

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

LEADER TECHNOLOGIES, INC., a
Delaware corporation

Plaintiff and Counterdefendant,

v.

FACEBOOK, INC., a Delaware
corporation

Defendant and Counterclaimant.

CIVIL ACTION

NO. 1:08-cv-00862-JJF

**DECLARATION OF CRAIG CLARK
IN SUPPORT OF DEFENDANT'S MOTION FOR ORDER
COMPELLING RESPONSE TO DEFENDANT'S INTERROGATORY NO. 1**

I, Craig Clark, declare:

1. I am an attorney with White & Case LLP, counsel of record in this action for defendant Facebook, Inc. ("Facebook"). I make this declaration in support of Facebook's Motion for Order Compelling Response to Defendant's Interrogatory No. 1. I have personal knowledge of the facts contained within this declaration, and if called as a witness, could testify competently to the matters contained herein.

2. On February 18, 2009, Facebook propounded its First Set of Interrogatories (1-9). On March 20, 2009, Plaintiff Leader Technologies, Inc. ("LTI") served its responses to Facebook's First Set of Interrogatories (1-9). Attached hereto as **Exhibit A** is a true and correct copy of LTI's response to Facebook Interrogatory No. 1, which recites Facebook Interrogatory No. 1 as propounded. While LTI indicated its responses were confidential, LTI subsequently de-designated its response to Facebook Interrogatory No. 1.

3. I am informed that in or about December 2008, Sam O'Rourke, in-house counsel for Facebook, spoke with Paul Andre, counsel for LTI and requested certain information about

LTI's claims. Attached hereto as **Exhibit B** is a true and correct copy of an email chain between Mr. O'Rourke to Mr. Andre reflecting discussions between Messrs. O'Rourke and Andre.

4. On or about January 14, 2009, I participated in a telephone conference with Meghan Wharton, counsel for LTI. During the call I explained to Ms. Wharton my understanding that LTI had planned to provide information about what aspects of Facebook's website LTI was accusing to Mr. O'Rourke. Ms. Wharton responded that she was aware of the request but could not provide any information at the time of our call and that she would get back to me on the issue.

5. On January 20, 2009, I participated in a second telephone conference with Ms. Wharton during which we discussed whether LTI was willing to provide additional information about what aspects of Facebook's website LTI was accusing. Ms. Wharton declined to provide any information. Attached hereto as **Exhibit C** is a true and correct copy of an email dated January 20, 2009 that I sent to Ms. Wharton confirming the matters discussed.

6. Attached hereto as **Exhibit D** is a true and correct copy of an email dated January 27, 2009 received by me from Ms. Wharton.

7. Attached hereto as **Exhibit E** is a true and correct copy of a letter I sent to Ms. Wharton dated March 25, 2009.

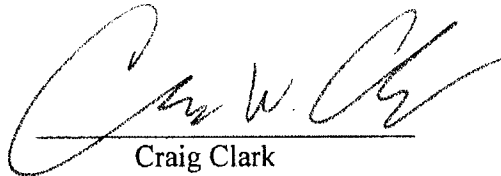
8. On April 2, 2009, Heidi Keefe, lead counsel for Facebook and Mr. Andre conducted a telephonic conference regarding LTI's response to Facebook's Interrogatory No. 1. Mr. Andre indicated that LTI would consider supplementing its response. Ms. Keefe suggested that LTI may be able to adequately convey its infringement theories by annotating screen captures in LTI's document production. Attached hereto as **Exhibit F** is a true and correct copy of email correspondence between Ms. Keefe and Mr. Andre dated March 31, 2009 through April 2, 2009.

9. Attached hereto **Exhibit G** is a true and copy of an April 6, 2009 letter addressed to Ms. Keefe from Mr. Andre.

10. Attached hereto as **Exhibit H** is a true and correct copy of a letter I sent to Lisa Kolbialka, counsel for plaintiff, dated April 8, 2009. On April 10, 2009, I participated in a conference with Ms. Kolbialka, during which we discussed LTI's response to Facebook's Interrogatory No. 1. Ms. Kolbialka explained that LTI would not supplement its response to Facebook's Interrogatory No. 1, with the information contained in Mr. Andre's April 6, 2009 letter, or otherwise.

11. Attached hereto as **Exhibit I** is a true and correct copy of an email I sent to Ms. Wharton dated April 14, 2009.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 1, 2009 in Palo Alto, California.



