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## Prominent Americans speak out for Leader Technologies in the *Leader v. Facebook* U.S. Supreme Court appeal

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*American leaders from across the political spectrum urge the Supreme Court to fix the denial of constitutional rights*

**Columbus, Ohio (Dec. 6, 2012)**—On Jan. 4, 2013 the U.S. Supreme Court will meet to decide whether to hear Leader Technologies’ appeal in *Leader Technologies, Inc. v. Facebook, Inc.*, No. 12-617 (Supreme Court Nov. 16, 2012). See <http://www.leader.com/docs/supremecourt.html>

Why should the average American care about this case? Perhaps the eminent American historian Professor Hy Berman, former political adviser to Vice President Hubert Humphrey, says it best:

“If intellectual property theft by the powerful and well-connected is not stopped, future innovation is jeopardized.”

Important American property rights are threatened by *Leader v. Facebook*. Leader argues that once Facebook’s case fell apart, the Federal Circuit appeals court abused Leader’s Fifth and 14<sup>th</sup> Amendment right to due process by making up new arguments and evidence for Facebook in the secrecy of judges’ chambers without giving Leader an opportunity to challenge it.

In the process, they turned a blind eye to long standing Supreme Court precedent. If allowed to stand, this case will embolden patent infringers to retry losing cases on appeal, to manipulate juries with doctored evidence, and play interminable games with the verb “is.” It will encourage judges to ignore important legal precedent and manufacture evidence.

Leader Technologies’ CEO and lead inventor Michael McKibben said, “The backroom chicanery was unexpected. The Federal Circuit court did not disclose their Facebook holdings, and yet ruled in Facebook’s favor anyway. Then, The Federal Circuit Bar Association, which is practically staffed by a number of Facebook’s attorneys and large shareholders, tried to slip in a motion absolving the judges of

these glaring conflicts. Such cozy relationships do not instill public confidence in fair treatment under the law.”

“We can only hope that this behavior does not extend to the U.S. Supreme Court.” Otherwise, the Court will simply decline to put our petition on their Jan. 4<sup>th</sup> short list, thus refusing to hear our petition by default.”

Asked what Leader would do if that occurs, McKibben said “if we Americans fail to hold our courts accountable for such conduct, then our democracy cannot survive. Let’s hope the Supreme Court loves justice. Their solemn mandate is to fix the mistakes and improprieties of lower courts.”

Many prominent Americans are now speaking out about the *Leader v. Facebook* case.

**JAMES P. CHANDLER**, Professor Emeritus, George Washington University National Law Center; President, National Intellectual Property Law Institute; Author, The Economic Espionage Act of 1996 and The Federal Trade Secrets Act; former member of President Bill Clinton’s National Infrastructure Assurance Council; Washington DC:

“The Federal Circuit changed Leader’s appeal argument and introduced new untested evidence without a hearing. This is a fundamental breach of the Fifth and 14th Amendment right to due process and cannot be permitted.”

**TODD HOMME**, former Music Director, DreamWorks, Los Angeles, CA:

“Having first known and worked with Mike McKibben in the 1980s in music ventures, and recently, having closely followed the court proceedings of the last several years, it is dumbfounding to see such a systematic thwarting of evidence. Evidence that would compel a reasonable mind to say something is amazingly wrong here. The holders of music copyrights jealously guard their property by means of the law, both, from outright theft, and/or the infringements of those who would ‘borrow, emulate and in other ways, copy the protected work in order to gain commercially.’ Recorded music that too closely resembles or undoubtedly contains elements of another’s copyrighted work is subject to a court’s review of how it came to be, upon which a judgment is made. In the case of Leader Technologies, how does the carefully documented development of a product (145,000 man-hours and \$10M invested over many years, resulting in a US Patent), evaporate when brought into the US courts. There must be a simple answer, which is....?”

**MAYNARD ANDERSON**, former Deputy Under Secretary of Defense for Security Policy and Chairman, National Intellectual Property Law Institute; Leader Director; Arlington, VA:

“The foundations of intellectual property protection—inventor's integrity, respect for the patent protection process and safeguards against violations, and faith in the judicial system—seem to have been put in peril by the adjudicative actions in this case.”

**HY BERMAN, PH.D.**, Professor Emeritus, University of Minnesota, American History; former political adviser to Vice President Hubert Humphrey; Minneapolis, MN:

“I looked into Leader’s claims by closely examining the content of Facebook and found that everything in Facebook’s control is open to all and can be easily manipulated for political and commercial gain. If intellectual property theft by the powerful and well-connected is not stopped, future innovation is jeopardized.”

**PAUL ANDRE, ESQ.**, Managing Partner, Kramer Levin LLP, Menlo Park, CA:

“Ultimately, boundaries of judicial authority exist to help victims find justice and prevent the unlawful deprivation of their property rights. In the present case, the Federal Circuit introduced profound ambiguity to its proper role within the judicial system. The Federal Circuit abused Leader's right to confront the new evidence brought forward in the secrecy of chambers by the Federal Circuit itself.”

