

2011-1366

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

LEADER TECHNOLOGIES, INC.,

*Plaintiff-Appellant,*

v.

FACEBOOK, INC.,

*Defendant-Appellee.*

**Citation links updated Mar. 13, 2014:** On Fri. Mar. 7, 2014, the document service *Scribd* removed all documents cited herein that had been accessible from *Scribd* for two years. Some of the documents had over 10,000 reads. *Scribd* principals Trip Adler and Jared Friedman have Harvard associations with Mark Zuckerberg. The documents have been moved and the links updated herein. No content changes have been made.

[CLICK HERE](#) to see the delivery receipt and the Federal Circuit Bar Association's Request.

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*Appeal from the United States District Court for the District of Delaware in  
Case No. 08-CV-862, Judges Joseph J. Farnan and Leonard P. Stark*

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**MOTION TO COMPEL EACH MEMBER OF THE FEDERAL CIRCUIT  
TO DISCLOSE CONFLICTS OF INTEREST**

*Civil Appeal No. 2011-1366*

Lakshmi Arunachalam, Ph.D.  
222 Stanford Avenue  
Menlo Park, CA 94025  
(650) 854-3393  
*for Amicus Curiae*  
Lakshmi Arunachalam, Ph.D.

Sep. 5, 2012

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<http://www.fbcoverup.com/docs/arunachalam/2012-09-05-Motion-To-Compel-Judicial-Conflicts-Of-Interest-In-Leader-v-Facebook-By-Amicus-Curiae-Lakshmi-Arunachalam-PhD-Sep-5-2012.pdf>

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

*Leader Tech v. Facebook, Case No. 2011-1366*

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**CERTIFICATE OF INTEREST**

*Amicus Curiae* Lakshmi Arunachalam, Ph.D. certifies the following:

1. The full names of every party or amicus represented by me is:  
**Lakshmi Arunachalam**
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: **NONE**
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of amicus curiae represented by me are: **NONE**.
4. The names of the law firms and the partners or associates that appeared for the amicus curiae now represented by me in the trial court or agency or that are expected to appear in this Court are: **NONE**

To be clear, *Amicus Curiae* has no financial interest in either party. Rather, her interest in this matter is as a concerned citizen and holder of validly issued United States patents; the property rights therein she believes to be harmed by the conduct of Facebook and the courts in this matter.

Sep. 5, 2012

/s/

\_\_\_\_\_  
Signature

Lakshmi Arunachalam, Ph.D.  
*for Amicus Curiae* Lakshmi Arunachalam, Ph.D.

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

*Leader Tech v. Facebook, Case No. 2011-1366*

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**CERTIFICATE OF GOOD FAITH PURSUANT TO  
FEDERAL RULES OF CIVIL PROCEDURE RULE 37(1)**

*Amicus Curiae* Lakshmi Arunachalam, Ph.D. certifies the following:

1. That *Amicus Curiae* has attempted in good faith to bring to the attention of the Court its duty to disclose conflicts of interest which are included in the Renewed Motion Of Lakshmi Arunachalam, Ph.D. For Leave To File Brief Of Amicus Curiae In Support Of Leader Technologies' Petition For Rehearing And Rehearing *En Banc* ("Renewed Motion").
2. That *Amicus Curiae* received a four-page opinion from the Court that wholly excused its conduct and continues to fail to disclose its conflicts of interest.
3. Therefore, That *Amicus Curiae* is compelled to file this motion in both her interest as well as in the interest of the public.

Sep. 5, 2012

/s/

\_\_\_\_\_  
Signature

Lakshmi Arunachalam, Ph.D.  
*for Amicus Curiae* Lakshmi Arunachalam, Ph.D.

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## MEMORANDUM

Amicus Curiae Lakshmi Arunachalam, Ph.D. (“Dr. Arunachalam”)

filed a motion for leave to file an *amicus curiae* brief in this matter. The Court denied the motion, as well as a motion for reconsideration and a renewed motion. On Sep. 1, 2012 Dr. Arunachalam sent a “Request For Relief.”<sup>1</sup> Remarkably, to date, while the Court has published its denials of Dr. Arunachalam’s motions, citing elements of these motions, the Court has *refused* to publish the motions to which they refer. These motions may be obtained by the public nonetheless at <http://americans4innovation.blogspot.com>.

