**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|---|
| LEADER TECHNOLOGIES, INC., a Delaware corporation, | ) | |
| Plaintiff-Counterdefendant, | ) | Civil Action No. 08-862-JJF |
| v. | ) | |
| FACEBOOK, INC., a Delaware corporation, | ) | **PUBLIC VERSION** |
| Defendant-Counterclaimant. | ) | |

**DECLARATION OF LISA KOBIALKA IN SUPPORT OF LEADER TECHNOLOGIES, INC.'S MOTION TO COMPEL FACEBOOK, INC. TO RESPOND TO LEADER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS AND LEADER'S FIRST SET OF INTERROGATORIES**

Philip A. Rovner (#3215)
POTTER ANDERSON & CORROON LLP
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com

*Attorneys for Plaintiff*
*Leader Technologies, Inc.*

OF COUNSEL:

Paul J. André
Lisa Kobialka
King & Spalding, LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, California 94065-6109
(650) 590-7100

Dated: April 30, 2009
Public Version: May 7, 2009

I, Lisa Kobialka, hereby declare:

1. I am a Partner with the law firm King & Spalding LLP, counsel of record for Plaintiff Leader Technologies, Inc. ("Leader"). I have personal knowledge of the facts set forth in this declaration and can testify competently to those facts.

2. Attached hereto as Exhibit 1 is a true and correct copy of Facebook, Inc.'s Objections and Responses to Plaintiff Leader Technologies, Inc.'s First Set of Interrogatories (1-13), served on March 23, 2009.

3. Attached hereto as Exhibit 2 is a true and correct copy of Facebook, Inc.'s Response to Leader Technologies, Inc.'s First Set of Requests for Production of Documents (1-73), served on March 23, 2009.

4. Attached hereto as Exhibit 3 is a true and correct copy of Leader Technologies, Inc.'s Responses to Facebook, Inc.'s First Set of Interrogatories (1-9), served on March 20, 2009.

5. Attached hereto as Exhibit 4 is a true and correct copy of the hearing transcript for the March 3, 2009 Scheduling Conference.

6. Attached hereto as Exhibit 5 is a true and correct copy of a letter from counsel for Leader, Meghan A. Wharton, to counsel for Facebook, Inc. ("Facebook"), Craig W. Clark, on April 1, 2009.

7. On April 2, 2009, the parties met-and-conferred telephonically regarding the Facebook's disapproval of Leader's definition of the Facebook Website and Leader's preliminary infringement contentions. Leader agreed that it would review the applications named in Leader's definition of Facebook Website, and remove any applications that were not created by Facebook to the extent it could do so based on the public information it could find. Also, Leader stated that it would provide a narrative explanation of Facebook's infringement of an exemplar claim.

8. On April 6, 2009, Leader provided Facebook a letter with this information. Attached hereto as Exhibit 6 is a true and correct copy of the April 6th letter from counsel for Leader, Paul Andre, to counsel for Facebook, Heidi Keefe.

9. On April 10, 2009, the parties met-and-conferred telephonically regarding Facebook's continued refusal to respond to a number of Leader's discovery requests despite Leader providing Facebook with further details regarding infringement on April 6, 2009. I requested that Facebook provide Leader with information regarding its source code and back-end technical information. Until Leader received such technical information, it could not provide Facebook with any more detailed infringement contentions, and could only provide Facebook with evidence of infringement based on the information that was publicly available. Facebook's counsel refused to provide Leader with any such information. Attached hereto as Exhibit 7 is a true and correct copy of an e-mail from counsel for Leader, Meghan A. Wharton, to counsel for Facebook, Craig W. Clark, on April 10, 2009, regarding the parties' April 10th telephone conference.

10. Attached hereto as Exhibit 8 is a true and correct copy of an e-mail from counsel for Facebook, Clark W. Clark, to counsel for Leader, Meghan A. Wharton, on April 14, 2009.

11. Attached hereto as Exhibit 9 is a true and correct copy of my letter to counsel for Facebook, Craig W. Clark, on April 16, 2009.

12. Attached hereto as Exhibit 10 is a true and correct copy of a letter from counsel for Facebook, Craig W. Clark, to myself on April 21, 2009.

13. Attached hereto as Exhibit 11 is a true and correct copy of my letter to counsel for Facebook, Craig W. Clark, on April 22, 2009.

14. Attached hereto as Exhibit 12 is a true and correct copy of a letter from counsel for Facebook, Craig W. Clark, to myself on April 24, 2009.

15. Attached hereto as Exhibit 13 is a true and correct copy of my letter to counsel for Facebook, Craig W. Clark, on April 28, 2009.

16. Attached hereto as Exhibit 14 is a true and correct copy of an e-mail from counsel for Leader, Meghan A. Wharton, to counsel for Facebook, Craig W. Clark, on January 27, 2009.

17. Attached hereto as Exhibit 15 is a true and correct copy of the Order from Cross Atlantic Capital Partners, Inc. v. Facebook, Inc. and TheFacebook, LLC, No. 07-CV-02768-JP (E.D. Pa.), dated December 20, 2007.

18. Attached hereto as Exhibit 16 is a true and correct copy of the Order from ConnectU, Inc. v. Facebook, Inc., No. 2007-10593-DPW (D. Mass.), dated September 13, 2007.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this 30th day of April 2009, at Redwood Shores, California.

Lisa Kobialka

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that on May 7, 2009, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

**BY CM-ECF, E-MAIL AND FIRST CLASS MAIL**

Thomas P. Preston, Esq.
Steven L. Caponi, Esq.
Blank Rome LLP
1201 Market Street
Wilmington, DE 19801
Preston-T@blankrome.com
caponi@blankrome.com

I hereby certify that on May 7, 2009 I have sent by E-mail and first class mail the foregoing document to the following non-registered participants:

Heidi L. Keefe, Esq.
Mark R. Weinstein, Esq.
Craig W. Clark, Esq.
Melissa H. Keyes, Esq.
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306
hkeefe@whitecase.com; mweinstein@whitecase.com
cclark@whitecase.com; mkeyes@whitecase.com

/s/ Philip A. Rovner
Philip A. Rovner (#3215)
Potter Anderson & Corroon LLP
Hercules Plaza
P. O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com

# EXHIBIT 1

THIS EXHIBIT HAS BEEN REDACTED IN ITS ENTIRETY

# EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF DELAWARE**

| | |
|---|---|
| LEADER TECHNOLOGIES, INC., a Delaware corporation<br><br>Plaintiff,<br><br>v.<br><br>FACEBOOK, INC., a Delaware corporation<br><br>Defendant. | **CIVIL ACTION**<br><br>**NO. 1:08-cv-00862-JJF**<br><br>**FACEBOOK, INC.'S RESPONSE TO LEADER TECHNOLOGIES, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS (1-73)** |

PROPOUNDING PARTY: LEADER TECHNOLOGIES, INC.

RESPONDING PARTY: FACEBOOK, INC.

SET NUMBER: ONE (1)

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, defendant and counterclaimant FACEBOOK, INC. ("Facebook") hereby submit the following responses and objections to the First Set of Requests for Production of Documents served by plaintiff LEADER TECHNOLOGIES, INC. ("LTI").

**PRELIMINARY STATEMENT**

The specific responses set forth below are for the purposes of discovery only and Facebook neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admissibility or use at trial of any information, documents or writings produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such responses. All such objections may be made at any time up to and including the time of trial.

A. Facebook's investigation and search for documents and things responsive to the requests are ongoing. Pursuant to Fed. R. Civ. P. 26(e), Facebook specifically reserves the right

to supplement and amend these responses and, if necessary, to assert additional objections arising from further investigation.

B. Facebook expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or information omitted from the specific responses set forth below as a result of mistake, oversight or inadvertence.

C. The specific responses set forth below are based upon Facebook's interpretation of the language used in the requests, and Facebook reserves its right to amend or supplement further responses in the event that Plaintiff asserts an interpretation that differs from Facebook's interpretation.

D. Facebook's response to a particular request shall not be interpreted as implying that responsive documents and things exist or that Facebook acknowledges the appropriateness of the request.

E. The following responses are based on information reasonably available to Facebook as of the date of this response. Facebook's investigation is continuing and ongoing and Facebook expressly reserves the right to revise and/or supplement its responses.

**GENERAL OBJECTIONS**

The following General Objections apply to each request and are hereby incorporated by reference into the individual response to each request, and shall have the same force and effect as if fully set forth in the individual response to each request.

1. Facebook objects to each request to the extent it purports to require Facebook to do anything beyond what is required by the Federal Rules of Civil Procedure, the Local Rules of this Court, and other applicable law.

2. Facebook objects to each request to the extent it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, and/or any other applicable privilege or immunity.

3. Facebook objects to each request to the extent it is phrased in a manner that would render it overly broad, vague or ambiguous, or would require subjective judgment or speculation

on the part of Facebook. Facebook responds to these requests by construing them in light of the scope of the issues in this action.

4. Facebook objects to each request to the extent it seeks to elicit information that is subject to a right of privacy under the relevant provisions of federal and state law.

5. Facebook objects to each request to the extent it seeks to elicit third-party confidential information.

6. Facebook objects to each request to the extent it purports to place an obligation on Facebook to obtain information that is as readily available to Plaintiff as it is to Facebook.

7. Facebook objects to each request to the extent it calls for information not in the possession, custody or control of Facebook.

8. Facebook objects to each request to the extent it seeks privileged information originating on or subsequent to the commencement of this lawsuit. Given the burden and expense to Facebook involved in creating a privilege log in accordance with Instruction No. 2, Facebook objects to logging information originating on or subsequent to the commencement of this lawsuit.

9. Facebook objects to each request to the extent it is not properly limited in time and/or improperly attempts to capture information, if any, created prior to issuance of the '761 patent.

10. Facebook objects to Plaintiff's "Instructions" to the extent they seek to impose obligations beyond those permitted by the Federal Rules of Civil Procedure, the Local Rules of this Court or other applicable law.

**OBJECTIONS TO DEFINITIONS**

A. Facebook objects to Plaintiff's definition of "you," "your," "Facebook," and "Defendant" as overly broad. Facebook shall construe the terms to mean Facebook, Inc., its employees, agents and attorneys.

B. Facebook objects to Plaintiff's definition of "Facebook Website" on the ground that it purports to include every iteration, function, application and/or technology ever in

existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Such definition renders Plaintiff's requests grossly overbroad, unduly burdensome in seeking information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

C. Facebook objects to Plaintiff's definition of "'761 Patent" and "Patent-in-Suit" as overly broad. Facebook shall construe the terms to mean United States Patent No. 7,139,761, entitled "Dynamic Association of Electronically Stored Information with Iterative Workflow Changes."

D. Facebook objects to Plaintiff's definition of "document" to the extent it seeks to define that term more broadly than allowed under the Federal Rules of Civil Procedure and/or the Federal Rules of Evidence. Facebook shall construe the term in a manner consistent with said Rules.

**REQUEST FOR PRODUCTION NO.1:**

All documents and communications that relate to the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 1:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 2:**

All documents and communications that relate to your knowledge of the Patent-in-Suit including documents and communications that relate to when and how you first became aware of the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 2:**

Facebook incorporates each of its General Objections herein by reference. Facebook

further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it has not located non-privileged, responsive documents that were created prior to the filing of the Complaint in this action.

**REQUEST FOR PRODUCTION NO. 3:**

All documents and communications that relate to any meeting that you hosted or attended during which the Patent-in-Suit was referred to or discussed.

**RESPONSE TO REQUEST NO. 3:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it has not located non-privileged, responsive documents that were created prior to the filing of the Complaint in this action.

**REQUEST FOR PRODUCTION NO .4:**

All documents and communications that relate to any alleged non-infringing alternatives to the claims of the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 4:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify either the specific claim(s) of the Patent-in-Suit asserted against Facebook in this action, or the specific function(s) and aspect(s) of the Facebook website that are accused in this action. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control after Plaintiff identifies the

basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications that relate to any efforts made by you or contemplated by you to avoid infringement of the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 5:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify either the specific claim(s) of the Patent-in-Suit asserted against Facebook in this action, or the specific function(s) and aspect(s) of the Facebook website that are accused in this action. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications that are or relate to any opinions or analyses, written or oral, regarding the scope, infringement, alleged non-infringement, validity, alleged invalidity, enforceability and/or alleged unenforceability of the Patent-in-Suit, including, but not limited to, all opinions of counsel, draft opinions and other documents relied upon by individuals or entities in forming such opinions or analyses.

**RESPONSE TO REQUEST NO. 6:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify either the specific claim(s) of the Patent-in-Suit asserted against Facebook in this action, or the specific function(s) and aspect(s) of the Facebook website that are accused in this action.

Subject to and without waiving its objections, Facebook responds that, after Plaintiff identifies the basis, if any, for its allegations of infringement, Facebook will produce non-privileged, responsive documents in its possession, custody or control if any exist.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications that relate to the scope of the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 7:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify either the specific claim(s) of the Patent-in-Suit asserted against Facebook in this action, or the specific function(s) and aspect(s) of the Facebook website that are accused in this action. Facebook further objects to the phrase, "scope of the Patent-in-Suit," as vague and ambiguous. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications that relate to the infringement or any alleged non-infringement of the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 8:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify either the specific claim(s) of the Patent-in-Suit asserted against Facebook in this action, or the specific function(s) and aspect(s) of the Facebook website that are accused in this action. Subject to and without waiving its objections, Facebook responds that it will produce non-

privileged, responsive documents in its possession, custody or control after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications that relate to the validity or alleged invalidity of the Patent-in-Suit, including, but not limited to, searches or studies of the Patent-in-Suit, including, but not limited to any copies of patents, publications or other art, and any analyses or legal opinions made by you or on your behalf regarding the validity or alleged invalidity of the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 9:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify the specific claim(s) of the Patent-in-Suit asserted against Facebook. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control after Plaintiff identifies the specific claim(s) of the Patent-in-Suit it is asserting and Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 10:**

All documents that you have identified as prior art or potential prior art to the Patent-in-Suit and all documents that relate to such potential prior art.

**RESPONSE TO REQUEST NO. 10:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify the specific claim(s) of the Patent-in-Suit asserted against Facebook. Subject to and

without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control after Plaintiff identifies the specific claim(s) of the Patent-in-Suit it is asserting and Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications relating to any prior art searches or investigations conducted by you or on your behalf concerning the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 11:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects on the ground that Plaintiff has failed to identify the specific claim(s) of the Patent-in-Suit asserted against Facebook. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents constituting prior art to the Patent-in-Suit, after Plaintiff identifies the specific claim(s) of the Patent-in-Suit it is asserting and the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications relating to any potential prior art received from any third party regarding the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 12:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents after Plaintiff identifies the specific claim(s) of the Patent-in-Suit it is asserting and the basis, if any, for its allegations of

infringement.

**REQUEST FOR PRODUCTION NO. 13:**

All documents and communications that relate to your reliance or contemplated reliance on the advice of counsel as a defense to Leader's claim that you willfully infringed and continue to willfully infringe the Patent-in-Suit.

**RESPONSE TO REQUEST NO. 13:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to the request as premature. Subject to and without waiving its objections, Facebook responds that in the event it decides to rely on advice of counsel to rebut a properly-made claim of willful infringement, it will produce responsive documents at that time.

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications that relate to Leader or any employee, representative, officer or director of Leader.

**RESPONSE TO REQUEST NO. 14:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 15:**

All documents and communications that relate to any Leader product or component thereof.

**RESPONSE TO REQUEST NO. 15:**

Facebook incorporates each of its General Objections herein by reference. Facebook

further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 16:**

All documents and communications that are or relate to any communications between you and Leader.

**RESPONSE TO REQUEST NO. 16:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 17:**

All documents and communications that are or relate to any communications between you and any other person relating to Leader.

**RESPONSE TO REQUEST NO. 17:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 18:**

For each and every litigation, arbitration, mediation or administrative proceeding involving you and the technology of the Facebook Website, all documents filed with the decision-maker, depositions, correspondence, expert reports, discovery, settlements and all other documents relating to the litigation, arbitration, mediation or administrative proceeding,

including, but not limited to, all documents produced by any party involved in the litigation, arbitration, mediation or administrative proceeding, and any third party documents produced pursuant to a subpoena during the course of the litigation, arbitration, mediation or administrative proceeding.

**RESPONSE TO REQUEST NO. 18:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence because any other actions in which Facebook may have been involved have no bearing on Plaintiff's claim or Facebook's defenses. Facebook further objects to this request on the ground that the burden of production would outweigh any probative value such production may have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome given Plaintiff's definition of "Facebook Website," which seeks to encompass every iteration, function, application and/or technology previously or currently in existence at facebook.com or any legacy or related website(s) and systems unrelated to Facebook or its services and therefore captures information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Facebook further objects to this request on the ground that it seeks documents and information whose disclosure is forbidden under protective orders entered in other actions. Facebook further objects to this request to the extent that it seeks information protected from disclosure by the attorney-client privilege, work product doctrine, and/or other applicable privilege.

**REQUEST FOR PRODUCTION NO. 19:**

All documents that reflect any fact relating to settlement or discussion of settlement between you and any other person or entity of any legal claim or threatened legal claim of infringement of any patent by the Facebook Website.

**RESPONSE TO REQUEST NO. 19:**

Facebook incorporates each of its General Objections herein by reference. Facebook

further objects to this request on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence because any alleged infringement of patents unrelated to '761 have no bearing on Plaintiff's claims or Facebook's defenses in this action. Facebook further objects to this request on the ground that the burden of production would outweigh any probative value such production may have. Facebook further objects to this request on the grounds that Plaintiff's use of the terms "legal claim" and "Facebook Website" render the request vague, ambiguous and overbroad. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome given Plaintiff's definition of "Facebook Website," which seeks to encompass every iteration, function, application and/or technology previously or currently in existence at facebook.com or any legacy or related website(s) and systems unrelated to Facebook or its services and therefore captures information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Facebook further objects to this request on the ground that it seeks documents and information whose disclosure is forbidden under protective orders entered in other actions. Facebook further objects to this request to the extent that it seeks information protected from disclosure by the attorney-client privilege, work product doctrine, and/or other applicable privilege.

**REQUEST FOR PRODUCTION NO. 20:**

All documents that reflect any fact relating to settlement or discussion of settlement between you and any other person or entity of any legal claim involving the technology of the Facebook Website.

**RESPONSE TO REQUEST NO. 20:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence because any lawsuits "involving the technology" of the facebook.com website have no bearing on Plaintiff's claims or Facebook's defenses in this Action. Facebook further objects to this request on the ground that the burden of

production would outweigh any probative value that any responsive documents might have. Facebook further objects to this request on the grounds that Plaintiff's use of the terms "legal claim" "technology" and "Facebook Website" render the request vague, ambiguous and overbroad. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome given Plaintiff's definition of "Facebook Website," which seeks to encompass every iteration, function, application and/or technology previously or currently in existence at facebook.com or any legacy or related website(s) and systems unrelated to Facebook or its services and therefore captures information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Facebook further objects to this request on the ground that it seeks documents and information whose disclosure is forbidden under protective orders entered in other actions. Facebook further objects to this request to the extent that it seeks information protected from disclosure by the attorney-client privilege, work product doctrine, and/or other applicable privilege.

**REQUEST FOR PRODUCTION NO. 21:**

All documents and communications that relate to your corporate structure.

**RESPONSE TO REQUEST NO. 21:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request and overly broad and unduly burdensome. Subject to and without waiving its objections, Facebook responds that it will produce documents sufficient to identify the entities that are affiliated with Facebook, Inc.

**REQUEST FOR PRODUCTION NO. 22:**

All documents that depict the organization and key employees of your company.

