

French entrepreneur asks US Senate to investigate a YCombinator startup - Close.io – on suspicions of trade secret theft

On Thursday February 22nd 2018, Sylvain Courcoux, a French internet entrepreneur wrote as a last resort to every US Senator and to the Governor of California to ask for an investigation on Close.io, a Silicon Valley startup that launched out of YCombinator, on suspicions of trade secret theft. His objective: determine how come Close.io is operating a CRM software with almost the same intellectual property as GoyaTelemarketing, a software prototype developed over a year prior to Close.io launching, and submitted under non-disclosure agreement to Startup Chile.

For the full letter: www.sylvaincourcoux.eu/Senate.html

A software prototype for a telephone sales software submitted to the Startup Chile incubator

After a 12-year career in Silicon Valley, in financial sales and with his first startup in 2007, Krilix, Sylvain Courcoux leaves California at the end of 2010, teaches himself software programming, codes for a year and submits a prototype for a telephone sales software, GoyaTelemarketing, to Startup Chile. To launch the Startup Chile incubator, the Chilean government calls on startup experts from Silicon Valley. Sylvain Courcoux submits an online application in October 2011, under non-disclosure, to the incubator through the website YouNoodle. It's a company headquartered in San Francisco: entrepreneurs submit their intellectual property and incubators throughout the world use this platform to evaluate startups. To help the Startup Chile incubator, YouNoodle relies on Silicon Valley judges who review startup applications. The notarized application of GoyaTelemarketing is available online at www.sylvaincourcoux.eu/constat.pdf In December 2011, he learns that he's not selected.

Discovery of Close.io, a YCombinator startup, and its similarities with GoyaTelemarketing

He goes back to Europe, reapplies to Startup Chile in April 2012 without success and continues coding his software. On November 29th 2012, he discovers Close.io, a startup in beta launching from YCombinator. This is the flagship incubator of Silicon Valley, a global reference in tech entrepreneurship, with a portfolio of startups estimated at 80 billion dollars.

The innovation of Sylvain Courcoux was in creating a CRM that worked a sales communication tool, whereas existing CRMs were focused on data management. With GoyaTelemarketing, salespeople could make phone calls in one click, without manually dialing phone numbers, and send emails using email templates. Since sales communications occurred within the same user interface, the software automatically logged the entire sales history without the user doing any manual data-entry. And since the software had all the sales history, it then enabled salespeople to optimize their follow-up. For instance, the software makes it possible to find in just a few clicks all the leads with which you've had a conversation that lasted more than 10 minutes, over 3 months ago, and who were willing to receive an email. This type of search engine didn't exist and it's what enables salespeople to find interesting leads and thus to recycle the work already done into new sales opportunities. Sylvain Courcoux used his 7 years of sales experience to develop the phone for salespeople. As the videos below show, even if the color palette and the layout are different, Close.io seems to implement the key functionalities of GoyaTelemarketing: almost identical intellectual property.

Video overview of GoyaTelemarketing: <https://www.youtube.com/watch?v=YXqK8OBQA0c>

Video overview of Close.io: <https://www.youtube.com/watch?v=55sAnbe6IXE>

Video interview of the Close.io founder: <https://www.youtube.com/watch?v=jyPWi-EsI2I&t=12m45s>

Additional videos: <https://jsfiddle.net/1mbc8tk2/>

Contacts with over 80 lawyers in the US

At the end of 2014, while still coding his software, he realizes that in addition to a civil tort, misappropriating protected intellectual property also has criminal implications. At the beginning of 2015, he contacts an intellectual property attorney who refers him to another lawyer. But in the US, filing an intellectual property lawsuit costs 200-300K. In the summer of 2015, he decides to blow the whistle on the dispute and ask Close.io for a cease-and-desist without any compensation. He prepares a blog post and an hour-long video to show the similarities between the two software and marketing messages. He then contacts about 50 lawyers in the US, some of whom see the blog post and the video. However, a more traditional approach seems preferable and so he contacts Close.io to seek a settlement prior to the expiration of California civil statutes of limitations. No reply.

In July 2016, he takes part in a startup competition in Stuttgart: 10 entrepreneurs competing for 3 spots in front of a panel of 5 German startup experts. He pitches his startup, now called goyaPhone, which became the evolution of GoyaTelemarketing. He's not selected and asks what he can do to improve his pitch: "nothing, you had the best pitch but your software looks too much like Close.io" At this point, he decides to file a complaint with the FBI. He contacts about 20 lawyers to assist in the filing of the complaint: 10K upfront... which he doesn't have. However, the last attorney he speaks to, a former US attorney, asks him a simple question: "apart from the similarity of the two software and a timeline that matches within days, do you have a second track of evidence?" Yes: Sylvain Courcoux remembers that in 2013, the founder did several videos on the origin of his software, which have been deleted from his YouTube channel: not a single video left about the origins of Close.io from 2012-2014. And on the few interviews of him on other channels, the founder seems somewhat deceptive. Not a formal proof, but a second track of evidence that supports his suspicions. Sylvain Courcoux continues coding, incorporates his company, but thinks he misses the November 2016 5-year federal statutes of limitation deadline. However, under California law, statutes of limitations run 5 years after discovery, not commission. And, quoting from "Prosecuting Intellectual Property Crimes" from the US DOJ 4th edition, page 174, *"Because §§ 1831 and 1832 do not contain a specific statute of limitations, the general five-year statute of limitations for non-capital offenses applies. See 18 U.S.C. § 3282. In one recent prosecution for economic espionage (United States v. Chung), however, the court held misappropriation that occurred before the five-year statute of limitation does not defeat a trade secret prosecution because possession of trade secrets is a continuing offense."*

