



ORRICK, HERRINGTON & SUTCLIFFE LLP  
4 PARK PLAZA  
SUITE 1600  
IRVINE, CALIFORNIA 92614-2558  
tel +1-949-567-6700  
fax +1-949-567-6710  
WWW.ORRICK.COM

**FILED**

MAR 05 2009

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

Thomas J. Gray  
(949) 852-7764  
tgray@orrick.com

March 5, 2009

VIA FACSIMILE (408.535.5410)

Honorable Magistrate Judge Howard Lloyd  
Federal District Court for the Northern District of California  
280 South 1st Street  
Fifth Floor, Courtroom 2  
San Jose, CA

Re: *Facebook v. StudivZ LTD., et al*, Case No. 08 CV 03468 JF

Dear Judge Lloyd:

I write pursuant to the Court's Order directing the parties to send proposed language regarding Facebook's pending Motion to Compel Complete Discovery Responses from Defendants StudivZ, Ltd., Holtzbrinck Networks GmbH and Holtzbrinck Ventures GmbH. Rather than proposing language on individual discovery requests, Facebook has followed the Court's lead and grouped requests according to category.

**CATEGORY ONE: Discovery Relating to "Accessing" Facebook's Site and Code**

All Defendants shall respond to Facebook's interrogatories by identifying Defendants' employees, agents, contractors, or others who are, or were, involved or assisted in the creation, design, development, and implementation of [www.studivz.net](http://www.studivz.net), [www.schuelervz.net](http://www.schuelervz.net), [www.meinvz.net](http://www.meinvz.net), [www.estudiln.net](http://www.estudiln.net), [www.studigq.fr](http://www.studigq.fr), [www.studiln.it](http://www.studiln.it), [www.studentix.pl](http://www.studentix.pl), (the "StudivZ Websites") and who accessed Facebook's website or source code for commercial purposes (i.e. in the scope, course and conduct of their employment rather than for purely personal use) from 2005 until July 18, 2008. In addition, Defendants shall produce all documents (including but not limited to technical plans and documentation, designs, charts, communications, emails, memos, and screenshots) that refer or relate to the accessing of Facebook's website or source code for commercial purposes by the individuals identified in the responses to the "access" interrogatories.

**CATEGORY TWO: Discovery Relating to the Design and Development of the StudivZ Websites**

All Defendants shall respond to Facebook's interrogatories by identifying the core group of Defendants' employees, agents, contractors, or others who are, or were, involved in the creation, design, development, and implementation of the StudivZ Websites (as defined above) (the "Core Design Custodians"). In addition, Defendants shall produce all documents (including but not limited to technical plans and documentation, designs, charts, communications, emails, memos, and screenshots) that were authored, sent, or received by the Core Design Custodians that refer or relate

10  
HRL

RECEIVED  
MAR 06 2009



ORRICK

Honorable Magistrate Judge Howard Lloyd

March 5, 2009

Page 2

to the design, development and implementation of the StudiVZ websites from 2005 to July 18, 2008. Defendants are instructed to produce, at a minimum, such documents referring or relating to: (1) the StudiVZ website as originally launched in approximately October/November 2005; (2) the initial launches of the meinVZ.net, schuelervz.net, estudiln.net, studiqq.fr, studiln.it and studentix.pl sites; (3) the updated version of the StudiVZ site launched on or about September 2006 when a photo-tagging feature ("*fotos verlinken*") similar to Facebook's feature was added; and (4) the updated version of the StudiVZ site launched on or about June 2007 that added a "user status" box (e.g., "Peter is happy today"), which is similar to Facebook's feature.

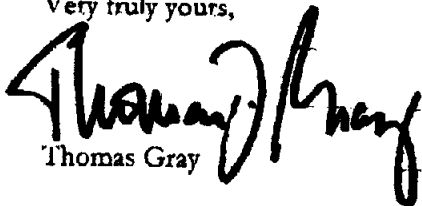
**CATEGORY THREE: Discovery Relating to StudiVZ's Source Code**

Defendants shall produce source code for (1) the StudiVZ site as originally launched in approximately October/November 2005; (2) the initial launch of meinVZ.net (StudiVZ's English language site); (3) the updated version of the StudiVZ site launched on or about September 2006 when a photo-tagging feature ("*fotos verlinken*") similar to Facebook's feature was added; and (4) the updated version of the StudiVZ site launched on or about June 2007 that added a "user status" box (e.g., "Peter is happy today"), which is similar to Facebook's feature.

**CATEGORY FOUR: Discovery Relating to Defendants' Contracts with California Entities**

All Defendants shall respond to Facebook's discovery requests by identifying and producing all contracts, including contracts of adhesion, entered into or executed between 2005 and 2008 in which California law governs, California federal or state court jurisdiction is applied, California state or federal courts are identified as proper venues, or in which at least one of the parties to or beneficiaries of the contract resides or is domiciled in California, provided that such contracts were entered into by Defendants and/or their employees or agents in the scope, course, conduct and/or in furtherance of their employment or agency relationship and not for personal reasons.

Very truly yours,



Thomas Gray



ORRICK, HERRINGTON & SUTCLIFFE LLP  
 4 PARK PLAZA  
 SUITE 1600  
 IRVINE, CALIFORNIA 92614-2558  
 tel -1-949-567-6700  
 fax 949-567-6710  
 WWW.ORRICK.COM

## FAX TRANSMISSION

DATE 3/4/09

NO. OF PAGES  
(INCLUDING COVER SHEET) 3

## FROM

<u>name</u>	<u>tel</u>
Thomas J. Gray	(949) 852-7764

## TO

<u>name</u>	<u>company/firm</u>	<u>tel</u>	<u>fax</u>
Honorable Judge Lloyd	Federal District Court for the Northern District of California		408.535.5410

RE Facebook v. StudiVZ, et al., Case No. 5:08-cv-03468

## MESSAGE

C-M-A 16069.2005

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL VALERIE CLOYD AT 949-567-6700 AS SOON AS POSSIBLE.

*notice to recipient*

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS INTENDED TO BE SENT ONLY TO THE STATED ADDRESSEE OF THE TRANSMISSION. IT MAY BE PROTECTED FROM UNAUTHORIZED USE OR DISSEMINATION BY THE ATTORNEY-CLIENT PRIVILEGE, THE ATTORNEY WORK-PRODUCT DOCTRINE, OR ANY OTHER APPLICABLE PRIVILEGE. IF YOU ARE NOT THE STATED ADDRESSEE, YOUR RECEIPT OF THIS TRANSMISSION WAS UNINTENDED AND INADVERTENT, AND YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. YOU ARE ALSO ASKED TO NOTIFY US IMMEDIATELY BY TELEPHONE AND TO RETURN THE ORIGINAL DOCUMENT TO US IMMEDIATELY BY MAIL AT THE ADDRESS ABOVE. THANK YOU IN ADVANCE FOR YOUR COOPERATION.