**RESPONSE TO REQUEST NO. 22:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it seeks information that is neither relevant nor

likely to lead to the discovery of admissible evidence. Subject to and without waiving its objections, Facebook responds that it will produce documents sufficient to show the organization and key employees of Facebook, Inc.

**REQUEST FOR PRODUCTION NO. 23:**

All documents and communications relating to the initial idea for the Facebook Website.

**RESPONSE TO REQUEST NO. 23:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence to the extent it seeks documents that are not related to the '761 patent and pre-date such patent. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that Plaintiff's use of the terms "initial idea" and "Facebook Website" render the request vague and ambiguous. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 24:**

All documents and communications relating to your ownership of any patent or pending

patent application for any technology incorporated in the Facebook Website.

**RESPONSE TO REQUEST NO. 24:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook is asserting none of its own patent rights in this litigation. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

**REQUEST FOR PRODUCTION NO. 25:**

All documents and communications relating to any assertions, representations or warranties made by you of your ownership of proprietary technology and information incorporated in or used in association with the Facebook Website, including, but not limited to, patents, copyrights, or applications therefore [sic].

**RESPONSE TO REQUEST NO. 25:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook is asserting none of its own patent rights in this litigation. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's

definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

**REQUEST FOR PRODUCTION NO. 26:**

All documents, things and communications that relate to the research, design, implementation, development, engineering, programming, structure, performance and operation of the Facebook Website or any technology incorporated therein, including, but not limited to, manuals, specifications, presentations, schematics, flow charts, artwork, drawings, pictures, pictorial representations, formulas, troubleshooting guides, service bulletins, technical bulletins, production specification sheets, white papers, operator manuals, operation manuals, instruction manuals and all other documents, things and communications sufficient to show the operation of any aspects or elements of the Facebook Website which includes all past and present releases, revisions, versions, updates and upgrades.

**RESPONSE TO REQUEST NO. 26:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence to the extent it seeks documents that are not related to the '761 patent and pre-date such patent. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it

is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 27:**

All documents and communications that relate to the source code for the Facebook Website and a copy of all source code for the Facebook Website, including, but not limited to, all past and present releases, revisions, versions, updates and upgrades.

**RESPONSE TO REQUEST NO. 27:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence to the extent it seeks documents that are not related to the '761 patent and pre-date such patent. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies

the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 28:**

All documents and communications that relate to teaching an end-user how to use the Facebook Website.

**RESPONSE TO REQUEST NO. 28:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action. Subject to and without waiving its objections, Facebook responds that responsive documents are publicly available at the facebook.com website at http://www.facebook.com/help.php.

**REQUEST FOR PRODUCTION NO. 29:**

All documents and communications that relate to teaching an advertiser how to use the Facebook Website.

**RESPONSE TO REQUEST NO. 29:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action. Subject to and without waiving its objections, Facebook responds that responsive documents are publicly available at the facebook.com website at http://www.facebook.com/help.php.

**REQUEST FOR PRODUCTION NO. 30:**

All things, drawings, sketches, descriptions, write-ups, disclosures, transcripts and other documents that describe the Facebook Website or any technology incorporated therein.

**RESPONSE TO REQUEST NO. 30:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence to the extent it seeks documents that are not related to the '761 patent and pre-date such patent. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 31:**

All documents and communications relating to applications, programs, features, components, functionalities or modules incorporated or considered for incorporation in the Facebook Website.

**RESPONSE TO REQUEST NO. 31:**

Facebook incorporates each of its General Objections herein by reference. Facebook

further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence to the extent it seeks documents that are not related to the '761 patent and pre-date such patent. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 32:**

All documents and communications that relate to Microsoft, Inc., including, but not limited to, documents relating to any negotiations between you and Microsoft, Inc. and any documents exchanged between you and Microsoft.

**RESPONSE TO REQUEST NO. 32:**

Facebook incorporates each of its General Objections herein by reference. Facebook objects to this request on the grounds that it seeks documents that are neither relevant nor likely to lead to the discovery of admissible evidence as any documents relating to Microsoft, Inc. have no bearing on any issue in this action. Facebook further objects to this request to the extent that

it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities.

**REQUEST FOR PRODUCTION NO. 33:**

All documents and communications that relate to the promotion and marketing of the Facebook Website to potential and current end-users, including, but not limited to, advertisements and marketing materials.

**RESPONSE TO REQUEST NO. 33:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence to the extent it seeks documents that are not related to the '761 patent and pre-date such patent. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 34:**

All documents and communications that relate to the promotion and marketing of the Facebook Website to potential and current advertisers, including, but not limited to, promotional and marketing materials.

**RESPONSE TO REQUEST NO. 34:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 35:**

All documents and communications relating to Facebook Beacon.

**RESPONSE TO REQUEST NO. 35:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor

likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's failure to identify which aspects of "Facebook Beacon" it contends are at issue. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 36:**

All documents and communications relating to Facebook Ads.

**RESPONSE TO REQUEST NO. 36:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's failure to identify which aspects of "Facebook Ads" it contends are at issue. Plaintiff has not identified the specific functions, aspects and/or

technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 37:**

All documents and communications that are or relate to business or marketing plans relating to the Facebook Website, including, but not limited to, all documents that discuss or analyze your projected sales, profits, revenues, costs, expenses, market share or prices.

**RESPONSE TO REQUEST NO. 37:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably

calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 38:**

All documents and communications relating to the commercial success of the Facebook Website, including, but not limited to, newspaper, television, magazine and market research materials discussing the Facebook Website.

**RESPONSE TO REQUEST NO. 38:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 39:**

All documents and communications that are or relate to third-party market research

reports addressing the markets in which the Facebook Website competes.

**RESPONSE TO REQUEST NO. 39:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 40:**

All documents and communications maintained on any database, log, spreadsheet or sales tool used to track the sale of advertising for the Facebook Website including, but not limited to, sales information maintained on Salesforce.com or any other internal or external sales tracking resource, database, log or spreadsheet.

**RESPONSE TO REQUEST NO. 40:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 41:**

All documents and communications relating to your current, former, perceived or potential competitors.

**RESPONSE TO REQUEST NO. 41:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further

objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that the phrase "perceived or potential competitors" is overly broad, vague and ambiguous. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

**REQUEST FOR PRODUCTION NO. 42:**

All documents and communications relating to any products or services that currently, formerly or potentially compete with the Facebook Website.

**RESPONSE TO REQUEST NO. 42:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that

it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 43:**

All documents and communications relating to public relations or strategic planning in connection with the Facebook Website.

**RESPONSE TO REQUEST NO. 43:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 44:**

All documents you have filed with the SEC.

**RESPONSE TO REQUEST NO. 44:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 45:**

All documents and things relating to any valuation, appraisal or estimate of value of you, any of your subparts, the Facebook Website or any proprietary information owned by you, including, but not limited to, any valuation prepared in connection with any investment in you by any third party.

**RESPONSE TO REQUEST NO. 45:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that

it will produce non-privileged documents sufficient to show its current valuation.

**REQUEST FOR PRODUCTION NO. 46:**

Your financial statements, including, but not limited to, balance sheets, income statements, statements of cash flows and statements of retained earnings for each year in which you operated the Facebook Website, including, but not limited to, internally created statements and statements created by third-parties.

**RESPONSE TO REQUEST NO. 46:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show revenue generated by the facebook.com website subsequent to the filing of this action when such information becomes available.

**REQUEST FOR PRODUCTION NO. 47:**

Summary reports, including, but not limited to, monthly, quarterly and/or yearly reports,

of gross and net revenues and gross and net profits generated from your operation of the Facebook Website.

**RESPONSE TO REQUEST NO. 47:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show profits generated by the facebook.com website subsequent to the filing of this action when such information becomes available.

**REQUEST FOR PRODUCTION NO. 48:**

Summary reports, including, but not limited to, monthly, quarterly and/or yearly reports of costs and expenses associated with your operation of the Facebook Website, including, but not limited to, all reports containing a breakdown of such costs and/or expenses by type of cost or expense such as marketing, research and development, general and administrative, capital expenses, debt expenses, or any other category by which you identify costs and/or expenses

associated with your operation of the Facebook Website.

**RESPONSE TO REQUEST NO. 48:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show costs and expenses incurred in operation of the facebook.com website subsequent to the filing of this action when such information becomes available.

**REQUEST FOR PRODUCTION NO. 49:**

For each year that you operated the Facebook Website, documents and communications sufficient to determine the gross and net revenues and gross and net profits on an annual or other periodic basis derived from your operation of the Facebook Website, including, but not limited to, balance sheets, income statements, cash flow statements, statements of retained earnings, cost statements, projection statements, advertising revenue statements, income from incentives statements or expense statements.

**RESPONSE TO REQUEST NO. 49:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show revenue and profits attained from operation of the facebook.com website subsequent to the filing of this action when such information becomes available.

**REQUEST FOR PRODUCTION NO. 50:**

For each year that you operated the Facebook Website, documents and communications sufficient to determine on an annual or other periodic basis all costs incurred by you relating to the Facebook Website.

**RESPONSE TO REQUEST NO. 50:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to

the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show costs incurred through operation of the facebook.com website subsequent to the filing of this action when such information becomes available.

**REQUEST FOR PRODUCTION NO. 51:**

For each year that you operated the Facebook Website, documents and communications sufficient to determine on an annual or other periodic basis all expenses incurred by you relating to the Facebook Website, including, but not limited to, advertising expenses, marketing expenses, research and development expenses, general expenses, administrative expenses, debt and credit expenses, tax expenses, extraordinary expenses, legal expenses and professional expenses.

**RESPONSE TO REQUEST NO. 51:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further

objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show advertising and market expenses incurred in connection with the facebook.com website subsequent to the filing of this action when such information becomes available.

**REQUEST FOR PRODUCTION NO. 52:**

All documents and communications that relate to prices charged for advertising on the Facebook Website, including, but not limited to documents relating to your discussions and decisions regarding the prices charged for advertising on the Facebook Website.

**RESPONSE TO REQUEST NO. 52:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value

responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it will produce non-privileged documents sufficient to show pricing of advertising for the facebook.com website subsequent to the filing of this action.

**REQUEST FOR PRODUCTION NO. 53:**

All documents and communications that relate to your revenue model.

**RESPONSE TO REQUEST NO. 53:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to that Plaintiff's use of the phrase "revenue model" is vague and ambiguous.

**REQUEST FOR PRODUCTION NO. 54:**

All documents and communications that reflect any fact relating to any assignments, licenses or other agreements to which you are or were a party relating to any patent, patent application, trade secret, know how or otherwise protected technology owned by a third-party and incorporated in the Facebook Website, including all documents reflecting or relating to any negotiations.

**RESPONSE TO REQUEST NO. 54:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to

the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 55:**

All documents and communications that reflect any fact relating to any assignments, licenses, or other agreements, including negotiations, to which you are or were a party relating to any patent, patent application, trade secret, know how or otherwise protected technology owned by you and incorporated in the Facebook Website.

**RESPONSE TO REQUEST NO. 55:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the

attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 56:**

All documents and communications sufficient to determine the royalties or other consideration paid or money received under any licenses, assignments, grants (private or public), marketing or co-branding agreements or other agreements entered into by you involving any patented technology or otherwise protected technology or know how incorporated in the Facebook Website.

**RESPONSE TO REQUEST NO. 56:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or

immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 57:**

All documents and communications sufficient to determine the royalties or other consideration paid or money received under any licenses, grants (private or public), marketing or co-branding agreements, or other agreements entered into by you involving potential technology or otherwise protected technology or know how incorporated in the Facebook Website that is incorporated in any third-party product.

**RESPONSE TO REQUEST NO. 58:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and

unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 58:**

All documents and communications that relate to any planned, contemplated, proposed or requested licensing of technology incorporated into the Facebook Website.

**RESPONSE TO REQUEST NO. 58:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications

unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 59:**

All documents and communications that relate to any planned, contemplated, proposed or requested licensing of technology owned by a third party to be incorporated into the Facebook Website.

**RESPONSE TO REQUEST NO. 59:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that

it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 60:**

All documents and communications relating to third party developers working in connection with the Facebook Website.

**RESPONSE TO REQUEST NO. 60:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's definition of "Facebook Website," which purports to include every iteration, function, application and/or technology ever in existence at facebook.com (including legacy or related website(s)), and countless systems and applications unrelated to Facebook or its services. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 61:**

All documents and communications that relate to the third party Facebook Platform application developer community.

**RESPONSE TO REQUEST NO. 61:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks information that is neither relevant nor likely to lead to the discovery of admissible evidence. Facebook further objects to this request to the extent it seeks documents outside its possession, custody or control. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome, the burden of production vastly outweighing the nominal probative value responsive documents might have. Facebook further objects to this request on the grounds that it is overly broad and unduly burdensome in light of Plaintiff's use of the term "Facebook Platform," which encompasses countless third party applications that have no relationship to this action. Plaintiff has not identified the specific functions, aspects and/or technologies of facebook.com it is accusing in this action.

Subject to and without waiving its General or specific objections, Facebook responds that it is willing to meet and confer with LTI to narrow this request to avoid the enormous and undue burden it would impose, and to limit its scope to information that is either relevant or reasonably calculated to lead to the discovery of admissible evidence in this action, after Plaintiff identifies the basis, if any, for its allegations of infringement.

**REQUEST FOR PRODUCTION NO. 62:**

All documents and communications relating to your current, former, prospective or potential strategic partners, including, but not limited to, documents and communications relating to any discussions, negotiations or presentations and all documents and information exchanged between you and your current, former, prospective or potential strategic partners.

**RESPONSE TO REQUEST NO. 62:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that the burden of production would outweigh any probative value such production may have. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it seeks documents that are neither relevant nor likely to lead to the discovery of admissible evidence as any strategic partners of Facebook have no bearing on any issue in this action.

**REQUEST FOR PRODUCTION NO. 63:**

All documents and communications relating to the sale of your stock, including any arrangements or restrictions you place on current or former employees sale of stock and any assigned valuations associated with the sale of your stock.

**RESPONSE TO REQUEST NO. 63:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it seeks documents that are neither relevant nor likely to lead to the discovery of admissible evidence as neither any sale of Facebook stock nor any valuation of Facebook stock have any bearing on any issue in dispute. Facebook further objects to this request to the extent that is seeks the production of information protected from disclosure by the attorney-client privilege, work product doctrine or other applicable privilege or immunity.

**REQUEST FOR PRODUCTION NO. 64:**

All documents and communications that support, contradict or otherwise relate to the First Affirmative Defense pled in the Facebook Amended Answer that "Facebook is not infringing and has not infringed any claim of the '761 Patent, either literally or under the doctrine of equivalents."

**RESPONSE TO REQUEST NO. 64:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it is premature at this point in the litigation and therefore imposes an undue burden because Plaintiff has not identified which functions, aspects or technologies it is accusing in this action. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession custody or control after Plaintiff has identified its infringement and claim construction contentions.

**REQUEST FOR PRODUCTION NO. 65:**

All documents and communications that support, contradict or otherwise relate to the Second Affirmative Defense pled in the Facebook Amended Answer that "each claim of the '761 Patent is invalid for failure to meet one or more of the contentions of patentability specified in 35 U.S.C. §§ 101-103 and/or 112."

**RESPONSE TO REQUEST NO. 65:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the grounds that it is premature at this point in the litigation and therefore imposes an undue burden because Plaintiff has not identified which functions, aspects or technologies it is accusing in this action. Further, Plaintiff has not provided discovery on the prosecution of the '761 patent; the inventors' conception and reduction to practice of the invention claimed in the '761 patent; or Plaintiff's infringement or construction contentions. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession custody or control after Plaintiff provides appropriate discovery.

**REQUEST FOR PRODUCTION NO. 66:**

All documents and communications that support, contradict or otherwise relate to the Fourth Affirmative Defense pled in the Facebook Amended Answer that Leader's "claims are barred by the doctrine of laches."

**RESPONSE TO REQUEST NO. 66:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession custody or control.

**REQUEST FOR PRODUCTION NO. 67:**

All documents and communications that support, contradict or otherwise relate to the Fifth Affirmative Defense pled in the Facebook Amended Answer that "plaintiff has suffered neither harm nor irreparable harm from Facebook's actions."

**RESPONSE TO REQUEST NO. 67:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession custody or control.

**REQUEST FOR PRODUCTION NO. 68:**

All documents and communications that support, contradict or otherwise relate to the Sixth Affirmative Defense pled in the Facebook Amended Answer that "prosecution history estoppel and/or prosecution disclaimer precludes any finding of infringement."

**RESPONSE TO REQUEST NO. 68:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable

privileges or immunities. Facebook further objects to this request on the grounds that it is premature at this point in the litigation and therefore imposes an undue burden because Plaintiff has not provided discovery on its theory of infringement and claim construction. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession custody or control once Plaintiff has provided appropriate discovery.

**REQUEST FOR PRODUCTION NO. 69:**

All documents and communications that support, contradict or otherwise relate to the Seventh Affirmative Defense pled in the Facebook Amended Answer that "Plaintiffs pre-lawsuit claims for damages are barred, in whole or in part, for failure to comply with 35 U.S.C. § 287."

**RESPONSE TO REQUEST NO. 69:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request on the ground that it is premature at this point in the litigation and therefore imposes an undue burden because Plaintiff has not provided discovery on which products it contends are covered by the '761 patent. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession custody or control after Plaintiff has provided appropriate discovery.

**REQUEST FOR PRODUCTION NO. 70:**

All documents and communications that relate to your policies or practices concerning the retention or destruction of hard copy and electronic documents and hard copy and electronic versions of source code.

**RESPONSE TO REQUEST NO. 70:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 71:**

All documents and communications sufficient to identify all individuals that assisted in the identification, retrieval, collection, review and production of documents pursuant to these Requests.

**RESPONSE TO REQUEST NO. 71:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 72:**

All documents and communications that you consulted in preparing your response to any interrogatory served in this Action.

**RESPONSE TO REQUEST NO. 72:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Subject to and without waiving its objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 73:**

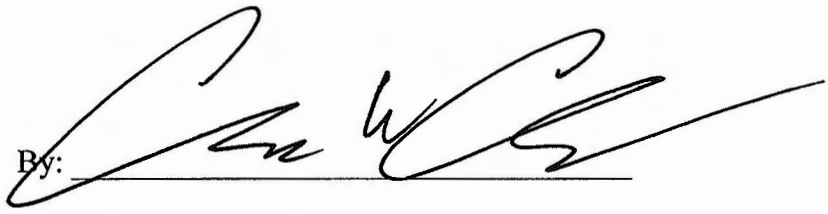
All documents and communications that you intend to use or rely upon at trial.

**RESPONSE TO REQUEST NO. 73:**

Facebook incorporates each of its General Objections herein by reference. Facebook further objects to this request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine and/or other applicable privileges or immunities. Facebook further objects to this request on the grounds that it is unduly burdensome given the stage of this litigation. Subject to and without waiving its

objections, Facebook responds that it will produce non-privileged, responsive documents in its possession, custody or control.

Dated: March 20, 2009

By: 

Thomas P. Preston (DE Bar #2548)
Steven L. Caponi (DE Bar #3484)
**BLANK ROME LLP**
1201 N. Market Street
Wilmington, DE 19801
302-425-6400
Fax: 302-425-6464

And

Dennis P. McCooe
**BLANK ROME LLP**
One Logan Square
130 N. 18th Street
Philadelphia, PA 19103

*Attorneys for Defendant and Counterclaimant Facebook, Inc.*

OF COUNSEL:

Heidi L. Keefe (*pro hac vice*)
Mark R. Weinstein (*pro hac vice*)
Craig W. Clark (*pro hac vice*)
Melissa H. Keyes (*pro hac vice*)
**WHITE & CASE LLP**
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

## CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to the within action. My business address is 3000 El Camino Real, Five Palo Alto Square, 9th Floor, Palo Alto, CA 94306.

