Meta must pay $175M for patent-infringing livestreaming tech, judge says

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After a jury unanimously decided last September that Meta owed $175 million to walkie-talkie app-maker Voxer for patent infringement, Meta tried to avoid paying up by requesting a judge either reject the jury's verdict or give Meta a new trial. This week, a federal judge denied Meta's request, making it likely that Meta will have to pay all those running royalties for illegally copying Voxer's technology and using it to launch Facebook Live and Instagram Live.

Meta had argued seemingly everything it could to get out of paying millions in damages. It questioned whether the jury's decision was reasonable, claiming that Voxer's lawyer had made comments that biased the jury. In Meta's view, no reasonable jury would have found that Meta infringed Voxer's patented video-streaming and messaging technologies. Further, even if everyone agreed that there was infringement, Meta argued that the damages were too extreme and improperly calculated by Voxer's expert. Instead of owing running royalties, Meta felt it should be required to pay either no damages or a lump sum.

In his decision, US District Judge Lee Yeakel affirmed that substantial evidence supported the jury's verdict of patent infringement and sufficient evidence supported the damages that the jury awarded Voxer.

Meta can still appeal, but a Meta spokesperson declined to tell Ars if the company will.

Ars could not immediately reach Voxer to comment, but this week's decision inches the company closer to the end of a decade-long legal saga that started in 2012 when Voxer first met with Facebook to discuss a potential partnership.

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According to Voxer's complaint, Voxer began developing its technology in 2006, hoping to help improve battlefield communications. US army veteran Tom Katis co-founded the company, wanting to create a live-messaging and video-streaming app that would help eliminate interruptions in transmissions that left soldiers vulnerable during sudden ambushes or when medevacs were needed. That ambition morphed into the walkie-talkie app that Voxer launched in 2011, which was so popular, it prompted meetings with Facebook by 2012.

Voxer was likely excited to be wooed by Facebook, but soon after Voxer shared its patent portfolio and proprietary tech with the social network, the partnership fell through. When that happened, Facebook revoked Voxer's access to its platform, deeming Voxer a competitor while allegedly making it harder to discover Voxer on Facebook. After that, Meta moved forward without Voxer's involvement and launched Facebook Live in 2015 and Instagram Live in 2016.

After the launches, Voxer tried to book another meeting with Facebook, but the social network declined to discuss any alleged patent infringement. When Voxer sued in 2020, the app maker alleged that "both products incorporate Voxer's technologies and infringe its patents."

Meta has maintained in the three years since then that there was no patent infringement, but notably, the company didn’t immediately repeat statements to that effect this week.

Voxer’s win this week is due to Katis’ foresight in filing patents as he developed a bold new kind of technology he’d never seen before. When Katis built Voxer, he told a 2012 conference audience in Paris that he was surprised how easy it was to patent Voxer’s technology, quickly filing more than 75 patents the year after launching the walkie-talkie app. Katis said he successfully patented the technology because “no one”—including Facebook—”was crazy enough” to try to develop livestreaming tech like the vision he had for Voxer.

https://arstechnica.com/?p=1919682

After defending false data, Comcast admits another FCC broadband map mistake

Enlarge / A Comcast Xfinity service van in San Ramon, California on February 25, 2020.
Getty Images | Smith Collection/Gado

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Comcast has fessed up to another mistake on the national broadband map after previously insisting that false data it gave the Federal Communications Commission was actually correct.

Our report on February 9 showed that when residents in two Colorado cities objected to Comcast's coverage claims through the FCC challenge system, the company disputed those challenges even though it was impossible to order Comcast Internet service at the challenged addresses. As we previously wrote, Comcast only admitted to the FCC that it submitted false data in Arvada, Colorado, one day after we contacted the company's public relations department.

But Comcast hadn't yet admitted that it gave the FCC false data in Fort Collins, Colorado, at the time of our last report. That changed last week in a letter to the FCC. "Upon further review of the location ID in question, Comcast has determined that the location is currently not serviceable by Comcast," the company told the FCC.

The letter came in response to a challenge filed on November 19 by Justin Olsson, who contested Comcast's claim to cover the house where his mother lives on Kedron Court in Fort Collins. Comcast had disputed Olsson's challenge on January 21 but changed its tune after our article.