Craig Clark

EXHIBIT A

**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--
v.)	FOR ATTORNEY'S EYES ONLY
)	
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	

26 Patent	Facebook Website
<p>or for purposes of construing the claim terms. Leader reserves its right to supplement this chart as additional information becomes known to it.</p>	
<p>1. A computer-implemented network-based system that facilitates management of data, comprising:</p>	<p>The Facebook Website meets the recited claim language because it operates on a computer connected to a network and facilitates the management of data.</p>
<p>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.</p>	<p>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.</p> <p>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,</p>

Field Pattern	Facebook Website
	<p>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.</p>
<p>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.</p>	<p>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.</p> <p>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.</p>
<p>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</p>	<p>The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 1 as described above, context information captured by a component</p>

761 Patent	Facebook Website
<p>environment.</p>	<p>of the Facebook Website includes the relationship between a user and at least one of an application, application data, and user environment.</p> <p>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.</p>
<p>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.</p>	<p>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.</p> <p>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.</p>
<p>7. The system of claim 1, wherein data created in the first context is associated with data created in the second context.</p>	<p>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</p>

Art. Patent	Prior Art Website
	<p>user context is associated with data created in a second user context.</p> <p>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 screenshots 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.</p> <p>Additional information for this interrogatory is currently in Facebook's possession, and Leader will supplement its response once this information is provided to Leader.</p>
<p>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.</p>	<p>The Facebook Website meets the recited claim 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.</p> <p>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 screenshots 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.</p>
<p>9. A computer-implemented method of managing data, comprising computer-executable acts of:</p>	<p>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.</p>
<p>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</p>	<p>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</p>

API Patent	Facebook Website
<p>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.</p>	<p>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. 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</p>

Patent	Facebook Website
	<p>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.</p>
<p>10. The method of claim 9, further comprising capturing context information of the user.</p>	<p>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.</p> <p>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</p>

Patent	Facebook Website
	<p>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.</p>
<p>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.</p>	<p>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. 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.</p>
<p>12. The method of claim 9, the least one of the data and the application is associated automatically with the second user environment.</p>	<p>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. 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</p>

Patent	Facebook Website
	<p>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.</p>
<p>13. The method of claim 9, further comprising accessing the user environment and the second user environment using a browser.</p>	<p>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.</p> <p>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.</p>
<p>14. The method of claim 9, further comprising communicating with the user environment using a TCP/IP communication protocol.</p>	<p>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.</p> <p>By way of example, and not limitation, the Facebook Website, and the various</p>

761 Patent	Facebook Website
	<p>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.</p>
<p>15. The method of claim 9, further comprising locating the user environment from a remote location using a URL address.</p>	<p>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.</p> <p>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.</p>
<p>16. The method of claim 9, further comprising accessing the user environment via a portable wireless device.</p>	<p>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.</p> <p>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.</p>
<p>21. A computer-readable medium for storing computer-executable instructions for a method of managing data, the method comprising:</p>	<p>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.</p>
<p>creating data related to user interaction of</p>	<p>The Facebook Website meets the recited</p>

Patent	Facebook Website
<p>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.</p>	<p>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. 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</p>

Your Patent	Facebook Website
	<p>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.</p>
<p>23. A computer-implemented system that facilitates management of data, comprising:</p>	<p>The Facebook Website meets the recited claim language because it operates on a computer and facilitates management of data.</p>
<p>a computer-implemented context component of a web-based server for</p>	<p>The Facebook Website meets the recited claim language because it uses a context component</p>

7.1 Patent	Facebook Website
<p>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.</p>	<p>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 workspace. 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.</p> <p>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</p>

70 Patent	Facebook Website
	<p>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.</p>
<p>24. The system of claim 23, wherein the tracking component automatically creates the metadata when the user accesses the first user workspace.</p>	<p>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.</p> <p>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.</p>
<p>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.</p>	<p>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</p>

61 Patent	Facebook Website
	<p>user workspace.</p> <p>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.</p>
<p>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.</p>	<p>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.</p> <p>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.</p>
<p>29. The system of claim 23, wherein when the data created in the first user workspace is accessed from the second user workspace,</p>	<p>The Facebook Website meets the recited claim language because in addition to satisfying all the elements of Claim 23 as</p>