On March 23, 2009, I served the following documents:

**FACEBOOK, INC.'S RESPONSE TO LEADER TECHNOLOGIES, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

on the interested parties in this action by placing true and correct copies thereof enclosed in a sealed envelope addressed as follows (or as otherwise noted)::

| **BY OVERNIGHT DELIVERY:** | **BY E-MAIL:** |
|---|---|
| Paul J. Andre, Esq.<br>Lisa Kobialka, Esq.<br>Meghan A. Wharton, Esq.<br>King & Spalding<br>333 Twin Dolphin Drive, Suite 400<br>Redwood Shores, CA 94065<br><br>pandre@kslaw.com<br>lkobialka@kslaw.com<br>mwharton@kslaw.com | Philip A. Rovner, Esq.<br>Potter Anderson & Corroon LLP<br>P.O. Box 951<br>Wilmington, DE 19899-0951<br><br>provner@potteranderson.com |

**[ ] BY PERSONAL SERVICE:** I caused the above-mentioned document to be personally served to the offices of the addressee(s) as indicated above.

**[XX] BY OVERNIGHT DELIVERY:** I enclosed the document in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier, or delivered it to an authorized courier or driver authorized by the carrier to receive documents, with delivery fees paid.

I declare that I am employed in the office of a member of the bar of this Court at whose directions the service was made. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 23, 2009 at Palo Alto, California.

Jennifer Rubalcava

# EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|---|
| LEADER TECHNOLOGIES, INC., a Delaware corporation, | ) | |
| | ) | Civil Action No. 08-862-JJF |
| Plaintiff-Counterdefendant, | ) | |
| | ) | **HIGHLY CONFIDENTIAL-- FOR ATTORNEY'S EYES ONLY** |
| v. | ) | |
| FACEBOOK, INC., a Delaware corporation, | ) | |
| Defendant-Counterclaimant | ) | |

**LEADER TECHNOLOGIES, INC.'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF INTERROGATORIES (1-9)**

Pursuant to Fed. R. Civ. P. 33, Leader Technologies, Inc. ("Leader") hereby objects and responds to Defendant Facebook, Inc.'s ("Facebook") First Set of Interrogatories ("Interrogatories"). Leader makes these objections and responses herein ("Responses") based solely on its current knowledge, understanding, and belief as to the facts and information available to it as of the date of the Responses. Additional discovery and investigation may lead to additions to, changes in, or modifications of these Responses. The Responses, therefore, are being given without prejudice to Leader's right to supplement these Responses pursuant to Fed. R. Civ. P. 26(e), or to provide subsequently discovered information and to introduce such subsequently discovered information at the time of any trial or proceeding in this action.

**GENERAL OBJECTIONS**

1. Leader hereby incorporates by reference each and every general objection set forth below into each and every specific Response. From time to time, a specific Response may repeat a general objection for emphasis or for some other reason. The failure to include a general objection in a specific Response shall not be interpreted as a waiver of that general objection to

that Response.

2. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it purports to impose any requirement or discovery obligation on Leader greater or different than those imposed by the Federal Rules of Civil Procedures, the Local Civil Rules of this Court, or orders of the Court governing these proceedings.

3. Leader's identification of documents, evidence, or persons/witnesses in a Response to any Interrogatory is not intended to waive, and does not constitute waiver of, any objection which Leader may have to the admissibility, authenticity, competency, relevance, or materiality of the identified documents, evidence, or persons/witnesses (or testimony from such identified persons/witnesses). For any and all documents, evidence, and persons/witnesses identified in the Response to each Interrogatory, Leader reserves all objections or other questions regarding the admissibility, authenticity, competency, relevance, or materiality of such identified documents, evidence, and persons/witnesses (and testimony from such identified persons/witnesses) as evidence in this suit or any other proceeding, action, or trial.

4. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it purports to require Leader to identify information that is not within its possession, custody, or control. Leader limits the scope of its Response to each Interrogatory to information within its possession, custody, or control.

5. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it seeks the identification of "all" or "each" document(s), evidence, or individual(s)/person(s) where literal interpretation of the Interrogatory asks for the identification of documents or evidence that are not relevant to the litigation or the identity of individuals/persons that are not likely to have information that is relevant to the litigation. Such use of the word "all" renders such Interrogatories overly broad, unduly burdensome, and oppressive. In such circumstances, subject to any other applicable objection, Leader will make a reasonable identification of responsive, non-privileged documents and evidence relevant to any claim or defense.

6. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent that it seeks information that is in the public domain and is either (a) equally available to Facebook from another source; or (b) can be obtained more efficiently by Facebook through other means of discovery. Facebook can ascertain answers to these Interrogatories from their own records or from other sources that are readily available to Facebook.

7. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it calls for information which is subject to a claim of privilege, including, without limitation, the attorney-client privilege and/or attorney work product doctrine, or any other applicable privilege, doctrine, or immunity.

8. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent that it seeks the production of confidential, business, financial, proprietary, or sensitive information or trade secrets of Leader before the entry of an acceptable protective order in the litigation. Leader will not provide its confidential, proprietary, and/or trade secret information until the Court enters an acceptable protective order in the litigation.

9. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent that it seeks the production of confidential, business, financial, proprietary, or sensitive information or trade secrets of third parties that is subject to a pre-existing protective order and/or confidentiality agreement or in which any third party has an expectation of privacy. Such information shall not be provided absent an express order from a court of competent jurisdiction or an authorization from the third party having the interest in the information's confidentiality.

10. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it purports to require Leader to disclose information concerning entities other than Leader, or entities over which Leader has control, on the grounds that the Definition, Instruction, or Interrogatory seeks documents or things that are not relevant to the subject matter of this litigation.

11. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it seeks information that is not relevant to the issues in the litigation and/or not reasonably calculated to lead to the discovery of admissible evidence because it is not properly limited in time.

12. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is overbroad and therefore seeks information that is not relevant to the issues in this case and/or not reasonably calculated to lead to the discovery of admissible evidence.

13. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is unreasonably cumulative or duplicative.

14. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is premature because the Court has not yet construed the claim terms of U.S. Patent No. 7,139,761 ("the '761 Patent").

15. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is premature as it seeks documents or information that are scheduled to be disclosed to Facebook on future dates directed by the Court.

16. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it seeks information that will be the subject of expert testimony.

17. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent that it is vague and ambiguous.

18. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is unduly burdensome and oppressive to the extent it subjects Leader to unreasonable and undue effort or expense.

19. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent that it requires interpretation and application of the legal contentions/conclusions of the parties. Leader's Responses shall not be construed as providing legal conclusions concerning the meaning or application of any terms used in the Facebook Interrogatories.

20. Leader's Responses to these Interrogatories and identification of documents, evidence, and/or persons/witnesses are based upon information and writings available to and located by its attorneys as of the date of these Responses. Leader has not completed its investigation of the facts relating to this case, has not completed discovery in this action, and has not completed its preparation for trial. The information supplied herein is based only on such information and documents which are reasonably available and specifically known to Leader and its attorneys as of the date of these Responses. Therefore, Leader's Responses and identifications are made without prejudice to Leader's right to supplement and/or amend the Responses and to present at any trial or other proceeding evidence discovered and produced hereafter.

21. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is unduly burdensome and oppressive on the grounds that it purports to require Leader to search facilities and inquire of employees other than those facilities and employees that would reasonably be expected to have responsive information. Leader's Responses are based upon: (1) a reasonable search of facilities and files that could reasonably be expected to contain responsive information; and (2) inquiries of Leader's employees and/or representatives who could reasonably be expected to possess responsive information.

22. Leader objects to each and every Definition, Instruction, and Interrogatory to the extent it is compound and/or contains multiple subparts. Leader will count each subpart as a separate interrogatory pursuant to Federal Rule of Civil Procedure 33(a). Leader will not respond to interrogatories in excess of the allotted number of interrogatories established in the Court's scheduling order.

## RESPONSES

Subject to and without waiving the general objections, each of which is specifically incorporated into the specific Responses contained below, Leader hereby responds to Facebook's Interrogatories as follows:

**INTERROGATORY NO. 1:**

For each claim of the '761 Patent that LTI contends is infringed by any Facebook apparatus, product, device, process, method, act and/or other instrumentality (the "Accused Instrumentality"), identify each Accused Instrumentality and provide a chart identifying specifically where each limitation of each asserted claim is allegedly found within each Accused Instrumentality, including an explanation of how each such limitation is allegedly found literally or under the doctrine of equivalents, and for each element that Plaintiff contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) that performs the claimed function.

**RESPONSE TO INTERROGATORY NO. 1:**

Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it seeks expert testimony. Leader objects to this Interrogatory to the extent it is premature because Facebook has not yet produced documents or responded to written discovery in the litigation. Leader objects to this Interrogatory to the extent it is premature, as the Court has not yet construed claim terms of the '761 Patent. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity. Leader objects to this Interrogatory to the extent that it is compound amounting to multiple separate interrogatories because it is comprised of discrete subparts.

Subject to and without waiving the foregoing general and specific objections, Leader responds as follows: Leader asserts that the Facebook Website (as defined in its Leader's First Set of Requests for Documents and Things) literally infringes, or in the alternative, infringes under the doctrine of equivalents Claims 1-2, 4-5, 7-16, 21, 23-26, 29, and 31-34 of the '761 Patent. The following chart provides additional information regarding Facebook's infringement of the asserted claims.

| '761 Patent | Facebook Website |
|---|---|
| The phrase "Facebook Website" as used below shall be afforded the definition set forth in Leader's First Set of Requests for Documents and Things to Facebook. The statements and documents cited below are solely provided by way of example and based on information available to Leader at the time this chart was created, and not to be used by way of limitation | |

| '761 Patent | Facebook Website |
|---|---|
| or for purposes of construing the claim terms. Leader reserves its right to supplement this chart as additional information becomes known to it. | |
| 1. A computer-implemented network-based system that facilitates management of data, comprising: | The Facebook Website meets the recited claim language because it operates on a computer connected to a network and facilitates the management of data. |
| a computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with user-defined data, the user-defined data and metadata stored on a storage component of the network-based system; and a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically updating the stored metadata based on the change, wherein the user accesses the data from the second context. | The Facebook Website meets the recited claim language because it uses a context component to capture context information associated with user-defined data in a first context of the Facebook Website. The Facebook Website stores the context information in metadata, and the user-defined data and metadata are stored on a storage component. The Facebook Website uses a tracking component for tracking a change of the user from the first context to a second context and dynamically updates the stored metadata based on the change where the user accesses the data from the second context.<br>By way of example, and not limitation, when a user of the Facebook Website logs on, the user is placed in an initial context. From this initial context, the user is given the ability to enter or upload data. When a user enters or uploads data to the Facebook Website, certain information concerning the data entry is collected by Facebook and automatically associated with the user's data. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. The Facebook Website uses a tracking component that uses individual "sessions" to track users as they move from context to context through the Facebook Website. The Facebook Website also tracks the actions of the user in each of the contexts. When a user accesses data that was entered or uploaded in a different context, certain information concerning those actions are collected by Facebook and associated with the accessed data. At least some of the tracking information is retrievable using API calls, |

| '761 Patent | Facebook Website |
|---|---|
| | including, but not limited to Auth.getSession. The ability to access data from a different context is shown by screen-shots of the Facebook Website, including but not limited to LTI000781 to LTI000912. Additional information regarding the information maintained by Facebook may be found in LTI00037 to LTI000039, LTI000696 to LTI000697, LTI000363 to LTI000365, and LTI000696 to LTI000702. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 2. The system of claim 1, the context component is associated with a workspace, which is a collection of data and application functionality related to the user-defined data. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 1 as described above, it also uses a component that captures and dynamically stores data created by interaction of a user, and the component is associated with a collection of data and application functionality related to the user-defined data.<br>By way of example and not limitation, when a user logs on to the Facebook Website and enters an initial context, the user is presented with a number of applications. These applications are described on the Facebook Website and are illustrated in screen-shots found in LTI000781 to LTI000912. Information regarding these applications may be found in LTI000705. It should be noted that these examples are not limiting and Leader intends to supplement its answer to this interrogatory once Leader has received Facebook's document production. |
| 4. The system of claim 1, the context information includes a relationship between the user and at least one of an application, application data, and user | The Facebook Website meets the recited clam language because in addition to satisfying all the elements of Claim 1 as described above, context information captured by a component |

| '761 Patent | Facebook Website |
|---|---|
| environment. | of the Facebook Website includes the relationship between a user and at least one of an application, application data, and user environment.<br>By way of example, and not limitation, when a user enters or uploads data, the Facebook Website collects information about the user, application, application data and user environment. Example screen-shots of the Facebook Website illustrate that context information that is collected by Facebook includes relationships between a user, application, application data and user environment. These screen shots are illustrated in LTI000781 to LTI000912. Additional information may be found in LTI000363 to LTI000365. Again, Leader intends to supplement its response to this interrogatory once Facebook has provided Leader with it document production. |
| 5. The system of claim 1, the context component captures context information of the first context and context information related to at least one other context. | The Facebook Website meets the recited clam language because in addition to satisfying all the elements of Claim 1 as described above, it also uses a component that captures context information of a first user context and at least one other user context.<br>By way of example, and not limitation, when a user logs on to the Facebook Website, the initial context of the user also provides information of other contexts on the Facebook Website. Example screen-shots of the Facebook Website, which may be found in LTI000781 to LTI000912, illustrate that the context information captures and displays context information relating to other contexts. Additional information may be found in LTI000363 to LTI00365. Leader intends to supplement its response for this interrogatory once Facebook provides Leader with it document production. |
| 7. The system of claim 1, wherein data created in the first context is associated with data created in the second context. | The Facebook Website meets the recited clam language because in addition to satisfying all the elements of Claim 1 as described above, it also operates such that data created in the first |

| '761 Patent | Facebook Website |
|---|---|
| | user context is associated with data created in a second user context.<br>By way of example, and not limitation, when a user enters or uploads data in a first context, that data is automatically updated in other contexts that are associated with the first context (and vice-versa). Example screen-shots of the Facebook Website found in LTI000781 to LTI000912 illustrate that data which is created in the first context is associated with data created in the second context. Additional information may be found in LTI000363 to LTI000365. Additional information for this interrogatory is currently in Facebook's possession, and Leader will supplement its response once this information is provided to Leader. |
| 8. The system of claim 1, the context information is tagged to the user-defined data via the metadata when the user-defined data is created. | The Facebook Website meets the recited clam language because in addition to satisfying all the elements of Claim 1 as described above, context information is tagged to the user-defined data via the metadata when the user-defined data is created.<br>By way of example, and not limitation, when a user enters or uploads data to the Facebook Website, certain information regarding the data entry is collected by Facebook and tagged to the data entry. Example screen-shots of the Facebook Website illustrate that context information is tagged to the user-defined data. These screen shots may be found in LTI000781 to LTI000912 and LTI000363 to LTI00365. Leader intends to supplement its response once it has received Facebook's document production. |
| 9. A computer-implemented method of managing data, comprising computer-executable acts of: | The Facebook Website meets the recited claim language because it operates on a computer and uses a method of managing data carried out by acts on a computer. |
| creating data within a user environment of a web-based computing platform via user interaction with the user environment by a user using an application, the data in the | The Facebook Website meets the recited claim language because it creates data within a user environment via user interaction with the user environment by a user using an |

| '761 Patent | Facebook Website |
|---|---|
| form of at least files and documents; dynamically associating metadata with the data, the data and metadata stored on a storage component of the web-based computing platform, the metadata includes information related to the user, the data, the application, and the user environment; tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform; and dynamically updating the stored metadata with an association of the data, the application, and the second user environment wherein the user employs at least one of the application and the data from the second environment. | application. The data is at least in the form of files and documents. The Facebook Website dynamically associates metadata with data which is stored on a storage component. The metadata includes, at least, information related to the user, the data, the application, and the user environment. The Facebook Website tracks the movement of the user from the user environment to a second user environment of the computer connected to the Internet. The Facebook Website dynamically updates the stored metadata with an association of the data, the application, and the second user environment where the user makes use of at least one of the application and the data from the second environment.<br><br>By way of example, and not limitation, when a user logs on to the Facebook Website, the user is provided a user environment which allows the user to enter or upload information. The Facebook Website creates data correlating to the information provided by the user and stores the data in a variety of forms, including files and documents. At least some of the data generated by the Facebook Website can be retrieved using API calls, including, but not limited to video.upload. Further, data created via user interaction is shown on example screen-shots of the Facebook Website which may be found in LTI000781 to LTI000912. When a user enters or uploads information and the Facebook Website creates corresponding data, the Facebook Website also collects certain information regarding the data. This includes information relating to the user, data, application and the user environment. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. This is also shown in example screen-shots from the Facebook Website provided which illustrate the metadata that is associated with the created data. The Facebook Website uses a tracking |

| '761 Patent | Facebook Website |
|---|---|
| | component that uses individual "sessions" to track users as they move through the Facebook Website. At least some of the tracking information is retrievable using API calls, including, but not limited to Auth.getSession. When a user employs an application or data from a different environment from which the data was created, the Facebook Website collects information about the data, application and the user environment and associates the information with the employed data. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Example screen-shots, LTI000781 to LTI000912, from the Facebook Website illustrate examples of the updated metadata associated with the data. Additional examples and information regarding the Facebook Website can be found in LTI00174 to LTI00175, LTI000357 to LTI000365, LTI000696 to LTI000702, and LTI000037 to LTI000039. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 10. The method of claim 9, further comprising capturing context information of the user. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, it also captures information related to the user.<br>By way of example, and not limitation, when a user enters or uploads data, the Facebook Website collects information about the user. Moreover, when a user employs an application or data, the Facebook Website collects information about the user. Information about the user can be retrieved |

| '761 Patent | Facebook Website |
|---|---|
| | using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Additional information may be found at LTI000696 to LTI000697. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 11. The method of claim 9, further comprising indexing content of the user environment such that a plurality of users can access the content from an associated plurality of user environments. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, it also indexes the content of user environments such that users can access the content from other user environments.<br>By way of example, and not limitation, the Facebook Website allows users to access the data of other users from a variety of environments. A user can access the data of another user by obtaining, or searching for, information relating to the user, data, application or the user environment. Access is shown by example screen-shots of the Facebook Website which has been provided as LTI000781 to LTI000912. Additional information is illustrated in LTI000357 to LTI000365 and LTI000338 to LTI000339. Leader intends to supplement its response once Facebook has provided Leader with its document production. |
| 12. The method of claim 9, the least one of the data and the application is associated automatically with the second user environment. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, it also includes functionality that automatically associates at least one of the data and the application with the second user environment.<br>By way of example, and not limitation, when a user employs an application or data from a different environment from which the data was created, the Facebook Website collects |

| '761 Patent | Facebook Website |
|---|---|
| | information about the user environment and automatically associates the information with the second user environment. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Example screen-shots from the Facebook Website, which may be found in LTI000781 to LTI000912, illustrate examples of the updated metadata associated with the data. Additional information may be found in LTI000696 to LSI000702 and LTI000357 to LSI000365. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 13. The method of claim 9, further comprising accessing the user environment and the second user environment using a browser. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, the user environments of the Facebook Website can be accessed through a browser.<br>By way of example, and not limitation, the Facebook Website, and the various environments it provides, is designed to be accessed using a browser. Example screen-shots illustrate that the Facebook Website is accessed using Internet Explorer and may be found in LTI000781 to LTI000912 and LTI000357 to LTI000365. |
| 14. The method of claim 9, further comprising communicating with the user environment using a TCP/IP communication protocol. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, communication with a user environment of the Facebook Website can occur via the Internet using a TCP/IP communication protocol.<br>By way of example, and not limitation, the Facebook Website, and the various |

