

Quibi Fights Eko's Bid To 'Rip Out' Turnstyle Tech

By **Lauren Berg**

Law360 (May 7, 2020, 9:18 PM EDT) -- An Israeli tech company urged a California federal judge during a phone hearing Thursday to stop short-form streaming startup Quibi from using video orientation technology it claims the company stole, while Quibi argued it would be irreparably harmed if it had to "rip out" its so-called Turnstyle feature.

JBF Interlude 2009 Ltd. – Israel, which does business as Eko, asked U.S District Judge John A. Kronstadt to issue a preliminary injunction barring Quibi Holdings LLC from capitalizing on its alleged theft of Eko's U.S. Patent No. 10,460,765, which covers a method of changing video orientation between horizontal and vertical. Quibi's app uses an automatic video orientation feature it calls Turnstyle, according to a separate complaint the billion-dollar startup filed against Eko.

Eko attorney Neel Chatterjee of Goodwin Procter LLP said Quibi's Turnstyle feature has a substantially similar design to the technology developed by Eko. He argued that Quibi did not independently develop the feature and that the Quibi employees who worked on it used to work for Snapchat and had access to Eko's proprietary technology before jumping to Quibi.

"We're not trying to entirely shut down Quibi," Chatterjee said. "Quibi has said its primary value is its content, not the Turnstyle feature. If that's true, then there's very little harm to Quibi [from disabling the feature]."

Eko sued Quibi in March on the heels of Quibi's suit, which accuses Eko of mounting a "campaign of threats and harassment" intended to interfere with the imminent launch of Quibi's streaming service based on 10-minute videos.

Quibi denies in its suit that it infringed the '765 patent or stole Eko's trade secrets. The Los Angeles-headquartered company is seeking to block Eko from continuing to make those claims, alleging the company spread the purportedly false information by feeding it to reporters at The Wall Street Journal and Recode.net.

In its April 30 motion for a preliminary injunction, Eko said it was previously viewed as having "ground-breaking, unique and proprietary technology," and has suffered reputational harm as it now needs to explain its ownership of the technology allegedly stolen by Quibi.

But Quibi attorney Michael A. Jacobs of Morrison & Foerster LLP said that the technical details of the

two companies' technologies are completely different and show that Quibi independently developed its Turnstyle feature. The exact nature of those technical details has been sealed from the public.

Jacobs also argued that there is no evidence that any data or documents were stolen from Eko and given to Quibi. He said it's "pretty apparent" that how Quibi uses the technology is not the same as how Eko uses it.

If the injunction is granted, Jacobs said, Quibi will suffer immense harm by having to "rip out" the Turnstyle function and then figure out how to deliver content to its customers. While the content "comes first," Jacobs said the company is trying to marry content with technology, meaning that taking out the Turnstyle function would limit its ability to provide content to subscribers.

A representative for Eko declined to comment Thursday beyond the arguments in their motion and representatives for Quibi did not immediately respond to a request for comment.

Eko is represented by Neel Chatterjee, Darryl M. Woo, Cindy Chang, Elizabeth J. Low and Hong-An Vu of Goodwin Procter LLP.

Quibi is represented by Michael A. Jacobs, Benjamin J. Fox, Soo Jeong Park, Thomas J. Pardini and Ryan J. Malloy of Morrison & Foerster LLP.

The case is JBF Interlude 2009 – Israel v. Quibi Holdings LLC, case number 2:20-cv-02299, in U.S. District Court for the Central District of California.

--Additional reporting by Mike LaSusa. Editing by Breda Lund.

Update: This story has been updated to reflect that a representative for Eko declined to comment.