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 14 Holtzbrinck Networks GmbH and
 15 Holtzbrinck Ventures GmbH

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN JOSE DIVISION

GREENBERG GLUSKER FIELDS CLAMAN
 & MACHTINGER LLP
 1900 Avenue of the Stars, 21st Floor
 Los Angeles, California 90067-4590

19 FACEBOOK, INC.,

20 Plaintiff,

21 v.

22 STUDIVZ LTD.,
 23 VERLAGSGRUPPE GEORG VON
 24 HOLTZBRINCK GmbH,
 25 HOLTZBRINCK NETWORKS
 26 GmbH, HOLTZBRINCK
 27 VENTURES GmbH, and DOES 1-
 28 25,

Defendants.

Case No. 5:08-CV-03468 JF

Assigned To: Hon. Jeremy Fogel

**DECLARATION OF STEPHEN S.
 SMITH IN SUPPORT OF
 DEFENDANTS' MOTION FOR
 PROTECTIVE ORDER QUASHING
 FACEBOOK'S SUBPOENAS SERVED
 ON THIRD PARTIES; EXHIBIT A**

[Notice of Motion and Motion and
 (Proposed) Order Filed Concurrently]

Date: June 23, 2009
 Time: 10:00 a.m.
 Dept./Place: Courtroom 2, 5th Floor
 Hon. Howard R. Lloyd

Complaint Filed: July 18, 2008

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DECLARATION OF STEPHEN S. SMITH

I, Stephen S. Smith declare:

1. I am an attorney at law duly licensed to practice in the State of California and before the United States District Court for the Northern District of California, and am a partner at Greenberg Glusker Fields Claman & Machtinger LLP, counsel of record for Defendants Holtzbrinck Networks GmbH and Holtzbrinck Ventures GmbH (together, the “Holtzbrinck Defendants”) and StudiVZ Ltd. (“StudiVZ”) (collectively, “Defendants”). I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto under oath. This declaration is submitted concurrently with Defendants’ Motion for Protective Order re: Facebook’s Subpoenas Served on Third Parties and in support of that motion.

2. On and after May 11, 2009, I have received copies of the following:
(a) a May 7, 2009 letter from Julio Avalos, counsel for Facebook, to Tobias Walter enclosing (i) a subpoena to produce documents, (ii) a subpoena to appear for deposition, and (iii) a notice of deposition; (b) a May 7, 2009 letter from Mr. Avalos to Taylor Mingos enclosing (i) a subpoena to produce documents, (ii) a subpoena to appear for deposition, and (iii) a notice of deposition; (c) a May 7, 2009 letter from Mr. Avalos to Phil James-Roxby enclosing a subpoena to produce documents; (d) a May 7, 2009 letter from Mr. Avalos to Gordon Brebner enclosing a subpoena to produce documents; (e) a May 7, 2009 letter from Mr. Avalos to Xilinx, Inc. enclosing a subpoena to produce documents; (f) a May 7, 2009 letter from Mr. Avalos to Intetics Co. enclosing a subpoena to produce documents; (g) a May 7, 2009 letter from Mr. Avalos to Spreadshirt, Inc. enclosing a subpoena to produce documents; (h) a May 7, 2009 letter from Mr. Avalos to Shoeboxed.com enclosing a

1 subpoena to produce documents; (i) proof of service; (j) a May 11, 2009 letter from
2 Mr. Avalos to Gordon Brebner enclosing a subpoena to produce documents;
3 (k) proof of service; (l) a May 12, 2009 letter from Mr. Avalos to Phil James-Roxby
4 enclosing a subpoena to produce documents; (m) proof of service; (n) a May 13,
5 2009 letter from Mr. Avalos to Taylor Mingos enclosing (i) a subpoena to produce
6 documents, (ii) a subpoena to appear for deposition, and (iii) a notice of deposition;
7 (o) a May 13, 2009 letter from Mr. Avalos to Tobias Walter enclosing (i) a subpoena
8 to produce documents, (ii) a subpoena to appear for deposition, and (iii) a notice of
9 deposition; and (p) proof of service (collectively, the “Subpoenas”). True and correct
10 copies of the Subpoenas are attached hereto as “Exhibit A.”
11

12 3. On the morning of Tuesday, May 19, 2009, I met and conferred via
13 telephone with Mr. Avalos regarding the Subpoenas and Defendants’ intention to file
14 a motion for protective order if Facebook refused to withdraw them. During our
15 telephone conversation, Mr. Avalos informed me that Facebook would not withdraw
16 the Subpoenas.
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18 I declare under penalty of perjury under the laws of the State of California
19 and the United States that the foregoing is true and correct, and that this declaration
20 was executed in Los Angeles, California on May 19, 2009.
21

22 _____ /s Stephen S. Smith
23 Stephen S. Smith
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