,761 McKibben et al (Leader Technologies’ CEO). **In other words, Fenwick & West acknowledges Leader’s invention as social networking prior art.**

[USPTO Patent Wrapper for Andreessen-Vassallo U.S. No. 7,603,352 – Fenwick and West LLP – Mar 23, 2012](#)

Click here for USPTO
documents re. U.S. Pat.
No. 7,603,352 at p. 7.

Scribd

of 11

Fig. 3 – Selected documents from the “patent wrapper” for **U.S. Patent No. 7,603,352 Vassallo and Andreessen**, filed Aug. 26, 2005, issued Oct. 13, 2009. Highlighted here is page 7 of this set showing the Applicant’s “**INFORMATION DISCLOSURE STATEMENT BY APPLICANT**” on Jul. 24, 2009 identifying U.S. Patent No. 7,139,761 McKibben et al, filed Dec. 10, 2003, issued Nov. 21, 2006, and assigned to Leader Technologies, Inc., as prior art. These documents are publicly accessible from <http://portal.uspto.gov/external/portal/pair>.

On **October 13, 2009** this patent is awarded. On the **FIRST PAGE** of the published patent, U.S. Patent No. e,139,761 is cited as a reference (prior art). See Fig. 3, p. 11. **DOUBLE GOTCHA !!**

Haughtiness in the face
of “literal infringement”

CATEGORIES

Current Positions
Economic Analysis
Investigation

SEARCH BLOG

META

Log in
Entries RSS
Comments RSS
WordPress.org



Fenwick & West clearly knew of Leaders’ patent and recognized it as prior art in two other earlier dated patent applications—the Andreessen Patents. But, but they don’t acknowledge it again later in ANY of the nearly 100 patents they have filed for Facebook since then.

6. “Christopher P. King” . . . or is it “Christopher-Charles King”? Mr. King appears to have hyphenated his first name just for Mark Zuckerberg! Isn’t that precious?

I couldn’t believe my luck in finding a common Fenwick & West attorney listed in the USPTO records in both the Andreessen Patents and the Facebook patents: Christopher King. Mr. King actually signed all the Andreessen filings as “Christopher P. King, Reg. No. 60,985.”

But (and this is a big but), he actually changed his first name to “Christopher-Charles King, Reg. No. 60,985.” His name at the [Fenwick & West website](#) is “Christopher P. King” as it is also at the [State Bar of California](#). Why the name change? Will we discover that this name change occurred about the time Fenwick & West withdrew from the Andreessen Patents just eight weeks ago, on Feb. 1, 2012? Could this change be intended to thwart search attempts to link him to both Andreessen and Facebook? **TRIPLE GOTCHA !!!**

[USPTO Patent Wrapper for Mark Zuckerberg U.S. 7,669,123 – Fenwick and West LLP – Mar. 23, 2012](#)

Click here for USPTO
documents re. U.S. Pat.
No. 7,669,123 at p. 2.

Scribd

– + of 16 ◀ ▶

Fig. 4 – Selected documents from the “patent wrapper” for U.S. Patent No. 7,669,123 Zuckerberg et al, filed Aug. 11, 2006, issued Feb. 23, 2010. Highlighted here is page 2 of this set showing the Applicant’s “Attorney/Agent Information” identifying “Facebook/Fenwick” and “Reg #: 60985, Name: King, Christopher-

Facebook **DID NOT** disclose U.S. Patent No. 7,139,761 as a reference in **ANY** of its patents, including the one above. See Fig. 4, pp. 14-16.

7. Here's how Mr. King was listed at Fenwick & West LLP on Mar. 24, 2012

[Fenwick and West LLP – Christopher P. King \(aka Christopher-Charles King\) Bio – accessed Mar. 24, 2012](#)

