



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Fed. Circ. Says Judge Wrongly Let Facebook Win Patent Fight

By **Tiffany Hu**

Law360 (January 23, 2020, 9:22 PM EST) -- Facebook was dealt a blow in a patent dispute over its Timeline and Newsfeed features after the Federal Circuit on Thursday revived a lawsuit accusing the social media giant of infringing three patents on displaying computer files in searchable, chronological streams.

In a nonprecedential opinion, a three-judge panel overturned a New York federal judge's decision to grant Facebook **summary judgment** that a number of features on the social networking site do not infringe patents owned by Mirror Worlds Technologies LLC.

The panel found that the district judge erred in determining that "a reasonable jury would have to find" that Facebook didn't infringe the patents because Facebook's systems from which the features obtained data did not operate in the way described by those patents.

"That erroneous conclusion was the sole basis for the grant of summary judgment as to [the features]," U.S. Circuit Judge Richard G. Taranto wrote for the panel.

Marc Fenster of Russ August & Kabat, an attorney for Mirror Worlds, told Law360 in a Thursday email that he and his client are pleased with the ruling and "look forward to resuming our case to prove Facebook's infringement of Mirror Worlds' patents."

Counsel for Facebook did not immediately respond to a request for comment Thursday.

The panel's ruling comes a little over a week after the Federal Circuit **held oral arguments**, where the panel appeared receptive to Mirror Worlds' argument that the district court erred in finding that the disputed features couldn't infringe unless Mirror Worlds could show that Facebook operates a computer system containing a time-ordered sequence of data units, or "main stream."

On behalf of Mirror Worlds, Fenster argued that the district court incorrectly decided that Facebook's back-end systems receive content through a system called The Association of Objects, or TAO, to display what Facebook users see. To the contrary, that information is retrieved by Facebook's front-end system, he said.

Because Mirror Worlds didn't accuse Facebook's front-end systems of infringing, Fenster argued, the panel must reverse the district court's decision.

Siding with Mirror Worlds, the panel ruled on Tuesday that the district court improperly concluded that declarations by Facebook engineers necessarily meant that a jury must find that Facebook's back-end systems received data from TAO and therefore do not infringe.

"Given that discovery is still open, Mirror Worlds may still muster evidence to prove its claim," Judge Taranto wrote in the opinion. "Facebook has not otherwise shown that sufficient evidence cannot be produced."

This isn't the first time that Mirror has faced off against tech giants over at least one of the patents in the present case. Apple and Microsoft have both agreed to settle lawsuits with the company for **\$25**

million and **\$4.6 million**, respectively.

U.S. Circuit Judges Sharon Prost, Richard G. Taranto and Kara F. Stoll sat on the panel for the Federal Circuit.

The patents-in-suit are U.S. Patent Nos. 6,006,227, 7,865,538 and 8,255,439

Mirror Worlds is represented by Marc Aaron Fenster, Brian David Ledahl, James S. Tsuei and Benjamin T. Wang of Russ August & Kabat and Charles R. Macedo of Amster Rothstein & Ebenstein LLP.

Facebook is represented by Heidi Lyn Keefe, Dena Chen, Lowell D. Mead, Mark R. Weinstein and Phillip Edward Morton of Cooley LLP.

The case is Mirror Worlds Technologies LLC v. Apple Inc., case number 18-2276, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Britain Eakin. Editing by Haylee Pearl.

All Content © 2003-2020, Portfolio Media, Inc.