**This conduct amounts to censorship.** [\*Southeastern Promotions, Ltd. v. Conrad\*](#), 420 US 546 (Supreme Court 1975) at 553 (“Our distaste for censorship—reflecting the natural distaste of a free people—is deep-written in our law.”). Not even a hearing was conducted before the decision to withhold Dr. Arunachalam’s motions from public access. Worse, the Court’s own employee, Valerie White, said

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<sup>1</sup>Fully captioned as “[REQUEST FOR RELIEF FROM JUDGMENT](#) AND ORDER PURSUANT TO RULES 60(a) AND 60(b) FOR NEWLY DISCOVERED EVIDENCE, MISTAKE, FRAUD, SURPRISE, MISREPRESENTATION, MISCONDUCT AND THE JUDGMENT IS VOID.”

on Aug. 7, 2012<sup>2</sup> that none of Dr. Arunachalam's first three motions were even received even though the United States Post Office Records verify that they were.<sup>3</sup>

Dr. Arunachalam's briefs cite new, disturbing facts that this Court is choosing to ignore, namely that Facebook *withheld evidence* of its 2004 source code from Leader, investments by members of this Court in Facebook, and other conflicts of interest which reveal the **high likelihood of Court bias toward Facebook**.<sup>4</sup> e.g., See **Exhibit A**, Deposition of Bryan J. Rose, Facebook forensic expert witness, *Paul D. Ceglia v. Mark Elliot Zuckerberg*, 1:10-cv-00569-RJA (W.D.N.Y. 2010), **July 18, 2012**, [Tr. 137:8-13](#) ("Q. Did your team -- your team evaluated 15 or 20 computers that Mr. Zuckerberg used historically; right? A. ... yes, correct"); *Id.*, [Tr. 41: 22-43:10](#) ("Q. Did they [Harvard] produce forensic copies [of Mark Zuckerberg's 2004-2004 email] from a backup source to you? A. Yes."). **Facebook told Leader that this evidence did not exist.**

It is unconscionable for this Court to overlook this new evidence that Facebook *withheld* from Leader during discovery.

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<sup>2</sup> [Valerie White conversation with Steve Williams](#), Aug. 7, 2012. *Donna Kline Now!*.

<sup>3</sup> "Do These Facts Pass The "Ordinary Person In The Streets" Test For Conflicts of Interest and Propriety?" See sidebar containing [USPS Express Mail Proofs of Delivery](#). *Donna Kline Now!*

<sup>4</sup> See [Request for Relief, p. 12](#), citing Motion For Reconsideration Of Notice Of Motion of Lakshmi Arunachalam, Ph.D. For Leave To File Brief Of Amicus Curiae In Support Of Leader Technologies' Petition For Rehearing And Rehearing *En Banc*, p. 4.

This revelation of new information withheld at Harvard becomes even more pertinent when one considers the central role that **Lawrence H. Summers** played then and now in Facebook—then President of Harvard University during Mark Zuckerberg’s matriculation (now CEO of Facebook), long-time professional adviser to Sheryl Sandberg (now Facebook COO), long-time economic adviser to Moscow, Russia-based Juri Milner (now CEO of Facebook’s second largest shareholder), director of the United States Government 2008 financial bailout of Goldman Sachs (now Facebook’s chief underwriter), and now special adviser to Marc Andreessen and Andreessen Horowitz (now a Director of Facebook).

Mr. Summers has returned to Harvard University in recent months. Given his central role in the questions swirling around these conflicts of interest, a reasonable person would consider the evidence at Harvard at risk of spoliation. *See* Ex. A. In the interest of justice, **this Court should act to prevent the spoliation** of the Harvard evidence, and other 2003-2004 Facebook documents, files, instant messages and emails that may be useful to Leader.<sup>5</sup>

Dr. Arunachalam believes that most, if not all, of the members of this Court have and had an ethical duty to disqualify themselves, or at least disclose their

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<sup>5</sup> *See* “Larry Summers Joins Andreessen Horowitz As Special Advisor.” Nicole Perlroth, [Forbes](#), Jun. 29, 2011. Accessed Sep. 4, 2012; *See* also “Larry Summers To Return to Harvard at Year's End.” Elias J. Groll and William N. White, [The Harvard Crimson](#), Sep. 21, 2010. Accessed Sep. 4, 2012.

conflicts of interest. Instead of full disclosure, they were silent, and when challenged, have presented a haughty, dismissive opinion.<sup>6</sup> **Federal judges are not above the law**, and in this case, the law dictates that the members of this court provide full disclosure of their conflicts of interest. To date they have provided only conclusory, misleading, and in some instances, false statements.<sup>7</sup> The public interest is best served by the members of this Court accounting for their appearances of impropriety in this case.

