

/// Market Impact in an Evolving World

By Donna Kline — www.DLKIndustries.com

Donna Kline Now!



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LEADER V. FACEBOOK PRESS BACKGROUND

1. Brief Summary (PDF)
2. Backgrounder (PDF)
3. Muppet Chat (PDF)

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/// Facebook countersues Yahoo with bogus patents?

{ 2012 04 06 }

/// Facebook countersues Yahoo with bogus patents? Confirms reckless mindset.

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Two posts ago ([click here](#)) I exposed Facebook patents filed for them by Fenwick & West LLP that uniformly failed to disclose Leader's patent in the "references." As a reminder, the "references" on a patent are prior works in the related patent field that the patentee discloses to the Patent Office, or which the patent examiner finds on that might be prior art. It is the patentee's legal duty to disclose related works, otherwise the patent application could be invalidated due to "inequitable conduct" (a fancy way of saying lying to or withholding evidence from the Patent Office).

Facebook just countersued Yahoo. See Law.com. Two things are notable about the countersuit. (1) Facebook uses two of its questionable patents as the foundation of its countersuit, and (2) they are using the same Cooley Godward LLC attorneys that pulled all the shenanigans in *Leader v. Facebook*. Scroll down the left side of my blog to review past posts about these attorneys.

Who drank Facebook's Kool-Aid?

I think I have adequately addressed the problems with Facebook's use of those questionable patents as the basis for their countersuit—which is probably great news for Yahoo. The use of the Cooley Godward LLP attorneys (the same ones as in *Leader v. Facebook*) is as interesting since it further clarifies the cabal of players inside Facebook who drank the Kool-Aid of recklessness: Facebook, Fenwick & West LLP, Cooley Godward LLP, Goldman Sachs, Digital Sky, Peter

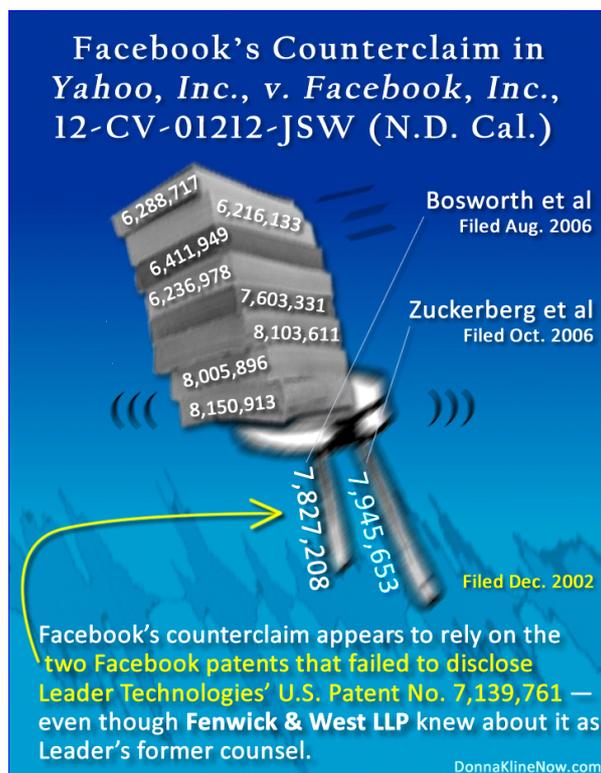


Fig. 1 – Facebook's counterclaims in *Yahoo v. Facebook* are dubious given their failure to disclose Leader Technologies' U.S. Patent No. 7,139,761 and Fenwick & West LLP's conflicts of interest as former counsel for Leader in 2001-2003, then securities and patent counsel from 2006 for Facebook.

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

Thiel, Mark Zuckerberg, Harvard Alum (dubbed the “[Accela Mafia](#)” after the express train between Washington D.C. and Boston linking East Coast Ivy Leaguers) and Accel Partners (peopled with West Coast Ivy Leaguers).

- **Accel Partners** and **Peter Thiel** are the boy-band leaders whose original contacts with **Mark Zuckerberg** at **Harvard** in 2003-2004 are murky. [Click here](#), [here](#), and [here](#).
- **Goldman Sachs** and **Russia’s Digital Sky** provide an unregulated \$3 billion “IPO supplement;” locking out American investors who had bailed out Goldman from oblivion. [Click here](#), and [here](#).
- Russia’s Digital Sky provides the leadership for the future of **Facebook Credits** (unregulated world currency?) transactions. [Click here](#).
- **Fenwick & West** files a flurry of dubious patents in the name of the **King of Hackers**; patents that use their former client’s invention as the basis. [Click here](#), and [here](#), [here](#), and [here](#).
- Fenwick & West prepares the S-1 for general Muppet consumption while the **SEC** sends out form letters and turns a blind eye. [Click here](#) and [here](#).
- **Cooley Godward** practices “[lawfare](#)” by disrespecting the courts with fabricated evidence, trial theater and [frivolous](#) motion practice.” [Click here](#).

