

# EXHIBIT 1

**Int. Cls.: 38 and 45**

**Prior U.S. Cls.: 100, 101 and 104**

**United States Patent and Trademark Office**

**Reg. No. 2,962,192**

Registered June 14, 2005

**SERVICE MARK  
PRINCIPAL REGISTER**

**FRIENDFINDER**

FRIENDFINDER, INC. (CALIFORNIA CORPORATION)

SUITE 208

260 SHERIDAN AVENUE

PALO ALTO, CA 94306

FOR: PROVIDING ON-LINE CHAT ROOM FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS OF THE PURPOSE OF USERS MEETING OTHER USERS TO ENCOURAGE DATING AND TO DEVELOP RELATIONSHIPS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 7-27-1996; IN COMMERCE 7-27-1996.

FOR: DATING SERVICES, NAMELY, PROVIDING PERSONAL PROFILES, EVENT LISTINGS, AND RELATED DATING SERVICES INCLUDING PROVIDING INFORMATION RELATING TO DATING AND RELATIONSHIPS VIA THE INTERNET AND ELECTRONIC MAIL, IN CLASS 45 (U.S. CLS. 100 AND 101).

FIRST USE 6-20-1991; IN COMMERCE 6-20-1991.

SER. NO. 78-300,295, FILED 9-15-2003.

VIVIAN MICZNIK FIRST, EXAMINING ATTORNEY

# **EXHIBIT 2**

**Int. Cl.: 16**

**Prior U.S. Cl.: 38**

**United States Patent and Trademark Office**

**Reg. No. 1,785,477**

**Registered Aug. 3, 1993**

**TRADEMARK  
PRINCIPAL REGISTER**

**Friend Finder**

FLYER PRINTING COMPANY, INC. (FLORIDA  
CORPORATION)  
201 KELSEY LANE  
TAMPA, FL 33619

FIRST USE 6-29-1991; IN COMMERCE  
6-29-1991.

SER. NO. 74-249,313, FILED 2-25-1992.

FOR: MAGAZINE SECTIONS FEATURING  
PERSONAL ADVERTISING, IN CLASS 16 (U.S.  
CL. 38).

HOPE SLONIM, EXAMINING ATTORNEY

# **EXHIBIT 3**

MG - try the automatic Friend Finder



Blair, Petari and Michael found many of their friends using the automatic Friend Finder. Give it a try ▶

close

News Feed

News Feed View Live Feed 33

The Peeps

Tech Friends

Ohio Friends

Work Friends

Status Updates

Pages

Picots

Links

Video

What's on your mind?



Torr Conrad #plan Irene and Tinkle Present : McTinkles Comedy Show at House of Shields , Tuesday, January 12, 2010, 7:30pm [http //plancast.com/a/6rt](http://plancast.com/a/6rt)

Yesterday at 1:52pm · Comment · Like



Nirav Savjani Google released its long awaited file storage solution. The costs: Google - \$0.25 cents per GB per year Dropbox - \$2.40 per GB per year Did Dropbox evaluation take a little bit of a hit today? Probably.

Yesterday at 3:26pm · Comment · Like

# TechCrunch

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## Facebook Gets Pushy About Its Automatic Friend Finder

MG Siegler

43 Comments

[Like](#) [Confirm](#) [Send](#) [Tweet](#) [0](#)

Jan 13, 2010

Got a tip? Building a startup? [Tell us](#)

The screenshot shows the Facebook interface. At the top, there's a navigation bar with 'facebook', 'Home', 'Profile', 'Friends', 'Inbox (8)', 'MG Siegler', and 'Settings'. Below this is a pop-up titled 'MG - try the automatic Friend Finder' with a 'close' button. The pop-up contains three profile pictures and text: 'Blair, Pietari and Michael found many of their friends using the automatic Friend Finder. Give it a try >'. Below the pop-up is the 'News Feed' section with a search bar 'What's on your mind?'. Two news items are visible: one by Tom Conrad about a comedy show, and one by Nirav Savjani about Google's file storage solution.

Have enough friends on Facebook? They don't think so. Today, Facebook has started pushing its Friend Finder tool at the top of the main News Feed when you log in to the service.

The feature, which it technically calls the "automatic Friend Finder" suggests you use it by showing you three friends you know that have already used the tool to find new friends too. After that, it has a link to the main [Friend Finder tool](#), which has existed for a while, allowing you to find Facebook friends via email, search, IM, or its own suggestions. Facebook has long included friend recommendations in the Suggestions area of its main page, but never has it been so front and center.

The reason behind the push should be obvious: the more friends you're connected to on the service, the more likely you are to keep using it over and over and over again. Thankfully, as you might imagine, you can close this new pop-up box to stop it from showing up again. The [reaction](#) thus far on Twitter seems to be positive to the tool.

### Most Popular

- Now** Commented Facebook
- [Facebook Loses Much Face In Secret Smear On Google](#)
- [Why The New Guy Can't Code](#)
- [How Amazon Controls Ecommerce \(Slides\)](#)
- [Behold: The Chromebook \(Samsung Series 5\)](#)

### Facebook

[get widget](#) [minimize](#)

**Website:** [facebook.com](#)  
**Location:** Palo Alto, California, United States  
**Founded:** February 1, 2004  
**Funding:** \$2.34B



Facebook is the world's largest social network, with over [500 million users](#).  
Facebook was founded by... [Learn More](#)

# **EXHIBIT 4**



### [FriendFinder PRIVACY POLICY](#) 🔍

This Privacy Policy (the "Policy") applies to all websites operated by FriendFinder Networks Inc. or its subsidiaries (the "FFN Websites" or "Our Websites") ...

[friendfinder.com/go/page/privacy.html](#) - Cached - Similar

### [Facebook Friend Finder: What You May Not Know About Your Data ...](#) 🔍

Jun 22, 2009 ... I took a look at the Friend Finder page to see what was included about how the service ... Are you sure Facebook is not invading my privacy? ...

[gdtgrl.net/.../facebook-friend-finder-what-you-may-not-know-about-your-data/](#) -

Cached - Similar

### [Facebook beefs up 'Friend Finder' privacy for German users - The Local](#) 🔍

Jan 25, 2011 ... Under pressure from German privacy watchdogs, Facebook has agreed to beef up privacy protections in its Friend Finder feature, ...

[www.thelocal.de/sci-tech/20110125-32639.html](#) - Cached

### [Facebook changes its 'Friend Finder' over German privacy worries ...](#) 🔍

Jan 24, 2011 ... German privacy concerns lead to a change of Facebook's controversial feature that allowed the social network to approach third parties that ...

[www.dw-world.de/dw/article/0,,14783685,00.html](#) - Cached

### [Privacy Concession: Facebook Agrees to Change 'Friend Finder ...](#) 🔍

Jan 22, 2011 ... Under pressure from the German government, the social networking site Facebook has agreed to make a major concession due to privacy concerns ...

[www.spiegel.de/international/business/0,1518,741027,00.html](#)

### [Filipino FriendFinder PRIVACY POLICY](#) 🔍

This Privacy Policy (the "Policy") applies to all websites operated by FriendFinder Networks Inc. or its subsidiaries (the "FFN Websites" or "Our Websites") ...

[filipinofriendfinder.com/go/page/privacy.html](#) - Cached - Similar

### [Facebook Agrees to Change Friend Finder in Response to German ...](#) 🔍

Jan 23, 2011 ... 3 Responses to "Facebook Agrees to Change Friend Finder in Response to German Privacy Complaint". Erfolg für Deutsche Regierung – Facebook ...

[www.insidefacebook.com/2011/01/.../privacy-complaint-friend-finder/](#) - Cached

### [Facebook settles Friend Finder dispute with German privacy ...](#) 🔍

Jan 24, 2011 ... Good news for those looking to stay off the social media grid: German officials have made it harder for Facebook to contact third parties ...

[articles.nydailynews.com/.../27096511\\_1\\_privacy-settings-privacy-practices-facebook](#) -

Cached

### [Privacy | FriendFinder Networks](#) 🔍

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FriendFinder Networks Inc. All rights reserved. Privacy Policy.

