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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

# Yahoo 'Brazen' In Ripping Off Droplets' Web IP, Jury Told

By **Bonnie Eslinger**

Law360 (March 8, 2022, 10:15 PM EST) -- Yahoo Inc. has been "brazen" in its unlicensed use of Droplets Inc.'s patented technology for quickly updating web pages while tech giants such as Facebook and Amazon eventually agreed to pay license fees, the startup's lawyer said Tuesday during opening statements in a California federal court patent infringement trial.

Kicking off the proceedings, Droplets' lawyer Courtland Reichman of Reichman Jorgensen Lehman & Feldberg LLP told the 10-person jury that his client had invented something that changed "the world for the better, it allowed websites to be used in a different way."

Companies such as Apple, Google, Amazon and Facebook "asked permission and got permission to use it," but Yahoo has held out, Reichman said.

The lawyer compared a patent to a document that provides the boundaries of a property so others know not to trespass without permission.

"The evidence is going to show that it was brazen that [Yahoo] intentionally disregarded Droplets' property," Reichman said.

It's not that Yahoo knew it was wandering on Droplets' property, the lawyer said, but the tech giant willfully "covered their eyes," Reichman said.

Jurors can expect to hear at trial that Yahoo doesn't investigate patents that have been filed by other companies, Reichman said.

"In other words, they just close their eyes, and use the property and hope they don't get caught," he added. "And if they do, they figure they can say they never knew about it."

The complaint, first filed by Droplets **back in 2011** against six technology behemoths, is now against one defendant: Yahoo.

The other defendants — Amazon, Apple, Facebook, Google and YouTube — all settled around the end of 2012 and beginning of 2013, according to the court docket.

The one patent at issue is for a "system and method for delivering a graphical user interface of remote applications over a thin bandwidth connection," states the title of the patent, issued in 2004.

The invention allows a portion of a website to be quickly updated without waiting on a whole page refresh, Reichman told jurors on Tuesday.

The four men and six women sitting as jurors were not told how much is being sought from Yahoo in financial damages, but Reichman said Droplets' expert had come up with a figure of about \$245 million just for the unauthorized use of the patent for Yahoo's Search Assist web tool.

Yahoo's lawyer, Woody Jameson of Duane Morris LLP, told jurors that Yahoo is not infringing Droplets' patent and had never heard of the startup until it was sued.

"They sued us and a bunch of other companies out of the blue," Jameson said. "The reason Yahoo did

not take a license is because we don't think our technology has anything to do with this patent."

In light of earlier inventions that revealed the technology at issue, Droplets' patent is also invalid, Yahoo's lawyer said.

Jameson urged jurors to reject Droplets' assertion that his client was willfully blind to the existence of the startup's invention.

"If Yahoo spent all its time investigating patents that might apply to any technology they were going to offer, they'd spent thousands and thousands of hours," Jameson said. "It's not that Yahoo doesn't respect intellectual property rights, it does."

Yahoo's lawyer wrapped his opening by taking aim at Droplets' assertion that the big tech companies had reached out for a license.

"I'm going to show you a little bit different on that issue," Jameson said.

Ultimately, a company called RBX, which bills itself as reducing patent litigation risk, reached a deal to purchase sublicense rights to Droplets' patents for its clients, Yahoo's lawyer said.

"The idea that these big companies, that they reached out to Droplets and did the right thing and took a license ... It was RPX that cut a deal with Droplets to end costly litigation," Jameson said.

Further, the patent license agreement RPX entered into with Droplets states that the defendants "denied and continue to deny infringement of the patents," he underscored.

The Yahoo websites that are alleged to infringe are yahoo.com, search.yahoo.com, finance.yahoo.com, mail.yahoo.com, calendar.yahoo.com, my.yahoo.com and maps.yahoo.com, according to court documents.

After openings on Tuesday, Droplets co-founder Philip Brittan took the stand and testified that he and his colleagues came up with the idea behind its patented website technology while trying to create an application to post financial data for a previous company they created.

Brittan said he knew the company needed to patent its invention as soon as possible.

"We knew it was going to be groundbreaking, mind-blowing," he said.

At one point, Droplets was in talks with Goldman Sachs investing in their company, but the banking giant wanted Droplets to also talk to a venture capital firm, which unexpectedly brought an executive from Macromedia to their meeting.

Droplets later heard that the VC wasn't interested, which also scuttled the Goldman Sachs investment, but then Macromedia announced it was going to "put out a product that sounded just like Droplets," Brittan said.

Before that time, in 1999, Droplets had filed for its patent, which was granted in 2004, after the Macromedia announcement, he said.

Droplets sued, and in September 2008, Adobe Systems Inc., which acquired Macromedia in 2005, **settled the patent dispute.**

The patent-in-suit is U.S. Patent Number 6,687,745.

Droplets is represented by Courtland L. Reichman, Aisha Mahmood Haley, Christine E. Lehman, David King, Jaime F. Cardenas-Navia, Kate Falkenstien, Khue V. Hoang, Michael Matulewicz-Crowley, Philip Eklem, Shawna L. Ballard and Taylor Nowell Mauze of Reichman Jorgensen Lehman & Feldberg LLP.

Yahoo is represented by George Niespolo, Kevin P. Anderson, Aleksander Goranin, Woody Jameson, and Matt C. Gaudet of Duane Morris LLP and Jennifer Haltom Doan and Joshua Thane of Haltom & Doan.

The case is Droplets Inc. v. Yahoo Inc., case number 4:12-cv-03733, in the U.S. District Court for the California Northern District.

--Editing by Jay Jackson Jr.

*Correction: A previous version of this story included incorrect counsel information for Yahoo. The error has been corrected.*

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