

EXHIBIT 1

DECLARATION OF GAVIN L. CHARLESTON

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LAMEBOOK, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:10-cv-00833
)	
FACEBOOK, INC.,)	
)	
Defendant.)	
)	

**DECLARATION OF GAVIN L. CHARLSTON
IN SUPPORT OF DEFENDANT FACEBOOK, INC’S MOTION TO DISMISS
COMPLAINT FOR DECLARATORY JUDGMENT**

I, Gavin L. Charlston, declare as follows:

1. I am an attorney licensed to practice law in the State of California and admitted *pro hac vice* in the Western District of Texas in the above-referenced action. I am an associate at the law firm of Cooley LLP, counsel of record for defendant Facebook, Inc. (“Facebook”).
2. I submit this declaration in support of Facebook’s Motion to Dismiss Complaint for Declaratory Judgment, filed concurrently herewith. I have personal knowledge of the facts set forth herein.
3. Attached hereto as Exhibit A is a true and correct copy of a complaint (without exhibits) captioned *Facebook, Inc. v. Lamebook, LLC*, Case No. CV 10-0548 (EMC) filed on November 8, 2010 in the United States District Court for the Northern District of California.
4. According to public records, on or around November 24, 2009, Plaintiff Lamebook, LLC (“Lamebook”) filed an application with the United States Patent and Trademark Office seeking to register the following LAMEBOOK mark:



Attached hereto as Exhibit B is a true and correct copy of the United States Patent & Trademark Office online status record for this trademark application, reflecting that the application was expressly abandoned by Plaintiff on or about May 10, 2010.

5. Attached hereto as Exhibit C is a true and correct copy of a letter dated July 1, 2010 from Kathleen E. Johnston of Cooley LLP, outside counsel to Facebook, to Conor Civins, counsel for Lamebook, regarding Facebook's objections to Plaintiff's use of the LAMEBOOK mark.

6. Attached hereto as Exhibit D is a true and correct copy of an exchange of emails between Kathleen Johnston and Mr. Civins, copying me, dated September 29 and September 30, 2010.

7. Throughout October 2010, I exchanged telephone messages with Mr. Civins in an effort to discuss the status of his client's transition to the new name "LAMEBLOG," which Mr. Civins disclosed to Kathleen Johnston during a phone call on September 1, 2010. *See* Ex. D; Declaration of Kathleen E. Johnston, ¶ 5.

8. On October 20, 2010, I had a telephone conversation with Mr. Civins wherein he advised that Plaintiff had completed the clearance of the LAMEBLOG name but was still testing the name. I advised him that although Facebook was willing to work with Plaintiff, Plaintiff needed to develop a clear transition plan for the new name in the very near future. Mr. Civins promised to respond to me within the next few days regarding the amount of time that would be needed for Plaintiff's transition. At no time during the call did Mr. Civins suggest that Plaintiff

did not intend to change its name.

9. Mr. Civins and I exchanged telephone messages over the following ten days.

10. On Tuesday, November 2, 2010, I received a voicemail message from Mr. Civins regarding setting up a future call to discuss the matter in further detail. Attached hereto as Exhibit E is a true and correct copy of a transcription of that voicemail message, which was prepared at my direction. Attached hereto as Exhibit J is a true and correct copy of a CD containing the audio file of Mr. Civins' November 2, 2010 message to me, which is being manually filed with the Court.

11. Attached hereto as Exhibit F is a true and correct printout of the webpage available at <http://www.lamebook.com/donate> as it appeared on November 5, 2010 at 2:57 p.m. Pacific time, which was created on my law firm's computer system by printing the webpage to Adobe PDF format.

12. Attached hereto as Exhibit G is a true and correct printout of the webpage available on the Austin News KXAN.COM website at <http://www.kxan.com/dpp/news/strange/clash-of-the-social-network-sites>, which consists of an article and accompanying video published November 5, 2010 at 9:40 p.m. Central time (according to the printout) entitled "Clash of the Social Network Sites: Lamebook Seeks 'Rights Declaration' From Facebook."

13. Attached hereto as Exhibit H is a true and correct printout of the webpage available on the MyFox Austin website at http://www.myfoxaustin.com/dpp/top_stories/Lamebook-Suing-Facebook-20101105-ktbcw, which consists of an article and accompanying video published November 5, 2010 at 10:22 p.m. Central time (according to the printout) entitled "Lamebook Suing Facebook."