If you doubt me, what follows is a quote from Cooley Godward’s Heidi Keefe, as recorded by a court reporter in *Leader v. Facebook*. Also see Fig. 2 below.

Facebook dragged its feet on discovery throughout the first six months of 2009. For example, Facebook would say they would not provide a document, but when Leader filed a motion to compel the document, Facebook would then provide the document in their opposition to the motion—the very document that they had just said they would not provide. Leader had provided two-and-a-half times more documents to Facebook than Facebook provided to Leader. Judge’s Conference, May 28, 2009, Tr. 1062:12-24. See Fig. 2 below.

[“I don’t want Facebook to be trashed . . . I love my company”](#)

[—Heidi Keefe, Cooley Godward LLP, Facebook attorney, Leader v. Facebook Judge’s Conference, May 28, 2009.](#)



Keefe

Heidi

[Facebook counsel Heidi Keefe’s argument for giving Leader limited access to Facebook’s documents was “I don’t want Facebook to be trashed.” Judge Farnan replied “Don’t be so defensive.” to which Ms. Keefe responded “I love my company.” Id., Tr. 1063:18-23.](#)

[Leader v Facebook Doc No 72 – Heidi Keefe: “I Love My Company” May 28 2009, at p. 27.](#)

Judge's Conference
Transcript, May 28, 2009,
Doc. No. 72, p. 27,
Facebook attorney Heide
Keefe's "I love my
company" statement

March 5th, 2012?

/// More on FB's S-1

omissions & other
conflicts of interest

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Proof Fenwick & West

LLP did not disclose

Leader as prior art to

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before it didn't

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Facebook "Liked"

Leader's source code ...

before it didn't

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New friends?

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Fig. 2 – *Leader v. Facebook*, Judge's Conference, May 28, 2009, Tr. 1062:12-24. Here's Facebook's Cooley Godward attorney Heidi Keefe drops her "independent professional judgement" in efforts to oppose Leader's discovery requests.

Call me crazy, but doesn't that sound like a lawyer that drank her client's Kool-Aid?



Has Cooley Godward's Heidi Keefe drunk the Kool-Aid?

Facebook's Yahoo countersuit proudly boast their assignment of "I love my company" Heidi Keefe to the Yahoo litigation. [The Model Rules of Professional Conduct, Rule 2.1: Advisor](#), state:

"In representing a client, a lawyer shall exercise **independent professional judgment** and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations, such as **moral**, economic, social, and political factors, that may be relevant to the client's situation."

Do ya think Heidi Keefe is telling the emperor he has no moral clothes? Ha Ha Ha Ha. Didn't think so.

Open defiance of American, Canadian and international law . . . not to mention common decency?

Most concerning is the level to which this cabal of players are willing to do each other's dirty work in almost open defiance of the law, professional ethics and common decency. They're ready to steal patents, raise billions without regulation, call black white, cheat and steal from former clients, flagrantly ignore ethic oaths, lie, fabricate evidence, enrich with funds of dubious origins, conduct



tabata on /// New friends?
BradH on /// Proof Fenwick & West LLP did not disclose Leader as prior art to Facebook
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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

lawfare, switch identities to avoid detection, fail to disclose material information, never return calls, ignore FTC privacy concerns, withholding material SEC disclosures, extol theft of intellectual property while simultaneously becoming one of the most prolific patent filers on the planet, take the low moral ground at every turn, disrespect privacy, label Facebook's security "the best there is" (Milner), no-show at investor meetings, etc. etc. etc.

Fig. 3 – Lloyd Blankfein (left) and (Jamie Dimon (right) promising to tell the [Harvard?] truth to the U.S. Senate Financial Crisis Inquiry Commission on January 13, 2010. The punishments are worse for [plagiarism](#) on a term paper than the wholesale bankrupting of the US economy by a Harvard man. The body language speaks volumes. Are these guys getting ready to tell the truth? Source: [Business Week](#). See also [previous post](#).

Two words describe such conduct: **audaciously reckless**.

From my research, it does not appear to me that Yahoo has much to be concerned about with Facebook's counterclaims. Pundits tell me that the patents that are the foundation of the counterclaim, namely 7,827,208 and 7,945,653, can likely be invalidated because they failed to disclose Leader's patents as references of potential prior art, then the other eight patents in the Yahoo counterclaim would likely fall off their two-legged stool. See Fig. 1 above.

More coming! Stay tuned.

Meep, meep.

* * *

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[« /// FACEBOOK "LIKED" LEADER'S SOURCE CODE ... BEFORE IT DIDN'T](#)

did not disclose Leader
as prior art to Facebook
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of “literal infringement”

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