761 Patent	Facebook Website
<p>in response to which the context component adds information to the metadata about the second user workspace.</p>	<p>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.</p> <p>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.</p>
<p>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.</p>	<p>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.</p> <p>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</p>

761 Patent	Facebook Website
	<p>this interrogatory to identify the components which facilitate these processes.</p>
<p>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.</p>	<p>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.</p> <p>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 supplement its response to this interrogatory once Facebook provides its document production.</p>
<p>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.</p>	<p>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.</p> <p>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</p>

'761 Patent	Facebook Website
	interrogatory once it receives Facebook's document production.
<p>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.</p>	<p>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.</p> <p>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.</p>

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.

EXHIBIT B

From: Andre, Paul
To: Sam O'Rourke
Sent: Tue Jan 20 09:24:57 2009
Subject: RE: Leader v. Facebook

Thanks Sam,

Hope you had a nice holiday also, and that 2009 is treating you well so far. Sorry I did not get back with you earlier, but I got backed up and am just now digging out. Regarding Facebook's hold obligation, please have your outside counsel contact Lisa Kobialka or Meghan Wharton to discuss the issue.

Paul

From: Sam O'Rourke [mailto:samo@facebook.com]
Sent: Thursday, January 08, 2009 10:47 AM
To: Andre, Paul
Subject: Re: Leader v. Facebook

Hey Paul -

Hope you had a nice holiday and were able to take some time off.

I wanted to follow up on a call we had a few weeks back. I had asked if you would be willing to provide us a little more info on what aspects of Facebook you are accusing to help us comply with our legal hold obligations and you agreed.

Just wanted to see where we were on that.

Thanks very much,

Sam

From: Andre, Paul
To: Sam O'Rourke

Sent: Tue Nov 25 14:11:25 2008
Subject: RE: Leader v. Facebook

Sam,

This is to confirm the extension.

Have a great Thanksgiving weekend.

Paul

From: Sam O'Rourke [mailto:sorourke@facebook.com]
Sent: Tuesday, November 25, 2008 2:09 PM
To: Andre, Paul
Subject: Leader v. Facebook

Paul -

I'm writing to confirm your grant of the 30 day extension (from the date of service) to respond to Leader's patent complaint. The response date is now January 8, 2009.

Thank you for this courtesy. Much appreciated.

Best regards,

Sam

sam o'rourke | facebook | legal
samo@facebook.com
156 University Ave. Palo Alto, CA 94301

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EXHIBIT C

From: Clark, Craig W.
Sent: Tuesday, January 20, 2009 4:00 PM
To: 'Wharton, Meghan'
Cc: Clark, Craig W.
Subject: LTI v. Facebook - 1:08-cv-00862-JJF D. Del

Meghan,

I write to confirm today's conversation.

Some time ago, Sam O'Rourke (in house counsel at Facebook) requested that Paul Andre provide some detail as to what aspect(s) of Facebook Leader is accusing so as to better tailor a litigation hold. I understand that Mr. Andre agreed to provide this information but, to date, has not. We discussed the issue during our call last Thursday and you agreed to look into Leader providing that information. During our call today you did not have that information but said that Leader would want to be notified before Facebook disposes of any documents. I explained that such an arrangement is unworkable. It is neither feasible nor efficient for Facebook to provide Leader with advance notice and indeed that practice could intrude on the attorney-client privilege. Facebook is capable of tailoring a hold and has done so based on the limited information Leader provides in its complaint. Mr. O'Rourke's goal was to obtain some idea as to what Leader is accusing to further tailor a hold. As I said, that information would also help the parties move toward a productive FRCP 26(f) conference. Ideally, that information would be supplied in a claim chart. You said you would seek to respond to me sometime this week as to what Leader will provide.

I also explained that Facebook contends that it has met its pleading requirements but will consider amending its answer within the time permitted by FRCP 15.

Please give me a call if the above does not comport with your understanding of our discussion today.

Sincerely,

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 D

From: Wharton, Meghan [mwharton@KSLAW.com]
Sent: Tuesday, January 27, 2009 8:22 PM
To: Clark, Craig W.
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 E

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

March 25, 2009

VIA E-MAIL

Meghan A. Wharton, 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 Meghan:

I write to request a meet and confer on Friday, March 27, 2009 at 11:00 a.m. to address Leader Technologies, Inc.'s ("LTI") responses to Facebook, Inc.'s ("Facebook") discovery requests.