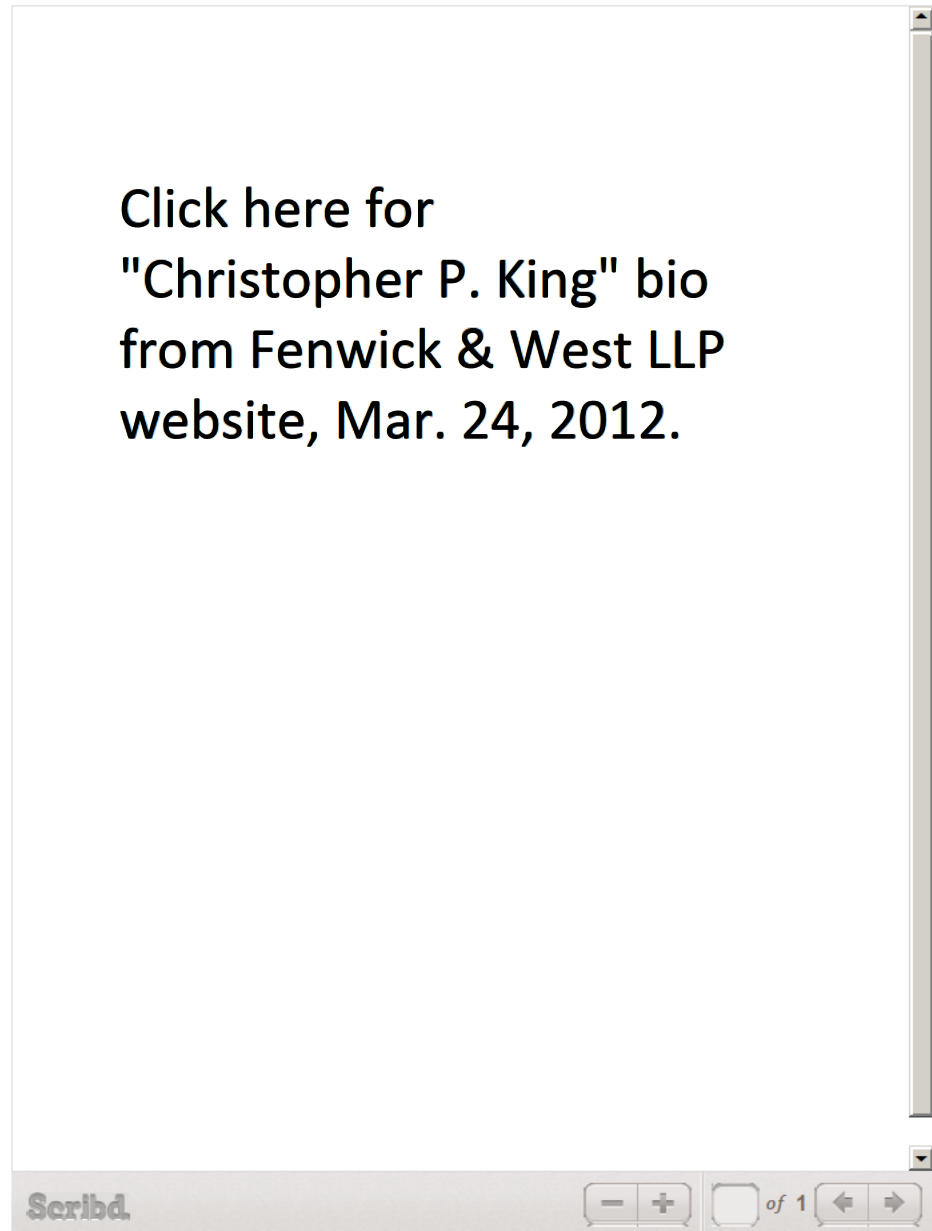
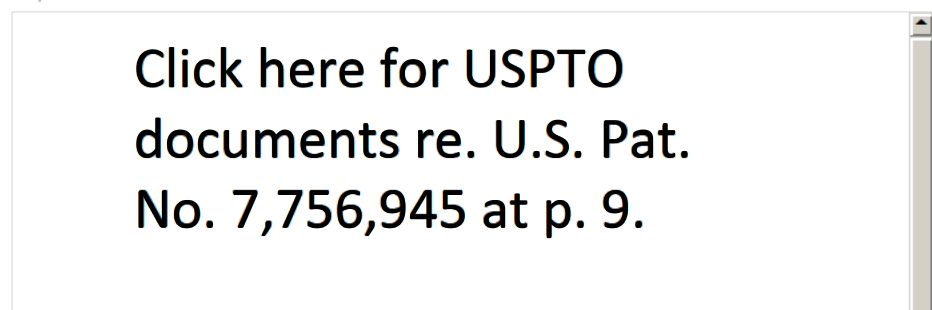