[ffn.com/privacypolicy](#) - Cached - Similar

### [Germany Says 'Nein' to Facebook's Friend Finder - Privacy concerns ...](#) 🔍

Score one for Germany in its face-off with Facebook. Facebook has agreed to drop its controversial "Friend Finder" feature, which allows the social ...

[www.newser.com/.../germany-says-nein-to-privacy-buster-facebook-app.html](#) - Cached

# **EXHIBIT 5**



friend finder

Search

About 43,200,000 results (0.12 seconds)

Advanced search

Everything

Images

Videos

News

Shopping

More

Chicago, IL

Change location

Any time

Latest

Past 24 hours

Past 2 days

Past week

Past month

Past year

Custom range...

All results

Related searches

Visited pages

Not yet visited

More search tools

Something different

ashley madison

chat

people search

white pages

friendster

**Adult Friend Finder** | [adultfriendfinder.com](http://adultfriendfinder.com)

Adult **Friend Finder** - Casual Dating w/ Uncensored Photo/Video Profiles.  
[www.adultfriendfinder.com](http://www.adultfriendfinder.com)

**FriendFinder** - Have fun, meet people, & find love. - 8:10am

Personal ads, some with pictures and videos. Chat and relationship magazine.  
Chat - Help - Browse - Registration  
[www.friendfinder.com/](http://www.friendfinder.com/) - Cached

Browse the **FriendFinder** Listings.

Browse the **FriendFinder** Listings. Become a free member today and meet our ...  
[friendfinder.com/browse](http://friendfinder.com/browse) - Cached - Similar

[Show more results from friendfinder.com](#)

Friends > Friends: **Friend finder feature - Facebook Help Center ...** - 4 visits - May 17

At this time, **friend finder** is capable of looking directly at email address books for certain email domains (e.g., @hotmail.com). If the error message, ...  
[www.facebook.com/help.php?page=769](http://www.facebook.com/help.php?page=769) - Cached - Similar

**Adult Friendfinder**

Meet Swingers for Threesomes, Online Singles for Sex Dating & Adult Chat on AFF.  
Member Login - Browse - Register for free and get one step ... - Magazine  
[adultfriendfinder.com/](http://adultfriendfinder.com/) - Cached - Similar

**Home | FriendFinder Networks** - May 1

**FriendFinder** Networks Inc. is a leading Internet-based social networking company operating several of. Total Registrants on our Websites. 44500000+ ...  
[fjn.com/](http://fjn.com/) - Cached - Similar

**Friend Finder Game - OnGuard Online**

Compete with our contestants for a spot on the **Friend Finder** All-Star List. Earn your spot by showing you're savvy when it comes to making friends online.  
[www.onguardonline.gov/games/friend-finder.aspx](http://www.onguardonline.gov/games/friend-finder.aspx) - Cached - Similar

**FriendFinder** - Wikipedia, the free encyclopedia - Apr 28

**FriendFinder** Networks is an internet holding company for numerous internet companies including the flagship site **FriendFinder.com** with 30 million active ...  
[en.wikipedia.org/wiki/FriendFinder](http://en.wikipedia.org/wiki/FriendFinder) - Cached - Similar

**Senior FriendFinder - Online Personals and Senior Dating for ...**

**FriendFinder**®, Senior **Friend Finder** SM, **FriendFinder** Networks SM and the **FriendFinder** Networks logo are service marks of Various, Inc. ...  
[seniorfriendfinder.com/](http://seniorfriendfinder.com/) - Cached - Similar

**Friend Finder - The Largest WorldWide Dating Site Online - Where ...**

Register Now - It's Free and connect to 20 million singles using our advanced search facilities and communication tools. Senior **friend finder**, asian friend ...  
[www.friendfinderon.net/](http://www.friendfinderon.net/) - Cached - Similar

**Asia Friendfinder - Online Dating for Asians around the World ...**

**FriendFinder**®, Asia **Friend Finder** SM, **FriendFinder** Networks SM and the **FriendFinder** Networks logo are service marks of Various, Inc. ...  
[asiafriendfinder.com/](http://asiafriendfinder.com/) - Cached - Similar

Searches related to **friend finder**

[people finder](#) [friend finder contact number](#)

[friend finder dating](#) [friend finder email](#)

[friend finder ipo](#) [free friend finder](#)

[friend finder review](#) [asia friend finder](#)

1 2 3 4 5 6 7 8 9 10

[Next](#)

friend finder

Search

[View customizations](#) [Search Help](#) [Give us feedback](#)

[Google Home](#) [Advertising Programs](#) [Business Solutions](#) [Privacy](#) [About Google](#)

Ads

**Naughty Friend Finder**

Naughty flirts in the U.S.  
Join for free and be naughty.  
[www.benaughty.com](http://www.benaughty.com)

**Friend Finder**

**FriendFinder.com** - Official Site!  
Friendship, Romance, and More  
[www.friendfinder.com](http://www.friendfinder.com)

**Friend Finder For Adults**

Join the #1 Local Sex Site Where  
Horny Adults Meet For Casual Sex!  
[www.sexfinder.com](http://www.sexfinder.com)

**SwapFinder™ Swap Sex Now**

SwapFinder.com™ - Official Site.  
Swap Sex Partners Today - Join Now!  
[www.swapfinder.com](http://www.swapfinder.com)

**Adult Friend For Sex**

Join Over 11 Million Men & Women  
Seeking **Friends** For Sex. Join Here.  
[www.xxxblackbook.com/Adult\\_Friends](http://www.xxxblackbook.com/Adult_Friends)

**Find a Female Sex Buddy**

1000s Women in Your Town Want Sex!  
Create 100% Free Profile & Meet Now  
[www.fling.com](http://www.fling.com)

**Meet a Naughty MILF**

Neglected and Horny MILFs Crave Sex  
Join Free Now and Hook-Up Tonight!  
[www.milf-date.com](http://www.milf-date.com)

**HardHookup.com**

Have Hot Casual Sex. Meet  
Local Singles & Hook Up Tonight!  
[www.hardhookup.com](http://www.hardhookup.com)

[See your ad here >](#)

# **EXHIBIT 6**



## Did Mark Zuckerberg's Inspiration for Facebook Come Before Harvard?

By [Guest Author](#) / May 10, 2009 7:00 PM / [57 Comments](#)



By now, we are all familiar with Mark Zuckerberg's success story. The explosive international growth of Facebook to [over 200 million users](#) continues to land the young founder and CEO in top news stories worldwide. Recently, Time Magazine [named Zuckerberg](#) one of the world's most influential people of 2008, and Fast Company named Facebook [number 15](#) in its list of the world's 50 most innovative companies of 2009. At just 23 years of age, Zuckerberg even briefly made [Forbes' 400](#) richest Americans list, temporarily giving him the title of World's Youngest Billionaire.

However we have heard very few stories about Zuckerberg and the inspiration behind Facebook during the period prior to February 4th, 2004, the day he launched Facebook from his Harvard dorm room. In this post we tell that story.

The [stories we hear](#) these days about Zuckerberg in popular media tend to follow a common sensationalist pattern: "super-smart kid invents a tech phenomenon from his Harvard dorm room, drops out, and changes the world." It's a classically framed, Bill Gates-esque story of success driven by intelligence and ambition. What's most intriguing about the Zuckerberg story, however, isn't that he dropped out of Harvard and became a billionaire at 23.

The reason we hear so little about Zuckerberg's pre-launch vision for Facebook (which was [originally called thefacebook.com](#)) is likely because he has been a controversial target over the true origins of his business. In 2007, several of Zuckerberg's classmates came forward and claimed rights to the Facebook idea after reports surfaced that Yahoo had offered \$900 million to purchase Facebook just two years after the founding of the company. Even though the suit against Zuckerberg was settled last year, given the nature of the proceedings, we'll likely never get an official answer from Zuckerberg himself about the true origins of his inspiration. But maybe we don't need one after all?

It turns out that Zuckerberg's academic history offers a great deal of insight into the inspiration for Facebook and why it was so wildly successful when it first launched. February 4th, 2004 may mark a major milestone in Facebook's history, but the story of Mark Zuckerberg's rise to fame in fact starts years before he stepped foot on the Harvard campus, and is much more complex and interesting than is usually portrayed.