14. Attached hereto as Exhibit I is a true and correct printout of Plaintiff's Facebook

page as it appeared on November 9, 2010 at 2:14 p.m. Pacific time (redacted to eliminate personal user information), which was created on my law firm's computer system by printing the webpage to Adobe PDF format.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this 24th day of January, 2011, in San Francisco, California.

A handwritten signature in black ink, appearing to read "G. Charlston", written over a horizontal line.

Gavin L. Charlston

EXHIBIT B

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-01-24 13:14:33 ET

Serial Number: 77880306 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark



(words only): [LAMEBOOK](#)

Standard Character claim: No

Current Status: Abandoned after publication because applicant filed an express abandonment. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Date of Status: 2010-05-28

Filing Date: 2009-11-24

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 116](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 885 -Office Of Trademark Program Control

Date In Location: 2010-05-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Lamebook, LLC**Address:**

Lamebook, LLC
5008 Rowena Ave. #A
Austin, TX 78751
United States

Legal Entity Type: Limited Liability Company**State or Country Where Organized:** Texas**Phone Number:** (254) 715-9301

GOODS AND/OR SERVICES

International Class: 041**Class Status:** Abandoned

On-line journals, namely, blogs featuring commentary regarding social networking

Basis: 1(a)**First Use Date:** 2008-10-24**First Use in Commerce Date:** 2009-05-11

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.**Description of Mark:** The mark consists of the stylized word "Lamebook". A graphic image of a "thumbs down" to the left of the text.**Design Search Code(s):**

02.11.14 - Finger pointing (gesture); Fingers walking (gesture); Gestures (OK, thumbs up, thumbs down, fingers walking, handshake, finger pointing); Hands and fingers forming the following: handshake, finger pointing, fingers walking, OK sign, and thumbs up or thumbs down; Handshake (gesture); OK gesture; Thumbs up or thumbs down (gesture)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-05-28 - Abandonment Notice Mailed - After Publication

2010-05-28 - Abandonment - After publication

2010-05-19 - Extension Of Time To Oppose Received

2010-05-10 - TEAS Express Abandonment Received

2010-04-20 - Notice Of Publication E-Mailed

2010-04-20 - Published for opposition

2010-03-18 - Law Office Publication Review Completed

2010-03-18 - Assigned To LIE

2010-03-01 - Approved for Pub - Principal Register (Initial exam)

2010-03-01 - Assigned To Examiner

2009-12-02 - Notice Of Design Search Code And Pseudo Mark Mailed

2009-12-01 - New Application Office Supplied Data Entered In Tram

2009-11-27 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

LAMEBOOK, LLC
5008 ROWENA AVE # A
AUSTIN, TX 78751-2545
Phone Number: (254) 715-9301

EXHIBIT C



Kathleen E. Johnston
(415) 693-2107
kjohnston@cooley.com

VIA MAIL AND EMAIL (CIVINS@CIVINSDENKO.COM)

July 1, 2010

Conor Civins, Esq.
Civins Denko Coburn & Lauff LLP
816 Congress Avenue, Ste. 1205
Austin, TX 78701

RE: Facebook, Inc. and Lamebook, LLC (LAMEBOOK)

Dear Mr. Civins:

I write further to your conversations with Christen Dubois regarding Facebook's objections to your client's use of the trademark LAMEBOOK at lamebook.com and on its Lamebook Facebook Page, and the proposed agreement for phasing to a different name. While Facebook in general does not take issue with the posting of information about Facebook, or to fair use references to Facebook, we firmly object to attempts to create brand names that trade off of Facebook's fame.

As you know, Facebook is a recognized worldwide leader in providing services relating to online communities and other services on its facebook.com website. Facebook owns exclusive rights to the FACEBOOK mark, including rights secured through common law use, and registration in the United States (U.S. Trademark Registrations 3,041,791, 3,122,052, 3,734,637, 3,659,516, 3,716,926 and 3,734,637) and internationally.

Facebook's website at <http://facebook.com> has been recognized as among the top two most-trafficked websites of any kind in the U.S. and the world by Alexa.com. As of February 2010, Facebook provides online networking services in over 70 languages to over 400 million monthly active users worldwide, more than 200 million of whom typically log on to the Facebook website on any given day.

As a result of the considerable publicity afforded the FACEBOOK mark and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK mark has extensive consumer recognition and is, indisputably, famous and entitled to all the protections afforded famous trademarks.