LTI was required to explain its infringement contentions and provide other relevant information in response to Facebook's discovery. LTI has refused to do so and is thereby denying Facebook the opportunity to prepare its defenses and counterclaims. LTI's refusal is especially troubling given its representations to the Court on March 3, 2009 that it would provide its "simple" infringement position in response to Facebook's discovery. Presumably, LTI had a basis for its suit and conducted a pre-filing investigation to ferret out support for its allegations. *See, e.g., Antonious v. Spalding & Evenflo Companies, Inc.*, 275 F.3d 1066, 1075 (Fed. Cir. 2002) (a plaintiff asserting patent infringement must have a Rule 11 basis as to every patent claim it asserts). While perhaps LTI had some basis to resist disclosing its infringement theories in connection with Facebook's litigation hold, that pretext evaporated when Facebook served its discovery. LTI is now required to provide responsive information.

Without LTI's unequivocal statement that it will supplement its responses in ten (10) calendar days with (a) full and complete responses to Facebook's interrogatories and (b) a full and complete document production, we will move the court for appropriate relief. Facebook's specific positions are set forth below:

LTI's Responses to Facebook's Requests for Production

To date, LTI has produced nothing more than multiple copies of the patent-in-suit, file wrapper, provisional patent application and various screen shots purportedly taken from Facebook's

Meghan A. Wharton, Esq.

WHITE & CASE

March 25, 2009

website. In nearly every response to Facebook's requests, LTI takes the position that it is withholding responsive documents pending entry of a stipulated protective order. LTI has no basis to withhold responsive materials on confidentiality grounds. Delaware Local Rule 26.2 provides in full:

If any documents are deemed confidential by the producing party and the parties have not stipulated to a confidentiality agreement, until such an agreement is in effect, disclosure shall be limited to members and employees of the firm of trial counsel who have entered an appearance and, where appropriate, have been admitted pro hac vice. Such persons are under an obligation to keep such documents confidential and to use them only for purposes of litigating the case.

Accordingly, Facebook is entitled to LTI's immediate production of all documents withheld on confidentiality grounds.

LTI's Responses to Facebook's Interrogatories

Facebook Interrogatory No. 1 – This interrogatory requested, among other things, that LTI identify each accused product, device, process, method, act and/or other instrumentality it claims infringe the patent-in-suit and to identify where each limitation of each asserted claim is allegedly found, literally or by equivalents, in such products, devices, processes, methods, acts and/or other instrumentalities. As detailed in Facebook's letter to the court today, LTI's response fails to provide any information on a claim-by-claim, limitation-by-limitation basis that reveals LTI's contentions, if any, as to how infringement occurs through Facebook's website. The response simply parrots the claim language and refers to approximately 150 pages of screen shots (the majority illegible), none of which are annotated or connected in any way with specific claim elements. The response fails to provide any explanation or analyses as to what might constitute a literal or equivalent "context" or how use of any features of the Facebook website might infringe. LTI's definition of "Facebook Website" remains absurdly overbroad and fails to identify any accused features. Facebook is entitled to LTI's complete response.

Facebook Interrogatory No. 2 – This interrogatory requests LTI's claim construction contentions. LTI's reference to the patent, file wrapper and provisional patent application under Fed. R. Civ. Pro. 33(d) is improper and inadequate because it fails to provide LTI's proposed construction of claim terms or identify those claims LTI contends require construction. Facebook is entitled to LTI's complete response.

Facebook Interrogatory No. 3 – This interrogatory requests, among other things, that LTI provide the precise dates of conception, reduction to practice, use, public disclosure, and like information. LTI's responses of "not later than" certain given dates are imprecise and non-responsive. As you know the purported priority date is necessary to determine the universe of prior art. Also, LTI fails to explain the circumstances surrounding the alleged public disclosure of the invention "on or about February 22, 2003." Facebook is entitled to LTI's precise and complete response.

Meghan A. Wharton, Esq.

WHITE & CASE

March 25, 2009

Facebook Interrogatory No. 4 – This interrogatory requests the bases, if any, for LTI’s willfulness claims. We ask that you confirm that LTI has not located any information or documents supporting the allegations it asserts in response this interrogatory.