### **Pre-Zuckerberg: Tracing the Roots of Facebook Culture**

You may be surprised to hear that while Harvard was fertile ground for the launch of Facebook, the seed of the concept was likely planted in Zuckerberg in high school. You never hear about Zuckerberg's alma mater Phillips Exeter Academy in stories because Harvard was where the action really started (and the Harvard name, to some extent, validates Zuckerberg's smarts and makes for a more sensational story).



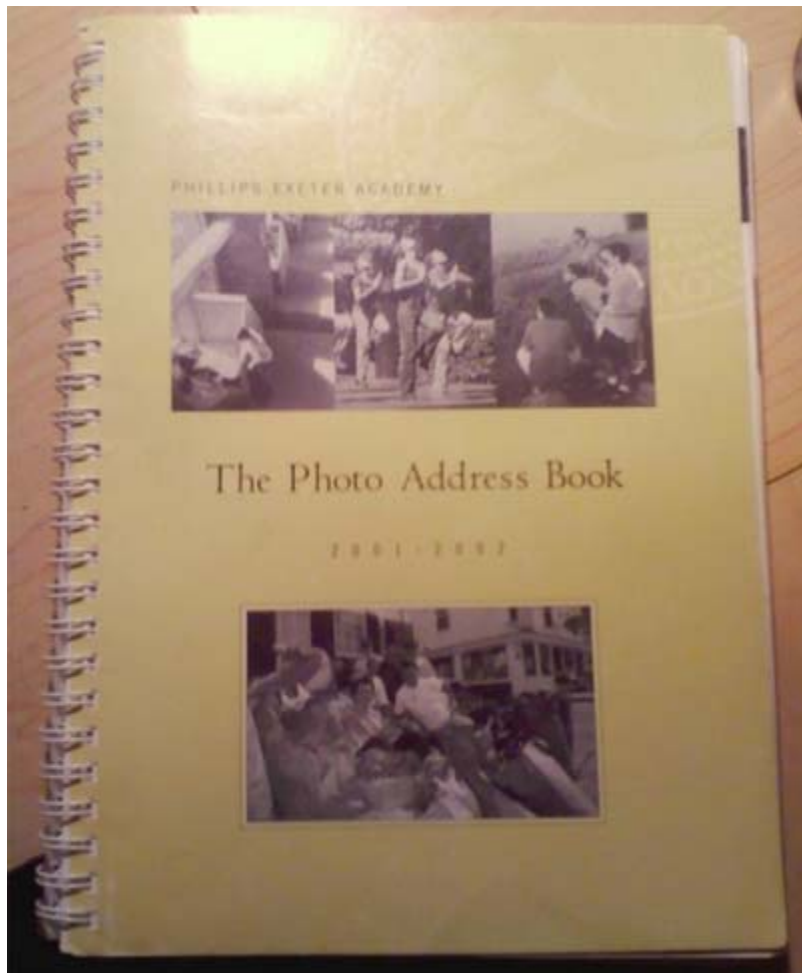
But in fact, the time that

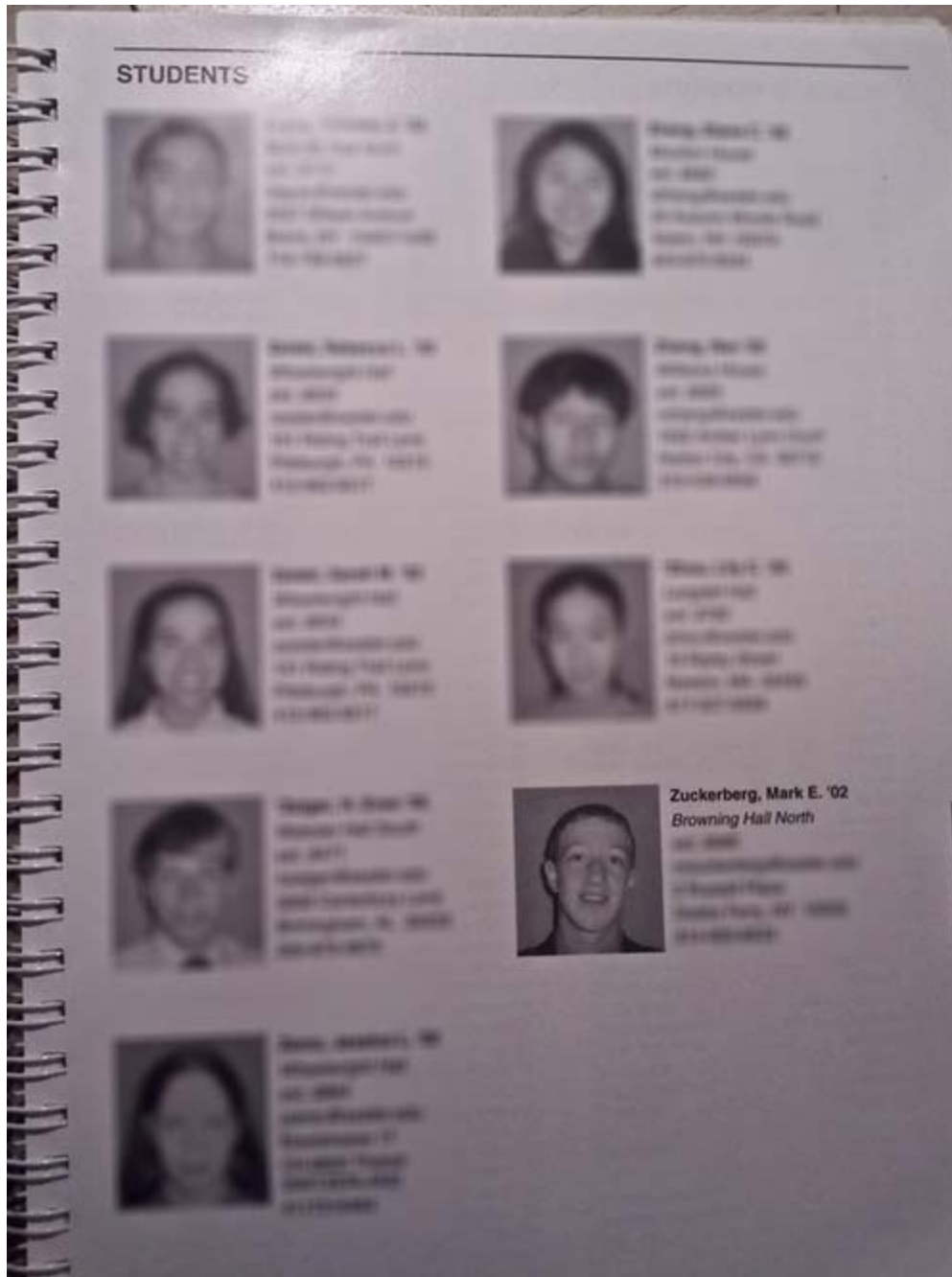
Zuckerberg spent at the academy from 2000 to 2002 likely had more influence on the name and initial concept of Facebook than any of his classmates at Harvard.

Phillips Exeter Academy (or "Exeter") is a private boarding school for grades 9 to 12, located in Exeter, New Hampshire. The prestigious prep school is a member of the Ten Schools Admission Organization, which includes such famous boarding schools as Phillips Andover, Deerfield Academy, St. Paul's, and Choate Rosemary Hall. Like the other "Big Tens," Exeter has a tight-knit boarding community that lives on campus full time. Students refer to themselves as "Exonians" and have a strong group identity rooted in a rich culture of customs and tradition.

An Exonian for two years, Zuckerberg had plenty of time to observe and participate in the social culture and rhythms ingrained in Exeter's boarding lifestyle. Every year, the school says goodbye to a few hundred students and welcomes a few hundred more. Zuckerberg enrolled in the fall of his junior year and, like every new and returning student, received his own copy of Exeter's student directory, "The Photo Address Book," which students affectionately referred to as (you guessed it!) "The Facebook."







