LaRussa v. Twitter Inc.

EXHIBIT K

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	D STATES DISTRICT COURT
DIST	RICT OF MASSACHUSETTS
	CIVIL ACTION NO. 04-11923-DPW
CONNECTU LLC	•
Plaintiff	•
v.	•
V •	• . BOSTON, MASSACHUSETTS
MARK ZUCKERBERG, et al	. OCTOBER 24, 2006
Defendants	
TRANSCRI	PT OF EVIDENTIARY HEARING
	HONORABLE ROBERT B. COLLINGS
UNITED	STATES MAGISTRATE JUDGE
APPEARANCES:	
For the Plaintiff:	Daniel Tighe, Esquire Griesinger, Tighe & Maffei
	Griesinger, righe & Marrer
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produced by transcriptic	
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MARYANN V. YOUNG Certified Court Transcriber 240 Chestnut Street Wrentham, Massachusetts 02093 (508) 384-2003

1	Cross - Winklevoss 54
1	Q You didn't take any other action to set up the company
2	other than placing the telephone call?
3	A The Company Corporation assured me that no other action
4	was needed.
5	Q So it was by virtue of your placement of the telephone
6	call that you ultimately became the sole founding member of
7	ConnectU LLC, correct?
8	A Yeah, I - it sounds like a legal conclusion or something
9	that I set up a company, I placed a call and, you know, that's
10	what happened.
11	Q And it's your view that having done so that made you the
12	sole founding member of the company, correct?
13	A Well, the company was created I guess in my mind before
14	the phone call and the phone call realized it.
15	Q The company was created in your mind as a result of
16	discussions between you and your brother, Cameron, correct?
17	A It was my idea to set up the ConnectU LLC
18	THE WITNESS: Can I change this mic around a little
19	bit cause, a little bit
20	THE COURT: Yeah, you can move it as long as you just
21	keep it close to your mouth
22	THE WITNESS: Yeah, all right.
23	THE COURT:so that we can hear you.
24	THE WITNESS: I wasn't sure
25	THE COURT: If you want to move it
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1	Cross - Winklevoss 55 THE WITNESS: Yeah, I just
2	THE COURT:from side to side, no problem.
3	THE WITNESS:feel like I'm throwing a shovel here.
4	A It was my intention to set up a company, ConnectU LLC, and
5	I went ahead and did that.
6	BY MS. HURST:
7	Q You had discussions with your brother, Cameron, first
8	before doing so, correct?
9	A I had mentioned that I was, it was, you know, like I said
10	it wasn't a surprise or that, I mean, Cameron knew that I was
11	going to go do that.
12	Q Who is Mark Pierrat?
13	A Mark Pierrat is the, I think he's the - well, he worked at
14	Imark and I don't know his title exactly
15	THE COURT: I'm sorry, he worked at where?
16	THE WITNESS: He worked at Imark Company
17	THE COURT: Okay.
18	THE WITNESS:that programmed ConnectU.com. And he
19	was sort of their business, you know, guy, pick up the phone
20	and deal with the customers.
21	BY MS. HURST:
22	Q He was someone that you dealt with at Imark, correct,
23	Mr. Pierrat was?
24	A I had dealt with Mr. Pierrat, yes.
25	Q And at the time you placed the telephone call to the
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1	Cross - Winklevoss 56 Company Corporation
2	A Uh-huh.
3	Qor before the entity was formed but at that time period,
4	Harvard Connection was already dealing with Imark and Mr.
5	Pierrat in connection with the website development, correct?
6	MR. HORNICK: Objection, mischaracterizes.
7	A Yeah, I would say that
8	THE COURT: Oh wait a minute. Hold on. If there's
9	an objection
10	THE WITNESS: Sorry.
11	THE COURT:please don't answer. I overrule the
12	objection and the witness can answer.
13	THE WITNESS: Okay. Sorry.
14	A Divya, Cameron and I were dealing with Imark to program
15	our website.
16	BY MS. HURST:
17	Q First as Harvard Connection and later as ConnectU.com?
18	A You could call it that I guess.
19	Q All right. So on April 6, 2004 when you placed the
20	telephone call to the Company Corporation Mr. Pierrat was known
21	to you?
22	A Yes, he was.
23	Q And he was known to your brother, Cameron?
24	A Yes, he was.
25	Q And he was known to Mr. Narendra?
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1	Cross - Winklevoss 57 A That's correct.
2	Q Isn't it true that you called the Company Corporation as a
3	result of Mr. Pierrat's recommendation to your brother Cameron
4	that Harvard Connection should form a legal entity?
5	A I believe that Mr. Pierrat may have made a suggestion but
6	
	he certainly wasn't the only person that suggested any type of,
7	you know, formation of a more formal company. And nor do I
8	believe that he was the sole impetus or reason for doing so.
9	Q But you concede that he did suggest that you form a legal
10	entity to your brother Cameron?
11	A I believe that I remember that that suggestion happened
12	but by no means do I see it for anything more than a
13	suggestion.
14	Q Just a suggestion?
15	A Sure. I mean that's, that's what you're calling it, then
16	that's what it was.
17	Q And that suggestion happened the day before you placed the
18	telephone call to the Company Corporation, correct?
19	A I, I don't recall. I don't know.
20	Q So it's just a coincidence that Mr. Pierrat suggested to
21	your brother Cameron on the day before you made the telephone
22	call that a legal entity be formed and the next day you went
23	ahead and did that?
24	MR. HORNICK: Objection. Assumes facts not in
25	evidence, Your Honor.
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YOUNG TRANSCRIPTION SERVICES (508) 384-2003