Dr. Arunachalam relies on the Federal Rules of Appellate Procedure, including [Rule 27\(d\)\(1\)\(E\)\(2\)](#)(20 page limit). Dr. Arunachalam further requests that the Court interpret the rules liberally<sup>8</sup> as required by the Rules for *pro se* filers as well as required by the U.S. Supreme Court in [Foman v. Davis](#), 371 U.S. 178, 181-82 (Supreme Court 1962) which directs to assess the motion **on its merits** and not dismiss it for mere procedural technicalities.

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<sup>6</sup> Order, Aug. 10, 2012.

<sup>7</sup> The Court's Aug. 10, 2012 Opinion stated falsely that Dr. Arunachalam had not provided a certificate of interest in motion for leave to file her amicus curiae brief. That certificate is the *second* ("ii") page of the motion. The Court also stated that Dr. Arunachalam's original motion was moot on **July 11, 2012** citing their **July 16, 2012** denial. This is also false; evidently designed to hide the fact that they jumped the gun and their decision is therefore invalid. *See* Request for Relief, pp. 6, 7. In addition, this Court is acting fraudulently since it lacks jurisdiction over the new unconstitutional claims that it is attempting enforce upon Leader. *See Id.*, pp. 3-5.

<sup>8</sup> [Rule 27](#). Motions. Federal Circuit. Accessed Sep. 4, 2012.

Pursuant to [FRAP 27\(a\)\(5\)](#) Leader Technologies has said they will not oppose this motion and reserve the right to file a response; Facebook objects to this motion and says “We do not plan to submit a response.” Note that Mr. Thomas G. Hungar’s email at 7:02PM on Sep. 1, 2012 was received *after* the Request for Relief had already been sent to the Court earlier that day. For the record, Facebook indicated that they oppose the Request for Relief motion and “do not plan to submit a response.”

### **LAW AND ARGUMENT**

The Federal Judicial Center begins its treatise on “Judicial Disqualification: An Analysis of Federal Law” with these crystal clear words:<sup>9</sup>

For centuries, impartiality has been a defining feature of the Anglo-American judge’s role in the administration of justice. The reason is clear: in a constitutional order grounded in the rule of law, it is imperative that judges make decisions according to law, unclouded by personal bias or conflicts of interest.

The Code of Conduct for Judicial Employees provides as follows:

Canon 1: A judicial employee should uphold the integrity and independence of the judiciary and of the judicial employee’s office.

Canon 2: A judicial employee should avoid impropriety and the appearance of impropriety in all activities.

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<sup>9</sup> [“Judicial Disqualification: An Analysis of Federal Law.”](#) Federal Judicial Center, 2010, p. 1. Accessed Aug. 29, 2012.

The [Model Rules of Professional Conduct](#), contain twenty-seven (27) instances referencing “conflicts of interest” and fifty-six (56) instances referencing “adverse interests.” Likewise, the [Code of Conduct for United States Judges](#) has four (4) instances discussing “conflict [of interests].” The definition of “conflict of interest” herein shall be as used as generally understood as defined by common law.

Precedent appears to be unclear as to how a judge is compelled by the public to disclose conflicts of interest. Indeed, the public relies on the judges themselves to be diligent in performing their *duty to initiate* such disclosure. Therefore, in one sense this motion is simply asking the members of the Federal Circuit, including the Clerk of Court, to be transparent and do their duties. Laypeople should not have to ask.

Dr. Arunachalam requests procedural latitude pursuant to *Foman, supra* and otherwise relies upon the general guidelines of the Federal Rules of Civil Procedure for a motion to compel, and the Federal Rules of Appellate Procedure Rule 27 for a motion in general. Dr. Arunachalam further relies upon the ethical principles embodied in 28 U.S.C. §455 regarding the public’s interest in the trustworthiness of the judiciary.

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## 1. This motion is in the public interest

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Judges have a duty to disclose conflicts of interests so that the public can be assured of his or her impartiality; hence, this motion is in the public interest. *See In re United States*, 666 F. 2d 690 (1st Circuit 1981)(“To ensure that the proceedings appear to the public to be impartial and hence worthy of their confidence, the situation must be viewed through the eyes of the objective person. *See* H.Rep.No. 1453, 93d Cong., 2d Sess., 1974 U.S.Code Cong. & Admin.News 6351, 6355.”).<sup>10</sup>

An ordinary person is hard-pressed to see where this Court lifted a finger to comply with these high ethical standards in this case. Instead, they have *masked* their conflicts in procedural gobbledygook<sup>11</sup> meant to confuse civilians with jargon and self-serving manipulation of rules that can be interpreted any way a judge, citing “judicial discretion” wishes. These excuses include such things as hiding investments in Facebook,<sup>12</sup> cozy relationships with Facebook’s attorneys,

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<sup>10</sup> *See* additional case law at [“Judicial Disqualification: An Analysis of Federal Law.” Federal Judicial Center, 2010, p. 97, fn. 488](#) and [Id. pp. 121-129](#). Accessed Aug. 29, 2012.