We interviewed several of Zuckerberg's peers this week, and they all confirmed what David W. Farrant (class of 2000) had to say:

"The front cover says "The Photo Address Book," but we all called it "The Facebook" all the time because "The Photo Address Book" was such a mouthful. Everybody called it that."

"Facebook" photo directories were (and still are) a huge part of the students' social experience and culture at prep schools such as Exeter. Every school in the Big Ten prints and distributes one for its students annually. When students arrive on campus each fall, the rhythm of their social lives is predominantly set by their dormitories, their

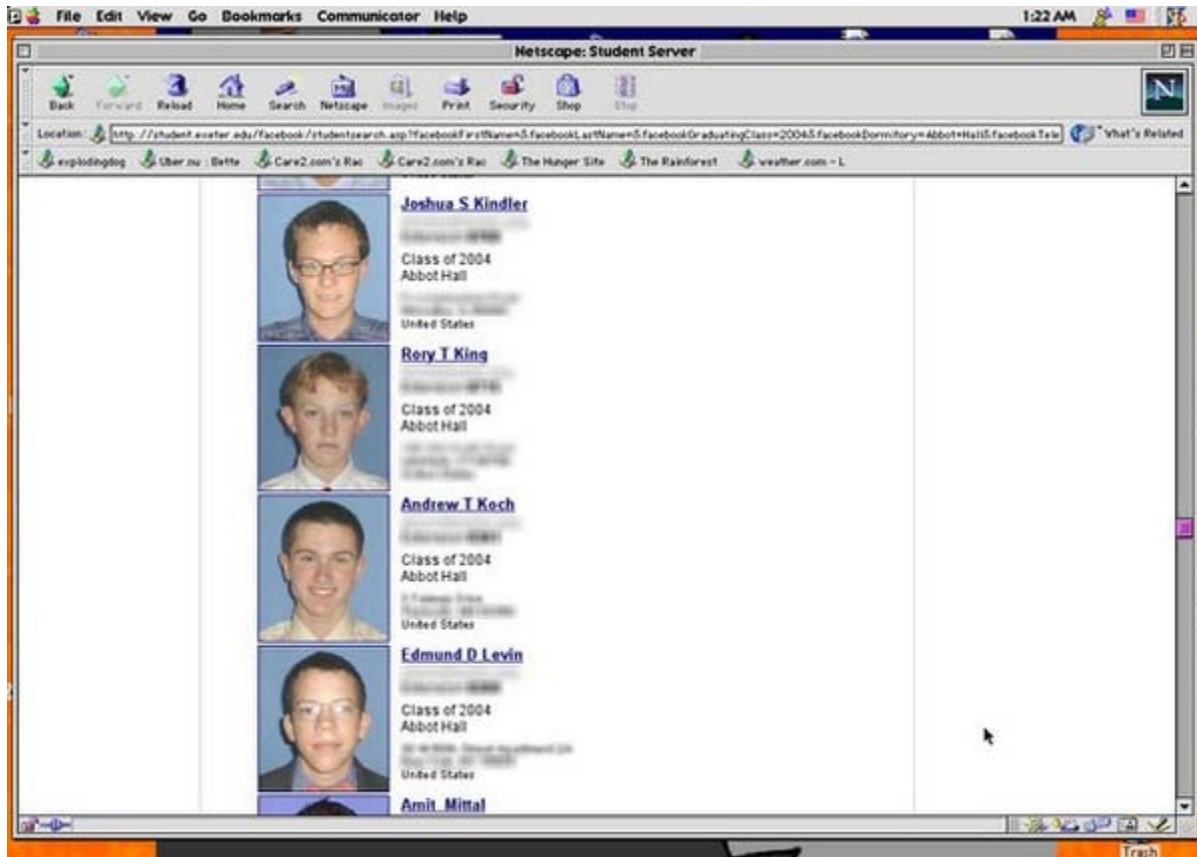


class year (i.e. seniority), and their proximity to friends in other houses. Because students aren't allowed cell phones on campus and living accommodations are in such flux from year to year (they change houses and phone numbers annually), these "Facebooks" are a valuable resource for students.

Of course, not only do students need the directory to find and contact their peers, but the books become part of the culture of bonding between classmates and friends, as students use it to see where their peers live, who's hot and who's not, who lives with who, and who the new kids are. Sounds an awful lot like how people use Facebook online now, right? Of course, it also describes an early pre-Internet social culture, facilitated by photo directories, that students enjoyed long before Zuckerberg even made it to high school, a culture he happened upon and got to participate in by a stroke of pure luck and glorious opportunity.

But the story doesn't end there. In Zuckerberg's senior year, the student council, headed by student body president Kris Tillery, successfully lobbied the administration to have the school's IT department put the full contents of Exeter's Photo Address Book online. By the time Zuckerberg graduated, the website was put up at <http://student.exeter.edu/facebook>, with the URL directory (i.e. "facebook") named after the students' pet name for the physical book and effectively shortened to something useful. Tillery was unavailable for comment.

In our interviews, some of Zuckerberg's peers pointed us to this screenshot of the original website hosted on the school's .edu domain. The screenshot was posted in the public Facebook group "Exonians" in 2006 and is still there. Some of the comments about the screenshot (which date back to 2007) refer to it as "the original Facebook" and refer to the Photo Address Book as "the physical Facebook."



Of course, the school's [student.exeter.edu/facebook](http://student.exeter.edu/facebook) website is no longer online, and none of our sources were able to confirm whether Zuckerberg himself was involved in, or responsible for, the student council initiative that got the directory online in the first place. All we know is that students were enthusiastic enough about an online version of the physical directory that the student council made an effort to lobby the administration, that the online directory was created during Zuckerberg's senior year, and that he was likely aware of its existence.

## A More Complete Picture of the Facebook Success Story

Now that Facebook has graduated from its academic roots and been released to the world for free, its continued growth has many experts saying it will likely be the dominant social platform for the foreseeable future. At 200 million users (and counting), Facebook makes it hard to doubt that it will have considerable influence in the way we all connect and communicate in the future, both locally and across borders. While we may never know the true origins of Mark Zuckerberg's inspiration for Facebook, looking at the social culture of the prep school he attended and his experiences as a boarding student there offer us insight into where the explosion of global Facebook culture may have begun, why it was so successful when it launched at Harvard, and how luck and opportunity may have led one of the world's youngest visionaries to start coding in his college dorm room.

*Steffan Antonas is a technology anthropologist, writer, and blogger who currently lives in*

*San Diego, CA. He began studying human behavior in virtual communities as a graduate student in Georgetown University's Communication Culture and Technology (CCT) Program in 2003. He has worked in Southern California as an IT Professional for the past three years. You can contact Steffan at [steffanantonas@gmail.com](mailto:steffanantonas@gmail.com) and on Twitter [@steffanantonas](https://twitter.com/steffanantonas).*

*Image credits: Phillips Exeter Academy by [etnobofofin](#). Book cover and Mark Zuckerberg photos by Alex Demas and Mark Flores.*

# **EXHIBIT 7**

**FACE BOOK THE NEW FAD.**

*Boston Daily Globe (1872-1922); Aug 24, 1902;  
ProQuest Historical Newspapers Boston Globe (1872 - 1927)  
pg. 29*

**FACE BOOK THE NEW FAD.**



who cannot read music, but who is familiar with the songs of the day.

Other face book owners, with original minds, insist that only flowers or plants or trees be drawn on the pages. A glance at some of these makes one wonder to see how little form in flowers is appreciated. Color appears to be the chief point that appeals to the average eye, and form to a little or no place at all in it.

The face book need never be complete, for each evening that a woman entertains a fresh leaf may be added.

Quite the latest idea is to have a face book. Instead of the old-style album, a collection of drawing paper sheets are bound together, and the friends of the book owner are expected to do the rest. A book is sometimes made of heavy, coarse white linen, and is a desirable and durable style, with the cover of brilliant crimson, deep blue or yellow linen. If a clever sketch drawn in black is put on it, so much the better. Here are lines that may be written in fancy letters below the sketch:

'Tis a face book rare,  
And, friends, I dare  
To trace its pages o'er;  
With what is in  
Their minds to limn,  
However it may bore.