A member of Comcast's executive customer relations department sent Olsson a copy of its new letter to the FCC on Friday. Olsson, a lawyer for a tech company in California, showed us the letter and his response to Comcast. He wrote:

> *I appreciate that you finally admitted it after Ars Technica reached out to you… I would like to point out, however, that it's really absolutely unacceptable that you contested my challenge without even looking into it—even when you had*

> *evidence in your own system that the address wasn't serviceable.*
>
> *You wasted hours of my time, and it's hard not to think that was part of the strategy, hoping that people wouldn't follow up and letting you get away with your blatant dishonesty in the broadband map effort. I hope for the country's sake that you all can clean up your act and not continue to do business in this way.*

Comcast needs to make more corrections

Including the address challenged by Olsson, we found 13 residential addresses that Comcast claims to serve on the FCC map in that part of Fort Collins despite all addresses being labeled as "invalid" on Comcast's ordering website. The addresses all appear to be just outside the southern edge of Comcast's actual coverage area.

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Comcast's new letter to the FCC said it submitted an update to mark the challenged address as "not serviceable." The change hasn't taken effect on the public version of the FCC map yet, which is updated with corrections every two weeks.

In addition to Fort Collins, our previous article detailed Comcast's false coverage claims in Arvada. We found over 30 addresses that Comcast claimed to serve on the FCC map, even though each address was listed as "invalid" on the Comcast website.

Resident Matthew Hillier challenged Comcast's claim to cover his home on Quartz Loop in Arvada. Comcast disputed the challenge despite the clear evidence that it didn't serve the home and only admitted the error to the FCC after we contacted Comcast public relations. Comcast's coverage claim was removed

from Hillier’s address, but the FCC map still incorrectly says Comcast serves the surrounding homes where it’s also impossible to order Comcast Internet.

Correcting false data is important because the map will be used to determine which parts of the US are eligible for $42.45 billion in federal grants to expand broadband availability starting in mid-2023. As we’ve written multiple times, one problem with the FCC’s challenge system is that a successful challenge at a single address doesn’t necessarily result in mistakes being fixed at surrounding homes.

For our February 9 story, we didn’t get any answer from Comcast on whether it would correct errors at the surrounding addresses we pointed out in Arvada and Fort Collins. We asked Comcast the same question for this story and received a response this time. “The homes you identified are in the process of being vetted, and we will make any corrections necessary as quickly as we can,” Comcast told Ars.

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FCC: Process “working as designed”

The FCC says it can conduct audits of provider-reported availability information and confirmed to Ars last week that it has “multiple ongoing” investigations into data submitted by ISPs. One of those investigations began after our report about an Ohio ISP called Jefferson County Cable, which admitted to lying to the FCC about the size of its network in an attempt to block funding to rivals. While the FCC confirmed an investigation into Jefferson County Cable, it hasn’t yet confirmed an investigation into Comcast.

A spokesperson for FCC Chairwoman Jessica Rosenworcel told Ars that Comcast’s correction of the Fort Collins mistake shows the challenge process is working as intended. “The response you shared from the provider is an indication that the

challenge process is working as designed and can be an effective tool for correcting inaccuracies in provider-reported availability information," the FCC spokesperson said.

But it's unclear how this specific Comcast incident could prove the process is working as intended. With both the Fort Collins and Arvada coverage claims, Comcast disputed the challenges despite clear evidence that it didn't serve the homes and only admitted its coverage claims were false after we contacted Comcast on the residents' behalf.

https://arstechnica.com/?p=1919542

Starlink to charge users in "limited-capacity" areas $30 more than others

Enlarge / The original round version of the SpaceX Starlink satellite dish mounted on the roof of a rural home.
Getty Images | The Bold Bureau

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Starlink notified users of new monthly prices in which people who live in "limited-capacity" areas will pay $30 more per month than users in "excess-capacity" areas. The changes

consist of a price hike for many users and a decrease for others.

The original price of Starlink was $99 a month, but SpaceX has been charging all residential users $110 since a price hike imposed in March 2022. Emails sent yesterday and today notified residential users of a “$10 increase in areas with limited capacity” for a new price of $120 a month, and a “$20 decrease in areas with excess capacity” for a new price of $90 a month.