**PETER SUMRALL**, President of LeSEA Broadcasting, LeSEA Ministries and LeSEA Global Feed the Hungry; Notre Dame University and ESPN Sports Affiliate; South Bend, IN:

“No one in the world has what we do in the way of a vibrant, broad-based American media and communications network. However, that diversity is being threatened by people within the FCC, SEC and US Patent Office that support the agenda of Facebook “friends” who want it only one way . . . their way. I have been following *Leader v. Facebook* from the beginning. After Leader won on literal infringement, instead of supporting the inventor, sadly, the courts degenerated into crass judicial backroom politicking by Facebook. In our broadcasting environment, we face corrupt regulatory intimidation every day at the federal, state and local levels that threatens free over-the-air broadcasting, small business, religious and humanitarian organizations. It’s

the sort of thing we see regularly in our humanitarian work in the Third World. Ironically, it's the kind of ethics we coach our partner countries to flee. We will be watching closely to see if the Supreme Court takes up Leader's petition and supports the U.S. Constitution. We hope and pray they do."

**BRAD HOLT**, former CEO, Domino's Canada Ltd.; Chairman, Lions Gate Capital; Wayzata, MN

"History tells us that a complacent citizenry that allows unchecked corruption is eventually swept as a society into the dust heap. The simple fact that not a single judge who opined in the case has disclosed ownership of Facebook stock is corruption at its core.

Mr. McKibben and other pioneers amongst us are the ones who think up new widgets that make our country innovative and profitable. Pity the inventor who creates a product and then is unable to profit by it due to corrupt courts that allow its patent to be stolen."

**LAKSHMI ARUNACHALAM, PH.D.**, former Director of Network Architecture, Sun Microsystems, Menlo Park, CA:

"The conduct of these federal courts causes me grave concern about the future of innovation in America. The courts should be protecting the inventor, not the big infringer. They have supported Facebook with such trivialities as whether the verb 'is' is present tense. Now they are trying to railroad an unjustified verdict based solely upon legal procedure that everyone can see is nothing but 'old-boy' attorneys manipulating the legal system."

**LINDA KRETER**, CEO, WiseHealth, Inc., Veteran and Military Family Advocate, Annapolis, MD.

"The serious lack of judicial process, the prevalence of conflicts of interest that go beyond the 'appearance of impropriety,' and the outright refusal of the courts to uphold the intellectual property of Leader Technologies, Inc. with regard to the 11 infringed-upon Leader patent claims by Facebook is frightening to inventors. When there is a concerted effort to usurp the inventions of others by those with powerful ties to domestic and foreign governments, America has a serious problem. I ask the Supreme Court to please support the protection of innovative intellectual property, and in the case of a behemoth like Facebook – is it really 'too big to fail,' or has this case become deeply political, and deeply flawed?"

**WILLIAM DEGENARO**, former Director of Strategic Countermeasures, Department of Defense; Director of Innovation and Strategy, 3M Company; Leader Director; Republic, MI:

“Leader has already proven that Facebook is using their invention. Now what Leader is being forced to fight appears to be judicial cronyism. Such cronyism is profoundly undemocratic. I cannot think of a better opportunity than *Leader v. Facebook* for the U.S. Supreme Court to make a strong statement in support of true innovation and against intellectual property theft.”

**DON BROWN**, former Major, USAF, AWACS Aircraft Commander, Santa Cruz, CA:

“During my service as a Senior Pilot in the U.S. Air Force, honesty, integrity, and professionalism were essential components of our duties, as well as in every branch of government. I am shocked and dismayed that the Judiciary has apparently fallen so far from those ideals. The full story of Mr. McKibben’s ordeal in trying to protect his Constitutional intellectual property rights would take several volumes to completely cover. How our supposed free press and national media can ignore this travesty is beyond the imagination.”

**JAMES A. NILES, PH.D.**, former Professor, Santa Clara University, Economist, Los Gatos, CA:

“I highly recommend that the Supreme Court examine the *Leader v. Facebook* case. The lower courts simply did not do their jobs. This travesty of justice needs to be corrected.”

For more backstory and new congressional briefings exposing Facebook’s conduct, see:

<http://www.donnaklinenow.com>

<http://www.scribd.com/amer4innov>

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## About Leader®

Leader Technologies Incorporated is a software development and marketing company specializing in social networking and unified communications. Its technologies are patented and patent pending. Its brands include [Leader2Leader®](#) for enterprise social networking, [Leader Phone® Pro & Lite](#) Web 2.0 audio conferencing, [Leader Meeting™](#) for web conferencing, [Leader Alert®](#) for alerting services, Leader News® for alerting with news services, and Leader Voice Mail® for remote IP-based voice mail services. Leader provided the primary communications and collaboration system for the Governor of Louisiana in the state's Hurricane Katrina disaster response. Leader has also provided counterterrorism support and alerting technologies to the Departments of Homeland Security and Defense. In the wake of the Virginia Tech tragedy, Leader Alert® is now deployed with increasing frequency within secondary and higher education for school safety and security applications.

Leader® recently launched the [Leader Phone® iPhone Audio Conferencing App](#) which is available free on the Apple® iTunes App Store.

For background on *Leader v. Facebook*, see [Donna Kline Now!](#) and [Americans For Innovation](#). For additional information, go online to [www.leader.com](http://www.leader.com) or contact John Needham at (614) 890-1986.

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