It is the proper caper to introduce the book at 5 o'clock teas and Sunday evening suppers. In it each guest is asked to draw a head of some sort—girl, man, child or animal. It does not in the least matter if they cannot draw at all. They must do their best, or worst. Usually the worst is very desirable,

because it makes a laugh. The amateur artists must sign their names or write lines descriptive of their efforts. The protests against thus committing themselves are sometimes loud and deep. No attention should be paid to them.

The most amusing pages in the face book are apt to be the ones in which detached human features are drawn. For instance, there may be a nose done by one friend and an ear by another, just the tip end of the dimpled chin by a third, or the sketch of a hand. It is a good plan to have the pages with these odds and ends of features sketched in without autographs. A good line at the head of the page would be: "By their works ye shall know them." These are the guessing leaves of the face book, and many a jolly hour may be passed by visitors who try to guess the names of the artists. Some women insist that musical friends shall express a sentiment by means of a bar of music. The selection of the bar is made from a popular song, and the first word of the line is written over the initial note, while the last one appears above the closing one. This helps out the guesser

# **EXHIBIT 8**

## NEIGHBORHOOD REPORT: NEW YORK UP CLOSE; Helping Community Activists Find Their Prey

By MICHELLE O'DONNELL  
Published: November 10, 2002

Every four years, a budget watchdog group called City Project publishes "Who's Who in New York City Government," a directory of city officials. But unlike the city's famous Green Book, "Who's Who" comes complete with pictures of those in power, making it a boon for advocates who use them to identify officials and chase them down the corridors of City Hall.

Under Mayor Giuliani, the Blue Book, so called for its cover, came in a bulky binder that was not easy to tuck under your arm while pursuing a commissioner up a flight of stairs. The latest edition, which contains Mayor Bloomberg's appointees and the new City Council, has been streamlined as a booklet, still blue, obtainable at [www.cityproject.org](http://www.cityproject.org) for \$20. It can be easily tucked inside a newspaper or concealed in a handbag.

Gadflies, who want to seem to be in the know, are thrilled at the trim new format. "I definitely would want it to seem like I know everybody before I see them," said Jennifer Flynn, executive director of the New York City AIDS Housing Network. Ms. Flynn, who still uses the old-fashioned binder version, leaves her copy behind before heading to city meetings.

The book was painstakingly prepared by Caren ("no relation to Cindy") Crawford, an administrative assistant who called, faxed, sent e-mail messages to and, if necessary, begged officials to send her their pictures. In some instances, when her requests were rebuffed, she used pictures from Web sites and old newspaper articles. "Probably in December I'll get pictures for those people," she said dryly.

Like high school students who have posed for yearbook photos, the officials regarded their face-book images with varying degrees of approval. Some never bother to update the picture from one edition to the next. "Tracy Boyland, I don't think her hair has changed," Ms. Crawford said of the Brooklyn councilwoman. Some officials had new art submitted for them; the word "resigned" is plastered over the entry of former Councilman Angel Rodriguez of Brooklyn, who pleaded guilty to bribery charges in August.

Others, like Councilman Bill Perkins of Manhattan, sent in new pictures. "He didn't like his picture," Ms. Crawford said, lowering her voice. "He gave us a hard time."

Councilman Perkins, it turned out, had been shown in the previous edition with a mustache, which he had shaved shortly after publication. For four years, he resembled nothing close to his face-book picture.

"He is much more handsome than that," said Ms. Flynn, who frequently lobbies the councilman on AIDS and housing issues.

Reached by phone, Councilman Perkins laughed at the compliment. "I'll tell my mother," he said. He added that he had a new picture. "I guess I have to get it over to them." MICHELLE O'DONNELL

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## Where Race Matters

By Jodi Wilgoren  
Published: April 13, 2003

Every day before his lecture "Introduction to Constitutional Law," Prof. Richard Primus conducts a ritual that Hollywood might call "Socratic method meets social engineering." In an office tucked off the law library stacks, he takes out two piles of index cards adorned with the face-book pictures of his 91 first-year students. Like a blackjack dealer in a casino, he shuffles the piles, which are split by sex, then deals out 10 cards from each, the first step in compiling the list of students to be called on during class.

"I've got three black students out of 20, which is plenty," Professor Primus said one recent morning, now the coach adjusting his lineup. Surveying the selected men, he sighed and sent the top three back to the pile: one had been grilled the day before, another already had four hash marks, indicating the number of times he had been picked, and the third belonged to Richard Hoeg, a white man known throughout campus for his conservative views. "Mr. Hoeg talks every day," Professor Primus explained. "Sometimes he has good things to say, but I don't need to call on him."

Once he had 20 viable cards, the young professor turned to the more delicate process of sequencing, starting with the women's pile. Given the persistent pattern of men speaking more often in classrooms, he tries to pick women two of the first three times he calls on students.

"I want to make sure the conversation in the first few minutes includes some women," he said. "I won't call on three men in a row. It's just too much." The first man in the deck sits too close to the first woman, so he shuffled again. "I want to move the conversation around the room," he said, swapping Kristin Cleary, who sits to the professor's right, for Umbreen Bhatti across the room. Then he picked a man who sits toward the back, then a woman down front. He stopped for a demographic check: two of the first four on the roster were minority women. He was set.

This is one of the untold tiny ways that affirmative action comes to life on the campus of the University of Michigan Law School, a quadrangle of Gothic buildings that seems to have been borrowed from Yale.

In defending its race-based admissions policies at the Supreme Court on April 1, administrators at the law school argued that diversity was crucial to its educational goals and that having a critical mass of minorities was essential to achieving diversity. Unlike the undergraduate admissions office, whose policy is also being challenged in court, the law school does not have an explicit system of awarding extra points to minority applicants, but black and Hispanic students are admitted with lower grades and test scores, on average, than their white and Asian counterparts. Relying on a section of Justice Lewis Powell's opinion in the 1978 Bakke case, the administrators contend that without such steps, the campus would be de facto segregated, denying opportunity not only to minority applicants but everyone involved.

But what is educational diversity? What is critical mass? How does affirmative action work when it leaves the admissions office and enters the classroom, the dining hall, the dorm?

At the Michigan law school, the impact of the admissions policies is at once obvious and invisible, threaded through the fabric of campus life.

Affirmative action makes it virtually impossible to walk into a lecture hall without seeing a black face. Yet those few black faces -- 21 of the 346 current first-year students are African-American, five of them men -- are almost always huddled together in the hallways, the snack bars, the library and even in many classrooms. Class discussions, whether organic or painstakingly structured, range across a spectrum of experience, not only when the topic is an obvious hot button like cultural conflicts in negotiation but also when it involves a seemingly mundane issue like financial institutions. While many white students are grateful for the different perspectives, particularly from the few poor or working-class African-Americans, some blacks find this role an unfair burden.

Affirmative action as a policy is a constant hum in the background of all campus chatter, often avoided in mixed racial company out of a sense of fatigue, though inevitably on the front burner because of the Supreme Court case, with briefs being circulated for student signatures and buses organized for those who want to march in Washington. Students of all races, and many of their professors, seem dubious about the constitutionality of Michigan's approach, though they are all but unanimous in saying that they do not want the school to lose its carefully constructed mix.

"It's universal: in 'Constitutional Law,' when you get to the race issue, everyone shuts up," said Sarah Sterken, a third-year student whose dorm-room walls are decorated with posters of Africa, where she spent last semester. "I can't imagine going to school with all white people here. The snobbery would go up 100 million times. Maybe you'd get more debate on the affirmative action issue, but nobody would be very well informed."

Ms. Sterken, a white woman from the small town of Holland, Mich., says her closest friends here are a black woman -- with whom she has never discussed racial issues -- and a Hispanic woman from South Texas. She also enjoys arguing with an archconservative Russian immigrant and was recently grateful that a French woman interrupted her in a law journal meeting for poking fun at a professor whose writing betrayed that English was not his native language. "I don't think affirmative action is the best way to go under the law, but I think it's the only way to go," Ms. Sterken said. "I've never heard so many diverse views. I've never had my mouth so gapping open."

