

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

PRAGMATUS AV, LLC,

Plaintiff,

v.

FACEBOOK, INC., YOUTUBE, LLC,
LINKEDIN CORPORATION, and
PHOTOBUCKET.COM, INC.,

Defendants.

Civil Action No. 1:10-cv-1288 (LMB/JFA)

**DECLARATION OF SCOTT A. COLE IN SUPPORT OF DEFENDANT
FACEBOOK, INC.'S RULE 12(b)(6) MOTION TO DISMISS OR, IN THE
ALTERNATIVE, FOR A MORE DEFINITE STATEMENT**

I, Scott A. Cole, hereby declare and state as follows:

1. I am an attorney licensed to practice in the Commonwealth of Virginia, where I am an associate at the law firm of Cooley LLP, counsel in the above-captioned matter for Defendant Facebook, Inc. ("Facebook"). This declaration is based on my own personal knowledge. If called upon to testify, I could and would testify competently thereto.
2. Attached as Exhibit A is a true and correct copy of an Order Granting Motion to Dismiss in *Quito Enterprises, LLC v. Netflix, Inc.*, Case No. 08-23543-CIV (S.D. Fla.), dated August 4, 2009.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed by me on this 22nd day of December 2010 at Reston, Virginia.

 /s/ Scott A. Cole
Scott A. Cole

CERTIFICATE OF SERVICE

I certify that on the 22nd day of December 2010, I will electronically file the foregoing DECLARATION OF SCOTT A. COLE IN SUPPORT OF DEFENDANT FACEBOOK, INC.'S RULE 12(b)(6) MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Mark W. Wasserman (VSB #22638)
Matthew R. Sheldon (VSB #41892)
Counsel for Plaintiff, Pragmatus AV, LLC
REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042
Telephone: (703) 641-4229
Facsimile: (703) 641-4340
mwasserman@reedsmith.com
msheldon@reedsmith.com

/s/ Scott A. Cole

Justin P.D. Wilcox (Va. Bar No. 66067)
jwilcox@cooley.com
Scott A. Cole (Va. Bar No. 74771)
scole@cooley.com
COOLEY LLP
One Freedom Square, Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656
Telephone: 703.456.8000
Facsimile: 703.456.8100

Attorneys for Facebook, Inc.