<sup>11</sup> Corrupt judges are notorious for using alleged procedural missteps to punish their enemies while citing “judicial discretion” to turn a blind eye to their friends. **Such conduct is destroying public confidence in American justice**; *See* also [Foman v. Davis](#), 371 U.S. 178, 181-82 (Supreme Court 1962)(“The Federal Rules of Civil Procedure embody the principle that where possible, cases should be decided on their merits and not on mere procedural technicalities.”).

<sup>12</sup> “Anything goes with this company.” Jim Cramer Interview re. Facebook’s Peter Thiel dumping his stock. [CNBC](#), Aug. 21, 2012; *See* also Leader blindsided with

professional biases against Leader witnesses and prospective witnesses, ignoring explosive new evidence withheld by Mark Zuckerberg, abuse of due process, a clerk acting like a judge, failure to follow the spirit of justice embodied in the Rules of Civil or Appellate Procedure, and censorship of court records, to name a few.

“We find particularly worrisome [the judge’s] failure to disclose this conflict himself. “ [Moran v. Clarke](#), 296 F.3d 638 (8th Cir. 2002). This principle applies equally to clerks. “When the judge’s current law clerk has a possible conflict of interest, the Eleventh Circuit notes that ‘it is the clerk, not the judge who must be disqualified.’”<sup>13</sup> Clerk of Court Jan Horbaly’s cozy relationship with Facebook’s attorneys have biased these proceedings. In fact, all evidence suggests that Mr. Horbaly unilaterally wrote and signed the opinions in breach of the law. US citizens do not appoint judges to sit on the bench; only to have those responsibilities shuffled off to unappointed (and therefore *unaccountable*) law clerks and legal assistants. If this is the case, then the public has no need for federal judges.

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Court opinion. also Shibani Joshi, F Shibani Joshi. Interview with Michael McKibben, Chairman & Founder of Leader Technologies, Inc. [Fox Business](#), Jul. 16, 2012.

<sup>13</sup> [Judicial Disqualification: An Analysis of Federal Law. Federal Judicial Center, 2010, pp. 29, 30](#), citing [Byrne v. Nezhad](#), 261 F.3d 1075, 1101–02 (11th Cir. 2001) (quoting [Hunt v. Am. Bank & Trust Co.](#), 783 F.2d 1011, 1016 (11th Cir. 1986)). Accessed Aug. 29, 2012.



Given the fact that the Court denied Dr. Arunachalam's Motion for Leave to File on the *same day* it was received on July 11, 2012, Jan Horbaly's signature stamp on the denial only *hours* later means that no duly-appointed judge even saw the motion. That's is what Clerk employee Valerie White confirmed. *See* fn. 2.

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**2. This Court is duty-bound to investigate and account to the public for its actions and the allegations of bias**

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“§455 calls upon judges to evaluate the merits of a movant's allegations and not simply the facial sufficiency of those allegations.”<sup>14</sup> This is especially true in this case since this case is broadly publicized and public confidence in the judicial process is being undermined by the Court's bias. [In re United States](#), 158 F.3d 26, 30 (1<sup>st</sup> Circuit 2001); *See* also [In re Boston's Children First](#), 244 F.3d 164, 167 (1st Cir. 2001)(where question of judge's partiality was highly publicized, writ of disqualification issued where it may not have under normal circumstances). The Court opinion was nothing more than whitewash. *See* fn. 5.

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<sup>14</sup> *Id.*, [“Disqualification Under 28 U.S.C. §455.” Judicial Disqualification: An Analysis of Federal Law. Federal Judicial Center, 2010, p. 84.](#) Accessed Aug. 29, 2012.

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**3. Judges are responsible to adequately investigate their holdings and disclose possible conflicts**

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*Porter v. Singletary*, 49 F. 3d 1483 (11th Circuit 1995) at 1489 (“The Commentary to Canon 3E(1) provides that a judge should disclose on the record information which the judge believes the parties or their lawyers **might consider relevant** to the question of disqualification. We conclude that both litigants and attorneys should be able to rely upon judges to comply with their own Canons of Ethics.”)(emphasis added).

