

EXHIBIT 1

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Facebook and StudiVZ battle over Germany

By Kevin J. O'Brien

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BERLIN: When Facebook sued the German leader in social networking, StudiVZ, last month, it contended that the company had illegally copied Facebook's "look and feel" with similar graphics and features.

"A great deal, if not all, of StudiVZ's success is due to its copying and misusing of Facebook's intellectual property," the Web site said in the complaint, filed last month in U.S. District Court in San Francisco.

What Facebook did not mention, according to a former senior StudiVZ executive, was that the U.S. company had been negotiating for months to try to buy StudiVZ, which is based in a former bakery in the hip Prenzlauer Berg neighborhood of eastern Berlin.

"Facebook may have the superior technology, but it doesn't have the users in Germany," said this executive, who insisted on anonymity because the talks were confidential. "That is what Facebook wants with StudiVZ."

Buying StudiVZ, short for Studentenverzeichnis, which in German means student directory, would strengthen Facebook in one of the few big Western markets in which it has not established a significant presence. Facebook has more than 132 million users worldwide, according to ComScore, a research firm. But StudiVZ, with 12.2 million users in Germany in June, is about 10 times the size of Facebook.de, the German version of the service.

The challenge for Facebook is that StudiVZ's owner, the Holtzbrinck Gruppe, based in Stuttgart, wants several times the reported € 85 million, or \$134 million, it paid in January 2007 to buy StudiVZ, the former StudiVZ executive said.

Holtzbrinck, a privately held company with diversified publishing businesses, is in "the enviable position of not having to sell," he said. "This lawsuit is an attempt to encourage Holtzbrinck to sell StudiVZ."

A second person with knowledge of the situation said Facebook negotiated unsuccessfully last year with Holtzbrinck to buy StudiVZ. "I know the two companies met several times to discuss this and that offers were made by Facebook," said the person, who has a business relationship with StudiVZ.

A Facebook spokeswoman at the company's headquarters in Palo Alto, California, Debbie Frost, declined to comment. A Facebook employee, speaking on condition of anonymity because this person had not been authorized to speak publicly, confirmed that the companies had been in talks but described the discussions as focusing on the claim of copying. Jochen Gutbrod, the deputy chairman of Holtzbrinck responsible for online businesses like StudiVZ, did not respond to an interview request.

The battle with StudiVZ is not the first legal dispute in which Facebook has been embroiled over allegations of copying. Facebook recently settled a suit with ConnectU, a social network set up by two Harvard University students who had accused Facebook of taking their idea.

But former StudiVZ employees and investors in other social networking sites described the legal fight in Germany as a sign of the importance of that market to Facebook's global aspirations. The suit, they said, is a tacit admission by Facebook that it waited too long to create a portal in German, a vacuum

filled by StudiVZ in October 2005.

Facebook, founded in February 2004 by a Harvard University student, Mark Zuckerberg, introduced its German-language portal only five months ago. By then, StudiVZ, founded by two German university students, Dennis Bemmann and Ehssan Dariani, were established market leaders.

With the lawsuit pending, Dirk Hensen, a spokesman for StudiVZ, declined to discuss even basic information about how the company was founded.

A former colleague described Bemmann as the guiding force behind StudiVZ's technology. An accomplished computer programmer, he previously helped to design Internet routing equipment in Colorado and California at a company called Xilinx. He programmed the first and subsequent versions of StudiVZ's software and today oversees, as chief technology officer, a network of more than 600 computer servers that process StudiVZ's Internet traffic.

Bemmann grew up near Salzgitter in northern Germany and met Dariani, who grew up near Kassel, Germany, through a youth computer research forum created by Bemmann called juForum. Dariani had worked for an online T-shirt merchant called Spreadshirt, owned by a German entrepreneur, Lukasz Gadowski. He encouraged Bemmann and Dariani to work together and became one of the initial investors in StudiVZ, the former colleague said.

Bemmann and Dariani started StudiVZ with only a couple of interns in a small office off the Friedrichstrasse, a location for many Internet startups in central Berlin. At StudiVZ, Dariani filled the role of charismatic salesman, traveling across Germany to elite universities to urge student opinion leaders to use the service.

Darani left StudiVZ in 2007 following the sale of the company to Holtzbrinck, and, according to his Web profile in StudiVZ and other networking sites, is focused on investing in Internet startups.

Since Holtzbrinck bought StudiVZ, which focuses on German college students, it has expanded, starting a new portal in February 2007 for middle and high school students called SchülerVZ. This year it added a portal for college graduates called MeinVZ.

The number of Facebook users in Germany, including those who use non-German versions, has grown quickly - from 125,000 in June 2007 to 1.2 million in June this year, according to ComScore. But Facebook is still only in ninth place in Germany among social networks, trailing local and international sites like Wer-kennt-wen.de, MySpace.com, StayFriends.de and Piczo.com.

"Once a social networking site builds a big advantage, it is difficult to lure users away," Jamie Gavin, an analyst at ComScore in London, said. "StudiVZ is doing very well, but I would never write off Facebook."

Like many social networking sites, Facebook, which is privately owned, and StudiVZ derive most of their revenue from advertising and disclose no financial information. The success of their advertising-driven business models has yet to be proved, said Lars Hinrichs, founder and chief executive of Xing.com, a social networking site in Hamburg that aims to attract business professionals.

Relying on a slightly different business model from more mainstream sites, Xing.com made € 1.6 million in net profit in the first quarter, mostly from 470,000 members who pay € 5.95 a month for premium subscriptions that give them the ability to reach out to job contacts directly over the portal. Hinrichs said aiming ads at users of social networks has been ineffective so far, because most users do not enter enough meaningful personal data to build advertising profiles.

"None of these sites are profitable yet, and I doubt they will be using advertising," Hinrichs said.

Questions of profitability aside, the future of the German social networking market may be affected by the outcome of the legal fight between Facebook and StudiVZ, analysts said. But it is unclear where a trial would be held, if one ever is, which could also affect the outcome.

After being sued by Facebook in the United States, StudiVZ asked a German judge in Stuttgart to dismiss Facebook's complaint by ruling that it had taken no intellectual property from Facebook. Both complaints are pending.

In its suit, Facebook alleges that StudiVZ mimicked the graphics of its user interface and copied functions like a Facebook innovation that lets users digitally "poke" each other to get attention. StudiVZ has the same function, which it calls "gruscheln," a combination of the German words for greet and caress.

Users and former StudiVZ employees are split over whether the similarities equate to theft of intellectual property.

"I think it is clear that StudiVZ's success came in part because it was a clone of Facebook," Florian Braun, a student at the University of Applied Sciences in Kaiserslautern who worked as an intern at StudiVZ in 2007, said. "But they improved on a concept, which is legitimate and happens all the time in the Internet."

Marco Stahl, 24, a manager at a Berlin video production company, said most German students perceived StudiVZ to be a German clone of Facebook because of the similarities.

"Everybody who uses StudiVZ, and all of my friends do, realize that StudiVZ is simply a German version of Facebook," Stahl said.

Correction:

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