

Waymo and Uber Reach Surprise Settlement

By Evan Zimmerman, J.D. Candidate 2020 | February 22, 2018

In day five of a trial expected to last at least two weeks, Waymo and Uber reached an unexpected settlement to end the trial that rocked the technology world for nearly a year. The final settlement saw Uber granting Waymo 0.34% of Uber's equity, valued at approximately \$245 million, and agreeing to measures to ensure that Uber does not incorporate any Waymo technology in the future. Uber expressed regret and noted that it still did not believe that it had used any of Waymo's proprietary technology. While Travis Kalanick, the disgraced cofounder and former CEO of Uber, took the stand and gave stirring testimony, the trial ended before Larry Page, the billionaire cofounder and CEO of Alphabet, Waymo's parent company, could testify.

The lawsuit began when Waymo engineers were accidentally CC'ed on an email involving Uber employees and a contracting firm that makes LiDAR, a critical technology for self-driving cars, which included schematics similar to proprietary technology developed at Waymo. The inventor of that technology, Anthony Levandowski, had left Waymo and started a new company called Otto, which was then acquired by Uber, thus raising suspicions that Uber had appropriated Waymo's trade secrets.

The trial was dramatic, and as with any major lawsuit, surprising information came to light. It was revealed that Lyft almost bought Otto and that Waymo feared falling behind in the self-driving race. Shockingly, Otto's technology may turn out to have been worthless. Otto was widely lauded in the press, but Lior Ron, Otto's cofounder, only received \$20,000 from the deal due to missing every benchmark for the acquisition. The settlement agreement implicitly revealed Uber's valuation, \$72 billion, which was kept under wraps during its most recent Softbank-led round.

Though a settlement was unexpected, in hindsight it is perhaps unsurprising. A study from 2008 showed that 82-90% of cases settle before the trial is concluded. Furthermore, despite the damning Stroz report alleging serious misconduct, Waymo suffered a series of setbacks over the course of the lawsuit, as previously reported by BBLJ. Waymo's complaint was narrowed from over a hundred claims to merely eight by the time of the trial. During the trial, Judge Alsup criticized Waymo for showing little of substance, suggesting that there was little basis remaining in their stripped-down claims.

The settlement was widely considered a success for Uber's new CEO and general counsel. Uber's new CEO, Dara Khosrowshahi, previously of Expedia, has thus far spent his short tenure putting out the fires of previous leadership. A failure in this lawsuit could have resulted in a devastating blow to Uber's self-driving ambitions and, consequently, possibly destroyed the company. Uber's brand new general counsel, Tony West of Pepsico, negotiated the settlement down from a reported \$1 billion in cash. Alphabet was already a significant investor in Uber.