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**4. Biased rulings must be vacated**

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In *Chase Manhattan Bank v. Affiliated FM Ins. Co.*, 343 F. 3d 120 (2nd Circuit 2003) **the district judge’s refusal to recuse himself after discovering a holding in Chase resulted in his decisions being vacated.** This fact pattern is not dissimilar to this case since the judges of this Court are known to own mutual funds with substantial, well-publicized holdings in Facebook. The Court’s reference in their Aug. 10, 2012 Opinion to Canon 3 C (3)(c)(i) which allows mutual funds in general **does not hold water in light of the overarching ethical principles and the fact pattern here.**<sup>15</sup>

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<sup>15</sup> See “Disqualification Under 28 U.S.C. §455.” Judicial Disqualification: An Analysis of Federal Law. [Federal Judicial Center](#), 2010, pp. 73, 74. Accessed Aug. 29, 2012.

In [\*United States v. Lauersen\*](#), 348 F.3d 329 (2d Cir. 2003) the judge disclosed his shareholding in one of the defendant's insurance companies that would benefit from his ruling in their favor. The Second Circuit held that such a holding *would have been a basis for disqualification* had he not disclosed it. One is hard-pressed to see how this case is different.

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**5. Judge Lourie's and Judge Moore's holdings stood to benefit greatly from a ruling in favor of Facebook**

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Judges Lourie and Moore's mutual fund holdings held substantial stakes in Facebook; even heavily publicizing those holdings during the pendency of this case. Given the publicity, no reasonable person could excuse the judges for not disclosing those thinly-veiled Facebook holdings (even though the judge self-excused themselves citing Canon 3 C). Their personal holdings doesn't even account for the benefits that would likely accrue to their **relationships to the third degree**; information that is the judge's ethical duty to police pursuant to their Code of Conduct. Were such conflicts checks performed in this case? No one knows since the judges have remained intransigent.

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**6. Chief Judge Randall R. Rader issues contradictory rulings on judicial conflicts of interest**

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In [\*Shell Oil Co. v. US\*](#), 672 F. 3d 1283 (Federal Circuit 2012) Judge Rader *remanded* a matter and *removed* a district court judge when it was discovered that the judge's *wife* had some stock in Shell Oil. Remarkably, this decision was made just two days after oral arguments in this case. Judge Rader even *vacated* all the judge's rulings. Even though the conflicts of interest in this case are dramatically worse, Judge Rader is tellingly silent. **Apparently the Federal Circuit has a double standard** that applies the law properly in cases involving companies with deep pockets, but ignores the conflict when the deep pockets are the wrong doers. *See* Renewed Motion, pp. 13-15 (e.g., Judge Moore Fidelity holdings); *See* also e.g., Judge Lourie 2010 Financial Disclosure (T. Rowe Price holdings).

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**7. Federal law requires a judge to “disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. §455(a)**

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Because section 455(a) is intended to avoid even the appearance of impartiality, it is not actual bias or prejudice, but rather the *appearance of bias and prejudice* that matters. [\*Liljeberg v. Health Services Acquisition Corp.\*](#), 486 US 847, 860 (Supreme Court 1988); [\*Liteky v. United States\*](#), 510 US 540 (Supreme Court 1994).

The Federal Judicial Center states:<sup>16</sup>

Congress has enacted laws telling judges to withdraw or recuse themselves from any case in which a close relative is a party or in which they have any financial interest, **even one share of stock**. Congress requires judges to file a financial disclosure form annually, so that their stock holdings, board memberships, and other financial interests are on public record. Most judges maintain more frequent lists of their holdings for lawyers to inspect (emphasis added).

This Court appears to have ignored the admonition of the statute as well as those of the Ninth Circuit in [US v. Holland](#), 519 F. 3d 909 (9th Circuit 2008) at 912:

As a “general proposition a judge may *not* sit in cases in which his “impartiality might reasonably be questioned . . . If it is a close case, the balance tips in favor of recusal.”

The admonition to disqualify oneself if one’s impartiality could be reasonably questioned is echoed by the Seventh Circuit in [In re Nettles](#), 394 F.3d 1001, 1002 (7th Cir.2005) at 914:

We must bear in mind that these outside observers are less inclined to credit judges' impartiality and mental discipline than the judiciary itself will be. (internal quotation marks and citation omitted).

Despite these clear admonitions to flee even the appearance of a conflict, this Court clings to misleading reliance on Canon 3 C (3)(c)(i), “coincidence” and

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<sup>16</sup> “For judges who are appointed for life, what safeguards ensure that they can do their jobs fairly and capably?” [Federal Judicial Center](#). Accessed Aug. 28, 2012.

