



Cooley
LLP

Case in Point

Yahoo! Inc. v. Facebook Inc.

With one billion users worldwide, very few companies in the global market have had the success and reach of social media pioneer Facebook, founded in 2004. Like so many of Cooley's innovative, disruptive and industry-defining clients, Facebook has transformed the way the world connects. Its ubiquity has often meant that it has become a growing target for litigation.

Yahoo! Attacks

On the cusp of filing its IPO, one that was termed as the largest tech IPO in history, Facebook became the target of Yahoo!, a one-time leader in the tech world, and now a company that was eager to establish new revenue sources. After Facebook rebuffed Yahoo!'s unilateral demands regarding licensing, the portal sued Facebook in March 2012 in the U.S. District Court for the Northern District of California for allegedly infringing 10 patents covering social networking, advertising and privacy controls. News of the suit was the talk of Silicon Valley and the rest of the United States. Facebook vowed to fight the allegations.

Facebook and Cooley's team, led by Mike Rhodes, Heidi Keefe and Mark Weinstein and joined by legendary trial lawyer and chairman Stephen Neal, quickly developed an aggressive, savvy and innovative defense strategy to battle the claims brought by Yahoo!. With the IPO looming, it was critical for the company to execute the strategy swiftly.

Facebook Fights Back

Immediately, Facebook took steps to send Yahoo! a message it was ready and willing to fight back, by bolstering its patent portfolio. Weeks after the suit was filed, the company agreed to purchase 750 patents from IBM that were also licensed to Yahoo!. Leveraging his experience negotiating similar deals for other innovative companies, Adam Ruttenberg, Cooley's technology transactions practice group chair, had a significant role in helping Facebook obtain the rights to these patents. Similarly, Ms. Keefe and Mr. Weinstein had an integral role in

PERSPECTIVE

"Just so we're clear: Facebook totally demolished Yahoo! in the patent fight that just ended!"

– Nicolas Carlson
Business Insider

RESULTS

- Yahoo! and Facebook entered into a strategic partnership that resolved all claims between the two companies.
- Facebook's patent portfolio increased from approximately 56 patents to more than 1,400.
- Cooley's defense team positioned Facebook so that it could continue to revolutionize the world that we live in with little disruption.





evaluating IBM's portfolio to determine the patents that would be most valuable for Facebook to purchase so that it could strategically position itself to not only tackle Yahoo!'s claims, but also to potentially pursue its own patent assertion claims against the search engine giant.

Concurrent to this transaction being negotiated and finalized, Cooley's attorneys also were preparing a countersuit complaint Facebook intended to file against Yahoo!. In the final week of April and only weeks away from the biggest IPO in tech history, Facebook filed its case in the same court, asserting that Yahoo! infringed 10 of its patents covering social networking and advertising. Around this time, Yahoo! also added two additional claims to its original suit, bringing the total number of patents allegedly infringed to 12. Further, according to the SEC filing that Facebook made in late April, Yahoo! had notified Facebook that it may be infringing an additional 16 patents concerning technologies used in Facebook's data centers and servers.

Less than a month after the IBM patent acquisition transaction, Facebook made another big splash at the direction of its defense team. This time, the company purchased the rights to 650 patents owned by Microsoft and licensed an additional 275 patents. The transaction was valued at \$550 million. The patents, which added a deep layer of ammunition for Facebook to potentially use in its defense against Yahoo!, covered e-commerce, instant messaging, browsing, searching, advertising, streaming content, and social networking technologies. In less than two months, Facebook's patent portfolio increased from approximately 56 patents to more than 1,400.

Innovative Resolution

Less than four months after the original suit was filed, Yahoo! and Facebook entered into a strategic partnership in early July 2012 that resolved all claims between the two companies. As the press has noted, perhaps the most noteworthy detail of this highly favorable deal is that the parties did not have to make any direct cash payments in connection with the agreed upon patent portfolio cross-license. This allowed Facebook to continue its revolutionary work with little disruption.



THE COOLEY TEAM

LITIGATION PARTNERS



Stephen C. Neal
+1 650 843 5182
nealsc@cooley.com



Michael G. Rhodes
+1 415 693 2181
rhodesmg@cooley.com



Heidi Keefe
+1 650 843 5001
hkeefe@cooley.com



Mark Weinstein
+1 650 843 5007
mweinstein@cooley.com

CORPORATE PARTNER



Adam Ruttenberg
+1 703 456 8065
aruttenberg@cooley.com

www.cooley.com