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August 11, 2012

Mr. William Suter
Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543
(202) 479-3000
(202) 479-3472

Dear Mr. Suter,

Re: Complaint about the Federal Circuit Judges and Clerk of Court in Leader Tech v. Facebook, Case No. 2011-1366 (Fed. Cir.)

I write to you pursuant to Chapter 16 of the Judicial Code regarding the conduct of the Federal Circuit itself in *Leader v. Facebook*.[1]

I recognize that the normal procedure would be for me to direct my complaint to the clerk and chief judge. However, I believe that these individuals are participating in the misconduct. Therefore, since it is illogical to ask wrongdoers to investigate themselves, I direct my complaint to you instead as the next more senior clerk.

Where do I start? A panel heard the appeal of Leader Technologies, Inc. on June 5, 2012. The circuit then presented a train-wreck of an opinion that first raised my suspicions of misconduct. The opinion utterly ignored the basis of Leader's appeal, which was the clear and convincing evidence standard. The judges created a substantial evidence argument out of thin air, then capriciously dipped into the cold evidence without asking for a briefing, even adding new evidence not put

[1] I wish to rely upon any and all other statutes and ethical rules involving judicial and attorney conduct, including the Model Rules of Professional Conduct, Federal Rules of Evidence and Civil Procedure, and other Rules for the Governance of the Bar.

before the jury. Then they did not apply their own precedents to evaluate their evidence; ruling against Leader based upon their fabricated argument.

Worse, as confused as the opinion was, it rightly isolated the question of law down to a single 2009 interrogatory asked in the present tense (presumably throwing Leader a bone which would not matter since their decision was a foregone conclusion, the law be damned?) The panel said that the case turned on this question. Therefore, the sole question of law was whether or not the present tense use of the verb "is practiced," answered in 2009, could be retroactively applied to past versions of Leader's products in 2002. Since The Dictionary Act says the present tense cannot apply to the past, this case should have been decided in Leader's favor.

The misconduct becomes evident from this point forward. After the panel ruled in Facebook's favor, Leader filed for a rehearing and rehearing *en banc*. I also filed a motion for leave to file an *amicus curiae* brief on **July 11, 2012**. The court denied my motion within hours of receiving it and has never made my motion and brief available for download on the docket. A court employee, Valerie White, said subsequently that such a quick turnaround is not possible, and said that the court "has no record" of the motion and brief ever being received.

The next surprise was the manner in which Leader learned on **July 16, 2012** that the panel had denied Leader's petition for rehearing—on a nationally televised *Fox Business* interview with Leader's CEO & Chairman Michael McKibben. Leader's attorneys were not informed by the court for three more days, by regular mail. In short, the announcement of the panel's decision was *timed* for Facebook's benefit. However, this is not the first time the court has accommodated Facebook's media needs. The announcement of the court's refusal to reverse the lower court was made the same day that Facebook began its IPO road show in New York on July 16, 2012.

On **July 18, 2012** I filed a Motion for Reconsideration citing new evidence that has emerged in other venues that Facebook withheld material evidence from Leader Technologies. The court issued a denial of this motion on **July 24, 2012** but has never docketed the Motion or its Order. The denial said I exceed the page limit, but this is impossible since the page limit for motions is 20 pages and mine was only 6 pages. It also said my motion was moot, but this too is impossible since the court jumped the gun on the denial of the petition since it was issued during the pendency of the response period of the parties to my motion for leave to file.

On **July 27, 2012** I filed a Renewed Motion for Leave to File and I sent a letter to the Clerk of Court Jan Horbaly. Neither my motion nor letter has been docketed or answered. I asked the Clerk to docket my motions and asked "Is this Court attempting to prevent a full and fair hearing of this case on the merits? " An ordinary person would consider this letter a complaint which the Clerk is duty-bound to answer timely. While the Clerk *was* able to receive, circulate, gather opinions, and mail out the *denial* of my amicus brief request in one day, he has not answered my letter nor are my pleadings posted on the docket.

