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11 Attorneys for Plaintiff
 12 FACEBOOK, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

16
 17 FACEBOOK, INC.,

18 Plaintiff,

19 v.

20 STUDIVZ LTD., VERLAGSGRUPPE
 21 GEORG VON HOLTZBRINCK GmBH,
 HOTLZBRINCK NETWORKS GmBH,
 22 HOLTZBRINCK VENTURES GmBH, and
 DOES 1-25,

23 Defendant.
 24

Case No. 5:08-cv-03468 JF

**FACEBOOK'S NOTICE OF MOTION
 AND MOTION TO CHANGE TIME
 UNDER CIVIL L.R. 6-3**

Date: Pending Determination of
 Motion

Time: _____ a.m.

Room.: Courtroom 2, 5th Floor

Judge: Honorable Magistrate Judge
 Howard R. Lloyd, for
 Discovery Purposes

1 confer process, Facebook has been forced to bring a motion for personal jurisdiction discovery.
2 Facebook respectfully requests that its Motion For Expedited Personal Jurisdiction Discovery be
3 heard by September 23, 2008.

4 **I. STUDIVZ’S CONTINUED PATTERN OF UNNECESSARY DELAY TACTICS**
5 **JEOPARDIZE FACEBOOK’S ABILITY TO SECURE ADEQUATE RELIEF AND**
6 **JUSTIFIES AN EXPEDITED SCHEDULE FOR PERSONAL JURISDICTION**
7 **DISCOVERY.**

8 As explained in more detail in the Motion for Expedited Personal Jurisdiction
9 Discovery, StudiVZ has resorted to unreasonable delay tactics at every step in this litigation.
10 Indeed, StudiVZ’s delay strategy reaches back to even before the onset of formal litigation, when
11 it requested in bad faith additional time from Facebook to resolve this dispute and then used that
12 time to file its own action against Facebook for declaratory relief in Germany.

13 As explained in the Motion for Expedited Personal Jurisdiction Discovery, in the
14 six weeks since it received a copy of the complaint filed against it, StudiVZ has repeatedly
15 affirmed and reaffirmed its desire to challenge this Court’s personal jurisdiction over it. *See*
16 *Avalos Decl.*, at ¶¶ 7, 15 - 16. StudiVZ’s counsel has agreed that Facebook is entitled to
17 personal jurisdiction discovery. *See Avalos Decl.*, at ¶ 15 - 16. However, when Facebook
18 attempted to schedule that discovery, StudiVZ’s counsel claimed for the first time that it was
19 unsure as to whether it would in fact challenge personal jurisdiction, and that in any event, it
20 required over three months from the time it received the complaint to decide whether such a
21 motion would be brought. *See Avalos Decl.*, at ¶ 17.

22 StudiVZ’s argument is not credible. Nor is its plea that it is being “rushed” into a
23 decision six weeks after having received a copy of Facebook’s complaint. *See Avalos Decl.* at ¶
24 17. Indeed, StudiVZ’s real reasons for refusing to agree to schedule personal jurisdiction
25 discovery are simply its obvious and continued desire to delay this litigation as much as possible,
26 to minimize Facebook’s chances of efficiently uncovering information that would give rise to
27 injunctive remedies, and to continue to benefit from its theft of Facebook’s intellectual property.

28 In compliance with Civil L.R. 37-1(a), Facebook and StudiVZ met and conferred
to resolve this dispute on September 2, 2008, but were unable to reach a resolution. Unless this

1 Court agrees to shorten time upon which to hear Facebook's Motion for Expedited Personal
2 Jurisdiction Discovery, Facebook will not be heard until October 14, 2008, at the earliest, or
3 nearly three months after StudiVZ received a copy of the complaint filed against it. StudiVZ will
4 not be prejudiced by proceeding on an expedited basis. It has had at least two law firms
5 representing it in this litigation since July and has been preparing to move for lack of personal
6 jurisdiction for nearly two months, far longer than defendants in typical domestic litigation.

7 On the other hand, Facebook will be prejudiced if its motion is not heard on an
8 expedited basis. Each passing day decreases Facebook's chances of obtaining injunctive relief.
9 By shielding itself from service first by instructing its local California counsel not to accept
10 service on its behalf then by forcing Facebook to resort to the expensive and time-consuming
11 vagaries of the Hague Convention and service through local German authorities, only to buy
12 itself months of additional time by agreeing to waive service of process when service through
13 those authorities seemed imminent, StudiVZ has gamed the system and caused substantial delay,
14 expense and hardship to Facebook. Every day of delay furthers StudiVZ's strategy of solidifying
15 and expanding its user base through the illegal use of Facebook's intellectual property.

16 Shortening time for the Court to hear Facebook's motion would be the first
17 modification of time in this case and would not have any effect on the schedule for the case.

18 **II. REQUESTED RELIEF**

19 For the above reasons, Facebook respectfully requests an order shortening the time
20 for the Court to hear Facebook's Motion for Expedited Personal Discovery from October 14,
21 2008 to September 23, 2008.

22
23 Dated: September 9, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

24
25 /s/ Julio C. Avalos /s/
26 JULIO C. AVALOS
27 Attorneys for Plaintiff
28 FACEBOOK, INC.