Facebook has been the subject of thousands of unsolicited stories and references in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Time Magazine recently recognized that Facebook is one of the web's most prominent companies. (See <http://www.time.com/time/business/article/0,8599,1990582-1,00.html>.) Facebook has been recognized and awarded for its endeavors, including Insider Most Likely to Change the World in 2009, Crunchie Best Overall Product Award in 2009, Harvard Business School's "Entrepreneurial Company of the Year" in June 2008,



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BusinessWeek's "The World's 50 Most Innovative Companies" in 2008 and The Crunchie Award for Best Overall Startup in 2007 and 2008.

In addition, nearly every major entertainment, news and media site you can think of uses Facebook to make the web a more social place. Nine out of the top 10 news sites, 10 out of the top 10 iPhone apps, and 20 TechCrunch 50 finalists implement Facebook Connect.

Lamebook's use of the LAMEBOOK mark infringes Facebook's well-established trademark rights in the FACEBOOK mark in violation of Section 43(a) of the Lanham Act by causing a likelihood of consumer confusion and a likelihood of mistake as to the affiliation, connection, or association of its websites with the famous Facebook website, and by falsely creating the impression of sponsorship or approval of those websites by Facebook. In analyzing whether confusion is likely, a trier of fact will look at standard factors, such as those outlined in *In re E.I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973). These factors include such items as: (1) the strength of the mark; (2) proximity of the services; (3) similarity of the marks; (4) evidence of actual confusion; (5) marketing and/or trade channels used; (6) type of services and the degree of care likely to be exercised by the purchaser; and (7) defendant's intent in selecting the mark. Consideration of these factors reveals that a trier of fact could only conclude that confusion between the LAMEBOOK mark and the FACEBOOK mark is likely.

First, the FACEBOOK mark is extremely strong. As shown above, Facebook will easily establish that its mark is famous under Section 43(c) of the Lanham Act. "The more 'famous' and 'well-known' a plaintiff's mark, the greater the likelihood that use on [even] noncompetitive products will cause confusion." 3 McCarthy § 24.49. The Federal Circuit "has consistently afforded strong marks a wider latitude of legal protection than weak marks." *Kenner Parker Toys, Inc. v. Rose Art Industries, Inc.*, 22 U.S.P.Q.2d 1453 (Fed. Cir. 1992). This factor favors Facebook.

Second, there is a direct overlap in the services provided under the FACEBOOK mark and those claimed and provided in connection with the LAMEBOOK mark. Your client's LAMEBOOK applications claim services identical to those offered by Facebook, including: "blogs featuring commentary regarding social networking" and "providing a website featuring information and commentary regarding social networking content and pop culture." Its website at www.lamebook.com purports to be "the funniest and lamest of facebook," contains content taken directly from the Facebook site, and invites users to post their status and comment on the posts of others. Not only is it providing core aspects of the services Facebook provides under the FACEBOOK mark, it is also providing actual content from Facebook. There is no question that the relatedness of service factor supports a finding of likelihood of confusion.

Even if the services provided under the LAMEBOOK mark did not directly compete with Facebook's services, the services would be sufficiently related: "The vast majority of modern decisions have adopted the rule that competition is not necessary between the parties for there to be a likelihood of confusion." 3 McCarthy § 24.13.

Third, the marks at issue are very similar. Both are eight letter, two syllable marks sharing the same second and fourth letter and ending in the term BOOK. Moreover, the genesis of your



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client's mark is obvious from the tagline: "the funniest and lamest of facebook." Taking the distinctive BOOK suffix of the Facebook mark, your client's mark is clearly meant to indicate that it supplies "**Lame Facebook** posts." This similarity is only aggravated by the overall context of your client's website, including its actual use of the FACEBOOK mark in its tagline, the publication of content from the Facebook site, pervasive use of Facebook trade dress and symbols, and the numerous nonsubtle references to Facebook such as the language "*What's REALLY on your mind?*" in the status update field.

A review of the remainder of the *Dupont* factors lends further support to the conclusion that confusion is likely. Evidence of actual confusion is rare, and its absence is easily outweighed when the remaining factors indicate a likelihood of confusion. The services use an identical trade channel, namely, the internet, exclusively. Your client's site even relies on and promotes itself via the Facebook service; there would be no Lamebook without Facebook. The users of Lamebook's website are Facebook users or those interested in reading about Facebook. And, given the nature of the sites and the internet, it will be presumed that such users exercise no special care in their selection and use of these sites. Finally, there is no doubt your client was aware of Facebook and on notice of Facebook's trademark registrations at the time it selected its mark.