Fig. 5 – Christopher P. King (not Christopher-Charles King as he now lists himself at the US Patent Office) professional bio at the Fenwick & West LLP corporate website on Mar. 24, 2012. Source: <http://www.fenwick.com/professionals/Pages/christopherking.aspx>

8. Here's how Mr. King represented himself to the U.S. Patent Office for the earlier Andreessen Patents

[USPTO Patent Wrapper for Andreessen U.S. No. 7,756,945 – Fenwick and West LLP – Mar 23, 2012](#)



Click here for USPTO
documents re. U.S. Pat.
No. 7,756,945 at p. 9.

Scribd



of 11



Fig. 6 – Selected documents from the “patent wrapper” for U.S. Patent No. 7,756,945 Andreessen et al, filed Aug. 2, 2005, issued Jul. 13, 2010. Highlighted here is page 9 of this set showing a Feb. 8, 2010 “Argument/Remarks Made in an Amendment” submitted by Christopher P. King, Reg. No.: 60,985 on behalf of Andreessen. **NOTE: This USPTO filing occurred just 15 days before Facebook added their “on sale bar” claim in *Leader v. Facebook*. Hmmmmm. More coincidences!!! IT IS NOW APPARENT THAT MR. KING IS REPRESENTING HIMSELF TO THE USPTO USING TWO DIFFERENT NAMES.** Under “**Christoher P.**” he believes Leader’s patent to be a relevant social networking reference (at did the Patent Examiner) for Andreessen, but under “**Christopher-Charles**” he does not for Zuckerberg. How convenient. These documents are publicly accessible from <http://portal.uspto.gov/external/portal/pair>.

9. Mark Zuckerberg promised in an oath to the American public that he would tell the truth about his patenting activity and claims

[USPTO Patent Wrapper for Mark Zuckerberg U.S. 7,669,123 – Fenwick and West LLP – Mar. 23, 2012](#)

Click here for USPTO
documents re. U.S. Pat.
No. 7,669,123 at p. 11.

Fig. 7 – Selected documents from the “patent wrapper” for U.S. Patent No. 7,669,123 **Zuckerberg et al**, filed Aug. 11, 2006, issued Feb. 23, 2010. Highlighted here is page 7 of this set showing the Applicant’s “Oath or Declaration Filed” identifying filed on Nov. 02, 2006 where **Mark Zuckerberg and fellow patentees swear under oath to tell the truth to the U.S. Patent Office**. These documents are publicly accessible from <http://portal.uspto.gov/external/portal/pair>.

“I hereby declare that all statements made herein of my own knowledge are true . . . and that willful false statement and the like so made are punishable by fine and imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.”

Mark Zuckerberg

Oath and Declaration to the US Patent Office

Sep. 28, 2006

10. Court records *prove* Facebook concealed its beliefs from the USPTO from Feb. 19, 2010

If all the evidence above were not enough. The trial court record in *Leader v. Facebook* reveals yet another smoking gun. The judge’s Jun. 24, 2004 Order said on page 2 (PDF below, p. 3):

“Facebook contends that it learned during the February 19, 2010 deposition of Jeffrey Lamb, one of the inventors of the '761 patent, that the priority date of the '761 patent is actually December 10, 2003, not December 10, 2002” (emphasis added).

11. Here’s Judge Leonard Stark’s Order allowing Facebook to amend its complaint to add on sale bar

[Leader v. Facebook – Doc. No. 559 – Order Granting Facebook AMENDMENT for ON SALE BAR](#)

Click here to view judge's Order,
Leader v. Facebook, Doc. No. 559,
Jun. 24, 2010, p. 2.

Click here to view judge's Order,
Leader v. Facebook, Doc. No. 559,
Jun. 24, 2010, p. 2.

