

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF DELAWARE**

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

**DECLARATION OF LISA KOBIALKA IN SUPPORT OF LEADER TECHNOLOGIES, INC.'S REPLY IN SUPPORT OF ITS MOTION TO COMPEL RESPONSES TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION AND FIRST SET OF INTERROGATORIES**

**OF COUNSEL:**

Paul J. André  
Lisa Kobialka  
King & Spalding, LLP  
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*Attorneys for Plaintiff  
Leader Technologies, Inc.*

Dated: May 20, 2009

I, Lisa Kobialka, hereby declare:

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

2. On May 18, 2009, I received by overnight delivery a letter and 4 DVD's from Facebook, Inc.'s counsel. Attached hereto as Exhibit A is a true and correct copy of the letter, dated May 15, 2009, stating that the enclosed DVD's contain Facebook's document production bearing the production numbers FB00001002 through FB00109303. This production represents 99% of the total document volume produced by Facebook to date.

3. Attached hereto as Exhibit B is a true and correct copy of a letter from counsel for Facebook, Craig W. Clark, to myself on May 5, 2009.

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

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this 19th day of May, 2009, at Redwood Shores, California.



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Lisa Kobialka

# Exhibit A



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

May 15, 2009

**VIA E-MAIL & FEDEX**

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

Re: *Leader Technologies Inc. v. Facebook, Inc.*  
Civil Action No. 1:08-cv-00862-JJF

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Dear Ms. Kobialka:

Enclosed please find four (4) DVD's containing documents produced by Facebook, Inc. bearing the production numbers FB00001002 to FB00109303. Please note that some of the documents are designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the terms of the Protective Order entered in this action and must be treated accordingly.

Sincerely,

Lisa R. Torres  
Senior Legal Assistant

Enclosures

ALMATY ANKARA BANGKOK BEIJING BERLIN BRATISLAVA BRUSSELS BUDAPEST DRESDEN DÜSSELDORF FRANKFURT HAMBURG  
HELSINKI HONG KONG ISTANBUL JOHANNESBURG LONDON LOS ANGELES MEXICO CITY MIAMI MILAN MOSCOW MUNICH  
NEW YORK PALO ALTO PARIS PRAGUE RIYADH SAO PAULO SHANGHAI SINGAPORE STOCKHOLM TOKYO WARSAW WASHINGTON, DC

# Exhibit B



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May 5, 2009

VIA E-MAIL

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

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

Dear Lisa:

I write to address the points in your April 28, 2009 letter.

Facebook will produce documents referenced in my April 24 letter that are not related to the current impasse on a rolling basis.

LTI's remaining issue is its claim to source code and documents predating issuance of the patent that relate to the design of the "Facebook Website," descriptions of the "Facebook Website," all applications included on the "Facebook Website," and user and advertiser help pages for the "Facebook Website." Each request you reference contains LTI's overbroad definition of Facebook Website, thereby making them a part of the current impasse before the Court. Moreover, LTI has refused to articulate any basis for the relevance of such materials that do not specifically reference LTI's patent. As such, Facebook will limit its production to responsive materials created after issuance of the patent unless you can articulate their relevance.

As always, please feel free to contact me directly.

Sincerely,

/s/ Craig W. Clark

ABU DHABI ALMATY ANKARA BEIJING BERLIN BRATISLAVA BRUSSELS BUCHAREST BUDAPEST DÜSSELDORF FRANKFURT HAMBURG  
HELSINKI HONG KONG ISTANBUL JOHANNESBURG LONDON LOS ANGELES MEXICO CITY MIAMI MOSCOW MUNICH NEW YORK  
PALO ALTO PARIS PRAGUE RIYADH SÃO PAULO SHANGHAI SINGAPORE STOCKHOLM TOKYO WARSAW WASHINGTON, DC

# Exhibit C

# KING & SPALDING

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

May 13, 2009

Craig W. Clark  
White& Case LLP  
3000 El Camino Real  
Palo Alto CA 94306

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

Dear Craig:

We are in receipt of your May 12, 2009 letter regarding our discussion of Leader's response to Facebook's Interrogatory No. 10.

We were surprised by your letter. Contrary to what was stated in your letter, we have never said that Leader will not supplement its response to this interrogatory. Rather, we specifically stated that it is our position that Leader will supplement this interrogatory, if necessary.

As we discussed, Facebook has not provided any prior art to put Leader's priority date at issue. In fact, we told you during our discussion that we have no information whatsoever about the basis for Facebook's allegations of invalidity, other than the notice pleadings set forth in your Answer and Counterclaims, as Facebook is refusing to provide this discovery. Facebook is effectively contending that Leader is required to prove a date that is not currently at issue. As we stated on the phone, we remain willing to consider any case law that you believe supports your position since the case law you previously cited does not support your contention. (See our May 1, 2009 letter). Your May 12 letter cites this same case law. We continue to be available for further discussion as soon as Facebook is willing to provide relevant support for its position.

In a good faith effort to understand what Facebook's concern is with respect to the provisional application, we request that Facebook identify with particularity the specific elements of the '761 Patent that Facebook contends is not entitled to the benefit of the '255 Application. For example, our understanding from our discussion is that the only portion that Facebook contends is missing is the "tracking component." If that is the case, we may be able to resolve this issue. To be clear, Leader is not willing to undergo an unduly burdensome effort in response to a discovery request that, as far as we call tell right now, is not relevant at this point in the case.



Craig W. Clark  
May 13, 2009  
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On a separate note, it is our understanding that Facebook will be providing supplemental responses to its interrogatories this week and will produce documents this week. We also understand that Facebook does not intend to produce any further documents after this production. If that understanding is incorrect, please let me know. As always, please do not hesitate to contact me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lisa Kobialka", written in a cursive style.

Lisa Kobialka

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

**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that on May 20, 2009, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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

Thomas P. Preston, Esq.  
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I hereby certify that on May 20, 2009 I have sent by E-mail and first class mail the foregoing document to the following non-registered participants:

Heidi L. Keefe, Esq.  
Mark R. Weinstein, Esq.  
Craig W. Clark, Esq.  
Melissa H. Keyes, Esq.  
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