Your client's use of the LAMEBOOK mark also creates a likelihood of dilution in violation of Section 43(c) of the Lanham Act, threatening to damage Facebook's strong and exclusive rights in its famous FACEBOOK mark. In evaluating claims for dilution, courts look to six, non-exclusive factors: (1) degree of similarity of the marks; (2) distinctiveness of the famous mark; (3) exclusivity of use of the famous mark; (4) degree of recognition of the famous mark; (5) whether the defendant intended to create an association with the famous mark; and (6) any actual association between the marks. 15 U.S.C. § 1125(c)(2)(B). Using these factors, the Ninth Circuit held that a reasonable trier of fact could find the HOT WHEELS mark was diluted by the mark HOT RIGZ used in connection with toy vehicles. *Jada Toys Inc. v. Mattel Inc.*, 85 U.S.P.Q.2d 1895, 1899-1901 (9th Cir. 2008). Similarly, the Ninth Circuit held that the marks PERFUMBAY and PERFUME BAY used in connection with online sales of perfume were likely to dilute the EBAY mark. *Perfumebay.com Inc. v. eBay Inc.*, 84 U.S.P.Q.2d 1865, 1876-77 (9th Cir. 2007) ("consumers may no longer associate the usage of the "Bay" suffix with eBay's unique services, specifically the sale of products on an internet-based marketplace").

As discussed above, the marks at issue here are very similar and the FACEBOOK mark is famous and highly distinctive in connection with online communities and social networking. Moreover, Facebook is the exclusive user of the FACEBOOK mark. Just as the EBAY mark was likely to be diluted by the use of a generic term ("perfume") plus the distinctive term BAY in connection with an online marketplace, your client's use of the mark LAMEBOOK, including the distinctive BOOK suffix, to clearly indicate that it offers "**Lame Facebook** posts" in connection with an online community is likely to dilute the famous FACEBOOK mark.

I understand that you have advised your client that its use of the mark LAMEBOOK is protected by the parody defense. It is easy to see how you might be tempted to make this argument.



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Nonetheless, this defense is not available to your client since the Lamebook site is not a successful parody under the relevant authority.

The critical element of the parody defense is that the junior work comments on or otherwise criticizes the original work. For example, in *Dr. Seuss Enterprises LP v. Penguin Books USA Inc.*, 42 USPQ2d 1184 (9th Cir. 1997), the defendant's mimicry of Dr. Seuss's style in creating his own book about the OJ Simpson case (titled *The Cat NOT in the Hat!*) was held **not** to be a parody, mainly because it did not provide any commentary on Seuss or his work. Quoting the Supreme Court, the Ninth Circuit observed:

[T]he heart of any parodist's claim to quote from existing material is the use of some elements of a prior author's composition to create a new one that, **at least in part, comments on that author's works**. . . . If, on the contrary, the commentary has no critical bearing on the substance or style of the original composition, **which the alleged infringer merely uses to get attention or to avoid the drudgery in working up something fresh**, the claim to fairness in borrowing from another's work diminishes accordingly (if it does not vanish), and other factors, like the extent of its commerciality, loom larger.

(Emphasis added.) In rejecting the defendant's arguments, the court observed that "[a]lthough *The Cat NOT in the Hat!* does broadly mimic Dr. Seuss' characteristic style, it does not hold *his style* up to ridicule. The stanzas have 'no critical bearing on the substance or style of *The Cat in the Hat*. [Defendants] merely use [Seuss's work] 'to get attention' or maybe even 'to avoid the drudgery in working up something fresh.'"

As in *Penguin Books*, the Lamebook website does not actually provide any critique or comment of Facebook itself. Rather, Lamebook's satiric finger is pointed squarely at the individual people who make funny or "lame" comments. Lamebook is one among many trying to entertain the masses by collecting the flubs, follies and foibles of others, whether occurring on the sidewalk, on TV, or via other communications media. This is no comment on Facebook. And the commercial nature of the Lamebook site and the prevalence of advertising further detract from any claim of parody. *Columbia Pictures Industries Inc. v. Miramax Films Corp.*, 48 USPQ2d 1801 (C.D. Cal. 1998).