Scribd



of 13

Fig. 8 – Judge Leonard P. Stark’s Order on Jun. 24, 2010 granting Facebook’s motion to amend their counterclaim to include an on sale bar accusation in *Leader Technologies, Inc. v. Facebook, Inc.*, 08-cv-862-JJF-LPS (D.Del. 2008). Page 2 (PDF, p.3) discloses that Facebook believed that Leader’s U.S. Patent No. 7,139,761 was innovative enough to have breached on sale bar at least by Feb. 19, 2010—**five days before the award of Facebook’s first U.S. Patent No. 7,660,123 on Feb. 23, 2010**. Facebook did not disclose this belief to the U.S. Patent Office in this or any other of its patent filings that have been evaluated by this blog to date.

Facebook’s argument about Leader’s priority date is *prima facie* evidence that they **believed** that the Leader invention was novel at least by Feb. 19, 2010. [Click here](#) to read USPTO documents about on sale bar. However, Facebook did not disclose this belief to the Patent Office in its patent application that was granted as U.S. Patent No. 7,669,123 Zuckerberg et al five days later on Feb. 23, 2010!!! He He He He! Attorneys couldn’t keep their stories straight?



QUADRUPLE GOTCHA !!!!

12. Hey Facebook, Feb. 19, 2010 is BEFORE Feb. 23, 2010

Does not Facebook’s own *Leader v. Facebook* testimony prove that they wilfully withheld material information about Leader’s U.S. Patent No. 7,139,761 McKibben et al from the Patent Office, thus *inducing* the Patent Office to grant Facebook’s patent(s) inequitably?

Facebook’s Cooley Godward attorney Michael Rhodes accused Leader inventor Michael McKibben of “threading the needle” regarding his testimony about when Leader’s invention was ready for patenting. Now who is threading the needle Mr. Rhodes? Do all of your 700+ patents and patent applications have these potentially fatal problems? Oh, but I suppose you don’t considered these risks material do you? We’re just muppets. HaHaHa.

Meep Meep!

* * *

Footnotes:

[^Back](#) [1] **MORE PATENT LAW FOR MUPPETS** (See, it’s not that hard! I figured it out!) See “[Expert witness practiced ‘dark arts’](#)” for an analysis of another segment of the *Leader v. Facebook* trial where Facebook attorneys further confused the jury with **Dr. Saul Greenberg’s bad science testimony**. Such testimony is supposed to



