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## PTO To Re-Examine Droplets Patent In Adobe Case

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The U.S. Patent and Trademark Office agreed on Friday to intervene in a lawsuit brought by Droplets Inc. against **Adobe Systems** Inc. over a patent on computer networking software, granting Adobe's request to re-examine the patent in the case.

Adobe has maintained that the patent is invalid.

"We feel very confident in the validity of our patent, and we look forward to having the USPTO confirm us in our confidence," said James Holmes, an attorney for Droplets.

The disputed patent describes software by which client computers and servers on a network exchange information. Among other things, it allows computers to run on networks even if the network connection is only intermittently available.

Droplets filed the lawsuit in July against Adobe and venture capital investment firm Polaris Venture Partners. Droplets alleged that Adobe had acquired trade secrets through an individual who tried to negotiate a deal between Droplets and Polaris and that the trade secrets became the subject of the patent.

In 2001, **Goldman Sachs** offered to invest in Droplets, which had been founded the year before, on the condition that Droplets receive additional funds from one of a number of investment firms approved by Goldman. Polaris was one of the approved firms and Droplets arranged to meet with Polaris officers, according to the complaint.

Those meetings included Simeon Simeonov, founder of Allaire Corp., which Polaris had extensively funded. Simeonov was then chief technology officer at Macromedia Inc., according to the complaint.

Simeonov said he was there to help Polaris better understand Droplets' technology, the complaint said.

During the meetings, Droplets revealed details about its technology under an agreement of confidentiality, and Simeonov and Polaris expressed interest in it, Droplets said. But later that year Polaris said that it would not invest in Droplets, the complaint said.

Macromedia announced in a 2003 press release that it planned to introduce a product line called Flex, "a presentation server and application framework that enables enterprise developers to deliver rich Internet applications using existing tools, design patterns and infrastructure." Flex was designed to work with Macromedia's popular Flash player.

In February 2004, the USPTO granted Droplets its patent on the disputed technology. Only a month later, Macromedia released Flex.

Adobe acquired Macromedia in 2005, and continued to sell Flex products. Earlier this year, it also introduced a new product, called Adobe Integrated Runtime, that infringes on Droplet's patent, the complaint said.

Droplets' complaint accuses Adobe of patent infringement, misappropriation of trade secrets, unjust enrichment, breach of contract and civil conspiracy. It accuses Polaris of breach of contract, civil conspiracy and breach of fiduciary duty.

The company has asked for an injunction against Adobe to stop selling the allegedly infringing products, compensatory damages, a finding of willful infringement and award of attorneys' fees.

Attorneys for Adobe and Polaris could not immediately be reached for comment.

Droplets is represented by James Andrew Holmes, attorney at law, **Parker Bunt** & Ainsworth PC, **Brown McCarroll** LLP, **Ireland Carroll** & Kelley PC, **Jones & Jones**, **Susman Godfrey** LLP, **Akin Gump** Strauss Hauer & Feld LLP, and Spangler Law PC. Adobe is represented by **Weil Gotshal** & Manges LLP. Polaris is represented by **Dechert LLP** and **Ramey & Flock** PC.

The case is Droplets Inc. v. Adobe Systems Inc. et al., case number 2:06-cv-00307 in the U.S. District Court for the Eastern District of Texas.

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