

Google vs. the Little Guy

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Skyhook Wireless Chief Executive Officer Ted Morgan says that as he finalized a contract with Motorola (MOT) in April, he gave the phonemaker's executives a warning: Expect some fireworks from Google (GOOG) when the deal is announced. Motorola's forthcoming smartphones would use Skyhook's software, which helps pinpoint a phone's location, instead of Google's version of the technology. While Motorola handsets would still be based on Google's Android operating system, Skyhook—not Google—would collect much of the minute-by-minute data on the whereabouts of millions of Motorola customers. Because Google hopes to make billions by sending ads to individuals based on whether they're at the ball game or in a grocery store, that information is gold.

The fireworks turned out to be more like a bunker-busting bomb, judging from a lawsuit filed by Boston-based Skyhook against Google on Sept. 15 in Massachusetts state court. Skyhook seeks tens of millions of dollars for actual damages and an end to what it says is Google's "intentional interference" in contracts that scared away Motorola and other unnamed Skyhook customers. In the suit, Skyhook alleges that Andy Rubin, who runs Google's Android unit, told Motorola CEO Sanjay K. Jha that Skyhook's technology, which had never raised concerns before, was not compatible with Android. Rubin said Motorola could not ship any Android phones that used Skyhook software unless they contained Google's location technology, too, according to the suit. In July, when Motorola began selling the first phones that were supposed to fall under the Skyhook contract, the devices didn't contain a line of Skyhook code. (Skyhook also filed a federal patent suit, claiming that Google copied aspects of its technology.)

The allegations fly in the face of "don't be evil," Google's oft-spoken pledge that it believes in, among other virtues, technological openness. Since Android launched in late 2007, Google has said that anyone is welcome to create technologies or products based on the software and that the company won't discriminate to help its own products. "The idea that Google strong-armed phone-makers at the expense of some poor little company could be very damaging," says Forrester Research (FORR) analyst Charles S. Golvin. "I mean, it sure sounds evil to me." Motorola and Google declined to comment on the lawsuit, though Google spokesman Aaron Zamost says the company's compatibility test is to "ensure a consistent experience" for users and developers.

In the past year, Android has blossomed from an intriguing experiment into a hit. Google's Android partners shipped more phones than Apple (AAPL) in the first half of the year, and Gartner (IT) predicts Android will grab 30 percent of the market by 2014. This growing mobile power comes as Google faces greater regulatory scrutiny in the U.S. and abroad, most recently an antitrust inquiry by Texas' attorney general over its Web-search practices.

Skyhook Trumps Google in Location Tech

In 2003, when few phones had GPS capabilities, Skyhook devised a way to determine a phone's location by its proximity to Wi-Fi hotspots. By hiring hundreds of people to drive around in cars rigged with Wi-Fi-detection gear, it has since built a database of 250 million hotspots around the world. While GPS is more accurate than Wi-Fi tracking, it doesn't work in skyscrapers or downtown concrete canyons where buildings block the signal. After talking briefly to Skyhook about a licensing deal, Google focused on developing a similar capability. Today, Skyhook charges roughly 50¢ per device for the technology; Google gives its software away. Morgan says phone-makers are willing to pay for Skyhook because the technology is more accurate. Jeff Rath, an equity analyst with investment bank Canaccord Adams, has another explanation: "They're not Google. That's become a selling point for companies that want independence from Google's big machine."

Morgan says Google never stood in the way until Motorola announced its Skyhook deal. That's when Rubin called Jha about Skyhook compatibility issues, Skyhook alleges. Morgan says his team tweaked its software to make sure it conformed to Google's specifications, "but we never heard back from Google."

If Skyhook loses its suit, it's essentially cut out of the Android market. If it wins, it still faces a tough market. Although the company has won contracts with Dell (DELL), Hewlett-Packard (HPQ), and Samsung, it has lost the source of over half its sales: Apple. While Skyhook has shipped in millions of i-Phones since 2008, Apple recently revealed that it has dumped Skyhook for its own location technology. "Entrepreneurs are taught to pick something important to focus on," says Morgan. "But maybe we chose something too important."

The bottom line: Skyhook's lawsuit accuses Google of strong-arming smartphone manufacturers to keep them from using its location software.

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