Facebook Interrogatory No. 5 – Much like its response to Facebook’s Interrogatory No. 1, LTI fails to provide the complete factual bases, if any, for its inducement and contribution contentions. Facebook is entitled to LTI’s complete response to this interrogatory.

Facebook Interrogatory No. 8 – In response to Facebook’s request that LTI provide the bases for its irreparable harm allegations, LTI makes blanket statements about “pioneering efforts” and LTI’s “own products” that allegedly incorporate “technology” claimed in the patent-in-suit and which allegedly compete with Facebook. However, LTI fails to identify any such efforts, products or technology or describe how they compete with Facebook.

Facebook Interrogatory No. 9 – Remarkably, LTI marshals nothing more than a parade of objections in response to an interrogatory seeking the identity of its own products and/or services that practice the claims of the patent on a claim-by-claim, limitation-by-limitation basis. This information is directly relevant to LTI’s claims of irreparable harm as well as the validity of the patent-in-suit. We ask that LTI either provide a full and complete response or confirm that no LTI products or services practice the claims of the patent-in-suit.

As you know, LTI’s refusal to provide adequate discovery responses, coupled its baseless assertion of 24 of the 35 claims of the patent, already jeopardizes the case schedule. In fact, LTI’s assertion of 24 claims in and of itself is unreasonable. LTI should limit the number of asserted claims to no more than ten (10). *See Fenster Family Patent Holdings, Inc. v. Siemens Medical Solutions USA, Inc.*, No. 04-0038-JJF, 2005 WL 2304190, at *3 (D. Del. Sept. 20, 2005).

Despite LTI’s refusal to meet its discovery obligations and reasonably narrow the scope of this litigation, Facebook is interested in moving this case forward. Accordingly, we look forward to a productive conference of counsel.

Sincerely,

/s/ Craig W. Clark

Craig W. Clark

cc: Steven Caponi, Esq.
Dennis McCooe, Esq.

EXHIBIT F

From: Keefe, Heidi L.
Sent: Thursday, April 02, 2009 11:53 AM
To: 'Andre, Paul'
Subject: RE: Leader v Facebook

Paul,

Thank you for the call today. I believe we made some progress. I just want to confirm that you plan to contact me in the next couple of days regarding whether your client is willing to supplement its response to Facebook's Interrogatory No. 1 as discussed today. I also look forward to your comments on the protective order draft we sent you a while back.

Thank you,
Heidi

From: Andre, Paul [mailto:pandre@KSLAW.com]
Sent: Wednesday, April 01, 2009 10:17 AM
To: Keefe, Heidi L.
Cc: Weinstein, Mark R.; Clark, Craig W.
Subject: RE: Leader v Facebook

I am around tomorrow (Thursday) morning. Let's try for around 11am if that works.

Paul

From: Young, Judith [mailto:jyoung@paltoalto.whitecase.com] **On Behalf Of** Keefe, Heidi L.
Sent: Tuesday, March 31, 2009 5:09 PM
To: Andre, Paul
Cc: Weinstein, Mark R.; Clark, Craig W.
Subject: Leader v Facebook

Paul,

I write regarding Facebook's March 25, 2009 request for a conference of counsel to discuss Leader's discovery responses that Craig sent to Meghan. Craig's latest communications have gone unanswered. Given the court's comments today, I think it makes sense for you and I to address these matters as lead counsel. I am available tomorrow, Wednesday, April 1, 2009 after 1:00 p.m. or on Thursday April, 2 before noon. Please let me know if you are available.

Thanks,
Heidi

Heidi L. Keefe
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306
(650) 213-0302

(650) 213-8158 (Fax)
hkeefe@whitecase.com



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EXHIBIT G

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.

Heidi Keefe
April 6, 2009
Page 2

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.

Heidi Keefe
 April 6, 2009
 Page 3

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

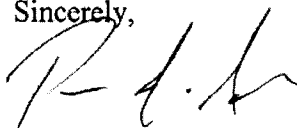
Heidi Keefe
 April 6, 2009
 Page 4

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 <u>Facebook Beacon</u> 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 .

Heidi Keefe
April 6, 2009
Page 5

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,

A handwritten signature in black ink, appearing to read "P. J. Andre", written in a cursive style.

Paul J. Andre

EXHIBIT H

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 8, 2009

Via E-Mail (lkobialka@kslaw.com)

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 the issues we discussed yesterday.