The email to users in limited capacity areas said, “As a current customer in an area with **limited capacity**, your monthly service price will increase to $120/month beginning April 24, 2023. For new customers in your area, the price increase is effective immediately. If you do not wish to continue service, you can cancel at any time on your account page.”

The email noted that SpaceX’s ongoing launches of satellites will increase capacity and that “the Starlink team is making continuous network updates to improve performance over time.” But it didn’t say anything about whether a limited-capacity area could become an excess-capacity area or vice versa.

While speeds can vary a lot by area, the change generally means that users who receive the lowest speeds will pay the highest prices. However, the price hike and the Starlink email’s invitation to cancel service could reduce the number of customers in congested areas, possibly increasing average speeds for the remaining users. Average Starlink speeds have dropped as more users sign up for the satellite service, speed-test data shows.

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Users lament price hike and lack of choice

A Starlink customer in South Carolina, near Columbia, received the limited-capacity email and shared it with Ars. “Can’t say I’m happy about it but also don’t have much of a choice,” said the customer, Andy, who preferred that we not publish his last name.

Andy said he lives in a low-density rural area where “AT&T DSL that barely works is the only other option I have.” He also told us that Starlink speeds have “dropped quite a bit” since he started using it in April 2021.

Download speeds that used to be 200 to 250Mbps are down to about 90 to 100Mbps, while uploads have dropped from about 25 to 30Mbps to 8 or 9Mbps, Andy said. He’s seen upload speeds as low as 4Mbps during the 4 pm to 8 pm hours, he said. “I’ve seen a lot more buffering lately when watching shows on HBO Max in the evening,” he said.

While some users may cancel instead of paying more, “for those that have no choice it’s just another cost increase and the second increase in less than a year,” Andy said.

Starlink’s coverage map shows that large parts of the US are on a waitlist, which may indicate the areas deemed to be low-capacity. Starlink claimed to serve virtually the whole US in its submissions for the Federal Communications Commission’s national broadband map.

The price increase/decrease email spurred lots of discussion on the Starlink subreddit. “This increase puts me at double what my old ISP [charged], but they had a monopoly on my area and only provided 6Mbps,” one user wrote, adding that actual speeds under the previous ISP were about 2Mbps. “I hope this isn’t a yearly thing. Inflation has already nullified my last two raises, this isn’t making it any easier,” the user wrote.

“Price goes up and quality goes down. This feels familiar,” another person wrote in the Reddit thread.

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NSA’s “state secrets” defense kills lawsuit challenging Internet surveillance

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The US Supreme Court yesterday denied a petition to review a case involving the National Security Agency’s surveillance of Internet traffic, leaving in place a lower-court ruling that invoked “state secrets privilege” to dismiss the lawsuit.

The NSA surveillance was challenged by the Wikimedia Foundation, the American Civil Liberties Union, and the Knight First Amendment Institute at Columbia University. The Supreme Court’s denial of Wikimedia’s petition for review (formally known as “certoriari”) was confirmed in a long list of decisions released yesterday.

“As a final development in our case, *Wikimedia Foundation v.*

NSA, the United States Supreme Court denied our petition asking for a review of the National Security Agency's (NSA) mass surveillance of Internet communications and activities. This denial represents a big hit to both privacy and freedom of expression," the Wikimedia Foundation said yesterday.

The lawsuit challenged the NSA's "Upstream" surveillance program in which "the NSA systematically searches the contents of Internet traffic entering and leaving the United States, including Americans' private emails, messages, and web communications," the Wikimedia Foundation said. "The Supreme Court's refusal to grant our petition strikes a blow against an individual's right to privacy and freedom of expression—two cornerstones of our society and the building blocks of Wikipedia," Wikimedia Foundation Legal Director James Buatti said.

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Litigation would "risk disclosure of state secrets"

A September 2021 ruling by the US Court of Appeals for the 4th Circuit affirmed a US district court's decision to throw out the lawsuit. As the appeals court ruling noted, the district court found that Wikimedia didn't have standing to pursue the case "and that further litigation would unjustifiably risk the disclosure of state secrets."