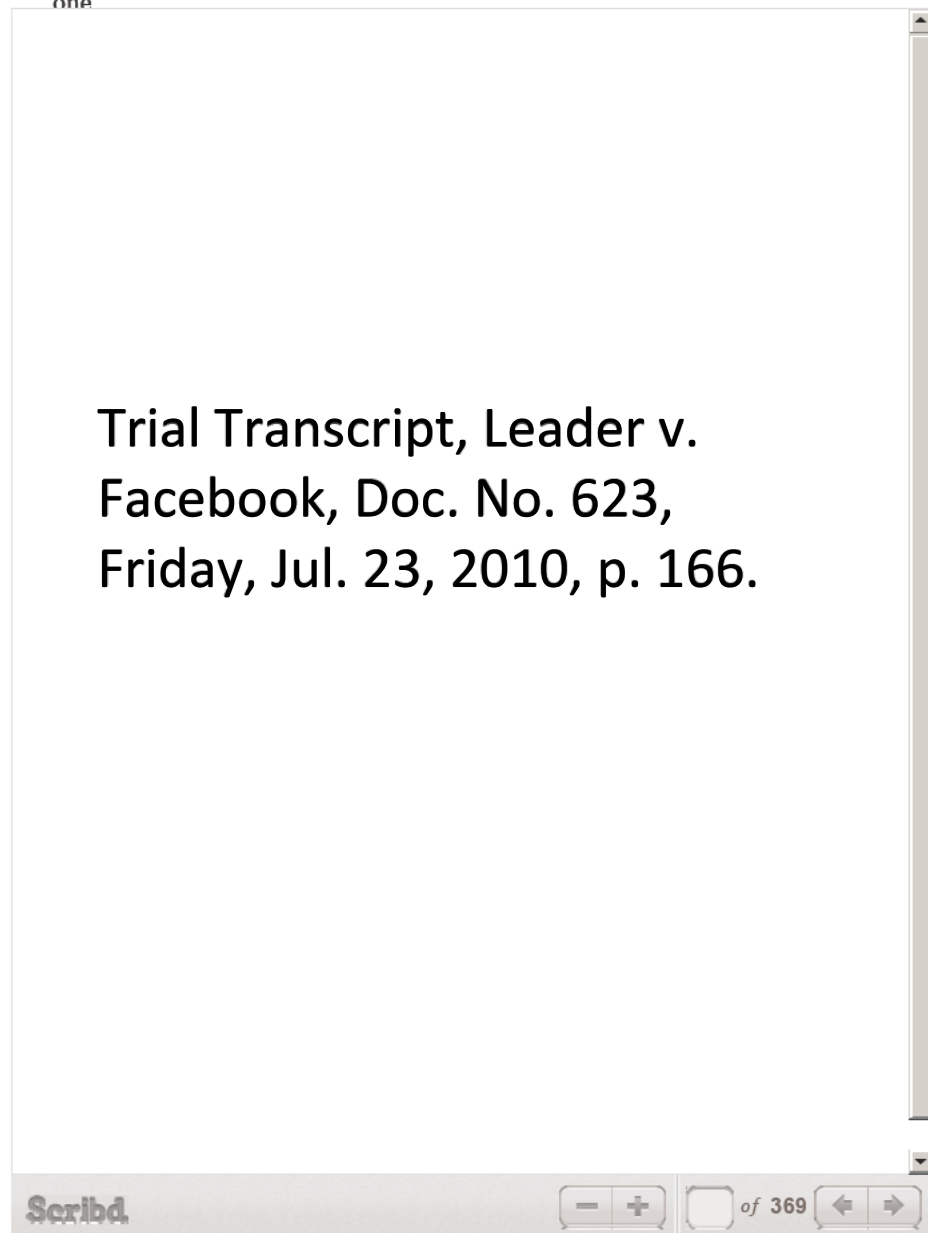
be discarded under the theory that a lay jury (the “trier of fact”) must be able to rely upon the truthfulness of the facts presented by experts.



Dr. Saul Greenberg,
University of Calgary;
Expert witness for
Facebook in *Leader v.*
Facebook.

Mathematically speaking, Dr. Greenberg violated the [principle of bivalence](#)—stating two contradictory truth values when only one can be true. He first said in early hand waving that he couldn’t decipher the source code in Leader’s provisional patent, then later waxed eloquent about certain elements. See Fig. 9. An expert is not permitted to first say a box is empty, and then proceed to describe its contents. That is like saying the lake is empty, but my swim in it was refreshing. A reasonable person knows that one cannot swim in an empty lake. Dr. Greenberg did just that. [Here’s a link](#) to the actual trial transcript. (Note that Dr. Greenberg used “wild guess,” “guess” and “guessing” six times! “The lady doth protest too much, methinks?” — Hamlet, Act III, scene II; start at about Trial Tr. 10903:10.) See Fig. 9.

At
[Leader v. Facebook – Trial Transcript, Fri. Jul. 23, 2010](#)
one



the
first
code
for
the
expert
witness
written
in
Fig. 9 Trial Transcript, Fri. Jul. 23, 2010; *Leader Technologies, Inc. v. Facebook, Inc.*, 08-cv-862-JJF-LPS (D.Der. 2008). This post focuses on the expert testimony of **Dr. Saul Greenberg** regarding Leader’s provisional patent and his “**wild guessing**” (PDF p. 166, Tr. 10903:10) that suddenly morphed into detailed technical analysis

“using my knowledge of programming” (PDF p. 167, Tr. 10904:17-18) to support elements of the source code that Dr. Greenberg believed supported Facebook’s assertions. This change violated the scientific principle of bivalence—that a box cannot be declared empty, then the contents of that box then described in detail. Also during this testimony he makes the incredible statement that Leader’s source code contained a FACEBOOK utility program “asp.facebook.util” (PDF p. 167, Tr. 10903:9). This inclusion would have been a miracle since Mark Zuckerberg was only a 17-year old high schooler at the time. The job of the court is to protect juries from expert testimony that uses bad science. [See this blog](#) for more analysis of Dr. Greenberg’s testimony.