| '761 Patent | Facebook Website |
|---|---|
| | environments it provides, is designed to be accessed on the Internet which uses the TCP/IP protocol. Example screen-shots found at LTI000781 to LTI000912 and LTI000357 to LTI000365 illustrate that the Facebook Website is accessed over the Internet using Internet Explorer. |
| 15. The method of claim 9, further comprising locating the user environment from a remote location using a URL address. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, a user environment of the Facebook Website can be located from a remote location using a URL address.<br>By way of example, and not limitation, the Facebook Website, and the various environments it provides, is designed to be accessed using www.facebook.com. Example screen-shots, found at LTI000781 to LTI000912 and LTI000357 to LTI00365, illustrate that the Facebook Website is accessed using the URL www.facebook.com. |
| 16. The method of claim 9, further comprising accessing the user environment via a portable wireless device. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 9 as described above, a user environment of the Facebook Website can be accessed via a portable wireless device.<br>By way of example, and not limitation, the Facebook Website, and the various environments it provides, is designed to be accessed using mobile devices. The various platforms and applications which are designed specifically for mobile use are described on the Facebook Website, and can be found at LTI000703, LTI000255 to LTI000258 and LTI000276 to LTI000281. |
| 21. A computer-readable medium for storing computer-executable instructions for a method of managing data, the method comprising: | The Facebook Website meets the recited claim language because it operates from executing computer instructions which are stored on a computer-readable medium. The Facebook Website executes these instructions in order to manage of variety of data. |
| creating data related to user interaction of | The Facebook Website meets the recited |

| '761 Patent | Facebook Website |
|---|---|
| a user within a user workspace of a web-based computing platform using an application; dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace; tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform; dynamically associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace; and indexing the data created in the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of different user workspaces. | claim language because data is created when a user uses an application of the Facebook Website. The Facebook Website dynamically associates metadata with the data and the data and metadata are stored on a web-based platform. The metadata includes information related to the user of the user workspace, to the data, to the application and to the user workspace. The Facebook Website tracks the movement of the user from the user workspace to a second user workspace. The Facebook Website dynamically associates the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace. The Facebook Website indexes the data created in the user workspace such that a plurality of different users can access the data via the metadata from a plurality of different user workspaces.<br>By way of example, and not limitation, when a user logs on to the Facebook Website, the user enters a workspace with a variety of applications. Some of these applications allow the user to enter or upload information. The Facebook Website creates data correlating to the information provided by the user. At least some of the data generated by the Facebook Website can be retrieved using API calls, including, but not limited to video.upload. Further, data created via user interaction is shown on example screen-shots of the Facebook Website found in LTI000781 to LTI000912. When a user enters or uploads information and the Facebook Website creates corresponding data, the Facebook Website also collects certain information regarding the data. This includes information relating to the user, data, application and the user workspace. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Example screen-shots from the Facebook Website, found in LTI000781 to LTI000912, illustrate |

| '761 Patent | Facebook Website |
|---|---|
| | the metadata that is associated with the created data. The Facebook Website uses a tracking component that uses individual "sessions" to track users as they move through the Facebook Website. At least some of the tracking information is retrievable using API calls, including, but not limited to Auth.getSession. When a user employs the data and the application used to create the data from a different workspace from which the data was created, the Facebook Website collects information about the workspace and associates the information with the employed data. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Example screen-shots from the Facebook Website illustrate examples of the updated metadata associated with the data which can be found in LTI000781 to LTI000912. The Facebook Website allows users to access the data of other users from a variety of workspaces. A user can access the data of another user by associating with, obtaining, or searching for, information relating to the user, data, application or the user workspace. Additional examples can be found in LTI00174 to LTI000175, LTI000357 to LTI000365, LTI000696 to LTI000702 and LTI000037 to LTI000039. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 23. A computer-implemented system that facilitates management of data, comprising: | The Facebook Website meets the recited claim language because it operates on a computer and facilitates management of data. |
| a computer-implemented context component of a web-based server for | The Facebook Website meets the recited clam language because it uses a context component |

| '761 Patent | Facebook Website |
|---|---|
| defining a first user workspace of the web-based server, assigning one or more applications to the first user workspace, capturing context data associated with user interaction of a user while in the first user workspace, and for dynamically storing the context data as metadata on a storage component of the web-based server, which metadata is dynamically associated with data created in the first user workspace; and a computer-implemented tracking component of the web-based server for tracking change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically storing the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace. | for defining a first user workspace. The Facebook Website also assigns one or more applications to the first user workspace and captures context data associated with user interaction while the user is in the first user work space. Further, the Facebook Website dynamically stores the context data as metadata which is dynamically associated with data created in the first user workspace. The Facebook Website tracks change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically stores the change information on the storage component as part of the metadata, wherein the user accesses the data from the second user workspace.<br><br>By way of example, and not limitation, when a user logs on to the Facebook Website, the user is placed in an initial context containing a workspace. From this initial context, the user is given the ability to enter or upload data using a variety of applications. When a user enters or uploads data to the Facebook Website, certain information concerning the data entry is collected by Facebook and automatically associated with the user's actions. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Facebook Website uses a tracking component that uses individual "sessions" to track users as they move through the Facebook Website. The Facebook Website also tracks when a user accesses data that was entered or uploaded in a different workspace. This tracking information is collected by Facebook and associated with the data that was accessed. At least some of the tracking information is retrievable using API calls, including, but not limited to Auth.getSession. The ability to enter and access data from different workspaces is shown by screen-shots of the Facebook Website which may be found in |

| '761 Patent | Facebook Website |
|---|---|
| | LTI000781 to LTI000912. Additional information may be found in LTI000696 to LSI000702, LTI000037 to LTI000039, LTI000363 to LTI000365 and LTI000696 to LTI000697. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 24. The system of claim 23, wherein the tracking component automatically creates the metadata when the user accesses the first user workspace. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, it also includes a tracking component that automatically creates metadata when the user accesses the first user workspace.<br>By way of example, and not limitation, the Facebook Website automatically collects certain information concerning the actions of the users in each workspace. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Information relating to the API calls may be found in LTI000696 to LTI000702. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 25. The system of claim 23, wherein the context component captures relationship data associated with a relationship between the first user workspace and at least one other user workspace. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, it also captures relationship data associated with a relationship between the first user workspace and at least one other |

| '761 Patent | Facebook Website |
|---|---|
| | user workspace.<br>By way of example, and not limitation, the Facebook Website automatically maintains information about each workspace and whether those workspaces are related to each other. At least some of this information is retrievable from the storage component using API calls, including, but not limited to, Users.setStatus and Users.getInfo. Information describing the API calls may be found in LTI00696 to LTI000702. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |
| 26. The system of claim 23, wherein the application associated with the first user workspace is automatically accessible via the second user workspace when the user moves from the first user workspace to the second user workspace. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, it also includes an application associated with the first user workspace that is automatically accessible via the second user workspace when the user moves from the first user workspace to the second user workspace.<br>By way of example, and not limitation, an application that is associated in a user's workspace is automatically available on another user's workspace to the extent the second user workspace is associated with the first user workspace. The ability to access the application from different workspaces is shown by screen-shots of the Facebook Website which may be found in LTI000781 to LTI000912, LTI000363 to LTI000365 and LTI000705. Leader will supplement is answer to this interrogatory once Leader receives Facebook's document production. |
| 29. The system of claim 23, wherein when the data created in the first user workspace is accessed from the second user workspace, | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as |

| '761 Patent | Facebook Website |
|---|---|
| in response to which the context component adds information to the metadata about the second user workspace. | described above, when the data created in the first user workspace of the Facebook Website is accessed from the second user workspace, the context component of the Facebook Website adds information to the metadata about the second user workspace.<br>By way of example and not limitation, the Facebook Website tracks when a user accesses data that was entered or uploaded in a different workspace. This tracking information is collected by Facebook and associated with the data that was accessed. The ability to access data from different workspaces is shown by screen-shots of the Facebook Website which may be found in LTI000781 to LTI000912, LTI00037 to LTI000039, LTI000363 to LTI000365, and LTI000696 to LTI000697. Additional information is available in Facebook's document production and Leader will supplement its answer once it receives the documents from Facebook. |
| 31. The system of claim 23, wherein the storage component stores the data and the metadata according to at least one of a relational and an object storage methodology. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, it also includes a storage component that stores the data and metadata according to at least one of a relational and an object storage methodology.<br>By way of example, and not limitation, the Facebook Website uses relational and object storage methodologies. For example, at least some of the data generated by the Facebook Website can be retrieved using FQL, which is a customized version of SQL. Some of this is illustrated on screen-shots of the Facebook website which can be found in LTI00174 to LTI00075 and LTI000357 to LTI000359. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to |

| '761 Patent | Facebook Website |
|---|---|
| | this interrogatory to identify the components which facilitate these processes. |
| 32. The system of claim 23, wherein storing of the metadata in the storage component in association with data facilitates many-to-many functionality of the data via the metadata. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, storing of the metadata in the storage component of the Facebook Website in association with data facilitates many-to-many functionality of the data via the metadata.<br>By way of example, and not limitation, the Facebook Website allows users to access the data of other users from a variety of contexts and workspaces. A user can access the data of another user by associating with, obtaining, or searching for, information relating to the user, data, application, user context or user workspace. Examples of screen shots illustrating this can be found in LTI000781 to LTI000912, LTI000338 to LTI000339 and LTI000363 to LTI000365. Leader intends to supplements its response to this interrogatory once Facebook provides its document production. |
| 33. The system of claim 23, wherein the first user workspace provides access to at least one communications tool, which includes e-mail, voicemail, fax, teleconferencing, instant message, chat, contacts, calendar, task, notes, news, ideas, vote, web and video conferencing, and document sharing functionality. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, a first user workspace of the Facebook provides access to at least one communications tool, which includes e-mail, voicemail, fax, teleconferencing, instant message, chat, contacts, calendar, task, notes, news, ideas, vote, web and video conferencing, and document sharing functionality.<br>By way of example, and not limitation, when a user logs on to the Facebook Website, the user has access to a variety of communication tools. At least one of these communications tools is email. Examples of screen shots can be found in LTI000781 to LTI000912, LTI000297 to LTI000298, LTI000304 to LTI000315 and LTI000740-41. Leader intends to supplement its response to this |

| '761 Patent | Facebook Website |
|---|---|
| | interrogatory once it receives Facebook's document production. |
| 34. The system of claim 23, wherein one or more applications include file storage pointers that are dynamic and associated with the first user workspace. | The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as described above, the applications used on the Facebook Website include file storage pointers that are dynamic and associated with the first user workspace.<br>By way of example, and not limitation, the Facebook Website uses file storage pointers which are dynamically updated. For example, at least some of the data generated by the Facebook Website can be retrieved using API calls, including, but not limited to photos.get. Information may also be found in examples of screen-shots found in LTI00174 to LTI00175 and LTI000357 to LTI00059. It should be noted that the citation to API calls in response to this interrogatory is to illustrate that this information is maintained by the Facebook Website. Once Leader has received Facebook's document production and source code, Leader will supplement its response to this interrogatory to identify the components which facilitate these processes. |

Leader's investigation of this matter is continuing and the Response to this Interrogatory will be supplemented as additional information becomes known to it.

**INTERROGATORY NO. 2:**

For each claim of the '761 Patent identified in response to Interrogatory No. 2, state the construction of each limitation of such claim and identify all intrinsic and extrinsic evidence that supports such construction.

**RESPONSE TO INTERROGATORY NO. 2:**

Leader objects to this Interrogatory to the extent it is unintelligible and nonsensical because it is circular and does not identify any claims for which to provide a construction. Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it seeks expert testimony. Leader objects to this Interrogatory to the extent it is premature as it seeks information that is scheduled to be disclosed to Facebook on dates directed by the Court. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity.

To the extent Leader understands this Interrogatory, subject to and without waiving the foregoing general and specific objections, Leader identifies the following documents from which its answer to this Interrogatory may be derived or ascertained pursuant to Federal Rule of Civil Procedure 33(d): LTI00001-LTI000031; LTI000396-000695; LTI000742-000760. Leader will provide Facebook with its claim construction and evidentiary support on the dates stipulated by the parties or directed by the Court.

**INTERROGATORY NO. 3:**

For each claim of the '761 Patent that LTI contends is infringed by Facebook, describe with particularity the circumstances surrounding the alleged invention of the claim, including, for example, the precise date of conception, the persons involved and the nature of their involvement, the date of actual or constructive reduction to practice, the date and circumstances of first experimental or test use, the date and circumstances of first public disclosure, the date and circumstances of the first offer to sell or sale, the steps constituting diligence from conception to actual or constructive reduction to practice, and all documents and evidence that Plaintiff contends corroborates any of the foregoing dates and/or diligence.

**RESPONSE TO INTERROGATORY NO. 3:**

Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it is premature, as the Court has not yet construed claim terms of the '761 Patent. Leader objects to this Interrogatory to the extent it seeks expert testimony. Leader objects to this Interrogatory to

the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity. Leader objects to this Interrogatory to the extent it seeks the disclosure of Leader's confidential, proprietary, and/or trade secret information before the Court has entered a protective order in the litigation. Leader objects to this Interrogatory to the extent that it is compound amounting to multiple separate interrogatories because it is comprised of multiple discrete subparts.

Subject to and without waiving the foregoing general and specific objections, Leader responds as follows: The date of conception of the invention claimed in the '761 Patent is not later than December 11, 2002. Mike McKibben and Jeffrey Lamb were involved in the conception of the invention claimed in the '761 Patent. The individuals involved in the reasonable diligence toward reduction to practice of the '761 Patent include Mike McKibben, Jeff Lamb, Eric Rosenberg, Brad Whiteman, Steve Hanna, Tim Fathbrucker, Andrea Gieg, and Mark Astin. Reduction to practice occurred not later than December 11, 2002. The date of first public disclosure of the invention occurred on or about February 22, 2003.

Leader's investigation of this matter is continuing and the Response to this Interrogatory will be supplemented as additional information becomes known to it. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Leader will identify documents produced in the litigation from which its answer to the subparts of this Interrogatory may be derived or ascertained after such documents are produced. Leader will not produce documents that contain Leader's confidential, proprietary, and/or trade secret information until the Court enters a protective order in the litigation.

**INTERROGATORY NO. 4:**

Identify with particularity all evidence, documents and the complete factual basis of LTI's allegation of willful infringement, including, but not limited to, the precise circumstances by which notice (if any) of the '761 Patent was allegedly provided to Facebook prior to the filing of the Complaint in this action.

**RESPONSE TO INTERROGATORY NO. 4:**

Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it is premature because Facebook has not yet produced documents or responded to written discovery in the litigation. Leader objects to this Interrogatory to the extent it seeks information known only to Facebook. Leader objects to this Interrogatory to the extent it is premature. Leader objects to this Interrogatory to the extent it seeks expert testimony. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity.

Subject to and without waiving the foregoing general and specific objections, Leader responds that on information and belief, developers of Facebook accessed a white paper describing Leader's proprietary technology made public by Leader on or about February 22, 2003 and copied the technology described in the paper for Facebook's Website. Facebook had actual and/or constructive notice of the '761 Patent on or about November 21, 2006 when the patent was issued by the United States Patent and Trademark Office and Leader began marking its products with the '761 Patent.

Leader's investigation of this matter is continuing and its Response to this Interrogatory will be supplemented as additional information becomes known to it.

**INTERROGATORY NO. 5:**

Identify with particularity all evidence, documents and the complete factual basis of LTI's contention that Facebook has been knowingly and actively inducing others to allegedly infringe the '761 Patent and contributing to alleged infringement by others, including, without limitation, the identity of the persons whose infringement is or has been induced and/or contributed to and in what manner, and identify all persons with knowledge regarding the facts and evidence in support of such contentions.

**RESPONSE TO INTERROGATORY NO. 5:**

Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it seeks expert testimony. Leader objects to this Interrogatory to the extent it is premature because

Facebook has not yet produced documents or responded to written discovery in the litigation. Leader objects to this Interrogatory to the extent it seeks information known only to Facebook. Leader objects to this Interrogatory to the extent it is premature, as the Court has not yet construed the claim terms of the '761 Patent. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity. Leader objects to this Interrogatory to the extent that it is compound amounting to multiple separate interrogatories because it is comprised of multiple discrete subparts.

Subject to and without waiving the foregoing general and specific objections, Leader asserts that Facebook makes and sells the Facebook Website in the United States. The Facebook Website allows a user to enter an initial context when the user logs-on to the Facebook Website. From this initial context, the user can enter or upload data. When a user enters or uploads data to the Facebook Website, certain information concerning the data entry is collected and automatically associated with the user's data. The tracking component tracks the user and the action of the user in each context, as they move from context to context through the Facebook Website. When a user accesses data that was entered or uploaded in a different context, certain information concerning those actions are collected and associated with the accessed data. The Facebook Website is not a staple of commerce and does not have substantial noninfringing uses because of the functionality that the Facebook Website provides. Furthermore, Facebook publicly promotes its website through various media channels and generates substantial revenue from selling advertising on the Facebook Website. The Facebook Website has no use other than as a medium for creating, storing, organizing, displaying, and exchanging information.

Leader's investigation of this matter is continuing and the Response to this interrogatory will be supplemented as additional information becomes known to it.

**INTERROGATORY NO. 6:**

Identify every instance where any third party has been accused of infringing or put on notice of the '761 Patent, including the name and address of each third party and the circumstances surrounding the accusation.

**RESPONSE TO INTERROGATORY NO. 6:**

Leader objects to this Interrogatory to the extent that it is vague and ambiguous. Leader objects to this Interrogatory to the extent it seeks the disclosure of Leader's confidential, proprietary, and/or trade secret information before the Court has entered a protective order in the litigation. Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory as overbroad, unduly burdensome, and oppressive to the extent it seeks information that is not relevant to the issues in the litigation and/or not reasonably calculated to lead to the discovery of admissible evidence. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity.

Subject to and without waiving the foregoing general and specific objections, Leader responds that it has accused Facebook, Inc. of infringement of the '761 Patent. Facebook, Inc. is located at 156 University Ave., Palo Alto, California 94301. Leader put the world on notice of the '761 Patent by marking products and product related materials, including materials available on Leader's website, with the patent number.

**INTERROGATORY NO. 7:**

Identify and fully describe any and all damages that LTI is claiming in this suit, including all facts supporting LTI's contention that "Facebook's infringement of the '761 Patent has injured and continues to injure" LTI, the basis for any such damages, the dollar amount of any such damages, and the detailed methodology and calculations used to determine such amount.

**RESPONSE TO INTERROGATORY NO. 7:**

Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it seeks information that will be the subject of expert testimony. Leader objects to this Interrogatory to the extent it is premature because Facebook has not yet produced documents or responded to written discovery in the litigation. Leader objects to this Interrogatory to the extent it seeks information known only to Facebook. Leader objects to this Interrogatory to the extent it

is premature as it seeks information that is scheduled to be disclosed to Facebook on dates directed by the Court. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity.

Subject to and without waiving the foregoing general and specific objections, Leader responds as follows: As compensation for Facebook's infringement of Leader's '761 Patent, Leader seeks all damages to which it is entitled under the Patent Laws, including 35 U.S.C. §§ 284-285. Leader seeks damages adequate to compensate Leader for the infringement, including but not limited to, damages in an amount not less than a reasonable royalty, together with interest and costs fixed by the Court. Leader also seeks an accounting of all revenues tied to Facebook's infringement. Facebook's request for Leader's damages calculation is premature as Leader's investigation of this matter is continuing and its methodology and calculations will be formulated after relevant Facebook documents are made available to Leader. Leader's investigation of this matter is continuing and the Response to this Interrogatory will be supplemented as additional information becomes known to it. Leader will supplement the Response to this Interrogatory in the form of expert reports in accordance with the date set by the Court.