"Although the district court erred in granting summary judgment to the government as to Wikimedia's standing, we agree that the state secrets privilege requires the termination of this suit," the 4th Circuit panel of appeals court judges said in a 2-1 ruling. The 4th Circuit subsequently denied Wikimedia's motion for an *en banc* rehearing in front of all the court's judges, and Wikimedia sought Supreme Court review in August 2022.

The Wikimedia petition for Supreme Court review argued that the appeals court “was wrong to dismiss the lawsuit on the basis of the state secrets privilege and that the court should have, instead, excluded any secret evidence, but allowed the case to proceed,” the groups challenging NSA surveillance said at the time.

Wikimedia and fellow plaintiffs argued they could prove their case based on the government’s public disclosures about the surveillance program.

“It is past time for the Supreme Court to rein in the government’s sweeping use of secrecy to evade accountability in the courts. Upstream surveillance is no secret, and the government’s own public disclosures are the proof,” Patrick Toomey, deputy director of the ACLU’s National Security Project, said when the petition for Supreme Court review was filed. “Every day, the NSA is siphoning Americans’ communications off the Internet backbone and into its surveillance systems, violating privacy and chilling free expression. The courts can and should decide whether this warrantless digital dragnet complies with the Constitution.”

https://arstechnica.com/?p=1919333

Biden won’t save the Apple Watch from potential ban

Enlarge / AliveCor and Apple’s battle started with the Apple Watch Series 4.
Valentina Palladino

reader comments

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Apple will continue fighting California-based AliveCor over the startup’s electrocardiogram (ECG) technology. On Tuesday, AliveCor announced that US President Joe Biden had decided not to veto the US International Trade Commission’s (ITC) December ruling that could lead to an import ban on the Apple Watch Series 4 and later.

It’s unlikely that Apple’s watch will be totally banned. But as The Verge pointed out, AliveCor could walk away with a licensing agreement from Apple to use its patents in the Apple Watch.

According to AliveCor, which has around 150 workers to Apple’s 80,000, it shared its ECG sensor technology with Apple in 2015 while building a business relationship, The Hill reported earlier this month. In 2018, Apple released the Apple Watch Series 4, which not only introduced an ECG sensor to the smartwatch but also blocked outside heart monitoring apps. AliveCor said this forced it in 2019 to stop selling KardiaBand, an ECG band that the company announced for Apple Watches in 2016.

“We come up with new technologies, and instead of the ecosystem letting us thrive and continue to build on top of the innovations we already have, Apple cuts us out up front, steals our technology, uses their platform power to scale it, and now is basically saying it’s scaled so it can’t be cut off,” AliveCor CEO Priya Abani said, according to The Hill’s February 17 report.

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In December, the ITC ruled that Apple infringed (PDF) on

AliveCor’s patent; however, no import ban is currently in effect. That’s because AliveCor is currently appealing (PDF) a December ruling by the US Patent and Trademark Office finding that three of the company’s patents in question are invalid, as reported by Reuters. As such, an Apple spokesperson told The Verge this week that the ITC’s ruling hasn’t impacted the Apple Watch yet.

Biden’s decision not to veto the ITC’s ruling against Apple, reportedly delegated to US Trade Representative Katherine Tai, differs from the last time Apple faced such a ban from the government agency. In 2013, the ITC called for a ban on iPhones and iPads due to Apple infringing on Samsung patents, but then-US President Barack Obama vetoed the ban, following pressure from “phone carriers and a bipartisan coalition of lawmakers,” according to The Hill. Before then, no president had vetoed an ITC-issued product ban since 1987, so it was unlikely that Biden would veto December’s decision, despite Apple’s lobbying efforts reported by The Hill.

With Apple and AliveCor seeking appeals, any mandates regarding the Apple Watch may not take effect for another 18 months, The Hill reported this week.

At the same time, Apple is also battling Masimo over the Apple Watch. In May, the ITC will reveal if there will be an import ban on all Apple Watches except for the SE (from the Series 6 and on) after a January ruling found that Apple infringed on the California and Switzerland-based company’s pulse oximeter patent.

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SCOTUS “confused” after hearing arguments for weakening Section 230 immunity