Canon 4 A (1) while ignoring other canons and precedent that discredit their flimsy excuses for *maintaining and sustaining* their appearance of impropriety.<sup>17</sup>

For these reasons, Dr. Arunachalam is compelled to demand in the public interest that the members of this court fully disclose their conflicts of interest in this matter.

For the purposes of this motion, any reference to “judge” is also a reference to the “clerk” and any other judicial employee. All requests shall be considered requests for reasonably substantive responses.

### **DISCLOSURE QUESTIONS**

Dr. Arunachalam, on behalf of herself as well as the public interest, moves to compel each member of the Federal Circuit to disclose the following:

1. What were the Court’s specific “conflicts of interest checking” procedures used in this case from inception to the present?<sup>18</sup> Responses should include all written documentation and procedures. Please provide written verification as to whether or not each judge complied. Please document and verify verbal instructions.

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<sup>17</sup> See Footnote 4.

<sup>18</sup> “Conflict of Interest” shall be used as generally understood by the legal profession and the general public. *Supra*.

2. What are the Court's written procedures for conflicts checking before judges and judicial employees are assigned to a case? Please provide copies of all written procedures and written verification of informal and verbal procedures.

3. What were the procedures used to process and develop opinions among the judges regarding Dr. Arunachalam's motions from March 5, 2012 to the present?

4. Did each and every member of the Federal Circuit receive each and every one of Dr. Arunachalam's motions, then write an opinion denying each motion regarding her amicus curiae brief? Please provide documentation and verification of every representation made in answer to this question.

5. What were the procedures used on July 11, 2012 to receive, process and deny Dr. Arunachalam's Motion for Leave to File in one afternoon? The response should include all written documentation and procedures, and verification as to whether or not each judge complied, and the content of their opinions.

6. What technical problems has the Court's PACER docket experience specifically related to the posting of docket items in this case, from the inception of this case to the present?

7. Why has the Clerk not posted each and every motion filed by Dr. Arunachalam's?

8. Why has the Clerk posted denials of Dr. Arunachalam's motions but not posted the motions themselves for public review?

9. What were the Court's procedures, including times, places and dates, used to notify the parties of the Court's July 16, 2012 denial of Leader's Petition for Rehearing and Rehearing En Banc? Please provide verified records of these notifications to the parties. Please include verified statements for any verbal notices provided.

10. Did the Court notify Facebook and/or *Fox Business* around noon on July 16, 2012 of its denial of Leader's Petition for Rehearing and Rehearing *En Banc*?

11. Which Court officer or employee provided notice to *Fox Business* of the denial of Leader's Petition for Rehearing and Rehearing *En Banc* about noon on July 16, 2012?

12. If *Fox Business* was provided a verbal notice of Leader's Petition for Rehearing and Rehearing *En Banc* about noon on July 16, 2012, then please provide a verified record of a similar notice having also been provided to the parties.

13. Describe each contact between each judge and Professor James P. Chandler, President of The National Intellectual Property Law Institute and former



Professor of the Law, and Director of the Computers in Law Institute at George Washington University National Law Center, from 1986 to the present time.

14. Describe each contact, professional and personal/casual/social, including funds and gifts exchanged, between each judge with any attorney who has represented or currently represents Facebook during the pendency of this matter. Please describe all contacts from 1986 to the present.

15. What are the direct Facebook stock holdings by each judge?

16. What are the Facebook holdings of each mutual fund held by each judge?

17. What are the direct and/or indirect (mutual funds, trust holdings, etc.) Facebook stock holdings by any family member of a judge, to the third degree of relationship? *See* 28 U.S.C. §455(b)(5) for definition of “third degree.”

18. Has any member of this Court been the target of attempts at undue influence in any form during the pendency of this case? If so, what form did this activity take and what was the outcome?<sup>19</sup>

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<sup>19</sup> For the purposes of this question, undue influence shall be defined as but not limited to bribery, coercion, threat, excessive force, compromise, duress, compulsive act, moral or social pressure, danger, intimidation, extortion, blackmail, physical abuse, psychological abuse, victimization, injury, fraud, excessive pressure, misrepresentation, false pretenses, favors, patrimony, victimization, deception, sexual favors, coercive persuasion, fear, puppeteering, isolation, withholding favors, enticements, playing on loyalties and medication.

19. Has any member of this Court been the target of foreign influence during the pendency of this case? If so, what form did this activity take and what was the outcome?

