

Facebook's Virtual Reality Ambitions Could be Threatened by Court Order

By Regina Molina, J.D. Candidate 2019 | March 13, 2017

Video game publisher ZeniMax Media Inc. recently asked a federal judge to issue an order that would prevent Facebook, Inc. from using important software code that ZeniMax [claims to own](#). Facebook subsidiary Oculus currently distributes the disputed code to outside companies that develop games for its Rift VR headset. If the Dallas judge decides to issue the order, Oculus' ambitious entry into the emerging virtual reality industry could be seriously hindered, legal experts say. Intellectual property lawyers predict that ZeniMax has a good chance of getting the order, so Facebook must now decide whether to potentially pay a large settlement or fight the order to maintain their position in the industry.

An injunction, which would require Oculus to stop sending out the code to its game developers and halt sales of its games that use it, would create a [major roadblock](#) for the technology company. Such an order would open up a critical opportunity for Facebook Inc.'s virtual reality rivals, such as Sony Corp and Alphabet Inc., to become the first major players in the nascent market.

[ZeniMax's lawsuit](#) resulted from [correspondence](#) in 2012 between Oculus co-founder Palmer Luckey and prominent video game developer John Carmack, who was a ZeniMax employee at the time. Luckey subsequently signed a non-disclosure agreement with ZeniMax that covered those communications with Carmack. When Carmack joined Oculus as its chief technology officer a year later, Zenimax sued, claiming that Carmack's work while he was an employee was vital to the development of Oculus' Rift VR headset.

At trial, the [jury decided](#) that while Oculus had not stolen trade secrets, it had infringed on ZeniMax's intellectual property and had also breached the non-disclosure agreement. The jury has ordered that Facebook pay ZeniMax \$500 million in damages. As for an injunction, the judge will also consider other factors such as whether money is adequate compensation and whether ZeniMax has continued to be harmed. Some lawyers believe that ZeniMax has a good chance of getting an injunction ordered because the jury's verdict does not compensate for the fact that its technology is still being used without its permission. On the other hand, other lawyers think Facebook has the stronger argument that ZeniMax is not being harmed by the sale of Oculus products since the company is not a direct competitor. Facebook also has the deeper pockets and is thus in a position to draw out a long and expensive legal battle and drive ZeniMax into litigation fatigue.

Facebook CEO Mark Zuckerberg [has said](#) he believes that virtual reality technology will become a central part of our daily lives and will revolutionize areas such as entertainment and medicine. The federal judge's decision could either make or break the company's role in such a revolution.