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Google Hit With \$26M Video Patent Verdict In WDTX

By [Lauren Berg](#) ·

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Law360 (November 16, 2021, 9:45 PM EST) -- [Google LLC](#) and [YouTube LLC](#) owe VideoShare LLC nearly \$26 million for infringing the company's video sharing patent, a Texas federal jury found Tuesday, rejecting Google's case for invalidating the patent.

A day after [closing arguments](#) were heard in U.S. District Judge Alan D. Albright's Waco courtroom, the jury found that Google and its YouTube subsidiary directly infringed all six asserted claims of VideoShare's U.S. Patent No. 10,362,341, according to the verdict form.

The jury also rejected Google's argument that portions of the patent's claims are conventional, making it unpatentable.

The jury said Google and YouTube must pay \$25.9 million to compensate VideoShare for their infringement of the '341 patent, which was the amount that VideoShare's damages expert had recommended.

"VideoShare had the facts and the law on its side," said VideoShare attorney Michael Shore of [Shore Chan LLP](#) in a statement Tuesday. "In that scenario the only thing required for a just outcome is a fair trial."

"In the Western District of Texas all parties are treated equally before the law and fair trials are the norm," he added.

Counsel for Google did not immediately respond to a request for comment Tuesday evening.

The patent battle between Google and VideoShare dates to 2013, when VideoShare asserted in Delaware federal court two streaming video patents that were issued that year.

In the Delaware suit, VideoShare claimed Google and YouTube infringed patents relating to a way to share video with advertisements, but the [case was tossed](#) in August 2016 after a judge agreed with Google that both patents were invalid under the [U.S. Supreme Court's](#) Alice decision because they covered the abstract idea of sharing streaming video online.

In November 2019, after obtaining the current patent as a continuation of the invalidated patents, VideoShare sued Google and YouTube in the Western District of Texas.

Judge Albright rejected two bids by Google to dismiss the lawsuit, the first in [May 2020](#) and then in [September of this year](#).

In his first denial, the judge rejected Google's argument that VideoShare was barred from asserting a patent that is related to one already invalidated in an earlier dispute. In his second denial, he found the current patent was still enforceable despite its link to the prior invalidated patents.

During the weeklong trial, VideoShare sought to convince jurors that Google's defense to the infringement claims fails under claim construction.

In his closing arguments, VideoShare's attorney Shore said it was the weakest invalidity case he had seen in his 30 years in law.

"This is garbage, and they know it," he said. "They're not satisfied with trying to escape infringement. They want to destroy the patent. They want everybody out there to know if you come after Google and you're not willing to take a tiny little settlement, we're going to destroy you."

Google's attorney, Luann L. Simmons of [O'Melveny & Myers LLP](#), refuted Shore's characterization of Google's trial strategy, telling jurors the company wasn't seeking to destroy anyone but was just defending itself.

converting video into different formats. Key differences, including the fact that YouTube never distributes the original video format to users, show the website doesn't use VideoShare's patent, Simmons said.

The patent-in-suit is U.S. Patent No. 10,362,341.

VideoShare is represented by Charles L. Ainsworth and Robert C. Bunt of [Parker Bunt & Ainsworth PC](#) and Michael W. Shore, Alfonso G. Chan, William D. Ellerman, Aris Rafilson and Halima Shukri Ndai of Shore Chan LLP.

Google is represented by J. Mark Mann and G. Blake Thompson of Mann Tindel Thompson and Luann L. Simmons, David S. Almeling, Marc J. Pensabene, Brad N. Garcia, Cameron W. Westin, Bill Trac, Amy K. Liang, Sorin G. Zaharia, Stacy P. Yae and Daniel Silverman of O'Melveny & Myers LLP.

The case is VideoShare LLC v. Google LLC et al., case number [6:19-cv-00663](#), in the [U.S. District Court for the Western District of Texas](#).

--Additional reporting by Katie Buehler, Ryan Davis and Tiffany Hu. Editing by Andrew Cohen.

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