

Court lets Skyhook case against Google proceed

May 6 2011, By John Letzing

A Massachusetts judge has ruled that Skyhook Wireless Inc. can move ahead with its legal case against Google Inc., intended to bolster its claim that the Internet search giant interfered with Skyhook's business partnerships.

Boston-based Skyhook sued Google last year, alleging that Google interfered with Skyhook's ability to have its location-sensing technology placed on mobile devices made by Motorola and Samsung.

Skyhook says Google used its market power to pressure companies into using Google's own, competing technology in their phones.

In an order made public on Tuesday, Superior Court Justice Judith Fabricant denied a motion by Google to dismiss Skyhook's case, and wrote that discovery, or a phase that involves parties obtaining evidence to back their case, can proceed.

Fabricant noted that Skyhook's argument appears to be that Google has used its "contractual power" to injure Skyhook and avoid competition with Skyhook's technology.

"Whether Skyhook will be able to elicit evidence to support that theory remains to be seen, but, at least at this stage, the Court cannot conclude that the theory lacks viability," Fabricant wrote.

"It's a big milestone in the case," said Skyhook Chief Executive Ted

Morgan. "Google's been dragging their feet from day one on any issues of discovery."

A Google spokesman declined to comment.

Fabricant has not always expressed a positive view of Skyhook's case. In an order denying Skyhook's motion for an injunction, filed in December, the judge wrote that, "As the record stands so far," Skyhook's "showing is not strong."

Fabricant wrote then that Google had not closed off the prospect that it might approve devices running a revised version of Skyhook's technology, though that version was never submitted. The judge added that the record has not established that Motorola actually terminated its deal with Skyhook "as a result of anything Google did."

Fabricant also wrote in December: "The Court cannot conclude that Skyhook is likely to prevail at trial" on its theory that Google used its market power to dissuade partners from using Skyhook's technology.

Motorola and Samsung provide a number of [mobile devices](#) that are based on Google's Android mobile operating system software. Skyhook has said it invested over \$1.5 million in its Motorola partnership, which it claims Google objected to based on claims of incompatibility between Skyhook's technology and Android.

Samsung informed Skyhook in July of last year that it was no longer using its technology, while Motorola terminated its agreement with Skyhook in August, according to court documents.

Fabricant noted this week that device manufacturers have told Skyhook that their decision to not use the company's technology was "unrelated to any conduct of Google."

"That does not ... establish that the expressed reasons were the actual reasons, or that other considerations, such as pressure from Google, played no role," Fabricant wrote.

In its motion to dismiss, Google had argued that Motorola terminated its deal with Skyhook because Skyhook insisted that [Motorola](#) breach its pre-existing obligations to Google, while Samsung opted to stop using Skyhook's technology due to "performance and price issues."

Skyhook has already "laid bare the meritless nature of its claims," [Google](#) says in the motion.

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