WALK into Room 100 of Hutchins Hall, the law school's largest auditorium, and portraits of four old white men stare back. Floyd R. Mechem, Tappan law professor, presented by the class of 1899. Harry B. Hutchins, former dean and university president, 1901. The Hon. Thomas M.



Cooley, 1859-1884. A fourth, captionless, has a similar long gray beard.

At 8:45 a.m. on a Tuesday, the dawn of "Civil Procedure," there are five black students among the 68 sitting at the curved wooden tables around the lectern or dozing in theater-style red upholstered chairs. A smattering of South and East Asians break up the white majority plugging in laptops and opening casebooks.

The pattern is confirmed in seven other classes in the 9 o'clock hour. Each room has four or five blacks, more women than men, among the 80 or so students, often sitting together. The only exception is "International Business Transactions," an elective taught by an Asian woman that attracts foreign students from the master of laws program; of 51 students in Room 132 that Tuesday, 29 were white.

It is a different story downstairs, where the "basement groups" dominate a long hallway leading from the lockers adorned with bumper stickers -- "Enough Is Enough: Vote Libertarian," "Ralph Nader for President," "Will Litigate for Food" -- to the greasy snack bar. The basement groups are an alphabet soup of special interests forming the law school's rainbow coalition. Though there are other student organizations -- the A.C.L.U. chapter, the Armed Forces Association, the American Constitutional Society for Law and Policy -- with propaganda on the hallway bulletin boards, it is the black and Latino and Asian students who gather in their basement offices on tattered couches between classes.

Here in the cramped corner devoted to the Black Law Students Alliance, everyone has a story of being stigmatized, of being presumed less qualified, of being looked to as an advocate for some particular perspective. It is their retreat and, frankly, they would rather not discuss affirmative action. They may be beneficiaries but they are hardly ardent advocates.

"What is this critical mass we're trying to obtain?" asked Ronald Falls, a first-year law student from San Diego who graduated from the historically black Morehouse College. "Critical mass in terms of us having a community? Critical mass in terms of contributing to the classroom? This whole term of critical mass begs the question of quota."

Several students said that affirmative action was a joke, since a number of the admitted black students are from wealthy families and attended private schools; they suggested that economic diversity might be a better goal. But Isa Kasoga, a second-year student from Lansing who also did his undergraduate work at Michigan, said the debate should not be about diversity at all but "about merit, about who deserves, who should have."

"I'm not here to enhance any white kid's education," Mr. Kasoga said, bringing the university's legal argument down to a personal level. "I don't give a damn how their education turns out. I'm here to get a J.D. and get a better life for my family and my community."

But for others, some educational benefit may seep through.

Ryan Houseal, a third-year student who grew up in the Bedford-Stuyvesant section of Brooklyn and attended City College, pointed to a discussion in his "Financial Institutions" class about why some people lack access to banks -- people like his mother, who had neither a high school diploma nor bank account.

"One of the students, a white student, raised her hand and said, 'I was in New York over the summer, and I took a bus through Harlem, and I saw banks everywhere,'" Mr. Houseal recalled. "I said, 'Why don't you get off the bus? Or, God forbid, take an apartment in Harlem.'"

"I was the only person of color in that class. If I hadn't been there, it would have gone unsaid."

Mr. Falls shook his head. "That gets old, though," he said.

Mr. Houseal, who is editor of the Michigan Journal of Race and Law, thought about transferring after his first year because of such loneliness. He decided to stay mainly because Michigan would lead to a better future -- like his job at the law firm of Jones Day -- than would a degree from the City University of New York. As long as he's here, he will speak up.

"If you're going to have 50 black people in the room and they're not going to say anything," he said, "what's the point of them being there?"

UPSTAIRS, outside Room 100, there is a large table that serves as a universal meeting point. On one end, students were selling Valentine messages. On the other, people were adding their names to a "friend of the court" brief eventually signed by 13,922 law students nationwide, including 238 at Michigan, making the rather personal legal argument that diversity is a key element of their education.

"Hi, are you a supporter of affirmative action?" Ms. Sterken called out in the passing rush. "Hello, all over there. Are you guys supporters?"

Sometimes, said the first student. Yes and no, said the second.

"The people that sign on, you're saying that diversity is a compelling governmental interest," explained Beth Locker, a third-year student collecting signatures with Ms. Sterken. "And that it makes us better lawyers."

Caleb Weiner, a first-year student, stopped to flip through the eight pages. "Can I believe in diversity as a compelling interest without supporting affirmative action?" he asked, then left without adding his name.

"I'm all for being around people who are not like me as much as I can," he said later. "I don't need to be around people like me. I'm around myself all the time."

But while he thinks diversity noble, he finds the argument disingenuous. Affirmative action is really about making up for past discrimination, he said, and a better way to do that would be to create equal educational opportunity for everyone starting from Day 1. "It's a way of addressing a symptom rather than the disease."

The admissions controversy has had a funny effect on Mr. Weiner: "People say, 'Wow, you got into Michigan and you're a white male?'" he said. "That's quite an achievement; the odds were really stacked against you." In fact, over the last 10 years, 29 percent of white applicants have been accepted, compared with 26 percent of African-Americans. In 2002, whites made up 57 percent of applicants and 65 percent of the class, while blacks were 7 percent of applicants and 6 percent of the class. So it's not easier for blacks to get in, at least not in the sense that more of them do so.

Instead, affirmative action means that blacks are often chosen over whites with higher test scores and grades: between 1995 and 2000, accepted minority students had average grade point averages of one-tenth to three-tenths of a point below their white counterparts, and L.S.A.T. scores seven to nine points lower. The plaintiff in the law school case, Barbara Grutter, points out in her brief that in the fall of 1999, Michigan accepted 81 percent of black applicants with G.P.A.'s between 3.0 and 3.49 and L.S.A.T. scores between 154 and 160, but only 3 percent of whites with similar grades and test scores.

So if Mr. Weiner experiences a presumption of excellence, Christopher Moody, like many of his black classmates, feels pressure to prove he deserves his seat. "Some students see me and assume I'm here for something other than my academic abilities," said Mr. Moody, a second-year student from Memphis who went to George Washington University. "You just get to the point where you want to say, 'Let's all lay our G.P.A.'s out and see if I'm the one filling out the bottom of the curve.'"

Knowing that black students' qualifications are suspect, Mr. Moody said, "I just won't go to class unprepared. I'm sure there are many students, many white students, who come to class and haven't done the reading and will just pass if they're called on," he said over dinner in the dorm known as the Lawyers' Club. "I don't want to be that guy." Later, in an e-mail message, he clarified his position, saying his commitment to homework was more about his own high standards than about race or affirmative action. "I have never been that guy, and never will be O.K. being 'that guy' -- that's just not me," he wrote. "Not in my majority black high school, not at my majority white undergraduate institution and not at the law school."

THE seminar "Alternative Dispute Resolution" on the roles of race, gender and culture in negotiations would seem as good a place as any to assess the impact of diversity on the educational process. There were 24 students in the class, including a black woman and two black men. There was also a Brazilian woman and a German man.

The students had written personal experiences involving a negotiation that they believed was muddled by these immutable characteristics. A white man told of a trip to Morocco and being warned not to buy anything at the bazaars. Another white man recalled his frustration while living in Peru when a tour bus was an hour and a half late. A Japanese-American spoke of generational conflicts. Mr. Moody shared a story from a political campaign when his candidate was running hopelessly behind schedule for a luncheon in Iowa, upsetting the man who had organized it. "I'm from the South; Southerners just stroll in when they stroll in," Mr. Moody said. "He clearly expected us to be on time, which shocked me. He's in Iowa, and Iowans tend to be on time."

Race was never explicit in the conversation, which, law professors and administrators say, is exactly the point. Critical mass means enough minorities so that they are not pigeonholed as racial spokesmen and are allowed to illustrate that black and Hispanic and Asian students have a range of experiences and views, just like white students.