11 criminal complaints

He finally files a criminal complaint with the California Attorney General in April 2017, but he's referred back a civil litigation, even though he explained he couldn't afford it. He files again in May: no reply. He files a complaint in France in June. He files a complaint with the Santa Clara District

Attorney in June and in July: nothing. In September 2017, he files a complaint with six US jurisdictions, including a federal complaint, because federal statutes of limitations for financial violations run for 10 years. If trade secret theft occurred, it would mean that the founders of Close.io also committed a 25 million dollar financial fraud by raising capital from prominent Silicon Valley investors. The 13-page complaint is sent to multiple law enforcement agencies but to this day, no reply.

Letter to the US Senate to ask for an investigation

On February 22nd, he asks every US senator to launch an investigation. The full-length letter is available at www.sylvaincourcoux.eu/Senate.html . The goal is to determine how come Close.io, a startup that launched out of YCombinator, is operating with essentially the same intellectual property that Sylvain Courcoux developed and submitted under non-disclosure agreement to YouNoodle, for the benefit of the government of Chile. If the suspicions came to be proven, it could also be that YouNoodle receives on its platform the intellectual property of entrepreneurs and incubators from around the world and that some nuggets are recycled into YCombinator pivots.

goyaPhone launches in April 2017, without any equity funding

To launch his CRM, the goyaPhone (www.goyaphone.eu) Sylvain Courcoux coded the entire application as a single-founder, by necessity: 7 years of work, the equivalent of a book of 10 thousand pages of C# and Javascript code. On StackOverflow, among 8 million programmers, he's in the top 2% worldwide. To launch his company, his software was appraised at 500K € and he sought seed funding from over 50 business angels in Alsace, several public grants, three incubators in Paris and one in Strasbourg : not a penny raised in France. In the end, he manages to secure a small bank loan while in the US prominent startup investors funded an almost identical intellectual property with 25 million dollars.

The full letter is 14-pages long, this is the last paragraph

John Kennedy said that "The rights of every man are diminished when the rights of one man are threatened" because an injustice invites more injustice. Someone deprived of their intellectual property is ultimately deprived of their career. Intellectual property crimes don't directly affect everyone but if your son, daughter, brother, great-grandson or neighbor had their trade secret and their career stolen, you wouldn't think it's fair. If someone cheats on their resume, what happens? Luke Wroblewski, a prominent technologist, once tweeted: "the hard part of building new products: you see it (in your head) before anyone else can". Hypothetically, if a startup incubator and startup founders were to cheat by stealing trade secrets that represented a lifetime of work, should the pretenders be praised for having succeeded at cheating by potentially having committed white-collar crimes? We're at the beginning of the technology age and if my suspicions come to be proven, the dogma that no one steals startup ideas will be forever resolved. I think the only way for this dogma to be resolved is for something like I'm claiming to happen to someone like me because otherwise, such dispute would have probably been settled in confidence, and no one would have heard of it. If some think of turning a blind eye to what could be the biggest intellectual property crime in Silicon Valley, then I think the soul of the US justice system is in peril. The biggest injustices are always committed by people in power, and under cover of the law. The Holocaust: law enforcement carrying out lawful orders, but it was not fair, it was an injustice that was fought against and resolved.

Sometimes, you have to hope on the goodwill of strangers across the world and so now, my last hope is that the lawmakers of the United States of America will see through the fog and launch an investigation and find out what happened with my intellectual property at YouNoodle, and how come it's so similar to that of Close.io. It could be that an investigation will uncover a possible connection between my Startup Chile application and the pivots of the Close.io founder, and, if proven, it could be just an isolated incident, or it could also be that YouNoodle receives the intellectual property of startup incubators and entrepreneurs from around the world, and then recycles the nuggets into YCombinator startups. My suspicions are based on facts and there aren't two sides to the truth, there's just the truth. This is not a gun crime, this is not a sex crime, this is not a drug crime; this is about a plausible intellectual property cybercrime. I remember that the first words of English I learned were the Pledge of Allegiance, and it ends with "Liberty and Justice for all".

For the full letter with confirmation notices: www.sylvaincourcoux.eu/SenateInvestigation.pdf

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