Uber accuses Levandowski of fraud, refuses to pay $179M Google judgment

Enlarge / Anthony Levandowski leaves court in September 2019.

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Uber says it shouldn’t be on the hook for a massive $179 million judgment owed to Google by Uber’s former star engineer, Anthony Levandowski. Uber made that argument in a legal filing last week to a federal bankruptcy court in California. Uber’s brief portrays the situation differently than Levandowski, who told the court last month that Uber was legally obligated to pay the award.

Levandowski joined Uber in 2016 after almost a decade at Google, where he had been a leading self-driving engineer. Uber bought Levandowski’s months-old self-driving startup Otto for hundreds of millions of dollars, intending to make Levandowski and his team the core of Uber’s fledgling self-driving car project.

But things went sour fast. Google sued Uber, alleging that Levandowski had downloaded thousands of confidential documents

before his departure and had taken them to his new job. Fearing criminal prosecution for trade secret theft—fears that proved justified—Levandowski invoked the Fifth Amendment and refused to testify during the civil trial between Google and Uber.

Uber fired Levandowski and settled with Google. But Google continued to pursue Levandowski in arbitration, winning a $179 million award. Levandowski argues that Uber has an obligation to pay the judgment on his behalf under an indemnification deal Levandowski negotiated as part of the 2016 acquisition of his company.

But in its latest legal filing, Uber argues that it doesn't owe Levandowski anything because Levandowski used fraud to induce Uber to sign the indemnification agreement.

Levandowski lied to us, Uber says

Uber says that Levandowski repeatedly claimed, in writing, that he had not stolen anyone's trade secrets. For example, Uber says Levandowski signed a document stating that "you represent and warrant to the company that you have returned or destroyed all property and confidential information belonging to any prior employer."

"If Uber had known that Levandowski had deliberately downloaded Google confidential trade secrets to use those secrets while at Uber, then Uber would not have completed the Otto acquisition and would not have entered into the indemnification agreement" in 2016, Uber says in its legal filing.

And Uber claims that Levandowski continued lying to the company after the acquisition. At a 2017 "all hands" meeting, Uber says Levandowski "explained that he would download information while at Google in order to work from home." Levandowski also allegedly told Uber that he downloaded some

documents because he was worried Google would refuse to pay him a multimillion-dollar bonus he had earned. He “wanted to be able to demonstrate the work he had done in order to earn that bonus,” according to Uber’s legal filing. Levandowski allegedly told Uber that he no longer had the files.

This contrasts sharply with the story Levandowski told in his late March legal filing. Levandowski claims he fully cooperated with a pre-acquisition investigation by an outside consulting firm. He claims those investigators discovered—and told Uber—that Levandowski had files belonging to Google on his devices. Uber went forward with the acquisition anyway, according to Levandowski.

Another sticking point between Uber and Levandowski concerns a lidar startup called Tyto that Levandowski had helped start during his tenure at Google. Google accused Levandowski of breaching his duties to Google by secretly creating Tyto while working on similar technologies for Google.

Uber estimates that around 75 percent of Google’s $179 million award are attributable to the Tyto issue. And Uber argues that it shouldn’t be on the hook for Levandowski shenanigans that were unrelated to the Otto acquisition. Hence, even if the indemnification agreement is valid, Uber would only owe about $45 million, Uber claims.

Levandowski says that details about the Tyto situation were among the files Levandowski turned over to Uber’s investigators. And he notes that Uber continued representing him under the indemnification agreement for three years after Google raised the issue in late 2016.

There was at least one place where the parties agreed: Uber didn’t object to Levandowski’s request for arbitration. So it will be up to an arbitrator to sort out who is telling the truth and whether Uber must pay Google’s $179 million award.

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