**INTERROGATORY NO. 8:**

Identify with particularity all evidence, documents and the complete factual and legal bases upon which you base any contention that LTI is entitled to a permanent injunction against Facebook.

**RESPONSE TO INTERROGATORY NO. 8:**

Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it seeks information that will be the subject of expert testimony. Leader objects to this Interrogatory to the extent it is vague and ambiguous. Leader objects to this Interrogatory to the extent it is premature because Facebook has not yet produced documents or responded to written discovery in the litigation. Leader objects to this Interrogatory to the extent it seeks information

known only to Facebook. Leader objects to this Interrogatory to the extent it is premature as it seeks information [that] is scheduled to be disclosed to Facebook on dates directed by the Court. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity.

Subject to and without waiving the foregoing general and specific objections, Leader asserts as follows: Leader is entitled to a permanent injunction in the litigation because (a) Facebook's unlawful activities caused Leader to suffer, and, absent a permanent injunction, will continue to cause Leader to suffer, irreparable harm; (b) monetary damages are inadequate to compensate Leader for the irreparable harm; (c) the balance of the hardships between the parties warrants equitable relief; and (d) the public interest would be served by a permanent injunction.

Leader has been, and, in the absence of a permanent injunction, will continue to be irreparably harmed by Facebook's infringing activities. Leader made substantial investments in terms of time, energy, resources and money in developing the invention claimed in the '761 Patent. Facebook's ongoing infringement of the '761 Patent deprives Leader of its rightful benefit of its investment as an innovator. Additionally, Facebook's infringing activities occurred at a crucial time in the development of the market. Facebook's infringing activities shaped the market to Leader's disadvantage in a way that has caused long-term customer loss and prevented Leader from occupying its rightful place as a leader in the market. Facebook's infringing activities neutralized Leader's pioneering efforts and denied Leader the good will that it should have enjoyed as a technology innovator in the market. Leader has repeatedly chosen to develop its own products in lieu of licensing the technology to other market participants such as Facebook. Facebook's ongoing infringement in the absence of an injunction will force Leader to involuntarily license its proprietary technology. As such, the imposition upon Leader of an involuntary licensing relationship with Facebook will irreparably harm Leader because it will constitute a denial of Leader's right to exclude others in the marketplace from using the technology claimed in the '761 Patent.

The fact that Leader's harm is irreparable is evidence that there is no adequate remedy at law. For example, Leader suffered incalculable harms associated with loss of market position, lost opportunities to establish itself in the market place, and lost ability to capture market share. Finally, the statutory right to exclude is a benefit that cannot be equated by an award of damages. Generally speaking, Leader will suffer ongoing irreparable harms of the nature discussed above if a permanent injunction is not entered in this case to prevent further infringing conduct by Facebook. In contrast, the harm Facebook will endure if a permanent injunction is entered is that Facebook will no longer be able to continue their infringement of the '761 Patent. The pubic interest favors the issuance of a permanent injunction in this matter because the public has a substantial interest in the enforcement of valid patents.

Leader's investigation of this matter is continuing and the Response to this Interrogatory will be supplemented as additional information becomes known to it.

**INTERROGATORY NO. 9:**

For each claim of the '761 Patent that LTI contends is practiced by any product(s) and/or services of LTI, identify all such product(s) and/or service(s) and provide a chart identifying specifically where each limitation of each claim is found within such product(s) and/or service(s).

**RESPONSE TO INTERROGATORY NO. 9:**

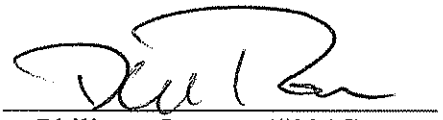
Leader objects to this Interrogatory to the extent it requires a legal interpretation or conclusion to which no response is required. Leader objects to this Interrogatory to the extent it seeks information that will be the subject of expert testimony. Leader objects to this Interrogatory to the extent it is vague and ambiguous. Leader objects to this Interrogatory as overbroad, unduly burdensome, and oppressive to the extent it seeks information that is not relevant to the issues in the litigation and/or not reasonably calculated to lead to the discovery of admissible evidence. Leader objects to this Request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine, or immunity. Leader objects to this Interrogatory to the extent it seeks the disclosure of

Leader's confidential, proprietary, and/or trade secret information before the Court has entered a protective order in the litigation.

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

Paul J. Andre
Lisa Kobialka
Meghan A. Wharton
KING & SPALDING LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065
(650) 590-0700

By: 

Philip A. Rovner (#3215)
Hercules Plaza
P.O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com

Dated: March 20, 2009
908101

*Attorneys for Plaintiff-Counterdefendant Leader Technologies, Inc.*

# EXHIBIT 4

*Leader Technologies, Inc. v.*
*Facebook, Inc.*

---

*Hearing*
*March 3, 2009*

---

*Hawkins Reporting Service*
*715 N. King Street, Suite 200*
*Wilmington, DE 19801*
*(302) 658-6697*

*Original File LEADER~1.TXT, 27 Pages*
*Min-U-Script® File ID: 0276733724*

**Word Index included with this Min-U-Script®**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC., a Delaware corporation,
PLAINTIFF,
v. ) C.A. No. 08-862
FACEBOOK, INC., a Delaware corporation,
DEFENDANT.

Tuesday, March 3, 2009
2:00 p.m.
Courtroom 4B

844 King Street
Wilmington, Delaware

BEFORE: THE HONORABLE JOSEPH J. FARNAN, JR.
United States District Court Judge

APPEARANCES:
POTTER ANDERSON & CORROON, LLP
BY: PHILIP ROVNER, ESQ.

KING & SPALDING LLP
BY: PAUL ANDRE, ESQ.
Counsel for Plaintiff
BLANK & ROME, LLP
BY: STEVEN L. CAPONI, ESQ.

WHITE & CASE
BY: HEIDI L. KEEFE, ESQ.
Counsel for Defendant



**THE COURT:** Good afternoon. Do you want to announce your appearances?

**MR. ROVNER:** Good afternoon, Your Honor. Phil Rovner from Potter Anderson for plaintiff Leader Technologies. With me is Paul Andre from King and Spalding.

**MR. CAPONI:** Good afternoon, Your Honor. Steven Caponi from Blank and Rome. With me is the brains of the operation, Heidi Keefe from White and Case in Palo Alto, California.

**MS. KEEFE:** Good afternoon, Your Honor.

**THE COURT:** Okay. We're here to do some scheduling, and we have a disagreement. Pretty large, actually. So start with plaintiff.

**MR. ANDRE:** Thank you, Your Honor. Plaintiff's schedule is based on an eighteen- to twenty-month trial schedule from the date of filing. What we did, we looked at twenty months out from the day we filed the case and traveled backwards based on the Court's scheduling order and imposed the dates.

The first disagreement,



significant disagreement, is when the written discovery should be completed. There's about a four-month gap there. Our schedule is aggressive, but I think written discovery can be done in that time period just because parties tend to waste a lot of resources with written discovery by trying to extend it out and go further and further.

The biggest difference, scheduling difference, I see is in the Markman hearing. Defendants propose to do it in March 2010, whereas we put it in August 2009. That big difference, I think, accounts for a lot of the discrepancy here. Our position is that Markman is based on an intrinsic record. You don't need a year-and-a-half of discovery before the Markman process. I think that's a major difference.

With respect to some of the opening expert reports, Your Honor's order had thirty days after the issuance of Markman. They had suggested adjusting it to forty-five days. I don't see a need for that.

And then with case dispositive

Page 4

motions, we had provided a specific date of January 2010, and the defendants have put a date based on Markman, saying ninety days after the Markman decision.

First of all, I'm not sure case dispositive motions are a good idea in a patent case. I think there are always issues of fact that can be raised to preclude it, but that's my personal opinion. Nonetheless, I think having a definite date on the calendar for parties to file that motion will advance the case at a proportional rate that makes it reasonable to get to trial in a timely manner.

The other dates that there are disagreements on, amendment pleading and joining new parties, I'm not sure why the defendants want to push it out so far. There is a big difference. Those issuances — I'll let them address why they want to push it out further. I don't understand why it would take ten months or a year or two for amendment pleadings.

Thank you.

**THE COURT:** All right. Thank you.

**MS. KEEFE:** Thank you, Your Honor.

Page 5

I think one of the places that we have our largest disagreement has to do with what this case is even about, so I'll back up one step.

One of the reasons that we have proposed the schedule that we have is that we've attempted to make sure that we're not constantly coming back to Your Honor and constantly coming back and saying, "It didn't quite work out. We just need a little bit more time. We weren't sure about that. We need to come back again."

Since the very, very beginning of this case, we've actually been relatively — aggressive is the wrong word, but let's just say there have been a number of phone calls to plaintiffs trying to really ask what they're accusing in this case. And through a series of conversations — sure, I'll let you know. Not really letting us know — we finally got discovery served on us, as well as one answer in an e-mail that indicated they're contemplating accusing the entire Facebook website of infringement.

That would entail almost every

Page 6

single document that Facebook has ever created since its inception. It could potentially entail the inclusion of numerous third parties.

There's over 500,000 applications that run on Facebook, and given the definition they've currently given us of what they consider to be the case, those applications could be included, and we could be talking about involving third parties in the case. Therefore, we extended the time to amend pleadings and to add parties based on trying to find out what aspects of our business are actually involved in this case. So needing to see at least one or two rounds of written discovery in order to try to understand the scope and breadth of what we're dealing with here.

We have no problem with coming back to Your Honor if they come with a narrowing of the case to try to put it on a shorter schedule. That's not what we're worried about. We're worried about coming back to Your Honor to try to lengthen things because now we've realized that they really are accusing the whole site, and, therefore, we're going to have to go

Page 7

to third parties, potentially outside the United States, et cetera, et cetera.

As far as the other things with Markman and with dispositive motions, I'm not sure that a dispositive motion would have much value in a patent case without the claim construction. So we've posited that the dispositive motions be filed after we have the ruling on claim construction. If the claim construction hearing is earlier, the dispositive motions cut-off date would be earlier.

Similarly, I think Your Honor has dealt with the need, or lack thereof, with dispositive motions with your standing orders, which would indicate if there, in fact, is a factual issue, the briefing doesn't go forward. And if there is not, then the dispositive motion actually can be extremely helpful.

We anticipate at least hoping to file early summary judgment motions, if possible, especially if we find that the case is narrower and narrower and we can actually go for an invalidity charge. That's what's really behind our schedule.

Page 8

THE COURT: Okay. Do you understand in some general way today what your infringing activity is, generally?

MS. KEEFE: To be completely honest, Your Honor, I don't. I've taken the patent and read it I don't know how many times, and each time I've read it, I come up with a different thought process about what it might be that they might be accusing. That's why we sent some early e-mails and letters asking, can you please identify for us, either to help us narrow our litigation hold — which we have a very broad one in place now — or to help us with Rule 26 disclosures. Give us something.

And what we got back was, "The website Facebook.com infringes." And there are ways I could read the claim that potentially could encompass every single thing on Facebook, although I think that would be an invalid patent. There's certainly ways to read it overly broadly.

So in all earnest honestness — that's not a word — I can't figure out what they're accusing, and that's the first time I've

Page 9

said that in a case.

THE COURT: Mr. Andre, they don't know what they're doing wrong, maybe.

MS. KEEFE: I'd be happy to hear from plaintiffs because that might help us resolve some of these dates, and that's why we served discovery the first day we could, asking them to identify what the infringing product was, how, and why.

MR. ANDRE: And Your Honor, even before discovery began, we made a good faith effort to identify the information. It wasn't just the Facebook web page. We gave a very long description of the infringing activity of Facebook, so this was before discovery and without obligation.

THE COURT: What do you think your patent covers?

MR. ANDRE: It is the platform which their website operates on. It's a way that — we have two different contexts, and how you do tracking on it, and how you do the various aspects the patent lays out. It is a method of operating that type of peer-to-peer,

Page 10

mini-to-mini network.

The claims are very clear. You can read the claims, and this is not — it's not written in a lot of computer software language that makes it incomprehensible. The language is very clear, even though it's a very complex technology. The claims themselves are drafted in a way that do spell out what type of activity will be infringing.

I don't think Facebook has any ignorance of how their website works. I think they understand how it works. If they read it, I think they can see what is implied there.

Another reason for us to want to conclude written discovery early, including contention interrogatories, is so that we can have this information out to them. They can ask specific interrogatories. We'll tell them exactly what they ask for. There's no reason to expand this for months upon months.

Same with the claim construction. Claim construction will obviously help both parties. Pushing this out for two years after filing is a delay tactic. That's what this is

Page 11

about.

Claim construction is not based on their activity. It's based on intrinsic record of our patent. If they get the claim construction early, as we propose, get our contention interrogatories early, as we propose, there's no reason why they can't, at that time, make their motions they think are appropriate or get a fair understanding as to where they think their case is.

What we're proposing is exactly the solution to what they're claiming now is the problem. They say from the very first day they have a problem understanding what our claims are, so we told them. We didn't have to. We did it voluntarily. We didn't do it as part of discovery or part of our initial disclosures, which we're exchanging today. We told them in a letter, and we also put forward in our discovery request which we propound on them, as well, what we believe is the relevant information with definitions and such. So I don't think there's any big mystery here as to what's being accused.

As far as their 5,000

Page 12

applications, we're not accusing third parties, those applications, of infringing at this time. That's not part of this case. I think that's just a red herring, to hold out potentially thousands and thousands of defendants.

**THE COURT:** In a layman's understanding, what you're saying is that the patent covers the way their platform functions? Its foundational functionality?

**MR. ANDRE:** That's correct, Your Honor. You can set up these type of networks in, obviously, different ways. There are ways that make it very efficient, make it very user friendly. And there are ways that make it non-efficient and non-user friendly.

And in this particular case, our patent covers a foundation of how you can set up these type of networks that make it very efficient and user friendly and easy to navigate through the web site. And it's — those claims are laid out in an element-by-element basis.

And, like I said, it's not as defense counsel mentioned. You can read the claims and see how. You can read on their

Page 13

actual website itself.

As far as the dates regarding the motion to amend the pleadings and join additional parties, I think that there is a logistic disagreement as to time frame. I think it's unnecessary to hold those dates open.

But that being said, I don't think there will be any amendment to the pleadings. I don't think additional parties will be added. I think it may be somewhat of a philosophical difference more than a practical difference between the parties.

The only date I see that is really of major significance is the Markman hearing itself. To me, that has nothing to do with whether or not they understand their own technology. What we are accusing of infringing, I think that's outside that.

**THE COURT:** All right. Sure.

**MS. KEEFE:** I was just going to add, Your Honor, but I'm sorry, but that actually didn't completely help me understand how it applies to what we do because our network is inextricably linked to multiple applications,

Page 14

how it functions.

And if it's that easy to understand, what it is we're doing that's infringing, I'd love it if they just told us.

And that's what we've asked for. There's thirty-five claims at issue in this patent, and so far there's still thirty-five claims. The information that they told Your Honor, told us exactly what they were accusing — you know, the e-mail says that they're "accusing the Facebook website and all functionality programs and modules, both software and hardware, currently and formerly built, used, or made available by Facebook, but is not limited to all components on the website." So that didn't really help us understand.

As far as claim construction goes, I think the first thing you have to understand is which claims are in the case and which claims are going to be involved, and that's done through discovery, through figuring out which are actually infringed, what you are going to be accusing, so that the parties don't waste time

Page 15

trying to go down the rat hole of claims that really aren't involved because you haven't had a chance to narrow the case yet and figure it all out.

So I still think that this case, at least until we see the initial interrogatory responses, could potentially be unwieldy, and, therefore, it does require a little bit more time to figure out what's really going on.

Thank you.

**MR. ANDRE:** Your Honor, as far as which claims are being served, Counsel has asked us, essentially, complete discovery before the scheduling conference. That's not our obligation to do so. We are identifying the claims. We're going to be asserting, based on their first set of interrogatories — they're due in twenty-some-odd, fifteen days. We'll identify them. They'll know them.

So they're going to want claims. They're going to have all the intrinsic records in front of them by March. So why they need until March of next year to schedule a Markman hearing is — I don't understand that.

Page 16

THE COURT: Well, this case actually has the potential to become part of the stimulus package. If I can get you to bill enough against each other, what we'll put into the economy, I could turn the whole thing around.

But let me ask on a serious note. I have a sense now of what the problem is. First thing is going to be summary judgment. My alter ego in Tennessee, Bill, who keeps statistics, says that I'm one of the lowest summary judgment judges or something. Compare me to Judge Ward. I don't have anything to do with summary judgment. The case does. There's either summary judgment or there's not.

We do get you to trial here. I understand some districts don't have the time or the energy for trial. We'll get you to trial. They only give us twenty percent. That's not me. I do summary judgment. I entertain motions.

My procedure I put in place a little bit ago, when I heard the preliminary talks — I was on a panel somewhere. Someone on

Page 17

the panel was working on Rule 56. I listen to what they say. I look at my procedure. It's, kind of, the bare bones of what they're proposing. They have a lot more detail now that they flushed out what they want to do, but it's all designed to make it work. But there is a dispute of fact. I can't do anything about that. I give you a trial.

So I heard what both of you have to say, and I think there's a way to proceed that will allow us to accommodate both interests here. What I'm going do in the first instance is take summary judgment because I agree with you, and Mr. Andre, you agree. I really can't do that. Some judges do it in the context of claim construction, but I'm going to take that out of the case for now. But that's not saying I won't entertain a motion.

Ultimately, what I'm going to do is focus, given what's been told to me, on getting fact discovery completed in as efficient a way as possible, which means that in a manner that more comports to what the plaintiffs are asking for. And then get us to a Markman

Page 18

hearing.

Now, in that context, if this starts to become what you think it might, I'm not going to be reluctant, and I know that Mr. Caponi will remind me of this by presenting this transcript, to give you an extension.

MS. KEEFE: Would Your Honor also be amenable, if it turns out to be one of those cases that looks like it will grow crazily, to possibly appointing a special master? I don't want one now. I'm just asking if that might be something that you'd be amenable to.

THE COURT: Sure, but first I want to get it to the status of a stimulus contributor, which we'll see how that goes. But on application, I will appoint a special master.

Now, having said that, one thing that is a little bit of a concern, as it is in all of these cases — I don't know if Mr. Andre was at that seminar or Mr. Rovner was — some judges think you don't have the right to tell folks that I'm not going to allow you to assert all thirty-five claims for claim construction purposes. They think you're entitled to that.

Page 19

I take the view, and I think this district does, that we can limit the claims to representative claims in order to get the case moving and to get it to a claim construction hearing.

I'm not going to ask you to limit those claims now, but if that becomes part of the issue, I think you ought to be thinking about the need to get us to a representative set of claims that will allow us to get the case efficiently through discovery. But at this point, we have thirty-five claims, and we'll see how it goes.

So what is the time for discovery in this case? Do you know when this case was filed.

MS. KEEFE: End of November, Your Honor.

THE COURT: November 19th. And I'm going to say that you're going get down here and discuss getting your fact discovery completed sometime between the end of June and the end of July of '09, contemplating getting your claim construction experts lined up in

Page 20

August for a September or October Markman hearing.
And once we get that far and add the claim construction, then we'll set the meter for the finishing-up of patent issue experts and also any summary judgment applications.
Now, as we get through this, as I said, it becomes apparent that that's not going to work because of — we have trouble with the contentions on the interrogatories on the issues or we have problems with the document production, then you'll come back, and I hopefully will reconsider an extension time. So you're not foreclosed on that. If everybody works together, you ought to be able to get through that.
I'll look at the special master once I see what kind of disputes you're having. Some cases I just keep myself because they're actually an education forum, and others I find that it's more contention and volume, and they're the kind of cases that go to special master so you can get more frequent and immediate attention than you can with me with

Page 21

the motion days that I have.
So you think you can sit down and agree on that time? I don't want to dictate the schedule. I've given you, basically, where you ought to finish up. Can you sit down and negotiate that and submit an order?
**MS. KEEFE:** I would certainly be happy to try. I know that I'm going to ask on the lower end — longer end of it, but I think we could work on that.
**MR. ANDRE:** That's fine, Your Honor.
**THE COURT:** What I would like to do is schedule, in addition to what you're going to propose, kind of, like, a ninety-day window, assuming that that first portion holds, for a trial just so we can all have that date we're working to. So if I give an extension, ninety days, you know the trial is going out another ninety days. In other words, push it out.
But we should start to think about that trial date, which is good in a patent case because it, kind of, holds all our focus. So what do you think?