used

by Facebook to convince the jury that Leader should not be given the benefit of its earlier provisional patent filing date of Dec. 11, 2002. This opened the door for Facebook’s “on sale bar” attack. Tellingly, Facebook **DID NOT DEPOSE A SINGLE RECIPIENT OF THESE ALLEGED OFFERS** which they had vociferously argued and the judge described in Fig. 8 above as the justification for adding the “on sale bar.” Remarkably, not even Dr. Greenberg offered testimony about on sale bar—which in every other court would’ve been a hard evidence requirement to prove the technical contents of the alleged offers. “*In confusion there is profit?*” Hmmm.

My GOTCHA meter is overloading!

A well-known lawyer “dark arts” tactic in patent infringement trials is for the infringer to find an expert witness willing to mislead the jury. Since a lay jury cannot assess the reliability of the science presented, it is the duty of the trial court judge to disqualify unreliable expert testimony. This new judge did not do that (it was his first federal trial). [*Daubert v. Merrell Dow Pharmaceuticals, Inc.*](#), 509 US 579 (Supreme Court 1993) at 595-597 (the trial judge must ensure the reliability of scientific testimony).

Meep, meep.

Credits:

1. Mr. Cricket Graphic. [Beatrice the Biologist](#). Oct. 21, 2010. Accessed Mar. 30, 2012.
2. Pinocchio Graphic. Ownership unknown. [Eringer33](#). Accessed Mar. 30, 2012.
3. Photos of *Leader v Facebook* expert witnesses were obtained from their public websites.
4. Christopher P. King biography obtained from the [Fenwick & West LLP](#) website. Accessed Mar. 23, 2012.
5. Scribd documents are all marked as public domain. [Scribd](#). Accessed Mar. 31, 2012.
6. Beaker is a Muppet character that is believed to be owned [The Walt Disney Company](#). Accessed Mar. 30, 2012.
7. Dominos Photo. [Commonlawblog.com](#). Accessed Mar. 31, 2012.
8. Post-trial pleadings in *Leader Technologies, Inc. v. Facebook, Inc.*, 08-cv-862-JJF-LPS (D.Del. 2008). [Summary of Post-Trial Motions](#). Accessed Mar. 31, 2012.
9. Federal Circuit Appeal Briefs by Leader ([White Brief](#), [Gray Brief](#)) and Facebook ([Red Brief](#)) in *Leader Tech v. Facebook*, Case No. 2011-1366 (Fed. Cir.). Accessed Mar. 31, 2012.
10. Legal Analysis of *Leader v. Facebook*. [Origin of Facebook’s Technology?](#) Accessed Mar. 31, 2012.

{ 12 }

Comments

1. **BG761** | March 29, 2012 at 2:05 pm | [Permalink](#) 

How can Facebook file for patents and say they are about their core technology, social media, when they don't even have a patent on their core technology?
Examples, Microsoft, Adobe, and etc. all have their own core technology. In fact the "core" technology that drives Facebook is not even Zuckerberg's invention! It has already been proven in court that it is Leader Technologies Inc. software. It is evident that the SEC by there silence in this matter would rather have to cleanup a financial disaster for potential investors than try and prevent it. Even the new articles out about Facebook's amended S-1, proves these statements to be true!
2. **SEC Watchdog** | March 29, 2012 at 10:24 pm | [Permalink](#) 

Facebook pretends to comply with "materiality" disclosures, and the SEC pretends to oversee them. It is a shell game. This is more proof that we could fire half the bureaucrats in this country, and we would have no worse services than we're getting now.

