

LEADER'S PROPOSED JURY INSTRUCTION NO. 4.2
PRIOR ART

Previously known subject matter in the field of a claimed invention for which a patent is being sought is referred to as "prior art." For example, previous devices, methods, publications or patents are "prior art" if they existed before the invention date. The effective filing date of the patent application can also determine what is considered prior art. The parties contest this date. I will give you instructions later regarding how to determine these dates.

The parties dispute what is prior art in this case. Facebook contends that the following are prior art:

- (1) European Patent No. EP 1087306 ("Hubert '306")
- (2) U.S. Patent No. 6,236,994 ("Swartz '994")
- (3) iManage DeskSite 6.0 User Reference Manual, July 26, 2001
- (4) U.S. Patent No. 6,434,403 B1 ("Ausems '403")
- (5) Leader's Leader2Leader product ("Leader2Leader")

Once you have determined what can be considered prior art, then you must consider whether Facebook has met its burden of proving by clear and convincing evidence that such prior art affects the validity of the '761 Patent, which I will instruct you on later.