Page 22

**MR. ANDRE:** That's fine.
**THE COURT:** I don't know your availability.
**MS. KEEFE:** It's a little dicy in the very beginning of 2010. I've got another trial set in Texas in January, and I've got one in March.
But if we had claim construction sometime in October, and give Your Honor a couple months to rule, we could probably be at trial within six months after that. Six to seven months.
**THE COURT:** So we're look at early 2010, or early in the first six months?
**MS. KEEFE:** I was going to say May because of my other trials. Early May would work for me maybe, now.
**MR. ANDRE:** April, May. That's fine.
**THE COURT:** This will become more of a firm trial date because I'm going to build in.
**MS. KEEFE:** Mr. Caponi was just reminding me to make sure I have enough time to

Page 23

do all the experts, which means maybe June or July. I'm not trying to push things out. I'm just trying to make sure that there's time to get on people's schedules and make sure we have enough time after Your Honor rules, so —
**THE COURT:** This is a jury trial.
**MS. KEEFE:** Yes.
**THE COURT:** I have this other little case —
**MS. KEEFE:** A small one, Your Honor.
**THE COURT:** — that I promised them I would try. It's in April of 2010, and I told them it had to go to trial then for a whole lot of reasons. So April 2010.
This is going to become your firm date, pretty much. So I don't know. I don't have any exact time frame of that trial, but I'm going to leave open April, May, and a little bit of June. That's the Intel. Of course, they could settle.
**MS. KEEFE:** Anything is possible, Your Honor.
**THE COURT:** Anything is possible.

Page 24

MR. ANDRE: Curse of the economy, Your Honor. I don't think Intel will settle.
MS. KEEFE: There's your stimulus package.
THE COURT: I want to be exact on this, so we don't have to — your date will be June 7th of 2010. And we'll work both of your tech files. And are you okay with that day?
MR. ANDRE: That's fine.
THE COURT: You really ought to focus on that. Anything that you do ought to be with the view that June 7th is the trial date in this case, of 2010. So we'll set aside ten trial days for now. That doesn't mean you're going to get ten trial days.
Okay. I think with that information, that kind of gets us scheduled up. I'm going to ask you to have that order here with your negotiated dates, agreed upon dates, let's say in two weeks. So that would be, let's say, by March 19th. You have that order here so I can get it in the scheduling order.
MS. KEEFE: Your Honor, that's absolutely possible. The only thing I might ask

Page 25

is that you extend that by one week. We would both have each other's initial responses to the very first discovery in this case, and we might know if this is going to be a problem.
We might be able to come back to Your Honor and say, "This is the problem we're having and this is why it's going to be fine." Sorry. There's no problems. It's fine, and this is the problem, and here's what we think. So that might accommodate that.
THE COURT: So let's make it March 25th. I don't think that's a problem, and you'll have a better idea.
MS. KEEFE: I appreciate that, Your Honor.
THE COURT: The order will be here by March 25th.
My parting words will be: Don't lose sight of June 7th, 2010. It's an important date for you.
Anything else that the plaintiff wants to pick up?
MR. ANDRE: No, thank you, Your Honor.

Page 26

MS. KEEFE: Thank you very much, Your Honor.
THE COURT: Thank you. We'll be in recess.
(Proceeding ended at 2:35 p.m.)

Page 27

CERTIFICATION

I, DEANNA WARNER, Professional Reporter, certify that the foregoing is a true and accurate transcript of the foregoing proceeding.

I further certify that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which this proceeding was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

DEANNA WARNER
Professional Reporter and Notary Public

# EXHIBIT 5

KING & SPALDING

King & Spalding LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065
Tel: (650) 590-0700
Fax: (650) 590-1900
www.kslaw.com

Meghan Wharton
Direct Dial: (650) 590-0729
Direct Fax: (650) 590-1900
MWharton@kslaw.com

April 1, 2009

Craig W. Clark
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

**Re: *Leader Technologies, Inc. v. Facebook, Inc.*, 1:08-cv-00862-JJF (D. Del)**

Dear Craig:

Leader writes regarding Facebook's responses to Leader's written discovery requests as well as your letter dated March 25, 2009. We are very disappointed with the tone of your recent correspondence as well as the accusations that have been made by Facebook. We remain hopeful that you will not continue to engage in the same tactic that Facebook's counsel has used in the past with respect to discovery. As such, we are making good faith efforts to address the concerns you have raised with respect to our discovery responses. Likewise, we hope that you will do the same with respect to Facebook's discovery responses.

**Facebook's Responses to Leader's Written Discovery Requests**

It appears that Facebook believes that is appropriate to withhold discovery until it receives a definition of the accused product that it likes, and approves of the infringement contentions provided. [Obj. to Def. B; Resp. to RFP Nos. 4-12, 18-20, 23-31, 33-40, 42-43, 45-52, 54-61, 64-65 and 68-69; Resp. to Rog. Nos. 1-4, 6 and 10-11]. We disagree. We have provided sufficient responses for this stage of discovery, including citing API calls, as well as identifying screen shots of Facebook's website to support Leader's infringement contentions. For example, Leader's defined term "Facebook Website" clearly identifies the functions, aspects and technologies of www.facebook.com that Leader accuses of infringing the '761 Patent. Specifically, in response to Facebook's Interrogatory No. 1 requesting Leader's infringement contentions, Leader provided a narrative explaining the steps that may be performed by a user of the Facebook Website, citations to specific API calls and hundreds of pages of screen shots, all of which illustrate Facebook's infringement of the '761 Patent. Thus, contrary to your claim, Leader's responses do not "simply parrot() the claim language".

This is sufficient information for Facebook to provide substanative responses to Leader's discovery requests. There is no law to support your position and the cases you cite are not on point with the present situation. Additionally, we provided a sufficiently well defined definition of the accused product. We are happy to discuss this further with you. Leader requests that Facebook immediately supplement its responses to Leader's written discovery requests and immediately provide all responsive information and documents.

Leader's review of Facebook's written discovery responses is ongoing and Leader reserves the right to make further demands regarding deficient responses in the future.

**March 25, 2009 Letter Regarding Leader's Written Discovery Responses**

We will discuss Leader's positions regarding your March 25 letter during our meet and confer later this week. However, we did want to provide you with some of our positions in advance of the call in order to make the call as productive as possible.

Leader's Responses to Facebook's Interrogatory Responses

Leader provided responses to Facebook's interrogatories that are full and complete in light of the current stage of the litigation. As discussed above, Leader's disclosure of its infringement contentions and identification of the accused aspects of the www.facebook.com website in its responses to Facebook's Interrogatory No. 1 and its defined term "Facebook Website" is more than sufficient. Leader will supplement its responses in a timely manner once Facebook provides Leader with access to its documents and source code.

Facebook's Interrogatory No. 2 seeking information regarding Leader's claim construction contentions seeks information that is required to be disclosed by the parties at dates set by the Court. The Court has set forth a schedule for the disclosure of the parties' claim construction contentions and Leader will provide such information to Facebook on the scheduled date for disclosure.[1]

Leader's response to Facebook's Interrogatory No. 8 provided specific factual details regarding Leader's contention that it is entitled to injunctive relief. Leader's investigation of this matter is continuing and its response to the interrogatory will be supplemented as additional information becomes known to it.

Facebook's Interrogatory No. 9 seeking information and analysis regarding Leader's products requests information that is not relevant to the litigation. As you well know, comparisons of the patentee's products are not appropriate. It appears that your basis for requesting such information is to make such an improper comparison of Leader's product.

Leader's investigation regarding some of the topics covered in Facebook's Interrogatory Nos. 4 and 5 is ongoing and complete responses cannot be provided until Facebook provides meaningful discovery. As such, Leader will supplement its responses to these and other Facebook interrogatories at an appropriate time after Facebook provides meaningful discovery.

---

[1] The parties' legal dispute regarding the law of the case with respect to the interpretation of the patent is also not grounds to withhold discovery.

Leader's Document Production

Facebook's assertions regarding the inadequacy of Leader's document production are questionable in light of the fact that Facebook produced a total of 72 documents that it apparently contends constitute Facebook's total document production of relevant documents that are responsive to Leader's document requests.

Delaware Local Rule 26.2 in no way requires Leader to produce sensitive documents in the absence of a protective order. Rather, it allows for such production. Facebook's reading of this local rule is not supported by the text of the rule or its use by the Courts. Given that discussions regarding the protective order are ongoing, it is in the best interest of both parties to work through the protective order, and Leader will mark each produced page with the proper confidentiality designation afforded the document under the applicable protective order. In order to avoid unnecessary remarking expenses, Leader will only produce such documents after the court has entered a protective order.

Leader has documents responsive to Facebook's First Set of Request for Production of Documents for production. Leader will begin a rolling production of such documents once we can agree upon the protective order.

Leader's Asserted Claims

We disagree with Facebook's contention that Leader is somehow limited to asserting only ten claims of the '761 Patent and directly contradicts statements made by Judge Farnan during the March 3, 2009 hearing. In fact, Judge Farnan specifically stated that he would not require Leader to limit its claims at this point in the proceeding. [Mar. 3, 2009 Tr. 18:17-19:13]

We look forward to discussing these issues with you on Thursday. Additionally, Leader hopes to resolve all outstanding issues regarding the protective order and electronic discovery issues during the call.

Sincerely,

Meghan Wharton

MW:ks

**VERIFICATION**

I, Michael T. McKibben, Chairman and Founder of Leader Technologies, Inc., being duly sworn, deposes and says that I am authorized to sign this Verification and that I am informed and believe that the factual statements in **Plaintiff Leader Technologies, Inc.'s Responses to Facebook, Inc.'s First Set of Interrogatories ("Responses")** are true and correct to the best of my knowledge, information and belief. I declare under penalty of perjury under the laws of the State of Ohio and the United States that the above statement is true and correct.

March 20, 2009
Date

Michael T. McKibben
Michael T. McKibben

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

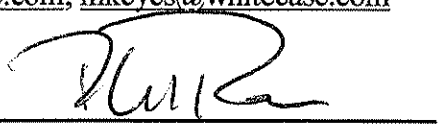
I, Philip A. Rovner, hereby certify that on March 20, 2009, true and correct copies of the within document were served on the following counsel of record, at the addresses and in the manner indicated:

**BY HAND DELIVERY AND E-MAIL**

Thomas P. Preston, Esq.
Steven L. Caponi, Esq.
Blank Rome LLP
1201 Market Street
Wilmington, DE 19801
Preston-T@blankrome.com
caponi@blankrome.com

**BY E-MAIL**

Heidi L. Keefe, Esq.
Mark R. Weinstein, Esq.
Craig W. Clark, Esq.
Melissa H. Keyes, Esq.
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306
hkeefe@whitecase.com; mweinstein@whitecase.com
cclark@whitecase.com; mkeyes@whitecase.com



Philip A. Rovner (#3215)
Potter Anderson & Corroon LLP
Hercules Plaza
P. O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com

# EXHIBIT 6

# KING & SPALDING

King & Spalding LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065
Tel: (650) 590-0700
Fax: (650) 590-1900
www.kslaw.com

Paul Andre
Direct Dial: (650) 590-0721
Direct Fax: (650) 590-1900
pandre@kslaw.com

April 6, 2009

Heidi Keefe
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

**VIA ELECTRONIC MAIL AND U.S. MAIL**

**Re: *Leader Technologies, Inc. v. Facebook, Inc.*, 1:08-cv-00862-JJF (D. Del.)**

Dear Heidi:

As stated in our telephone conversation on April 2, 2009, based on the public information available to Leader at this time, it is clear that Facebook infringes Claims 1-2, 4-5, 7-16, 21, 23-26, 29, and 31-34 of Leader's U.S. Patent No. 7,139,761. In our interrogatory responses, we provided Facebook with proof of this infringement in the form of a narrative explaining how Facebook's Website infringes each element of the asserted claims, examples of specific API calls that demonstrate the website functions as claimed, and over 100 pages of screen shots that provide examples of Facebook's infringement. Even before we received a single document or any discovery from Facebook, we had already provided you with overwhelming evidence of infringement. Nonetheless, Facebook still claims it is not aware of what features of its website that Leader is accusing of infringement. In our call, you requested that we identify specific screenshots that correspond to each elements of the claims. We have more than fulfilled our obligations with respect to our initial responses to Facebook's first set of interrogatories, and will not supplement our interrogatory responses at this time. However, in an effort to get Facebook to engage in the discovery process without requiring the Court's intervention, we will provide you with specific examples of the screenshots that demonstrate infringement of Claim 1 of the '761 Patent. We will also provide you with specific applications and features developed by Facebook that demonstrate the infringing technology. It is our hope that this information will convince Facebook to cease these delay tactics, and participate in good faith in the discovery process.

The first element of Claim 1 is directed to a "context component." Anybody with a rudimentary understanding of computers can determine that the Facebook Website has components that function exactly as described in this first claim element. For example, several of the screenshots that we have produced to you demonstrate that the Facebook website contains a context component for capturing user-defined data. These include the screenshots bates labeled as LTI000781-LTI000799, LTI000801, LTI000803, LTI000805, LTI000807, LTI000832, LTI000834, LTI000835-837, LTI000839, LTI000841, LTI000843, LTI000847, LTI000848, LTI000850, LTI000851, LTI000856, LTI000858- LTI000869, LTI000871, LTI000872, LTI000874- LTI000878, LTI000880, LTI000881, LTI000886- LTI000890, LTI000893-LTI000901 and LTI000903- LTI000911. Each of these screen shots illustrate that a user is given the ability to enter or upload data to the Facebook Website. The fact that a user is given the ability to enter or upload data is evidence that the Facebook Website contains a context component which captures the user-defined data. It would be hard to imagine that Facebook does not understand what features of its website capture user-defined data.

In addition, it is also apparent that the Facebook Website contains a context component for capturing context information associated with the user-defined data which is dynamically stored as metadata. This feature is shown in screenshots bates labeled as LTI000800, LTI000802, LTI000804, LTI000806, LTI000808- LTI000831, LTI000833, LTI000838, LTI000840, LTI000842, LTI000844, LTI000857, LTI000870, LTI000882- LTI000885, LTI000891 and LTI000892. As shown in these screen shots, information concerning the data entry is collected by Facebook and automatically associated with the user's data. The fact that the information concerning the data entry is displayed to the user is evidence that the context-component of Facebook Website captures context information and stores it as metadata. Further evidence that the Facebook Website captures context information is from the fact that this information is retrievable using certain API calls. For example, and without limitation, this information is available by using the Users.setStatus and Users.getInfo API calls.

The second element of Claim 1 is directed to a "tracking component." Once again, anybody who has ever been on the Facebook Website recognizes that they are being tracked when they navigate from one context to another. The novel "tracking component" claimed in the '761 Patent is clearly found in Facebook's Website as demonstrated by the API calls and screenshots already provided to you. For example, the Facebook Website contains a tracking component for tracking a change of a user from one context to another and dynamically updating the metadata based on the change when the user accesses the data from a different context as shown in the screenshots bates labeled as LTI000840-LTI000848, LTI000849, LTI000852-LTI000855, LTI000873, LTI000879, LTI000902 and LTI000912. Each of these screenshots illustrate that when a user accesses data that was entered or uploaded in a different context, certain information concerning those actions are collected by Facebook and associated with the accessed data. Moreover, the API call Auth.getSession is further non-limiting evidence that the Facebook Website maintains this information about its users. Facebook cannot argue in good faith that it does not know what aspect of its website is responsible for tracking its users.

While the above-identified screenshots are evidence of Facebook's infringement of particular elements of Claim 1 of the '761 Patent, the same screenshots may also be evidence of additional elements of the asserted claims. As we discussed in our telephone conversation, once we have access to Facebook's document production and relevant source code, we will supplement our interrogatory response to identify the specific components that provide the functionality illustrated in the above-identified screenshots.

Furthermore, you have complained that our definition of "Facebook Website" is over broad, and would encompass over 500,000 third party applications. To be clear, we do not expect or desire to have Facebook provide us with discovery from third parties at this time. However, we do request Facebook to provide us with discovery of applications and features of Facebook's Website that have been developed by Facebook. We have reviewed the publicly available information regarding the source of the Facebook features listed in Leader's definition of the "Facebook Website." Contrary to your claim that the Facebook features listed in Leader's definition of "Facebook Website" are all created by third parties, the Facebook features named in Leader's definition are all created by Facebook with the exception of the third party application named "Reviews." Accordingly, Leader removes the third party application "Reviews" from its definition of "Facebook Website," but maintains the other Facebook features in its definition. Below is a table of Facebook applications and features that we believe were created by Facebook, and the support for such belief. If you have information that refutes this support, we will reconsider our definition of "Facebook Website."

| **Facebook Website** | **Support for Being Facebook Created** |
|---|---|
| Facebook Marketplace | http://blog.facebook.com/blog.php?post=2383962130 |
| Facebook Flyers (now called Facebook Advertising) | http://www.facebook.com/advertising/ |
| Facebook Platform | http://developers.facebook.com/ |
| Facebook Video | http://www.facebook.com/help.php?page=417 |
| Facebook Notes | http://www.facebook.com/help.php?page=415 |
| Facebook Mobile | http://www.facebook.com/help.php?page=432 |
| Facebook Posted Items (now called Facebook Links) | http://www.facebook.com/applications/Posted_Items/2309869772 |
| Facebook Photos | "The Facebook Bifts". facebook.com. http://blog.facebook.com/blog.php?post=2406207130. |
| Facebook Events | http://www.facebook.com/help.php?page=413 |

| | |
|---|---|
| Facebook Gifts | "Give gifts on Facebook!". Facebook. http://blog.facebook.com/blog.php?post=2234372130. |
| Facebook Groups | http://www.facebook.com/help.php?page=414 |
| Facebook Discussion Boards (part of Facebook Groups) | http://www.facebook.com/help.php?page=827 |
| Facebook Discography (part of Facebook Pages) | http://www.facebook.com/help.php?page=175 |
| Facebook Music Player (part of Facebook Pages) | http://www.facebook.com/help.php?page=175 |
| Facebook Translations | http://wiki.developers.facebook.com/index.php/Translating_Platform_Applications |
| Facebook Wall | "Facebook is off-the-wall". http://blog.facebook.com/blog.php?post=3532972130. |
| Facebook Exporter for iPhoto | http://blog.facebook.com/blog.php?post=22389032130 |
| Facebook Toolbar for Firefox | http://developers.facebook.com/toolbar/ |
| Facebook Mobile Services | http://blog.facebook.com/blog.php?post=2228532130 |
| Facebook Connect | http://www.facebook.com/help.php?page=730 |
| Facebook Pages | http://www.facebook.com/help.php?page=175 |
| Facebook Share Service | http://www.facebook.com/terms.php |
| Facebook Share Link | http://blog.facebook.com/blog.php?blog_id=company&blogger=5 |
| Facebook Ads | http://www.facebook.com/help.php?page=409 |
| Facebook Beacon | http://blog.facebook.com/blog.php?post=7584397130 |
| Facebook Social Ads | Facebook announced Facebook Beacon on November 7, 2007, a marketing initiative that allows websites to publish a user's activities to their Facebook profile as "Social Ads" and promote products. |
| Facebook News Feed | "Facebook Gets a Facelift". The Facebook Blog. http://blog.facebook.com/blog.php?post=2207967130. |

As demonstrated by this letter, we have expended considerable time and efforts to address your concerns. Since the reasons for your withholding substantive responses to Leader's written discovery requests are no longer valid as a result of the further detail provided to you in this letter, we request that Facebook now provide Leader with substantive responses to Leader's First Set of Interrogatories and Leader's First Set of Requests for Production of Documents and Things. Should you continue to withhold substantive responses and seek to evade your discovery obligations, we will be forced to seek relief from the Court.