I hope the SEC is receiving copies of this blog, so that when Facebook's games catch up to them, we'll have the proof that the SEC was warned and chose to turn a blind eye. Call me cynical, but no doubt these same SEC regulators will most likely have matriculated to Goldman Sachs or JP Morgan. They'll be easy to find.
3. **Steve Williams** | March 30, 2012 at 4:12 pm | [Permalink](#) 

Have no fear! Once the circuit court of appeals throws this whole case in Leaders direction, the "SEC and allllll corrupt individuals within" will have no choice but to acquiesce. In this age of serfdom, beware, oh King, for thine head is not impervious to being lopped off!
Corruption only hides in dark spaces, and the light of justice shall find you wanting.
4. **Justice must prevail** | March 30, 2012 at 5:11 pm | [Permalink](#) 

My thoughts and prayers go out to federal appeals judges Lourie, Moore and Wallach—that they will do the right thing and expose Facebook's conduct for the fraud that it is. Mr. Zuckerberg promised to tell the truth, in writing,

in the document you just uncovered Donna. You are one resourceful cookie! Good going!

5. **Michael Kennedy** | March 30, 2012 at 5:29 pm |



[Permalink](#)

“Steve Williams” comment, I couldn’t have said it better myself! Thanks Steve you hit the nail on the head!!

6. **Tex** | March 31, 2012 at 7:55 am | [Permalink](#)



There are too many mistakes by the Facebook folks for this to be an accident. Sadly, part of the decision at the Appeals court has be the fallout and its ramifications if Leader prevails. The facts are obvious as to the verdict but the damages will be staggering if “fair” to Leader. Without question in my mind, some form of “triple” damages may also be involved. The media has seen bits and pieces of this lawsuit but are fearful of tackling Facebook. They are fearful that no matter which party prevails ,they can not win the public love by reporting the fraud that is Facebook.

7. **Jules** | March 31, 2012 at 10:13 am | [Permalink](#)



The whole point of patent law is to incentivize inventors to invent by protecting them from thieves and thugs. Our current legal process clearly favors the big infringer. Steal it. Sell it. Use the ill-gotten gain to fend off legal attacks. Hire unscrupulous attorneys to fool unsuspecting jurors with doctored evidence and court room parlor tricks. Settle with the inventor with his/her own money for pennies. Retire to the Bahamas. Laughing all the way.

C'mon people. This is America. We gotta do better than this legal extortion we put our inventors through currently. If we hope to reinvigorate our economy, this must change!!! What Facebook, Accel Partners, Goldman Sachs, and Fenwick & West have done is nothing but thuggery in my opinion. Gimme a break. Now they're doctoring their first names at the USPTO to avoid detection!!! Nobody is too big to fail when they are corrupt.

8. **Steve Williams** | March 31, 2012 at 12:40 pm |



[Permalink](#)

Amen to all the above! We all know corruption when we see it, and this is obviously no exception to the rule. After reading over the courtroom briefs, and especially listening to the audio transcripts, there is nothing that I have seen or heard that would even remotely convince myself that the courts can justify not overturning this case. This patent has been Mike McKibben's (CEO of Leader Technologies) all along; even the USPTO office recognizes him as such. And now for Facebook to knowingly and fraudulently, try to patent something that they know isn't even THEIRS, definitely shows arrogance on their part, let alone legal-stupidity. I only hope the SEC, and

especially the presiding justices, are keeping their eyes open to all of these posts and comments. It's the little guys that built this nation of laws, so how about some legal cover for us for a change? Lord knows we deserve something these days!!!

9. **winston smith** | March 31, 2012 at 1:15 pm |



[Permalink](#)

I have been following this case for some time now. Frankly, it was bewildering to have learned of the injustices that were allowed in the initial court hearing. Very sad, Judge Stark! You need to go back to law school. All other legal personnel should have done their homework as well, and not let so much fall through the cracks. Is there anyone out there that does the right thing anymore? Judge Stark and all that had participated with the initial ruling, should be BARRED. Let's all take a breath.. Think real hard and long of how would it be if you put all your hard earned money, time..and sweat into something only to have it torn from you (HACKED, I MEAN) from a Thief and a Liar..And then watch your idea make billions, for that thief/liar.. How would you like that?? Let's make this wrong a right for all of us seeking a hard earned, justified, honest living!

