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10 Attorneys for Plaintiff
 11 FACEBOOK, INC.

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

16 FACEBOOK, INC.,
 17 Plaintiff,

18 v.

19 STUDIVZ LTD., HOLTZBRINCK
 NETWORKS GMBH, HOLTZBRINCK
 20 VENTURES GMBH, DENNIS BEMMANN,
 MICHAEL BREHM, AND DOES 1-25,
 21 Defendants.

Case No. 5:08-cv-03468 JF

Assigned To: Hon. Jeremy Fogel

**DECLARATION OF MARK
 HOWITSON IN SUPPORT OF
 FACEBOOK'S OPPOSITION TO
 DEFENDANTS' FORUM NON
 CONVENIENS MOTION TO DISMISS**

Date: April 17, 2009
 Time: 9:00 a.m.
 Room: Courtroom 3, 5th Floor
 Judge: Hon. Judge Jeremy Fogel

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1 I, Mark Howitson, declare as follows:

2 1. I am the Deputy General Counsel at Facebook, Inc. I make this declaration in
3 support of Facebook's opposition to Defendants' motion to dismiss based on *forum non*
4 *conveniens*. I am an active member in good standing of the California State Bar. Excepted as
5 otherwise noted, I have personal knowledge of the facts stated herein and if called as a witness,
6 could and would competently testify thereto.

7 2. Facebook's principal place of business is Palo Alto, California. Accordingly, there
8 are a number of Facebook employees that reside in the Northern California area that will testify
9 and provide evidence in support of Facebook's federal and California claims against Defendants.
10 In addition, the following former Facebook executives possess relevant information related to
11 either Facebook's "look and feel" (design and functionality), the success of Facebook, or the
12 harm suffered by Facebook as a result of StudiVZ's actions. To my knowledge these witnesses
13 still reside in California.

Name	Previous Position	Approx. Dates	Testimony
Dustin Moskovitz	Co-Founder and Head of Engineering	2004-2008	Design and success of website
Adam D'Angelo	Chief Technology Officer	2004-2008	Design and success of website and site and server security
Matt Cohler	VP of Product Management	2005-2008	Design and success of website
Sean Parker	President	2004-2005	Design and success of website
Gideon Yu	VP and Chief Financial Officer	2007-2009	Financial success and economic harm

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23 3. Because of their infringing copycat websites, Facebook has suffered economic
24 here at its principal place of business in Palo Alto, California.

25 4. In at least the 2005-2006 timeframe, Facebook required new users who were
26 registering to use the website to click a button stating that they agreed to Facebook's Terms of
27 Service ("ToS"). Facebook's ToS includes venue, choice of law and forum selection provisions
28 requiring this forum and California law. Attached as Exhibit 1 are a true and correct copies of

1 screen shots from the new user registration page for 2005 and 2006 that show the "I Agree"
2 button.

3 I declare under the penalty of perjury that the foregoing is true and correct to the best of
4 my knowledge.

5 Executed this 6th day of April, at Palo Alto, California.

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7 _____
8 Mark Howitson
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