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 7 GmbH and Holtzbrinck Ventures GmbH

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

11 FACEBOOK, INC.,
 12
 13 Plaintiff,

14 v.

15 STUDIVZ LTD., VERLAGSGRUPPE
 16 GEORG VON HOLTZBRINCK GmbH,
 HOLTZBRINCK NETWORKS GmbH,
 17 HOLTZBRINCK VENTURES GmbH, and
 DOES 1-25,
 18 Defendants.

Case No. 5:08-CV-03468 JF
 Assigned To: Hon. Jeremy Fogel

**THE HOLTZBRINCK DEFENDANTS'
 OPPOSITION TO FACEBOOK INC.'S
 MOTION TO ENLARGE TIME**

Complaint Filed: July 18, 2008

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1 Defendants Holtzbrinck Networks GmbH and Holtzbrinck Ventures GmbH (collectively, the
 2 “Holtzbrinck Defendants”) hereby join in the Opposition brief filed by defendant StudiVZ Ltd.
 3 (“StudiVZ”). However, the Holtzbrinck Defendants also oppose Facebook’s motion on an additional
 4 ground because they are not in exactly the same position as StudiVZ.

5 Facebook’s January 23, 2009 motion to continue the hearing of the Motions to Dismiss made no
 6 argument concerning the Holtzbrinck Defendants. The entire focus was on the then-existing disputes
 7 between Facebook *and StudiVZ only*. (Dkt. 77 at 1:4, 1:8-9, 1:24-25; 2:22-23, 4:9-10; 4:16-19). The
 8 Holtzbrinck Defendants opposed that motion, arguing that there was no need for a continuance of their
 9 motion to dismiss because there were no outstanding discovery disputes between them and Facebook.

10 On January 28, 2009, the District Court ruled on Facebook’s Motion to Enlarge Time:

11 “A review of the record and the parties’ papers reveals that
 12 Facebook has failed to demonstrate any reason to continue the
 13 February 13, 2009 hearing as to either defendant with respect to
 14 *forum non conveniens*, or as to Holtzbrinck with respect to
 15 personal jurisdiction.”

16 (Dkt. 92 at 2:15-17). The Court granted Facebook’s request to file a supplemental brief, but only
 17 as to personal jurisdiction over StudiVZ and only “in light of any newly discovered material,” but
 18 did *not* grant Facebook’s request to file a supplemental opposition as to the Holtzbrinck Defendants or
 19 as to any other issue. (*Id.* at 2:15-22). The Court continued the hearing as to both motions to
 20 dismiss and all issues because of “judicial economy” and because a brief continuance was
 21 “unlikely to prejudice any party.” (*Id.* at 2:18-20).¹

22 Facebook was not permitted to use the extra time created by the continuance of the motions to
 23 dismiss to propound new discovery against the Holtzbrinck Defendants. The Holtzbrinck Defendants’
 24 motion should have already been heard. Their motion should not be continued yet again.

25 DATED: June 8, 2009

26 GREENBERG GLUSKER FIELDS CLAMAN &
 27 MACHTINGER LLP

28 By: /s/ Stephen S. Smith
 STEPHEN S. SMITH
 Attorneys for Defendants Holtzbrinck Networks
 GmbH and Holtzbrinck Ventures GmbH

¹ Moving the hearing date (yet again) would prejudice the Holtzbrinck Defendants if it resulted in them being subject to new discovery requests.