1	Cross - Winklevoss 58 THE COURT: If that's the case he may disagree with
2	the statements of fact contained in the question. You may
3	answer.
4	A The idea to form ConnectU LLC was created well before a
5	day before the actual phone call was placed. For instance, my
6	dad has LLC's. I'm well aware of what LLC, that sort of people
7	do, and Mr. Pierrat was certainly not the first person to put
8	that idea in my mind or anybody else's.
9	Q So you had the idea long before you actually formed the
10	entity?
11	A It was before a day. I mean, it was something
12	Q How
13	A What?
14	Q I'm sorry, I didn't mean to interrupt.
15	A It was an idea that didn't happen a day after?
16	Q How long before did you have the idea?
17	A I can't recall exactly but it was more than a day.
18	Q Was it a week?
19	A I would say at least.
20	Q Was it a month?
21	A I, maybe.
22	Q Three months?
23	A I think that would have been too much. Too long.
24	Q Was it the launch of TheFaceBook that caused you to think
25	that you would like to form a legal entity?
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1	Cross - Winklevoss 59 A That could have definitely added to it.
2	Q So throughout the period in early 2004 from the launch of
3	TheFaceBook through the founding of ConnectU LLC you had in
4	mind that you would form a legal entity to carry on the
5	business of the website that you were working on; is that
6	correct?
7	A I had in my many, there's many things in mind. I looked
8	into trade marking, I looked into formation of a company. That
9	was one of the many things that from, you know, not a
10	incredibly sophisticated business experience, I thought that
11	that was something that I needed to do. And that's how I was
12	acting. I mean as, you know, a senior in college, I was doing
13	what I thought was right to do and that was one of them.
14	Q Throughout the period from the launch of TheFaceBook to
15	the launch of the ConnectU, well, pardon me, until the
16	formation of ConnectU LLC, you personally were considering the
17	formation of a legal entity to conduct the business of your
18	website; is that correct?
19	A I was, I was, you know, I was considering the formation of
20	ConnectU LLC as a formal company to run the website, yes.
21	Q And you discussed that with your brother during that
22	period of time?
23	A Definitely mentioned it, yeah.
24	Q And you discussed it with Mr. Narendra during that period
25	of time as well, didn't you?

YOUNG TRANSCRIPTION SERVICES (508) 384-2003

	I - 205
1	Q Well, let's take a look at the hearing Exhibit No. 80.
2	And if my colleagues could provide Mr. Narendra the copy of the
3	exhibit number.
4	(Pause)
5	BY MR. CHATTERJEE:
6	Q Do you see that Mr. Winklevoss?
7	A Yes, No. 8?
8	Q 8-0.
9	A Or 8-0, 80. Okay.
10	Q Is Exhibit No. 80's a declaration from you?
11	A Sorry, that's a question or?
12	Q Yes.
13	A You're asking me if it's a declaration?
14	Q Yes.
15	MR. CHATTERJEE: 80's a
16	A It does not look to be a declaration.
17	BY MR. CHATTERJEE:
18	Q Oh. Well let me give you - if you take a look at request
19	for production No. 19.
20	A Okay.
21	THE COURT: This is in Exhibit 80 or not?
22	MR. CHATTERJEE: This is in Exhibit 80, I'm sorry.
23	THE COURT: Okay.
24	MR. CHATTERJEE: Mine were organized slightly
25	differently.
	YOUNG TRANSCRIPTION SERVICES (508) 384-2003