20. Describe each contact professional, personal, social, casual and otherwise by each member of this Court and/or relationship to the third degree with any of the following principals, beneficial parties and the self-described business “ecosystem” of Facebook’s Director James W. Breyer,<sup>20</sup> including all affiliated and interlocked organizations, from 1986 to the current time:<sup>21</sup>

- a. Mark E. Zuckerberg
- b. Dustin Moskowitz
- c. Christopher C. Hughes
- d. Eduardo L. Saverin
- e. Sean Parker
- f. Lawrence H. Summers and/or Andresseen Horowitz
- g. Sheryl K. Sandberg and/or World Bank, U.S. Dept. of Treasury, Brookings Institution
- h. Juri Milner (a.k.a. Yuri Milner) and/or DST Holdings Ltd., Mail.ru Group Ltd., Digital Sky Technologies, Alisher Asmanov,<sup>22</sup> Moscow State University Departments of Physics

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<sup>20</sup> Use affiliated and interlocked associations disclosed in “Facebook, Inc. Insured Profile Report – Cyber Liability Focus.” [Advisen Insurance Intelligence](#), pp. 2, 3. Accessed Sep. 2, 2012 (James W. Breyer Interlocked Companies Wal-Mart Stores, Inc.; Dell, Inc.; News Corporation; Accel Partners; Prosper Marketplace, Inc., Maven Networks, Inc.; Brightcove, Inc. (aka: Video Marketplace, Inc.); The Founder’s Fund; Xoom Corporation); See also James W. Breyer, Director, Walmart. [Application number: 1-2064-74519 for Wal-Mart Stores, Inc.](#) Accessed Sep. 2, 2012 (“provide a single, trusted, **ecosystem** experience for Internet users worldwide”)(emphasis added).

<sup>21</sup> Use [Renewed Motion, pp. 13-16](#) for verification of the party referred to.

<sup>22</sup> Use [Renewed Motion, p. 14](#), “\$2,169,376,940 – DST Holdings (. . . Juri Milner, Moscow, Russia).”

and Mathematics, Moscow, Russia Russian Academy of Sciences, Moscow, Russia

- i. James W. Breyer and/or Accel Partners LLP (incl. subsidiaries and related web of holdings);<sup>23</sup> please identify all relationships and holdings in London (United Kingdom), Bangalore (India) and Beijing (China)
- j. Peter A. Thiel and/or Clarium Capital<sup>24</sup>
- k. Reid G. Hoffman and/or PayPal, LinkedIn
- l. Elon Musk
- m. Matt Cohler and/or Instagram
- n. Marc L. Andreessen and/or Andreesen Horowitz
- o. James Swartz (Accel Partners)
- p. Ping Li (Accel Partners)
- q. Lisa T. Simpson
- r. Theodore Ulyot
- s. Thomas G. Hungar
- t. Fenwick & West LLP
- u. White & Case LLP
- v. Cooley Godward LLP
- w. Orrick Herrington LLP
- x. Gibson Dunn LLP
- y. Nicholas Carlson and/or *Business Insider*, aka *Silicon Alley Insider*
- z. David Kirkpatrick
- aa. Henry Blogget (*Business Insider*)
- bb. Ben Mezrich
- cc. Goldman Sachs and/or subsidiaries
- dd. Morgan Stanley and/or subsidiaries

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<sup>23</sup> Use [SEC Insider Trading Table](#) of associated and interlocked Accel Partners and James W. Breyer associations delineated in “James W. Breyer’s tangled web of insider trading – AKA – “You’ve been Breyer-ed--In confusion there is profit? *Donna Kline Now!* Accessed Sep. 2, 2012.

<sup>24</sup> [Op.cit.](#), p. 14.

## REQUEST FOR RELIEF

For the reasons stated above, Dr. Arunachalam respectfully requests full and complete responses to the aforementioned questions.

Dr. Arunachalam respectfully requests that the Court act to preserve from spoliation the 2003-2004 Facebook evidence that was withheld from Leader Technologies, including email and instant messaging archives at Harvard and other locations identified in the Rose deposition.

Dr. Arunachalam also respectfully requests that the Court sanction the members of this Court who have engaged in undisclosed conflicts of interest, and that those sanctions be levied in a manner that best serves the interests of justice and restores public confidence.

Sep. 5, 2012

/s/

\_\_\_\_\_  
Signature

Lakshmi Arunachalam, Ph.D.

*for Amicus Curiae* Lakshmi Arunachalam, Ph.D.