My motions speak for themselves as to the likely motivations behind the judges' and Clerk's desire to ignore me: **CONFLICTS OF INTEREST** that are being concealed for Facebook's benefit. Whether or not I have complied with the letter of the law on procedure, which I believe I have, the facts presented in my motions prove:[2]

1. Panel judges did not disclose that they held Facebook stock in mutual funds that widely publicized those holdings.

2. Neither the panel judges nor other circuit judges disclosed conflicts of interest to the "third degree" regarding family holdings in Facebook.

3. FOIA inquiries to date regarding the conflicts checking process used in *Leader v. Facebook* have gone unanswered.

4. Court decision announcements have been timed to Facebook-favorable media events.

5. Many if not most, maybe even all, of the judges failed to disclose their prior associations with a key Leader witness, Professor James P. Chandler; including the Chief Judge who was a law student at George Washington University during Professor Chandler's tenure.

6. Both the Clerk and Chief Judge failed to disclose close, long-time associations with Facebook attorneys, including Thomas Hungar who is a well-known Federal Circuit analyst and speaker whose favor the Federal Circuit courts.

[2] *Pro Se* filers are to be afforded the grace of latitude, and are not to be summarily rejected as has occurred here.

7. Interrogatory No. 9 violates The Dictionary Act as the sole remaining matter of law and this neglecting of basic law on use of the English language cannot sanction the Court's Facebook-favorable ruling.

8. Jury Instruction 4.7 regarding on sale bar violates the Federal Circuit's own precedent (on which the Court was *silent*) and cannot sanction the Court's Facebook-favorable ruling.

9. The court is not permitted to fabricate new arguments and facts as if it is a trial court since such "hyperactivity" violates Fifth and Fourteenth Amendment rights to due process.

10. The court did not rule on the law that was the basis of Leader's appeal (clear and convincing evidence standard). Instead it ruled against its own hyperactively fabricated argument (substantial evidence) which was not argued or briefed by the parties. This is a manifest injustice.

11. The court's actions are *supporting* the financial and political agendas of Russian oligarchs with close ties to the Russian government and the Obama administration via former Treasury Secretary Lawrence Summers and his long-time aid and current Facebook Chief Operating Officer Sheryl Sandberg.

12. The Clerk of Court is not a judge and yet is executing orders as if he is; and according to clerk staffer Valerie White, could not have submitted my *amicus curiae* brief motion to the full circuit and received a decision on the same afternoon of July 11, 2012.

I respectfully refer you to the work of an intrepid former *Bloomberg* TV investigative reporter, Donna Kline, who has been investigating *Leader v. Facebook* for a year now, and has much additional supporting evidence and documentation on her website at http://www.donnaklinenow.com. Be sure to click down through each of the "Recent Posts" on the left, which provide a chronological analysis of what is evidently substantial misconduct with many tentacles.

I attach for your review my pleadings that have been submitted to the Federal Circuit, but never docketed, along with the proofs of delivery.

A manifest injustice is being perpetrated here, and I hope and pray that this Court is able to root out this corruption and restore public confidence in the Federal Circuit.

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

Respectfully yours,

/s/

Lakshmi Arunachalam, Ph.D.
CEO
WebXchange, Inc.

Exhibits:

1. July 10, 2012, NOT DOCKETED, Motion & Brief of *Amicus Curiae* Lakshmi Arunachalam, PhD, Proof of Delivery (July 11, 2012 10:52 AM).
2. July 18, 2012, NOT DOCKETED, Motion for Reconsideration of *Amicus Curiae* Brief, Proof of Delivery (July 19, 2012 10:46 AM).
3. July 27, 2012, NOT DOCKETED, Renewed Motion for Leave to File *Amicus Curiae* Brief, Proof of Delivery (July 30, 2012 7:16 AM).
4. July 27, 2012, NOT DOCKETED, Letter to Clerk of Court Jan Horbaly, Proof of Delivery (July 30, 2012 7:16 AM), not answered as of Aug. 10, 2012.

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5. July 11, 2012, DOCKETED, Order DENYING Dr. Arunachalam's *Amicus* Brief Motion (document not available on the court's website)
6. July 24, 2012, NOT DOCKETED, Order DENYING Dr. Arunachalam's Reconsideration Motion

cc.

House Committee on the Judiciary

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

Senate Committee on the Judiciary

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

EXHIBIT 1

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5

EXHIBIT 6