1	I-206 THE WITNESS: Okay, so I'm a little confused
2	where to go. I'm looking at 80 right now.
3	BY MR. CHATTERJEE:
4	Q If you look at request No. 19
5	A Oh, okay.
6	Q Okay. There's a request in there. This is Exhibit No.
7	80.
8	A Okay.
9	Q Now request for production No. 19 asked you to produce all
10	documents related to current and former directors, officers,
11	employees and agents of ConnectU, including members, managers
12	and board managers as defined in the limited liability company
13	operating agreement of ConnectU LLC. We gave some Bates
14	ranges, Harvard Connect and Winklevoss companies, including
15	documents relating to dates in these positions, duties,
16	authorities and responsibilities. Do you see that?
17	A Yes, I do.
18	Q Okay. Now in response to that there was a motion to
19	compel filed, right? Are you aware of that?
20	A Yes.
21	Q And following that there was a court order?
22	A Yes.
23	Q You know that, right?
24	A Yes.
25	Q And in fact in that court order there was a requirement
	YOUNG TRANSCRIPTION SERVICES (508) 384-2003

1	I - 207
1	that you produce a declaration that set forth that you had
2	made a complete production in response to that document
3	request, right?
4	A Yes.
5	Q And Exhibit 83 is that declaration, right?
6	A That's correct, yes.
7	Q And you specifically reference in paragraph 19 your
8	response, right? This is the
9	A Yes.
10	Qthis is following quarter.
11	A Yes.
12	Q You did a diligent search. You produced all of the
13	relevant documents that were responsive to that request, right?
14	A Yes.
15	Q Now, what I've done with Exhibit 83, Mr. Winklevoss, is I
16	took all of the documents that were cited there by Bates
17	number. You now what a Bates number is, right?
18	A Sort of.
19	Q Okay. A Bates number are these actual numbers that are
20	identified on here. You find them typically on the bottom
21	right hand corner of the document.
22	A Right.
23	THE COURT: You know if you're going to use that
24	would you focus it
25	MR. CHATTERJEE: Yes.
	YOUNG TRANSCRIPTION SERVICES (508) 384-2003

1	I-208 THE COURT:and stop moving it around.
2	MR. CHATTERJEE: And I'm sorry, Your Honor, this is
3	kind of sliding off.
4	
	THE COURT: You're getting me dizzy.
5	MR. CHATTERJEE: I apologize.
6	BY MR. CHATTERJEE:
7	Q Now, Mr. Winklevoss, with respect to Exhibits 41 - 40, 41
8	and 42, can you show me where in that collection of documents
9	any of those documents can be found?
10	A I
11	Q Feel free to look through them.
12	A I don't know the Bates numbers off the top of my head. Is
13	that what you're asking me?
14	Q I'll represent to you Mr. Winklevoss, I've gone
15	A Okay.
16	Qthrough each and every one of the Bates numbered
17	documents and I put them in that stack right there. You can
18	look through them and see if you can find Exhibit 40, 41 or 42.
19	A So you want me to look through the whole binder?
20	THE COURT: Is there any dispute that these are not
21	contained in there?
22	MR. HORNICK: Your Honor, these documents that I
23	believe that Mr. Chatterjee is going to be talking about were
24	produced after this discovery request was signed, and we have
25	an agreement in the two cases that any documents from any case
	YOUNG TRANSCRIPTION SERVICES (508) 384-2003

	I - 209
1	can be used in either case. So even if they weren't
2	produced in the California case
3	THE COURT: No
4	MR. HORNICK:they can be used.
5	THE COURT:no, I just want to know - let him do
6	want he wants to do. Is there any dispute that these are not
7	within that category of documents?
8	MR. CHATTERJEE: Your Honor, I'll represent to you
9	THE COURT: No, I'm asking Mr. Hornick.
10	MR. CHATTERJEE: Oh.
11	MR. HORNICK: I don't know, Your Honor. I don't know
12	what these documents here are. I'm not really working on that,
13	I'm not working on that case. I don't know what these
14	documents are just by looking at these numbers.
15	MR. CHATTERJEE: Your Honor, the premise here is
16	quite simple.
17	THE COURT: Oh, I understand what you're trying to
18	do. I'm just, rather than having him look through all of them
19	to see if they're there, which might take a little bit of time,
20	and I was trying to shortcut things.
21	MR. CHATTERJEE: And I'll represent to Your Honor not
22	a single one of them is.
23	THE COURT: Well, I know, but you don't get - you're
24	not testifying and you're not under oath and you're not going
25	to be testifying, you're not going under oath. So how do you
	YOUNG TRANSCRIPTION SERVICES (508) 384-2003