Protective Order

I understand that LTI will make some changes to the circulated protective order and provide us with an updated proposed version in the next few days. As discussed, we believe that the provision on compiling source code is neither necessary nor feasible, but believe the other changes discussed (*i.e.*, ensuring coverage of non-parties; ensuring specifications will be provided only if reasonably available; and allowing authorized reviewers to take notes during any source code review) do not present significant hurdles to finalizing an acceptable version for submission to the court. While not specifically discussed, please note that any notes taken during any source code review should be designated and marked with the ATTORNEYS-EYES-ONLY – SOURCE CODE designation. Please ensure your revisions cover that point.

Electronic Discovery

You suggested that the parties agree to provide certain information regarding custodians, electronic storage systems, and collection information. I agreed to confer with my client on your proposal and discuss the issues further with you during our next call.

Affixing Designations to Facebook-Produced Materials

Facebook produced 72 records to LTI in native format on March 23, 2009. Fifty-five of these records were designated “AEO” in the file name and are subject to Del. L.R. 26.2. In our cover

Lisa Kobialka, Esq.

WHITE & CASE

April 8, 2009

letter, we asked that LTI affix the appropriate confidentiality designation to any printed versions of the 55 designated records. LTI has stated that it is unwilling to do so. We maintain that affixing the appropriate designation to materials produced by Facebook in native format is a reasonable measure to protect the Facebook's confidential and sensitive materials. We hope that LTI will reconsider its position. If not, we will have to revisit production format. During our call yesterday, you represented that LTI will not print any of the materials from files bearing the "AEO" designation for one week, or until April 14, 2009. We ask that LTI extend that cut off until the protective order and this issue is resolved. Since LTI is withholding documents it considers confidential until after entry of a protective order, I do not believe this is an unreasonable request.

LTI's Response to Facebook Interrogatory No. 1

As discussed, we believe that despite Mr. Andre's April 6 letter, LTI has still failed to meaningfully respond to Facebook's Interrogatory No. 1. I welcome your offer to revisit the issue of supplementation. As discussed, Mr. Andre's April 6 letter is not a supplemental interrogatory response and therefore raises evidentiary concerns. Second, even if it were a formal supplementation, it fails to elucidate LTI's infringement position on a claim-by-claim and limitation-by-limitation bases.

We believe a meaningful response would connect claim elements to accused feature(s). For example, for claim 1, a meaningful response would identify, among other things, what LTI contends comprises: a "context component;" a "first context;" a "second context;" "user-defined data;" "metadata;" a "storage component;" and a "tracking component" as those terms are used in the patent. LTI has taken the position that these elements are obvious and that Facebook somehow knows what and where they are. Even if that were true, which it is not, Interrogatory No. 1 seeks *LTI's positions* about how any accused features allegedly meet the claim limitations for each asserted claim. As suggested to Mr. Andre last week and again on our call yesterday, one solution may be for LTI to circle or label the components depicted on the various Facebook screen captures with the claim limitations LTI contends are met.

Facebook is not asking for anything more than that which is due under the Federal Rules of Civil Procedure. LTI must demonstrate the steps that it contends constitute infringement of its patent in a meaningful, non-evasive manner. Ample case law supports the position that patentees are required to provide their infringement contentions in a readily accessible manner by mapping the accused features against the each limitation of the asserted claims. *See e.g., Cleo Wrap Corp. v. Elsner Engineering Works, Inc.*, 59 F.R.D. 386, 391 (M.D. Pa. 1972) (compelling patentee to label a "diagram of defendant's machine with the nomenclature of the corresponding parts of its patent"). Without a supplementation, Facebook cannot identify the features at issue and is effectively hamstrung in its defenses and counterclaims. Also, as we discussed, Facebook cannot meaningfully respond to LTI's written discovery absent knowledge of LTI's infringement contentions. LTI's clear supplementation depicting its infringement position should also help pare this case back from its current "stimulus package" level frowned on by the court.

Also, LTI's definition of "Facebook Website" remains unworkable and still includes third-party applications. *See* <http://www.facebook.com/apps/application.php?id=128581025231&ref=s#/>

Lisa Kobialka, Esq.

WHITE & CASE

April 8, 2009

[apps/index.php?q=Marketplace](#). Please advise whether LTI is willing to name the specific features it is accusing.