Sincerely,

Paul J. Andre

# EXHIBIT 7

**From:** Wharton, Meghan
**Sent:** Friday, April 10, 2009 7:25 PM
**To:** 'Clark, Craig W.'
**Subject:** Leader v. Facebook - Follow-up Regarding Today's Meet and Confer Call

Craig,

I think we made a lot of progress today during the telephone conference. Since it was a lengthy call, we wanted to send a quick summary of the different issues Leader raised with regard to Facebook's discovery responses, and to confirm the areas that Facebook will get back to us regarding certain of its discovery responses.

- It is Facebook's position that it will not produce documents and information in response to Leader's Request for Production Nos. 4-12, 18-20, 23-31, 33-43, 45-52, 54-61, 64-65, and 68-69 and Leader's Interrogatory Nos. 1-4, 6, and 10-11 because it contends that Leader's infringement contentions are insufficient and/or Leader's definition of Facebook Website is overbroad. The parties agreed that we would need to have the Court resolve this issue because we could not come to an agreement.

- Facebook agreed to get back to us regarding whether it will produce documents that predate the issuance of the '761 Patent in response to Leader's Request for Production Nos. 23, 26-27, 30, 31, and 33.

- Facebook agreed to get back to us regarding whether it will provide financial information predating the filing of the Complaint in response to Leader's Interrogatory Nos. 10 and 11 and Leader's Request for Production Nos. 46-52. While we did not specifically discuss Facebook's response to Leader's Request for Production Nos. 46-52 during the call, the basis of Facebook's refusal to provide information for these document requests was the same as the basis for Facebook's refusal to provide information in response to Leader's Interrogatory Nos. 10 and 11.

- Facebook agreed to get back to us regarding whether it is willing to withdraw its General Objection C and adopt Leader's definition of "Patent-in-Suit". We discussed a number of the requests that are affected by this definition, but specifically note for you Facebook's responses to Leader's Request for Production Nos. 1-13 and Interrogatory No. 9.

- You indicated that Facebook would produce documents responsive to Leader's Request for Production No. 7 by way of its response to other Leader Requests for Production.

- Facebook agreed to get back to us regarding whether it will provide documents responsive to Leader's Request for Production Nos. 18-20, 23, 28-29, 41, and 53.

- Facebook agreed to provide documents and information responsive to Leader's Request for Production Nos. 64, 65, and 68 and Leader's Interrogatory Nos. 3, 4, and 6 at such time that the issues regarding Leader's infringement contentions and the definition of the Facebook Website are resolved by the Court. We understand that Facebook agrees not to delay production and disclosure of documents and information in response to these requests and interrogatories based solely on an assertion that Leader has not provided its claim construction contentions.

- Facebook agreed to get back to us regarding whether it will provide documents responsive to Leader's Request for Production No. 32 regarding Facebook's financial relationship with Microsoft.

- Facebook agreed to get back to us regarding whether it will supplement its response to Interrogatory No. 6 to provide Facebook's Rule 11 basis for asserting its prosecution history estoppel affirmative defense.

- Facebook agreed to get back to us regarding whether it will supplement its response to Interrogatory No. 10 regarding

how Facebook generates revenue.

We look forward to hearing back from you regarding these matters.

Meghan

**********

Meghan Ashley Wharton
King & Spalding
333 Twin Dolphin Drive, Suite 400
Redwood City, CA 94065
Main: 650.590.0700
Direct: 650.590.0729
Fax: 650.590.1900

**********

# EXHIBIT 8

**From:** Clark, Craig W. [mailto:cclark@paloalto.whitecase.com]
**Sent:** Tuesday, April 14, 2009 11:49 AM
**To:** Wharton, Meghan
**Subject:** LTI v. FB - LTI's responses to Facebook's discovery

Meghan,

While we did make progress on some issues during our our conference last Friday, April 10, 2009, the fundamental disagreement regarding LTI's unarticulated infringement theories looms. We came to the following conclusions regarding LTI's responses to Facebook's discovery during that conference:

1. LTI will not supplement its responses to Facebook Interrogatory Nos. 1, 4 or 5.
2. LTI will not limit its definition of "Facebook Website."
3. LTI will get back to us this week regarding whether it will supplement its response to Facebook Interrogatory No. 3 by providing precise dates of conception and reduction to practice and an explanation of the circumstances regarding first public disclosure. For additional authority supporting Facebook's position, *see Nazomi Communications, Inc. v. Arm Holdings PLC*, 2003 WL 24054504, *2 (N.D. Cal., Sept, 3, 2003) (finding response to interrogatory containing "not later than" dates for conception and reduction vague and ordering patentee to provide actual dates).
4. LTI is willing to identify the LTI products it contends practice the claimed invention in response to Facebook Interrogatory No. 9, and will explain how those products allegedly embody the alleged invention. However, LTI is not willing to provide claim charts.
5. LTI has said that its response to Facebook Interrogatory No. 4 is complete. However, you said last Friday that LTI's forthcoming document production may contain documents that LTI contends support its willfulness allegations. Please advise whether LTI will supplement its response to Facebook Interrogatory No. 4 to identify any such materials.
6. LTI is producing documents responsive to Facebook's First Set of Requests for Production this week.
7. LTI is unwilling to limit the number of asserted claims or identify representative claims.

Please let me know if this does not comport with your understanding of our call.

**Craig W. Clark | WHITE & CASE LLP**
3000 El Camino Real | 5 Palo Alto Square | 9th Floor | Palo Alto, CA | 94306
t + 1 650 213 0307 | f + 1 650 213 8158 | cclark@whitecase.com

==========

==========

# EXHIBIT 9

KING & SPALDING

King & Spalding LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065
www.kslaw.com

Lisa Kobialka
Direct Dial: (650) 590-0720
Direct Fax: (650) 590-1900
lkobialka@kslaw.com

April 16, 2009

**VIA E-MAIL**

Craig W. Clark
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

**Re: *Leader Technologies, Inc. v. Facebook, Inc.*, 1:08-cv-00862-JJF (D.Del.)**

Dear Craig:

We are in receipt of your email of April 14, 2009 regarding our telephone call on April 10, 2009. We wanted to address certain assertions you made in your email and a few additional issues that you have not responded to in your subsequent correspondence.

The first issue is Leader's definition of "Facebook Website" as set forth in its discovery requests to Facebook. Contrary to your assertion in your email that Leader will not limit its definition of "Facebook Website," Leader provided Facebook with a narrower definition of the "Facebook Website" on April 6, 2009 in response to Facebook's request. As we stated in the call on April 10, 2009 and in our letter to Ms. Keefe dated April 6, 2009, we do not expect or desire to have Facebook provide us with discovery related to third party applications at this time. Accordingly, we have removed the two applications that have been identified as third party applications from Leader's definition of "Facebook Website," i.e. "Reviews" and "Marketplace." Leader only seeks discovery related to all applications and features created and developed by Facebook. To be clear and for your convenience, Leader's definition of "Facebook Website" is set forth below:

> The term "Facebook Website" shall mean the Facebook services and network currently located at www.facebook.com and formerly located at www.thefacebook.com (including any directly associated current or former domains), and all functionalities, components, programs, and modules (both software and hardware) currently or formerly built and used by Facebook.

> "Facebook Website" includes all components and information necessary to build and use features and applications created by Facebook including but not limited to: Facebook Flyers (now called Facebook Advertising); Facebook Platform; Facebook Platform Applications (including, but not limited to Facebook Video, Facebook Notes, Facebook Mobile, Facebook Posted Items (now called Facebook Links), Facebook Photos, Facebook Events, Facebook Gifts, Facebook Groups, Discussion Boards (part of Facebook Groups), Discography (part of Facebook Pages), Music Player (part of Facebook Pages), Translations, Wall, Facebook Exporter for iPhoto and Facebook Toolbar for Firefox); Facebook Mobile Services; Facebook Connect; Facebook Pages; Share Service; Share Link; Facebook Ads; Facebook Beacon; Social Ads; News Feed; Mini-Feed; and any other tools which facilitate Site Content or User Content. For purposes of clarification and not limitation, these terms shall have at least the same meaning as used in Facebook's Privacy Policy located at www.facebook.com/policy.php (effective as of November 26, 2008), Terms of Use located at www.facebook.com/terms.php (revised on September 23, 2008), and Product Overview FAQ located at www.facebook.com/press/faq.php (accessed on December 17, 2008). For the purposes of this definition, "Facebook Website" does not include applications created by third parties.

Based on our conversation during the call on April 10, 2009, we understand that even though Leader has limited its definition of "Facebook Website" as stated above, Facebook still refuses to provide substantive discovery responses. We further understand that our efforts to address Facebook's concerns do not resolve its issues with respect to Leader's response to Facebook's Interrogatory No. 1. Accordingly, we will seek relief from the Court regarding Facebook's discovery responses to Leader's discovery requests. (See April 10, 2009 email for the discovery requests related to Facebook's objections to the Facebook Website definition and Leader's infringement contentions.)

We are still waiting to hear back from you regarding a number of topics that we discussed last week. Facebook agreed during the call on April 10, 2009 to notify us whether it will agree to Leader's definition of "Facebook" that includes related entities of Facebook. We also have not received any communication from you in response to other issues raised in our email dated April 10, 2009 that was an overview of our April 10, 2009 call. Please inform us as to whether Facebook will produce documents that predate the issuance of the '761 Patent, produce documents and provide financial information predating the filing of the Complaint, adopt Leader's definition of the "Patent-in-Suit" and accordingly supplement its discovery responses, produce documents in response to Leader's Requests for Production Nos. 18-20, 23, 28-29, 32, 41, and 53, provide a Rule 11 basis for asserting prosecution history estoppel as an affirmative defense, and provide a supplemental response to Leader's Interrogatory No. 10. If we do not hear back from you regarding these issues by close of business on Monday, April 20th, 2009, we will seek relief from the Court on these issues.

# EXHIBIT 10

WHITE & CASE

White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, California 94306

Tel +1 650 213 0300
Fax +1 650 213 8158
www.whitecase.com

Direct Dial +650.213.0307 cclark@whitecase.com

April 21, 2009

VIA E-MAIL

Lisa Kobialka, Esq.
KING & SPALDING
333 Twin Dolphin Drive, Suite 400
Redwood City, CA 94065

Re: *Leader Technologies, Inc. v. Facebook, Inc.*, 1:08-cv-00862-JJF (D. Del.)

Dear Lisa:

I write to follow up on our April 10, 2009 conference regarding discovery. I am a bit confused as to what issues LTI has with Facebook's discovery responses based on your correspondence. For example, you state that LTI will move for an order compelling production of documents responsive to LTI's Request Nos. 60 and 61 (regarding third party applications), yet state that LTI is not seeking information regarding third party applications. As such, I do not believe LTI has met its meet and confer obligations. Nevertheless, we will do our best to provide as much information as we can and I trust the below will alleviate LTI's concerns and moot issues you have expressed. If not, I am available to discuss further.

LTI's Interrogatories

LTI's Interrogatory Nos. 3, 4 and 6 request narratives regarding Facebook's affirmative defenses. As I explained, Facebook's ability to respond to these interrogatories is hindered by LTI inability to articulate an infringement theory. However, Facebook will supplement its responses. Facebook will also supplement its response to LTI's Interrogatory No. 10.

Regarding Interrogatory No. 11, which seeks Facebook's financial information, Facebook is willing to produce responsive materials created after issuance of the patent pursuant to FRCP 33(d) and to provide LTI with a letter identifying such documents after they are produced.

LTI's Interrogatory Nos. 1 and 2 request narratives covering the factual circumstances surrounding the "creation, development, design, programming and/or coding" for "each component, module, and functionality incorporated into the Facebook Website" as well as their "launch or re[-]launch." Facebook's position on these interrogatories goes to the fundamental

dispute between the parties about LTI's infringement contentions and overbroad definition of "Facebook Website." Further, Facebook's website implicates hundreds of thousands of "components, modules and functionality."

The problem with these interrogatories goes beyond LTI's overbroad definition of "Facebook Website." It is simply not possible to provide narrative responses that would require identification of every minute change to the website over a period of years. The burden imposed by responding to these interrogatories would be oppressive and result in lengthy responses, spanning potentially thousands of pages, with information having no relevance to this action. Responsive information may exist in the revision control history of applicable source code for an identified component, module, or functionality. In the event Facebook is required to produce source code, it will provide LTI with access to the appropriate change logs from which the answers to these interrogatories may be ascertained.

LTI's Requests for Production

Facebook will supplement its production with documents with Facebook financial data since issuance of the patent, representative promotional and marketing materials, and prior art identified by third parties. We believe that this alleviates LTI's expressed concerns.

As to LTI's Requests regarding Facebook's knowledge of the patent, Facebook has already searched for and produced documents it has located that relate to its knowledge of Mr. McKibben, LTI, the patent, the patent application and provisional. As explained, we believe LTI has not provided any information to support its willfulness claim. Based on LTI's response to Facebook's Interrogatory No. 4, if LTI is unwilling to voluntarily withdraw its willfulness claim, we believe the issue is ripe for summary judgment.

LTI has requested documents relating to prior litigations, arbitrations or mediations related to the "technology of the Facebook Website." The phrase is vague even without LTI's disputed "Facebook Website" definition. Please explain how such materials would be relevant to this action and provide support for LTI's position that it is entitled to such materials in light of the California Mediation Privilege and *Rojas v. Superior Court*, 33 Cal.4th 407 (2004), or otherwise.

As addressed in ample correspondence and during our April 10 call, LTI has failed to provide clear, coherent and complete infringement contentions and is unwilling to supplement with information it has provided in correspondence or otherwise. LTI will not identify what components, modules or functionality it contends satisfy the key limitations in the patent including, a "context component;" a "first context;" a "second context;" "user-defined data;" "metadata;" a "storage component;" and a "tracking component" or how any Facebook component, module, or functionality might practice the alleged invention through a verified interrogatory response or otherwise. LTI's un-annotated screen captures and references to API calls fail to even hint at how any Facebook feature might satisfy all of the claim limitations. LTI presents no basis for withholding this information other than stating it does not know how Facebook operates. We agreed that this is a threshold issue for the court.

Further, LTI's definition of "Facebook Website" remains overbroad despite your April 6 and April 17 correspondence purporting to narrow that definition. LTI continues to accuse, without basis, every function, feature and iteration of Facebook's website that may have ever existed. And, as you confirmed on April 10, LTI seeks all source code behind Facebook's website and every document related to the site, with the possible exception of third-party materials, though that remains unclear based on your April 10 correspondence.

We disagree that such a broad scope of materials is relevant to this action. The only documents and source code potentially relevant are those that directly support the features LTI is accusing. As yet, LTI has not identified any accused features and cannot use that refusal as an excuse to conduct a fishing expedition through Facebook's code and documents. Even if proper, the burden and expense on Facebook entailed in producing source code and documents for its "entire sire" far outweigh any tangential probative value they would have for LTI. There is simply no basis to have this universe of documents in the case unless and until LTI can establish relevance.

LTI's Definitions

You expressed concern over Facbook's objection to LTI's definition of "Facebook." Facebook will wrap "TheFacebook LLC" into that definition. However, since LTI has not accused the ConnectU website, we see no reason to incorporate ConnectU into the definition as you suggested.

Facebook believes that LTI's definition of "Patent-in-Suit" is inaccurate and overbroad to the extent it seeks to incorporate documents other than the '761 patent. Obviously, LTI cannot allege infringement of the underlying application or provisional. Please provide me with support for your position that LTI's definition is accurate or otherwise required. To the extent LTI's concern is based on a belief that Facebook did not search for materials bearing on LTI's willfulness claim, the discussion above should satisfy any such concern.

I believe the foregoing addresses LTI's concerns, but I remain available to discuss.

Sincerely,

/s/ Craig W. Clark

Regarding Leader's response to Facebook's Interrogatory No. 3, as we stated in the call on April 10, 2009, we do not agree on this issue. Based on the case law Facebook provided, Facebook is entitled to the dates that Leader contends are the dates of conception and reduction to practice of the invention based on the information available to it at the time of the response. We do not agree that the case law Facebook has cited supports its position that Leader should be precluded from using the "not later than" language. We discussed that Leader has the right to supplement its discovery responses as discovery unfolds. Facebook, however, was unwilling to agree that Leader would be permitted to assert supplemented dates for conception and reduction to practice should it locate additional information in good faith that supported such dates. Leader is entitled to supplement these dates as the case proceeds should it find additional information. Notwithstanding our dispute, Leader will provide a supplemental response to this interrogatory.

Regarding Leader's response to Facebook's Interrogatory No. 9, as stated in the call, we agreed to identify the Leader products that practice the invention of the patent. Leader will provide a supplemental response to this interrogatory.

Regarding Leader's willful infringement claim, we requested during our call on April 10, 2009 that Facebook inform us of the type of motion it plans to file with respect to Leader's willful infringement claim. At the time of the call, you did not know which type of motion that Facebook would file. As I stated during the call, the parties have not had a meaningful meet-and-confer on this issue, and request that the parties meet-and-confer prior to Facebook's filing of any motion related to Leader's willful infringement claim.

Regarding discovery of electronically stored information, Leader proposed that the parties discuss issues related to electronic discovery in an effort to avoid future discovery disputes and streamline discovery. We raised this issue early in an effort to ensure that the parties work together effectively and avoid any disputes that can arise when the production of electronically stored information is involved. We understand that it is Facebook's position that it is unnecessary to discuss the issue of electronically stored information at this time. Leader continues to remain open to discussion regarding discovery of electronically stored information should Facebook reconsider its position.

Regarding the number of asserted claims, to be clear, Leader has never stated that it is unwilling to limit the number of asserted claims of the '761 Patent or identify representative claims. Leader's position is that it will not limit the number of asserted claims of the '761 Patent at this stage in the case.

Leader agrees to Facebook's proposal that email service can be regarded as personal service and email service should be effected by 6:00 P.M. PST on the day of service, with confirmation via First Class Mail to the parties' California and Delaware counsel. You may direct all correspondence and e-mail service to:

Paul Andre, pandre@kslaw.com
Lisa Kobialka, lkobialka@kslaw.com
James Hannah, jhannah@kslaw.com
Phil Rovner, provner@potteranderson.com

We look forward to hearing back from you on the outstanding issues, and remain open to discussing these matters with you.

Sincerely,

Lisa Kobialka

# EXHIBIT 11

KING & SPALDING

King & Spalding LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065
www.kslaw.com

Lisa Kobialka
Direct Dial: (650) 590-0720
Direct Fax: (650) 590-1900
lkobialka@kslaw.com

April 22, 2009

**VIA E-MAIL**

Craig W. Clark
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

**Re:** ***Leader Technologies, Inc. v. Facebook, Inc., 1:08-cv-00862 JJF (D.Del.)***

Dear Craig,

In response to your letter of April 21, 2009, we wanted to respond to your questions as well as get a response from Facebook on a number of outstanding matters. The parties agree that there are two outstanding issues that have been discussed and require the Court's intervention. Those requests are as follows relates to the dispute surrounding Facebook's claim that it cannot respond to discovery without more information regarding Leader's infringement contentions and due to the definition of the Facebook Website. Based on this dispute, we understand that Facebook refuses to respond to Leader's Requests for Production Nos. 4-12, 18-20, 23-31, 33-43, 45, 54-59, 64-65. If you want to discuss these specific requests any further, please contact me tomorrow. Otherwise we will be filing a motion with the Court on these issues.

