

Google Earth Dodges 3D Terrain Patent

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Wednesday, March 07, 2007 --- A federal judge in Massachusetts has ruled that Internet search giant Google Inc. doesn't infringe a rival's patent with its popular Google Earth software, which gives online three-dimensional views of the planet.

The summary judgment ruling was handed down Wednesday in Massachusetts District Court. It was a blow to Skyline Software Systems Inc., the Virginia-based software company that sued Google in 2004 after it acquired the technology that drives Google Earth.

"From the beginning, we felt confident that Google Earth's technology does not infringe Skyline's patent," Google spokesman Ricardo Reyes said Wednesday from the company's Mountain View, Calif. headquarters.

Despite granting Google's motion that it didn't infringe, Judge Douglas Woodlock declined to grant summary judgment as to the validity of the patent, which was issued to Skyline in 2002.

Nevertheless, the ruling cleared Google of wrongdoing with one of its most popular products, which has been downloaded millions of times, the company said.

Part of the decision was based on whether or not Google's product consisted of a so-called "renderer," which provides and receives certain data needed for the 3D modeling under Skyline's patent.

"Even viewing the evidence in the light most favorable to Skyline and drawing all inferences in its favor, the undisputed evidence demonstrates that no such renderer exists in the Google Earth system," Judge Woodlock stated.

Google won its first positive ruling in the case in June 2006, when the court denied Skyline's bid to shutter Google Earth.

Skyline, which produces terrain-visualization software that allows tours of land masses on computers and handheld devices, called for the shutdown of Google Earth in January 2006, when it filed a motion for a preliminary injunction.

Skyline said Google was "a billion dollar behemoth" that used its technology and monetary advantage to openly attempt to destroy it. The company also claimed that Google moved too aggressively into the defense sector,

Skyline's main market.

Skyline had argued in its motion that it suffered irreparable harm in the form of lost sales and market position, adverse price erosion, and unlawful violation of its intellectual property rights at the hands of Google as a result of the alleged patent infringement.

Skyline's services are used primarily by military and intelligence sources, while Google Earth is geared towards the average consumer.

Originally a computer games company, Skyline moved its operations to the United States in 2003 when operations funded by the U.S. government—including the CIA and the Department of Defense—became interested in investing in Skyline's technology, but could not put U.S. defense dollars into an Israeli-based company.

Keyhole became a direct competitor of Skyline when it entered the 3D visualization market in 2001. The dispute began in May 2004, when Skyline filed a patent infringement suit against Keyhole. Google was added after it bought the company.

Earlier, Google argued in court proceedings that Skyline could not credibly claim irreparable harm because it waited more than a year to bring its injunction motion, and that the proprietary Google Earth software operates in a way fundamentally different than Skyline's software.

The patent in the case is U.S. Patent Number 6,496,189.

Skyline is represented by Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC. Keyhole is represented by Fenwick & West LLP and Nutter, McClennen & Fish.

The case is Skyline Software Systems Inc. v. Keyhole Corp., case number 1:04-cv-11129, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Erin Marie Daly