1	I-255 THE COURT: All right, any objection to that?
2	MR. HORNICK: No, Your Honor. No objection.
3	THE COURT: All right, that's admitted.
4	(Defendant's Exhibit No. 67, admitted)
5	MR. CHATTERJEE: And then, Your Honor, my
6	understanding is you were going to submit Exhibit 83 which was
7	the declaration with the attached documents. I'd like to offer
8	that into evidence.
9	THE COURT: All right, wait a minute now.
10	Eighty
11	MR. CHATTERJEE: Exhibit 83 was the declaration of
12	ConnectU LLC for all of the documents that were
13	THE COURT: Oh right, right, right. Yeah, I'm going
14	to ask that - I'm not going to excuse Mr. Cameron Winklevoss as
15	a witness overnight. He's to go through the documents as
16	Mr. Hornick wished him to do and then to answer the question as
17	to whether they were included in the documents he listed in
18	response to that interrogatory.
19	MR. CHATTERJEE: Thank you very much, Your Honor.
20	MR. HORNICK: What documents particularly do you want
21	to know are in there?
22	MS. HURST: Your Exhibits 40, 41 and 42.
23	MS. CHATTERJEE: And particularly the handwritten
24	documents that he's relied upon to show membership.
25	THE COURT: Well wait a minute, wait a minute. We
	YOUNG TRANSCRIPTION SERVICES (508) 384-2003

I - 256 1 want - is it forty--2 MS. HURST: It is, Your Honor, Ms. Hurst--3 THE COURT: Let's get the specific documents you're 4 referring to. Exhibits--5 MS. HURST: Plaintiff's exhibits 40, 41 and 42--6 MS. CHATTERJEE: Correct. 7 MS. HURST: --which are the two Connecticut 8 registration applications and the bank card. 9 MR. CHATTERJEE: Correct. 10 THE COURT: All right, 40, 41 and 42, Mr. Hornick. 11 MR. HORNICK: And whether they're in Exhibit 83 is 12 the question? 13 THE COURT: No, the question is whether they are 14 among the documents listed in that declaration as having been 15 produced. 16 MR. HORNICK: In 83? 17 THE COURT: Yeah. 18 MR. HORNICK: Yes. 19 THE COURT: It is 83, isn't it? Mr. Chatterjee--20 MR. CHATTERJEE: Yes. 21 THE COURT: --83? 22 MR. CHATTERJEE: Yes. 23 THE COURT: Okay. 24 MR. HORNICK: Your Honor, we can stipulate that 25 they're not there. YOUNG TRANSCRIPTION SERVICES (508) 384-2003

	I - 257
1	THE COURT: Well, that's what I was asking you
2	about earlier.
3	MR. HORNICK: That's what I was saying, they were
4	produced after this was created so they couldn't have been
5	there.
6	THE COURT: All right. Then we don't have to worry
7	about that. It's stipulated that they're not included in the
8	documents listed in the declaration.
9	MR. CHATTERJEE: Thank you, Your Honor.
10	THE COURT: Okay. That takes care of that problem.
11	Okay, questions by counsel for Saverin?
12	MR. HURST: Yes, briefly, Your Honor.
13	BY MS. HURST:
14	Q Good afternoon, Mr. Winklevoss. My name is Annette Hurst,
15	and I'm an attorney for defendant Saverin. I think we've met
16	before, hello.
17	А Ні.
18	Q If you could turn to Exhibit 12 in the defendant's exhibit
19	binder.
20	(Pause)
21	A Okay.
22	BY MS. HURST:
23	Q In or about April 2004 were you familiar with a person
24	named Mark Perot?
25	A Yes.
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CERTIFICATION

I, Maryann V. Young, court approved transcriber, certify that the foregoing is a correct transcript from the official digital sound recording of the proceedings in the above-entitled matter.

November , 2006

Maryann V. Young_____