In the end, both Facebook and your client will be better off if your client comes up with a creative and distinctive name and website that does not incorporate or imitate Facebook's intellectual property. As I'm sure you have discussed with Facebook's in house counsel, Facebook encourages competition and tolerates fair use of its name. However, we simply ask that your client's *brand* be of its own original creation.

To reiterate, although Facebook does not object to the posting of information or opinions about Facebook, we must object to attempts to create brand names that imitate Facebook's valuable trademarks.

Facebook is prepared to enforce its rights to the full extent of the law, including but not limited to terminating Lamebook's presence on the Facebook site and opposing its trademark



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Page Five

applications. However, I understand that you and Christen Dubois remain in discussions regarding a possible amicable resolution. In the spirit of resolution and as a showing of good faith, Facebook has postponed taking action for the time being.

To resolve this matter, Lamebook must at minimum come up with its own original name and site design that do not appropriate Facebook's valuable intellectual property. To be specific, we require that Lamebook (1) abandon all applications to register marks containing the term LAMEBOOK; (2) permanently cease use of the LAMEBOOK mark or any mark with the BOOK suffix and agree not to seek to register such marks; (3) permanently cease use of Facebook trade dress; (4) permanently cease use of the FACEBOOK mark in connection with any logos or taglines; (5) agree to only use the name Facebook within the limits of fair use; and (6) agree to take no further action that infringes Facebook's intellectual property rights.

This letter is without prejudice to any rights and remedies of Facebook, all of which are expressly reserved.

Very truly yours,

Cooley LLP

A handwritten signature in blue ink, appearing to read "Kathleen E. Johnston".

Kathleen E. Johnston

KEJ:ll

1179688 v1/SF

EXHIBIT D

Charlston, Gavin

From: Civins, Conor [Conor.Civins@bgllp.com]
Sent: Thursday, September 30, 2010 3:58 PM
To: Johnston, Kathleen
Cc: Charlston, Gavin
Subject: FW: Facebook, Inc. and Lamebook, LLC (LAMEBOOK)

Hi Kathleen,

Thanks for your e-mail. Please note that I have moved firms and am now at Bracewell & Giuliani, so use this e-mail address going forward. Are you or Gavin available to talk tomorrow? I'm happy to give you a status update and start discussing the possible terms of a transition.

Thanks. Hope all is well.

Conor

From: Johnston, Kathleen [mailto:kjohnston@cooley.com]
Sent: Wednesday, September 29, 2010 4:31 PM
To: Conor Civins
Cc: Lewallen, Linda; Charlston, Gavin
Subject: RE: Facebook, Inc. and Lamebook, LLC (LAMEBOOK)

Hi Conor,

I'm calling to check on the status of the new name. I presume testing should be done by now. Please let me know where we stand. We are going to need to start the transition right away.

Also, please copy my colleague Gavin Charlston on all future correspondence, as he is going to be handling this matter while I am out of the office on an extended absence.

Thank you,
Kathleen

Kathleen E. Johnston
Direct: 415-693-2107 • Fax: 415-693-2222 • Cell: 415-734-0712

From: Conor Civins [mailto:civins@civinsdenko.com]
Sent: Tuesday, August 31, 2010 4:44 PM
To: Johnston, Kathleen
Cc: Lewallen, Linda
Subject: Re: Facebook, Inc. and Lamebook, LLC (LAMEBOOK)

Yes Kathleen. I'll call you tomorrow. What time works for you?

Conor Civins
Civins Denko Coburn & Lauff
(512) 906 2068

On Aug 31, 2010, at 6:36 PM, "Johnston, Kathleen" <kjohnston@cooley.com> wrote:

Conor,

I haven't heard anything from you since our call earlier this month. Have you had the opportunity to speak with your client regarding the transition to a new name? I'm getting some pressure to wrap this up.

Thanks,
Kathleen

Kathleen E. Johnston

Direct: 415-693-2107 • Fax: 415-693-2222 • Cell: 415-734-0712

From: Lewallen, Linda
Sent: Thursday, July 01, 2010 4:21 PM
To: civins@civinsdenko.com
Cc: Johnston, Kathleen
Subject: Facebook, Inc. and Lamebook, LLC (LAMEBOOK)

Dear Mr. Civins:

Attached please find a copy of Kathleen Johnston's letter to you dated today, in connection with the above-referenced subject. The original is being mailed today as well.

<< File: LAMEBOOK.pdf >>

Should you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

/s/

Linda M. Lewallen,
Trademark Secretary to
Kathleen E. Johnston, Esq.