"In an environment where you have one person, every time he talks they'll think, 'Yes, it's him, he's black and he's talking,'" said Professor Primus. "If you have seven or eight, that starts to go away." That very day, in "Con Law," two black women had taken opposite stances on federalism. "They are free to express what they believe," he said, "and the whole class sees these two people who are demographically similar disagree." Last year, Mr. Moody was the only African-American in Professor Primus's "Con Law." On affirmative action day, he was silent, until after class. "He supports the diversity rationale but he didn't want to speak in class because he didn't want to represent," the professor said. "He's not able to give us what the diversity rationale promises because there's only one of him."

Affirmative action does not end at the admissions office. The Michigan Law Review, the most prestigious of six student-run law journals, also uses race, along with G.P.A. and writing samples, to dole out editorships. And the administration provides a special support group, the Minority Assistance Program, to help first-year students adjust.

Some white students resent that program participants lunch with professors monthly at Ann Arbor restaurants, a break from the daily ritual of trying to scrounge free pizza from some boring campus workshop. Last fall, such resentment grew when a criminal law professor gave the students tips before Thanksgiving about what would be on the final exam -- tips he planned to withhold from the rest of the class until after the break. When white students discovered the minority students' advantage and complained, the professor changed course and revealed his hints to all before the holiday.

But there is no affirmative action in a popular seminar on hypocrisy called "Faking It" -- students were selected among 100 applicants by lottery, leaving no blacks in the room. William Miller, the professor, does not care. "In a small class, it doesn't matter what the race of anybody is," he said. "A dull black kid and a dull white kid look the same to me. You want interesting."

When he taught "Negotiations," Professor Miller said, it did matter. He recalled a taped session in which a large black student exploited stereotypes to intimidate white sparring partners. "The white kids were scared, you could see it on film," he said. "I'd say: 'This is law school. You think he's going to take you out and beat you up?' The black guy was playing up the race stuff, it was an advantage he had. He wasn't going to let that go."

While Professor Miller does not buy the diversity argument, he also does not want to see affirmative action outlawed. "I don't think anybody,

even the most die-hard of my conservative colleagues, is willing to teach in an institution with no black faces," he said. "If you have an all-black army and an all-white law school, something's not right. The democracy, the risks and benefits, simply have to be better distributed."

At a bagel breakfast in the lounge of the Lawyers' Club, a first-year student stopped Professor Primus, who had clerked for Justice Ruth Bader Ginsburg, to ask what he thought about students skipping class to carry signs outside the Supreme Court on the day of arguments. Tens of thousands rallied in Washington on April 1. Was it his experience from clerking that a significant march makes a difference, the student, Laurel Dumont, asked.

"Absolutely not," Professor Primus said. "I think people do things like that to make themselves feel involved."

As for the case itself, which is expected to be decided in late June, he is pessimistic.

"Usually, I'm 85 to 90 percent sure re constitutional cases," he told Ms. Dumont that morning. "I'm less confident in this, 65 percent. But my 65 percent is that we're going to lose."

Professor Primus is one of several professors who consulted with the university's lawyers on the case. For him, the court's decision will affect not only who is in his classroom but also what he teaches. "I know that this year I'm going to teach Bakke for the last time," he said. "I know that next year, in that place on the syllabus, there's going to be a case called Grutter. I don't know what it says yet, but I know it's about me and my students."

If the Supreme Court decides in favor of the plaintiffs, the professor said, it would mean the end of affirmative action not only in admissions but also in his card-shuffling ritual. Taking gender and race into account as he selects the students to be called on each day, he explained, would also be illegal. Then again, there would most likely be far fewer black faces to choose from.

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## COPING; Much Closer To the Top, But Still At a Distance

By ANEMONA HARTOCOLLIS  
Published: June 27, 2004

SOMEHOW, everyone seemed to know that a "diversity networking reception" would draw African-Americans in much greater numbers than, say, Latinos or Asians. There were a few of those, but mainly the crowd at the Judson Grill on West 52nd Street on Tuesday night was black. As Janelle Alexander, an investment banker, characterized herself and most of the conservatively dressed people around her, they were also Type A. Some of the eye contact was not just measuring but downright searing.

This was no ordinary mixer. The event had been organized by the august law firm of Paul, Weiss, Rifkind, Wharton & Garrison as a way for "diversity professionals" to "network and exchange ideas," as the invitation put it. Adding gravitas and cachet was the guest of honor, Charles J. Ogletree Jr., the Harvard Law School professor who was there to discuss his new book on *Brown v. Board of Education*.

More than 600 people had R.S.V.P.'d, and it turned out that almost all of them had shown up, packed in like passengers on the No. 6 train at rush hour, sipping wine and eating shrimp, lobster in puff pastry and baby lamb chops. You knew it was a power event when the Rev. Al Sharpton arrived in black suit and red tie, eliciting only slightly less applause than Derrick A. Bell Jr., famous for leaving Harvard Law School on principle after becoming its first tenured black professor.

The diversity party seemed to expose exactly the point Professor Bell, now at New York University, made when he left Harvard in the early 90's: how undiverse the top echelons of American society really are. Here, by night, was a room filled with African-Americans from Ivy League schools and Top 20 legal and financial firms. By day, those same people met in boardrooms filled with whites. A seamlessly integrated society seemed still elusive.

These professionals were too young to remember the worst indignities and inhumanity of segregation, the whites-only restaurants, drinking fountains and schools, and too privileged to feel bitter. Yet their stories revealed how often a sense of discomfort and outsidership crept into their daily transactions. At least at a diversity party, they were in the majority.

Though Diarra McKinney was born 23 years after the *Brown* decision, he remembers no white students in his Washington, D.C., schools from kindergarten through high school. Later, at Stanford, he was suddenly in the minority. Now, before entering his third year at Yale Law, studying the face book at the Sullivan & Cromwell, he has found only 2 other black summer associates, among more than 90. Those numbers instill a warring sense of both inferiority and superiority.

"You feel it," he said. Still, he added, "It's not stifling." When he interviewed for the summer job, he said, he bonded with the interviewers, who were white, by talking about their shared experiences at Yale.

Alita Wingfield had the opposite experience, growing up in an integrated community in North Babylon, on Long Island, and encountering racial isolation only when she moved to the Upper East Side with her husband, a medical resident, and their two small children.

Her son is in kindergarten at Public School 183, on 66th Street near First Avenue. Her neighbors often think, she said, that she is not like them. "People automatically assume I have a variance, that he's been bused in from Brooklyn," she said. When she schedules play dates, she added, "people don't assume I live in the neighborhood."

There's some empirical truth to these assumptions. Ms. Wingfield's daughter is the only black girl in her day care class. Her son is one of four black children in his kindergarten class. So she understands why many middle-class blacks live in a neighborhood like, say, Harlem, even though their economic and professional self-interest might dictate the Upper East Side. "We live in a building that's only doctors," she said. "I don't want them to see only white doctors and daddy."

She was beside herself when her son's principal sent home a newsletter describing February as a dreary month in which there was little to celebrate. Ms. Wingfield immediately dashed off a two-page letter pointing out that February was Black History Month. And when she confronted him, the principal was contrite.

On a lighter note, the diversity party sparked a lament about the dating woes in the black professional world, one in which women seem to far outnumber men. That was certainly true at the Judson Grill, where every man was surrounded by three or four women.

Still, the party served its purpose. "To walk into a room where you are the majority," Ms. Alexander crowed happily, "is such a refreshing change."

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June 18, 2006

LIFE'S WORK

## Blueprints for Plugging a Brain Drain

By LISA BELKIN

TOMORROW evening, representatives of 33 major companies will gather to play a game that is a cross between "Show and Tell" and "Can You Top This?" The occasion will be the Hidden Brain Drain Summit, the latest step by a task force whose work I have chronicled in this column over the last three years.

The hidden brain drain refers to what Sylvia Ann Hewlett calls "the highly qualified women and minorities who are either leaving the work force or languishing on the sidelines." Or, to quote an article I wrote in 2003 for The New York Times Magazine — one that helped spur the work of the task force in the first place — it refers to workers who are "opting out."