10. **Donna Kline** | March 31, 2012 at 5:38 pm |



[Permalink](#)

Hi Winston, While I share your frustration, allow me to suggest another view about Judge Stark. This was Judge Stark's first federal trial. Perhaps we should give him some slack and point the finger at Facebook's attorney misconduct instead. They threw in everything but the kitchen sink to try and obscure their misdeeds. While I too think his appoint by Pres. Obama during this case and the President's 25 million "Likes" on Facebook raises an eyebrow, the record also shows he was blasted with a fire hose with every obfuscation in the "dark arts" book. This is why we have an appeals process. Hindsight is 20-20. I hear that he puts up with less attorney shenanigans these days. Too bad he had to learn these lessons on Leader's dime.

My concerns too were raised when I learned that after the verdicts the jurors told the judge and the attorneys that they made the on sale bar decision *without any evidence*. That's right. They did. I don't get how the judge could have heard that and NOT have decided to set it aside. Doesn't that take the concept of "the jury heard the facts" too far? The only "evidence" he could find to support his decision was a doctored Interrogatory No. 9, an interpretation of Michael McKibben's testimony that was obviously wrong, and an 1800's ruling against a murderer for legal support.

I heard the following in person at the appeals hearing:

When Federal Circuit Judge Kimberly Moore, in her incredulous "[does it have a coffee stain on it?](#)" remark, asked Facebook's attorney why they didn't produce Leader's source code as evidence, his best argument was

that “it was not pristine.” **WOW, THAT’S CONVINCING!!!**

Like I said, I understand the frustration, but more experienced Federal Circuit judges should fix these judicial errors. Thanks for sharing your concerns and perspectives. Keep posting!

11.

BradH | April 1, 2012 at 12:31 am | [Permalink](#)



Sweet Sassy Molassay!! What is it with Christopher P. King hyphenating his name in midlife? To be cool, or to escape searches? If he has some garbage to hide (as I opine he most certainly does), would it not have been easier for him to have just purchased a one way ticket to Honduras, or Nauru? What are the partners at Fenwick & West LLP doing? I wonder if a single one of them ever thinks of the altruism of Greg Smith. Destined for less income forever, but taking the higher road, as he no longer believed was offered by Goldman Sachs.

With our dead regulators, the lack of self policing by even those sworn to uphold the Constitution, we are screwed.

As for Wall Street, as for the cowardly, silent partners at the law firms who so easily abrogate laws, I hope your offspring thank you for the roles you played! How sad those roles will have played a part in our not being able to compete with Cambodia someday!

As an ex chieftain of companies, large and small, private and public, and trained well in the vagaries of taking patents to the market, I have never seen activities such as Ms Kline has uncovered. I am proud that I have had the skills that may have afforded me far greater wealth than the players in this egregious play happily accepted. I avoided these temptations as so many others did. Sad that today, we seem to be a vanishing breed. To say that the players in this Greek (er, “Greed”) tragedy were “forgetful” of their lines would be a compliment! The word “vile”, or “accomplice” would better befit!

Ms. Kline, I had hoped you were misinformed, or unaware of all the details on this case. Per my own further research, I now salute you!

I hope that your findings aren’t ignored by others. To all who may be reading my words, whether patent thief, lawyer, banker, or judge presiding, I hope you all begin to protect a species endangered by the lure of money: Conscience.

12.

Darren Mitchell | April 3, 2012 at 11:33 pm |

[Permalink](#)



When have attorneys been allowed to pass their Reg. # to another attorney? Especially when involved in Patent applications!! Or do you just change your middle name and add a “hyphen” so that the odds of not being discovered with a search engine are increased astronomically!!!!!! The majority of people that do this have something to hide. Does Mr. King have something to hide other than the fact that he apparently omitted important disclosure information to the USPTO when

applying for Facebook patents but included the Leader patent “7,193,761” in the application for Marc Andreessen (founder of Netscape) patents! Why haven’t the SEC, FTC and the U.S. Patent Office looked into this? How many “coincidences” will it take to get the mainstream media involved?

Post a Comment

*Your email is never published nor shared. Required fields are marked **

Name *

Email *

Website

Comment

Submit comment

« [/// MF GLOBAL + JP MORGAN + GOLDMAN SACHS + HARVARD GRADS + POLITICS = A BIG MESS](#)

[/// FACEBOOK “LIKED” LEADER’S SOURCE CODE ... BEFORE IT DIDN’T »](#)