Addressing your April 21 letter, Facebook is demanding that Leader provide more detailed infringement contentions which are impossible to give at this time. Your letter in several places requests that we provide identification of components and modules. As we have discussed on several occasions, Leader does not know any details regarding Facebook's back end and thus cannot provide any identification of specific components and modules until we have this information from Facebook. Once there has been review of Facebook's technical information, including its source code for the Facebook Website, Leader will be able to identify the specifics. As I stated to you during our call on April 10, 2009, Leader does not have information about Facebook's back-end technology, and cannot provide Facebook with infringement contentions based on information that Facebook has not produced to Leader. Thus, until Facebook provides substantive responses to Leader's discovery requests, Leader can only

provide Facebook with the publicly available information of how Facebook infringes the '761 Patent, which it has done. In an effort to narrow the scope of the accused product as much as possible, Leader provided Facebook with a narrowed definition of the "Facebook Website" as communicated to Facebook numerous times. As stated explicitly in my letter to you dated April 16, 2009, Leader is not seeking information related to third party applications. At this time, Leader withdraws Requests Nos. 60 and 61.

With respect to responding to Interrogatories Nos. 1 and 2, Leader is happy to work with Facebook to address Facebook's concerns. With regards to Leader's Interrogatory No. 1, Facebook can provide a FRCP 33(d) response whereby it provides Leader with the source code and documents related to the creation and development of source code (e.g. design documents, charts, flow charts, presentations, etc.) for the platform technology of the Facebook Website. Also, to respond to the interrogatory, Facebook can identify the key people involved in the creation and development of the source code for the Facebook Website. Similarly, with regards to Leader's Interrogatory No. 2, Facebook just needs to identify when it launched new versions of the Facebook Website since its creation, and the names of key persons involved in this process. Please let us know when you will make Facebook's source code available and confirm by tomorrow that we will receive substantive responses to these interrogatories as set forth above by the end of the week.

With regards to Leader's Request for Production No. 18 seeking information about other litigation matters, in an effort to address Facebook's concerns, Leader has narrowed the scope of this request at this time. Leader specifically seeks the documents produced in the district court litigation matters involving ConnectU, Inc. and patent litigation matters involving the technology of the Facebook Website. Leader also seeks deposition transcripts of Facebook, the founders of Facebook, Facebook's officers and employees, to the extent any depositions were taken. As we discussed, this information is related to Leader's claims in this action, including its claims for willful infringement. Please advise whether Facebook will produce documents and things responsive to this request.

We still have not received any response from you regarding a number of discovery matters that we discussed on April 10, 2009, identified in our April 10, 2009 email to you, and mentioned again in subsequent correspondence. First, you have not responded whether Facebook will provide us with information predating the issuance of the '761 Patent responsive to Leader's Requests for Production Nos. 23, 26, 27, 30, and 31. These requests seek information related to the design, development, and programming of the Facebook Website. Please confirm whether Facebook will provide us with complete, substantive responses to Leader's Requests for Production Nos. 23, 26, 27, 30, and 31 by the close of business tomorrow.

Second, you have not informed us as to whether Facebook will produce information responsive to Leader's Request for Production Nos. 28 and 29. These requests seek user manuals (both internal and provided to third persons) regarding how the Facebook Website

operates. Please confirm us whether Facebook will provide complete responses to these requests by the close of business tomorrow.

Third, you have not informed us as to whether Facebook will produce information responsive to Leader's Request for Production Nos. 41 and 53. These requests seek information regarding how Facebook generates revenue and are directly relevant to Leader's claim for damages. Please advise us whether Facebook will provide complete responses to these requests by the close of business tomorrow.

Finally, please also advise us on when we can expect to receive your supplemental responses to Interrogatories Nos. 3, 4, 6, 10, and 11. We look forward to hearing from you.

Very truly yours,

Lisa Kobialka

# EXHIBIT 12

WHITE & CASE

White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, California 94306

Tel +1 650 213 0300
Fax +1 650 213 8158
www.whitecase.com

Direct Dial +650.213.0307 cclark@whitecase.com

April 24, 2009

VIA E-MAIL

Lisa Kobialka, Esq.
KING & SPALDING
333 Twin Dolphin Drive, Suite 400
Redwood City, CA 94065

Re: *Leader Technologies, Inc. v. Facebook, Inc.*, 1:08-cv-00862-JJF (D. Del.)

Dear Lisa:

I write to follow up on your April 22, 2009 letter.

I must reiterate the fundamental disagreement between the parties. Facebook maintains that it is LTI's responsibility as the plaintiff/patentee to define the scope of its claims, and it is the responsibility of Facebook as the defendant/accused to produce documents related to those claims. As the plaintiff, LTI is required to identify the aspects of Facebook' website that it contends infringe the '761 patent. While LTI may not be familiar with facebook.com's "back end," all user-facing modules, components and functionality are available 24-hour a day at facebook.com.

As both Heidi and I have explained on several occasions, LTI should be able to easily identify the user-facing components, modules or functions and the steps LTI contends amount to infringement on the screen captures it claims show this information. LTI has refused. And, as it stands, even eliminating third-party applications from LTI's definition of the "Facebook Website," the definition still encompasses every iteration and of every user-facing module, component and function ever on the site. This is a staggering amount of technology for any single patent to cover, and a staggering amount of irrelevant information to produce.

LTI's patent is not a license to conduct a wholesale fishing expedition through all of Facebook's documents and source code in search of an infringement theory. LTI was required to form a theory for each asserted claim before filing this case. But, LTI has not disclosed its theories. And, Facebook cannot be expected to produce information and documents "reasonably calculated to lead to the discovery admissible evidence" when the relevant matter in dispute – the alleged infringement – is not defined.

Turning to the specific demands in your letter, as to LTI's Interrogatory Nos. 1 and 2, LTI ignores the fact that it has failed to identify any accused "component, module or functionality" as used in the interrogatories, or to provide contentions about how they infringe. I have explained on multiple occasions that Facebook is not prepared to provide LTI with unfettered access to documents having no relation to this case. As stated in my April 21 letter, to the extent necessary after resolution of the fundamental dispute, Facebook will answer these interrogatories using the mechanism available under FRCP 33(d).

As for unrelated litigation materials, LTI's "it goes to willfulness" mantra does not magically make documents relevant. LTI has failed to provide any explanation as to why these materials are relevant to the alleged infringement of the '761 patent, willful or otherwise. Moreover, the documents you request are protected from disclosure, by among other things, Protective Orders entered by other courts. We maintain that LTI has failed to demonstrate relevance. We can assure you that neither LTI nor its patent ever came up in any of these cases. As I have stated, Facebook maintains that it has already produced documents in its possession regarding the allegation of willful infringement. Incidentally, LTI has not yet advised whether it will supplement its response to Facebook's Interrogatory No. 4 identifying supporting documents you contend exist somewhere in LTI's production.

With regard to LTI's request for all documents concerning the initial design, development and creation of Facebook, we maintain that, at most, LTI is entitled to information bearing on the specifically accused components, modules and functionality. We are not refusing to produce these documents, and will after LTI adequately identifies them.

LTI already has access to the user manuals for the site. Meghan explained on April 10 that LTI believes it is entitled to all versions and drafts of the user manuals for the entire site. We believe LTI is overreaching again with its definition of Facebook Website and in not limiting its request to any specifically accused components, modules or functionality. We remain open to discussing these issues after LTI properly identifies the components, modules and functionalities.

As to Facebook revenue materials, as stated in my prior correspondence Facebook will make financial data available.

Facebook plans to roll production of materials and supplemental responses as completed.

Finally, I mention that your demand for responses to letters in twenty-four hours seems unnecessary and unreasonable, especially since, we have not, in Facebook's view, hit an impasse, except with regard to the fundamental dispute of LTI's infringement contentions.

As always, I remain available to discuss these matters.

Sincerely,

/s/ Craig W. Clark

# EXHIBIT 13

KING & SPALDING

King & Spalding LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065
www.kslaw.com

Lisa Kobialka
Direct Dial: (650) 590-0720
Direct Fax: (650) 590-1900
lkobialka@kslaw.com

April 28, 2009

**VIA E-MAIL**

Craig W. Clark
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

**Re:** ***Leader Technologies, Inc. v. Facebook, Inc., 1:08-cv-00862 JJF (D.Del.)***

Dear Craig,

We are in receipt of your April 24, 2009 letter. We understand that Facebook again refuses to produce substantive responses to Leader's interrogatories and requests for production despite the attempt in our letter dated April 22, 2009 to clarify what documents and things that Facebook could produce to satisfy the requests. The parties have reached an impasse. Further discussion regarding infringement contentions and definitions without source code ignores the reality of the technology at issue. Facebook has refused to produce the source code or relevant documents, but instead suggests that Leader can refine its infringement contentions by viewing user interfaces. This suggestion is illogical. Facebook highlights this nonsensical approach by stating in its April 24th letter that "[w]e are not refusing to produce these documents, and will after [Leader] adequately identifies them." As you well know, Leader has informed you that it is impossible for Leader to identify the documents it needs without seeing them, much less which Facebook Website components actually perform what functions without the source code.

Please advise Leader when Facebook will supplement its production as agreed in your letter dated April 21, 2009. In good faith, Leader has not re-addressed those issues, but reserves the right to file a motion with the Court to avoid further prejudice.

Finally, Facebook's continual assertion that no impasse exists belies the continual lack of response to Leader's requests. We have not unnecessarily and unreasonably demanded that Facebook respond within twenty-four hours. Leader has asked on multiple occasions, beginning April 10, 2009, whether Facebook will provide information predating the issuance of the '761

Patent responsive to Leader's Requests for Production Nos. 23, 26, 27, 30, and 31. Facebook has not responded. Regarding Leader's Requests for Production Nos. 28 and 29 Facebook has persistently referred to the current impasse to avoid answering. Facebook did not address these issues in your April 24th or April 27th letter, despite Leader's request in our April 22nd letter. Facebook has had more than two weeks to respond to Leader's requests, not just twenty-four hours. It is Facebook's thinly veiled stalling tactics that have precipitated our requests for prompt responses to prevent further prejudice to Leader during the fact discovery time period.

We look forward to hearing from you.

Very truly yours,

Lisa Kobialka

# EXHIBIT 14

**From:** Wharton, Meghan
**Sent:** Tuesday, January 27, 2009 8:22 PM
**To:** Craig W. Clark (cclark@whitecase.com)
**Subject:** Leader v. Facebook

Craig,

This email is in response to Facebook's demand that Leader provide additional information regarding its claims against Facebook. We are happy to work with you with respect to issues as they come up during discovery and the litigation. Given that discovery has not yet commenced, Leader is providing the information that you requested based on information currently available to Leader. As you can reasonably anticipate, Leader expects that the fact and expert discovery process will reveal additional information regarding Facebook. Therefore, Leader reserves its rights to address such additional information in its claims against Facebook.

As set forth in our complaint, Leader asserts that Facebook, by and through the operation of the Facebook Website, infringes, contributorily infringes and/or induces the infringement of U.S. Patent No. 7,139,761 entitled "DYNAMIC ASSOCIATION OF ELECTRONICALLY STORED INFORMATION WITH ITERATIVE WORKFLOW CHANGES."

For purposes of this communication, "Facebook Website" means the Facebook services and network currently located at www.facebook.com and formerly located at www.thefacebook.com (including any directly associated current or former domains), and all functionalities, programs and modules (both software and hardware) currently or formerly built, used, or made available by Facebook. "Facebook Website" includes, but is not limited to, all components and information necessary to currently or formerly build, use, and make available Facebook Marketplace, Facebook Flyers, Facebook Platform, Facebook Platform Applications (including, but not limited to Facebook Video, Facebook Notes, Facebook Mobile, Facebook Posted Items, Facebook Photos, Facebook Events, Facebook Gifts, Facebook Groups, Discussion Boards, Discography, Music Player, Translations, Wall, Reviews, Facebook Exporter for iPhoto and Facebook Toolbar for Firefox), Facebook Mobile Services, Facebook Connect, Facebook Pages, Share Service, Share Link, Facebook Ads, Facebook Beacon, Social Ads, and any other tools which facilitate Site Content or User Content. For purposes of clarification and not limitation, these terms shall have at least the same meaning as used in Facebook's Privacy Policy located at www.facebook.com/policy.php (effective as of November 26, 2008), Terms of Use located at www.facebook.com/terms.php (revised on September 23, 2008), and Product Overview FAQ located at www.facebook.com/press/faq.php (accessed on December 17, 2008).

Meghan

**********

Meghan Ashley Wharton
King & Spalding
333 Twin Dolphin Drive, Suite 400
Redwood City, CA 94065
Main: 650.590.0700
Direct: 650.590.0729
Fax: 650.590.1900

**********

# Exhibit 15

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---|---|---|
| **CROSS ATLANTIC CAPITAL PARTNERS, INC.** | : | **CIVIL ACTION** |
| **Plaintiff** | : | |
| | : | |
| **v.** | : | |
| | : | |
| **FACEBOOK, INC. AND THEFACEBOOK, LLC** | : | |
| **Defendants** | : | **No. 07-CV-02768** |

**ORDER**

AND NOW, this 20th day of December, 2007, upon consideration of Plaintiff's Motion to Compel Full and Complete Interrogatory Responses and Documents and Defendants' Opposition to Plaintiff's Motion to Compel, IT IS HEREBY ORDERED that:

1. Defendants' motion to dismiss based on plaintiff's failure to file a certification pursuant to Local Rule 26.1(f) is DENIED. Although plaintiff omitted the certification, the pleadings and attached exhibits establish that the parties have complied with the Rule's requirement that they engage in reasonable efforts to resolve the discovery dispute. The record is replete with correspondence and electronic mail messages attempting to resolve the issues in plaintiff's motion. Moreover, my informal telephone conference with all counsel on December 18, 2007, inquiring about the possibility of an informal resolution of the discovery dispute, established the issues require judicial resolution.

2. Plaintiff's motion for production of all electronically stored information responsive to plaintiff's request for production of documents in its native form is GRANTED. Pursuant to Fed. R. Civ. P. 34(b), "[i]f a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is

ordinarily maintained or in a reasonably usable form or forms." Rule 34(b)(2)(E)(ii). The import of Rule 34(b), as amended in 2006, is to ensure that the format in which electronically stored information is provided does not make it "more difficult or burdensome for the requesting party to use the information efficiently in the litigation." Id. (advisory committee notes, 2006). If, as in this case, defendant ordinarily maintains the information in a searchable format, "the information should not be produced in a form that removes or significantly degrades this feature." Id.

Production of voluminous documents in TIFF, i.e., "tagged image file format," contravenes the spirit of the rule because the documents were converted from a searchable form into a non-searchable form. Defendants' proposals to remedy the problem are illusory. First, plaintiff cannot search voluminous documents in TIFF. Second, even if plaintiff opted to purchase software at its own expense that could search TIFF documents, such software may not reveal all relevant information that can be obtained from a search of documents in native format. Compare Williams v. Sprint/United Mgmt Co., 230 F.R.D. 640, 646 (D. Kan. 2005) (requiring production of metadata establishing how, when, and by whom information was collected, created, accessed, modified, and formatted) with Kentucky Speedway, LLC v. Nat'l Assoc. of Stock Car Auto Racing, Inc., 2006 WL 5097354 at *8, *9 (E.D. Ky. Dec. 18, 2006) (requiring showing of particularized need for discovery of metadata absent an initial demand for such specific content). Finally, it is unreasonable and burdensome to require plaintiff's counsel to work from defense counsel's office to identify relevant documents. Such a process also risks an intrusion on plaintiff's work product privilege

3. Plaintiff's requests for full and complete answers to interrogatories 3, 5, and 11, and for documents, nos. 23, 24, 55, and 56, are GRANTED. To the extent defendants maintain the request is moot based on previous compliance, defendants are directed to provide the

supplemental information demanded by plaintiffs, including information on the asserted defenses of non-infringement and invalidity. All requested information may lead to admissible evidence. See generally Fed. R. Civ. P. 26(b)(1) (relevant information encompasses evidence reasonably calculated to lead to discovery of admissible evidence); Pacitti v. Macy's, 193 F.3d 766, 777 (3d Cir. 1999) (discovery rules should be liberally applied).

4. Plaintiff's request for documents, nos. 18 and 57, is GRANTED. To the extent the requested information includes defendants' source code for Facebook's website and "groups application," however, production is contingent on plaintiff negotiating a protective order to ensure that such sensitive information is not publicly disseminated. Contrary to defendants' claim, plaintiff has established the relevance of whether defendants' software operates to create the electronic communities in a manner that falls within the scope of the contested patent (the "'629 patent"). The source code is relevant to determining a full understanding of how defendants' software operates, which may lead to evidence of alleged infringement. See generally Fed. R. Civ. P. 26(b)(1); Pacitti, 193 F.3d at 777. Defendants acknowledge they perform targeted advertising through a collaboration with Microsoft and plaintiff is entitled to discovery of any relevant evidence that could determine whether targeted advertising is accomplished in a manner covered by the contested patent.

5. Plaintiff's request for tax return information, no. 38, is DENIED. Balancing the privacy interests inherent in tax return information with the plaintiff's need for the tax information, plaintiff's request is overbroad. See DeMasi v. Weiss, 669 F.2d 114, 119 (3d Cir. 1982) (public policy favors non-disclosure of tax return information (citing Cooper v. Hallgarten & Co., 34 F.R.D. 482, 483 (S.D.N.Y. 1964))). Although defendant's assets are relevant to computing potential damages, other less-intrusive means exist for plaintiff to obtain relevant

financial information.

6. The parties shall fully comply with this order forthwith, but no later than January 3, 2008.

BY THE COURT:

\s\ TIMOTHY R. RICE
TIMOTHY R. RICE
U.S. MAGISTRATE JUDGE

# EXHIBIT 16

# United States District Court
# District of Massachusetts

CONNECTU, INC.,
Plaintiff,

V. CIVIL ACTION NO. 2007-10593-DPW

FACEBOOK, INC.,
MARK ZUCKERBERG,
EDUARDO SAVERIN,
DUSTIN MOSKOVITZ,
ANDREW MCCOLLUM,
CHRISTOPHER HUGHES,
THEFACEBOOK, LLC.,
Defendants.

## *ORDER ON REMAINING DISPUTED DISCOVERY ITEMS OUTLINED IN THE CORRECTED AMENDED JOINT REPORT, ETC. (#94)*

COLLINGS, U.S.M.J.

After hearing, the defendants are ORDERED to identify to counsel for the plaintiff in writing, ***on or before the close of business on Monday, September 24, 2007,*** where the "relevant code" (defined as (a) the Harvard Connection code

which Zuckerberg allegedly worked on, (b) the facebook.com code before launch, (c) the facebook.com code at the time of launch, (d) the facebook.com code through September 2004, (e) the coursematch code, and (f) the facemash code) is located on the CD ROMS and hard drives (or copies thereof) which the Facebook Defendants have produced (or will soon produce as agreed), or, if the Facebook Defendants do now know where any one or more of items (a) through (f) are located on the CD ROMS and hard drives (or copies thereof), the Facebook Defendants shall so state explicitly in writing as to each such item. A copy of the Facebook Defendants' response to this Order shall be filed in this Court electronically.

The Court shall issue an Order as to the Protocol for Imaging Defendants' Electronic Memory Devices as requested by the plaintiff and shall not include is said Order to the additions suggested by the Facebook Defendants.

/s/ Robert B. Collings
ROBERT B. COLLINGS
United States Magistrate Judge

September 13, 2007.