By way of full disclosure, I was involved in the early meetings of the group when Ms. Hewlett, who runs the Center for Work-Life Policy in New York, first assembled it three years ago. But I have not been a member since those early months, and it is as an interested observer that I've been watching how the task force has translated amorphous discontent into concrete policy and practice. Ms. Hewlett, an economist trained at [Cambridge University](#) in England, knows corporations change through appeals not to their conscience but to their bottom line.

As Melinda Wolfe, managing director of the Office of Global Leadership and Diversity at Goldman Sachs, which will be making a presentation at the meeting, said: "The business argument for doing this is sound. When we train an employee and then they leave, it is a loss of investment. And that will only be compounded in light of the overall shrinking of the work force, when retention will become even more important."

Joining the task force means pledging to develop ways to achieve retention, and over the next two days participating companies will present all they have invented. The assembled employers will represent 2.5 million employees operating in 150 countries and generating \$3 trillion in market capitalization, making them "a force to be reckoned with," Ms. Hewlett says.

Looked at through their lens, there are two keys to plugging the brain drain. First, companies have to persuade their employees to stay, which is why so many of the plans are aimed at showing women they have a bright future.

At Ernst & Young, for instance, the career paths of "high potential" female and minority employees are regularly reviewed by a "career watch" committee, to make sure these employees get the assignments that keep them on the partnership track. Billie Williamson, who oversees the firm's work on gender strategy, says that when the program was developed three years ago, turnover among women was 5 percent higher than among men, but is now on par.

Ernst & Young also has created a "face book" of its female executives, showing a family photo of each and describing her career path and hobbies, making the point that women with families can get to the top. "I don't wear on my sleeve that I've got one daughter and two stepchildren," Ms. Williamson says. "This is a way our young women can say, 'I'm kind of like Billie, so it's realistic that I can be a partner, too.' "

At Lehman Brothers, attention is being given to a common conundrum: flexible work arrangements are required to retain women, but many will not ask for them because there is a stigma associated with a benefit seen as applicable only to women. So the company is hoping to redefine flexible work not as a life versus work issue, but as a national security plan.

Lehman, which lost use of its Wall Street headquarters on 9/11, is running a pilot program in which a test group of both men and women are asked to work from home once a week, testing remote technologies to be used in a natural disaster, pandemic or terrorist attack. "Given it's a gender-neutral exercise with a well-accepted business purpose, working remotely becomes less of a women's issue," says Anne R. Erni, chief diversity officer at Lehman.

Keeping women from opting out is only half the challenge, however, and that brings up the second key to halting the brain drain: helping smooth the re-entry for those who have left and want to return. Goldman Sachs is one of several companies with a plan to actively recruit such women. Its first daylong seminar last month attracted nearly 100 participants.

It is too soon to tell how many of those invited guests will become Goldman employees, says Elana Weinstein, vice president for global leadership and diversity, just as it is too soon to tell whether the number of female partners will continue to rise at Ernst & Young and the number of men who telecommute will increase at Lehman.

"That will be the real test," Ms. Weinstein says, of whether plans like these are a true rethinking of the workplace or merely window dressing.

*This column about the intersection of jobs and personal lives appears every other week. E-mail: [Belkin@nytimes.com](mailto:Belkin@nytimes.com).*

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## [Is Facebook a Friend or Bully?](#)

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"Social" media giant Facebook just became less social. It filed a lawsuit this week against a small [startup site called Teachbook](#), based in Northbrook, Illinois. Teachbook bills itself as "a professional, online community for teachers" where they "can create, share, and search a database of lesson plans and instructional videos created by other teachers, as well as find online courses,



instructional modules, and other education resources." Teachbook hasn't even officially launched yet. But that didn't stop Facebook from filing its lawsuit against the new site. So why is Facebook in such a tizzy?

Well, Facebook claims that the term "Teachbook" infringes and dilutes Facebook's trademark. Facebook doesn't want others online to be able to use "book" in their names. You heard that right, Facebook claims ownership over the word "book" -- at least as used in the context of trade names for businesses with online communities or networking websites.

If you're confused by Facebook's argument, it's understandable -- the argument is a bit confusing. One of the key requirements of a trademark infringement claim is proof of a likelihood of confusion between the two marks in the eyes of consumers. It's hard to imagine people would ever confuse Teachbook for Facebook, the second most trafficked site in the U.S. The two sites look quite different, and the names themselves indicate affiliation with each other just as much as "Kmart" and "Walmart" do. Of course, no one confuses Kmart for Walmart, or assumes their affiliation, just because they both have "mart" in their names.

Facebook's claim of trademark dilution is just as puzzling. In its [complaint \(click here\)](#), Facebook alleges: "If others could freely use 'generic plus BOOK' marks for online networking services targeted to that particular generic category of individuals, the suffix BOOK could become a generic term for 'online community/networking services' or 'social networking services.' That would dilute the distinctiveness of the FACEBOOK Marks, impairing their ability to function as unique and distinctive identifiers of Facebook's goods and services."

Again, Facebook's argument seems to defy our common experience and practice. For example, video-sharing giant YouTube has a very famous trademark that is probably just as famous and distinctive as Facebook's, if not more so. Yet YouTube's mark doesn't appear to have been diluted one bit (either blurred or tarnished) by the emergence of other video sites such as SchoolTube and GodTube, or even pornographic sites like RedTube and YouPorn. In other words, the existence of these other marks--"SchoolTube," "GodTube," "RedTube," and "YouPorn"--doesn't appear to have impaired the distinctiveness of the name "YouTube" at all. YouTube is the most trafficked video site in the world, with over 144.1 million viewers each month, and a business name "YouTube" that seems incredibly distinctive among consumers based on these numbers. The same holds true with the name "Facebook," given that Facebook gets even more viewers than YouTube.

Besides the legal arguments, the other puzzling aspect of Facebook's lawsuit is the company's tin ear to public relations. And here's probably the biggest head-scratcher. Going after a small website intended to help teachers with lesson plans is just not good PR, no matter how you slice it. The company's aggressiveness in protecting its trademark against Teachbook might strike many people as trademark bullying. And if there's one lesson that is true both in trademark and in life: no one likes a bully.

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## Guess Who Is Trying To Trademark The Word "Face"? (And Guess Who Is Trying To Stop It?)

Erick Schonfeld

Aug 26, 2010

When it comes to trademarks, Facebook is proving to be a **bully**. It is going after Teachbook in court for using a similar name, and already **forced Placebook** to change its name. But that is only half the story.

It is not just the word "book" at the end of a company or product name that Facebook might object to. If it has its way, the word "Face" at the beginning of a name might also bring out its lawyers. In fact, Facebook is currently trying to register the word "**Face**" as a **trademark**. (It already owns the trademark on "**Facebook**"). Facebook took over the trademark application for "Face" from a company in the UK called CIS Internet Limited, which operated a site called **Faceparty.com**. Presumably, Facebook bought the application sometime around November, 2008, which is when its lawyer started dealing with the USPTO.

However, at least one person is **objecting** to this trademark: **Aaron Greenspan**. Yup, **that Aaron Greenspan**, Mark Zuckerberg's classmate at Harvard who laid a claim to helping create Facebook, which he later **settled**. Greenspan now has his own company, **Think Computer**, which is behind the mobile payments app called **FaceCash** (watch the **TCTV interview with him**).

If Facebook gets the trademark for the word "Face," that could spell trouble for FaceCash. "The possible registration has implications for my company (not to mention hundreds of others, including Apple, Inc.), so I've decided to ask the USPTO for an extension of time to oppose it," he explains in an email. Apple, of course, owns the **trademark to "Facetime,"** the **video calling feature** on the latest iPhones.

Although Greenspan owns the **trademark to "FaceCash,"** he wants to protect his ability to use the word "face" in future products. He also wants to make sure Facebook won't go after him. Given it's track record of vigorously defending its trademarks (which it is encouraged to do by the law or else risk losing them), that could become a very real possibility.

Getting an extension of time to file an objection is not the same as actually blocking the trademark. But "face" is a pretty generic word and Facebook doesn't actually use it on its own, only in combination with "book." If Facebook doesn't get "face," maybe it will have better luck with "like." It has at least 14 applications to trademark that word as well.

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