LTI's Response to Facebook Interrogatory No. 3

We believe that LTI is required to provide precise dates of conception and reduction to practice as well as specific details describing the first public disclosure and other information requested in this interrogatory. This information is critical to Facebook's defenses and counterclaims and is necessary to define the universe of prior art. In its response, LTI fails to describe any circumstances of first public disclosure. LTI also modifies the dates given with "not later than" language that effectively incorporates every prior date and makes the response imprecise and evasive. See, e.g., *Boston Scientific Corp. v. Micrus Corp.*, No. C 04-04072, 2007 WL 174475, 1 (N.D. Cal., Jan. 22 2007) (granting accused infringer's motion to compel more complete responses to interrogatories directed to date of conception and reduction to practice); *McKesson Information Solutions LLC v. Epic Systems Corp.*, 242 F.R.D. 689 (N.D. Ga. 2007) (rejecting patentee's argument that it did not have to provide to accused infringer information as to when it conceived and reduced to practice its claimed invention until the accused infringer produced prior art that predated the filing date of the patent).

LTI's Response to Facebook Interrogatory No. 4

I explained that Facebook intends to move to dismiss LTI's willfulness claims based on the lack of evidence provided in response to Facebook's Interrogatory No 4. Please advise whether LTI will dismiss its willfulness claims and thereby avoid unnecessary motion practice.

LTI's Response to Facebook Interrogatory No. 5

I explained that LTI's response to Facebook's Interrogatory No. 5 fails to provide LTI's inducement and contributory infringement for the same reasons LTI's response to Facebook's Interrogatory No. 1 is deficient. Please advise if LTI will supplement its response to this interrogatory.

LTI's Response to Facebook Interrogatory No. 9

You said LTI was willing to identify LTI products that allegedly embody the invention but was unwilling to provide a claim chart. Information about which LTI products actually embody the claimed invention *and how* they do so is directly relevant to several of LTI's contentions, including its allegations of irreparable harm, its allegation that LTI somehow competes with Facebook, LTI's alleged product marking, and secondary considerations. Moreover, the information is directly relevant to the validity of the patent in that Mr. McKibben has stated that he conceived of the alleged invention a decade prior to issuance of the patent, thus raising the question as to whether any LTI products themselves constitute prior art. Moreover, if LTI is claiming that its products embody the invention, Facebook is entitled to understand how those products allegedly do so. LTI cannot claim the benefit of embodying products without proving up that embodiment. Accordingly, please advise whether LTI will supplement its response to this interrogatory.

Lisa Kobialka, Esq.

WHITE & CASE

April 8, 2009

Limiting Asserted Claims

We understand that LTI has declined at this time to limit the number of asserted claims or identify representative claims, despite the fact that the court expressly mentioned that such limitation may be necessary in this case. We reserve the right to move the court for an order compelling LTI to limit the asserted claims and/or identify representative claims.

LTI's Proposed Rolling Production of Documents

We understand that LTI is taking the position that it is entitled to withhold confidential materials and to roll production of documents responsive to Facebook's First Set of Requests for Production only after entry of a protective order. We maintain that Facebook is entitled to LTI's production of confidential materials now, under Del. L.R. 26.2. Hopefully, entry of a protective order will moot the issue, but Facebook reserves its right to move the court for an order compelling LTI's production if the issue is not resolved promptly.

E-Mail Service and Distribution Lists

We agreed that treating e-mail service as personal service would be acceptable subject to details about timing. I propose that the parties treat e-mail service as personal service provided the e-mail in question is sent by 6:01 p.m. Pacific on the day service is to be effected, with confirmation *via* First Class Mail to the parties' California and Delaware counsel. Please let me know if this is acceptable.

We also agreed that distribution lists for correspondence between the parties would be helpful. For Facebook, please direct all correspondence and e-mail service as follows:

hkeefe@whitecase.com;
mweinstein@whitecase.com;
cclark@whitecase.com;
mmcool@whitecase.com; and
caponi@blankrome.com.

Please provide your distribution list and we will ensure all correspondence is sent accordingly.

Thank you for what I feel was a productive call. I am available for our follow-up call this Friday, April 10, 2009 at 3:00 p.m. Please let me know if that time works for you.

Sincerely,

/s/ Craig W. Clark

EXHIBIT I

Clark, Craig W.

From: Clark, Craig W.
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

4/22/2009