Linda M. Lewallen
Cooley LLP
101 California Street • 5th Floor
San Francisco, CA 94111-5800
Direct: (415) 693-2362 • Fax: (415) 693-2222
Email: llewallen@cooley.com • www.cooley.com
Trademark Secretary to Kathleen E. Johnston, Esq. & Gavin L. Charlston, Esq.

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EXHIBIT E



MEMORANDUM

TO: File
FROM: Gavin L. Charlston
DATE: November 18, 2010
RE: Transcription of Telephone Voicemail Message Received from Conor Civins of Bracewell & Giuliani on November 2, 2010, 12:56 p.m. PST

Hey Gavin, it's Conor. It's about 5 'til 3:00 my time, 5 'til 1:00 your time. Sorry we keep missing each other, sorry you were sick last week. I've got something this week, so I don't know how much longer I'm going to be here. I'm probably going to head home pretty soon, rest up a little bit. But I'll be around, we should definitely be able to connect. So you know, if you want to just schedule something, I've got a pretty crazy day tomorrow but we can just schedule a call if you want on Thursday. Thursday afternoon looks pretty good for me. So just let me know and we can talk about what's going on. Talk to you soon. Bye.

EXHIBIT F

Lamebook - from lame to fame

[HELP SAVE LAMEBOOK! Please donate to our legal fund here.](#)

Donate

Lamebook is asking fans for donations to their legal fund, any excess proceeds will go to charity. To make a donation via PayPal click here:



Lamebook Fights For Their 1st Amendment Rights Against Facebook

Upstart humor blog takes on the big dogs

One of the funniest and most beloved blogs on the web, [Lamebook.com](#) “a parody site that makes fun of the funniest and lamest posts from social networking behemoth [Facebook.com](#)” is fending off threats of trademark infringement litigation from the multi-billion dollar giant by preemptively filing suit in the Lone Star State through attorney Conor Civins, an IP lawyer in the Austin office of Bracewell & Giuliani who will be helping them fight for their right to run a funny website. It’s David versus Goliath in the purest sense of the allegory.

Entrepreneurs and graphic designers Jonathan Standefer and Matthew Genitempo founded the hilarious site in April of 2009, quickly gaining popularity for the ridiculous content as well as the user-friendly interface and clever commenting by a steadily growing legion of fans. It turns out that Facebook didn’t get the joke, coming down hard on the small business owners, who had since left their day jobs to focus on operating the site.

With their livelihoods at stake, the partners spent several months trying to figure out the best plan of action while Facebook turned up the pressure “at one point even threatening to shut down their *personal* Facebook pages if they didn’t comply. Sick of the intimidation tactics, Genitempo and Standefer teamed up with their friend, consultant and perennial Lamebook collaborator Joshua Huck to take on one of the largest and most popular companies in the world.

Matthew Genitempo takes photos and designs stuff all day long. Born in [Houston, Texas](#) in 1983, he is a graphic design graduate of Baylor University. After immigrating to Austin with his dog, Minus, his photography and designs started to get featured in various publications from all over the world. He is a cofounder of Public School Studio and enjoys pancakes.

Jonathan Standefer was born in 1982 in the booming metropolis of Amarillo, Texas. After graduating from Baylor University he took a stagecoach to [Austin, Texas](#) where, in tandem with maintaining a small screen-printing business, he worked as the senior graphic designer at a small advertising agency. Since cofounding Lamebook, he spends his evenings away from the sickly glow of computer screens, observing the behavior of his green spotted puffer fish, Harold.

Joshua Huck is a writer, musician, and jack-of-all-trades based in [Austin, Texas](#) (for the time being). A former military brat, he was born in Christchurch, New Zealand and raised all over the place. Joshua’s work has been published all over the place, too: a constant reminder of his quasi-dormant wanderlust. His involvement in Lamebook has led to more harrowing ruminations on the human condition than he will readily admit to, but it’s cool.

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



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Clash of the Social Network sites

Lamebook seeks "rights declaration" from Facebook

Updated: Friday, 05 Nov 2010, 10:50 PM CDT
Published : Friday, 05 Nov 2010, 9:40 PM CDT

Jarrod Wise

AUSTIN (KXAN) - In a strange turn of events, Lamebook, a locally-based social networking site, is taking Facebook to court to try and prevent the social networking giant from taking legal action against them.

"(Facebook said) we were diluting their trademark and they wanted us to stop using the term "Lamebook" because it had

the word 'book' in it," said Jonathan Standefer, one of the co-creator's of the site.