222 Stanford Avenue

Menlo Park, CA 94025

(650) 854-3393

laks@webxchange.com

# **EXHIBIT A**

A complete copy of this 293-page deposition is available at:

July 18, 2012 Deposition of Bryan J. Rose, Facebook forensic expert, *Paul D. Ceglia v. Mark Elliot Zuckerberg*, 1:10-cv-00569-RJA (W.D.N.Y. 2010). Accessed Sep. 4, 2012

<<http://www.fbcoverup.com/docs/federalcircuit/Deposition-of-Bryan-J-Rose-Facebook-forensic-expert-Ceglia-v-Zuckerberg-1-10-cv-00569-RJA-WDNY-2010-18-Jul-2012.pdf>>.

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. App. P. 31(b) I do hereby certify that twelve (12) copies of the foregoing MOTION TO COMPEL EACH MEMBER OF THE FEDERAL CIRCUIT TO DISCLOSE CONFLICTS OF INTEREST will be sent to the Clerk of the Federal Circuit, and three (3) copies to the Clerk of the U.S. Supreme Court at:

Clerk of Court  
United States Court of Appeals for the  
Federal Circuit  
717 Madison Place, N.W.. Room 401  
Washington D.C. 20439

Clerk of Court  
United States Supreme Court  
1 First Street, NE  
Washington, D.C. 20543

Pursuant to Fed. R. App. P. 31(b), copies of the foregoing were served on the following recipients by overnight mail:

*Two (2) copies to:*  
Paul Andre, Esq.  
KRAMER LEVIN LLP  
990 Marsh Road  
Menlo Park, CA 94025  
Tel.: (650) 752-1700  
Fax: (650) 752-1800  
*Attorney for Plaintiff-Appellant*

*Two (2) copies to:*  
Thomas G. Hungar, Esq.  
GIBSON DUNN LLP  
1050 Connecticut Avenue, N.W.  
Washington D.C. 20036-5306  
Tel.: (202) 955-8558  
Fax: (202) 530-9580  
*Attorney for Defendant-Appellee*

Copies of the foregoing will be provided to (1) Americans For Innovation for publication;(2) Members of the House and Senate Judiciary Committees; and (3) the Washington D.C. Bar, Board of Professional Responsibility.

Sep. 5, 2012

/s/

---

Lakshmi Arunachalam, Ph.D.  
222 Stanford Avenue  
Menlo Park, CA 94025  
(650) 854-3393  
laks@webxchange.com  
*for Amicus Curiae*  
Lakshmi Arunachalam, Ph.D.

**Lakshmi Arunachalam, Ph.D.**

222 Stanford Avenue  
Menlo Park, CA 94025  
(650) 854-3393  
laks@webxchange.com

September 5, 2012

**Mr. William Suter**  
**Clerk of Court**  
**Supreme Court of the United States**

1 First Street, NE  
Washington, DC 20543  
(202) 479-3000  
(202) 479-3472

Dear Mr. Suter,

*Re: Complaint about the Federal Circuit Judges and Clerk of Court in  
Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.); Supplemental  
information re. Motion to Compel Disclosure of Conflicts of Interest*

Please kindly accept the attached **Motion To Compel Each Member Of  
The Federal Circuit To Disclose Conflicts Of Interest** as a supplement to my  
complaint.

As I have explained in my complaint and Aug. 31, 2012 supplement to my  
complaint (60(b) motion), since the Clerk of Court and the Chief Judge are  
implicated in the misconduct, I have no confidence that they will oversee the  
information justly. To date, they have only obfuscated and avoided the underlying  
evidence.

I will make myself available to you for your investigation. Please feel free to  
contact me at any time.

Respectfully yours,

/s/

Lakshmi Arunachalam, Ph.D.

*Mr. William Suter, Clerk of Court, U.S. Supreme Court*  
*Lakshmi Arunachalam, Ph.D. Complaint*  
*September 5, 2012*

Enclosure:

**MOTION TO COMPEL EACH MEMBER OF THE FEDERAL CIRCUIT  
TO DISCLOSE CONFLICTS OF INTEREST** in *Leader Tech v. Facebook*,  
Case No. 2011-1366 (Fed. Cir.).

cc.

**House Committee on the Judiciary**

- Lamar Smith, Chairman
- John Conyers, Ranking Member
- Darrell Issa
- Steve Chabot
- Jim Jordan
- Howard Berman

**Senate Committee on the Judiciary**

- Patrick Leahy, Chairman
- Chuck Grassley, Ranking Member
- Dianne Feinstein
- Al Franken
- Mike Lee
- Tom Coburn

**Washington D.C. Bar**



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		Arrival at Unit	September 06, 2012, 10:28 am	WASHINGTON, DC 20018	
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<input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	1/ Akshmi Arunachalam

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