"We're not trying to compete," said other co-creator Matthew Genitempo. "We rely on people being on Facebook so why would we want to compete with facebook?"

Standefer said, "It would be nice if we could just reach a settlement."

Lamebook has been in operation since April of 2009. It's a humorous site designed to let Facebook users post images of funny status updates, pictures and other items originating from the social networking giant's site.

"It's all viewer submitted," said Standefer. "We have to review all the posts before we put them online."

"(It) started as a joke kind of for our friends," he said. "It just kind of took off."

The site gets more than two million hits a day.

"I have 150,000 unread e-mails of just submissions I haven't read yet," Genitempo said.

Comparing websites, the logo for both sites are very similar

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when it comes to text style and color.

Since March of 2010, Facebook has sent repeated messages to Lamebook asking that they change their name and remove the word "book" from their logo.

In an effort to counteract any pending legal action, the two men who created the site decided to file a declaratory judgement in a Texas court.

In the lawsuit, Lamebook founders claim the site is a parody of Facebook and does "not infringe, dilute, or otherwise violate the rights of Facebook."

Facebook has also threatened to take the websites Teachbook and Placebook to court for similar reasons.

"Facebook has their work cut out for them if they're trying to shut down every webstie that has the words 'face' and 'book' in the title," said Genitempo.

This current lawsuit was filed November 4th in the Austin Division of the U.S. District Court.

"And hopefully this will kind of set the way for other websites that are kind of worried," Genitempo said.

"It's out livelihood," he said. "We really enjoy running the website. It's funny. We like that it brightens people's days and workdays. We would like to continue doing that."

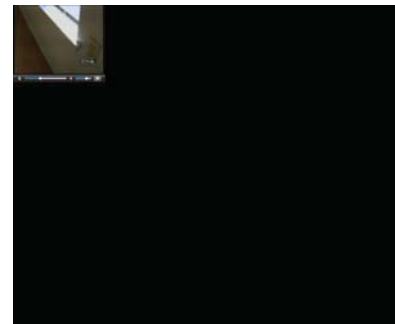
A statement released by Facebook reads:

It's unfortunate that after months of working with Lamebook to amicably resolve what we believe is an improper attempt to build a brand that trades off Facebook's popularity and fame, they have turned to litigation. We are confident in our position and believe we will prevail in court.

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Lamebook Suing Facebook

Updated: Friday, 05 Nov 2010, 10:22 PM CDT
Published : Friday, 05 Nov 2010, 10:22 PM CDT

Jonathan Standefer and Matthew Genitempo, two graphic artists from Austin, say they've built their website "Lamebook" and they should be able to keep it up.

Since the website went active in April of 2009, the duo say they get 2 million page views everyday. They also say they've received more than a few letters from Facebook threatening a lawsuit if "Lamebook" doesn't shut down or change its name. Facebook also wants the company to taking out any reference to the word "book."

Thursday Standefer and Genitempo sued Facebook, alleging their website is a parody and does not compete with Facebook.

In a statement Facebook sent to Fox 7 today, Andrew Noyes, Communications Manager for the the social networking site wrote:

Its unfortunate that after months of working with Lamebook to amicably resolve what we believe is an improper attempt to build a brand that trades off Facebooks popularity and fame, they have turned to litigation. We are confident in our position and believe we will prevail in court.

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 What y'all dissing Hassle the Hoff for, man? That tucker had a TALKING CAR, I saw it on TV when I was really ripped, but I swear it wasn't the weed making me trip balls again, he had a car with AI (artificial intelligence, for those of you playing at home) and he spoke to it and it spoke back, unlike the strange spongy walls of my room! Oh crap, the 'nice man with the needle' is coming back! GERRIT!!! YOU DID THIS TO ME!
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 about an hour ago ·

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 2 hours ago ·

nevermind the twilight posters on the wall, what the


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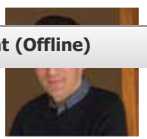
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I'll take the Hep A flavored mousse please...

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Yesterday at 1:36pm · Like



Lamebook.com For those of you who don't know already, we're taking Facebook to court. Read why here:

Lamebook Sues Facebook Over Trademark Infringement. Wait, What?

techcrunch.com

Here's a head scratcher, at first glance at least: Lamebook, a hilarious advertising-supported site that lets Facebook users submit funny status updates, pictures and

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