

# **EXHIBIT 5**

**Lovells**

Warburgstrasse 50  
D-20354 Hamburg  
Tel: +49 (0) 40 419 93-0  
Fax: +49 (0) 419 93-200

**REGISTERED MAIL/RETURN RECEIPT**

StudiVZ Ltd  
Friedrichstr. 172

10117 Berlin

Yvonne Draheim  
LLM./Univ. Stellenbosch  
Attorney-at-law

Direct dialing: 040 41993 218  
yvonne.draheim@lovells.com

Our reference:  
290 sp

*Previously by e-mail: ed@studivz.net*

June 8, 2006

**OUR CLIENT: FACEBOOK, INC./USA  
THE DESIGN OF YOUR WEBSITES, ESPECIALLY ON YOUR DOMAINS <STUDIVZ.DE>, <STUDIVZ.COM>,  
<STUDIVZ.NET>, <STUDIVERZEICHNIS.DE>, <STUDIVERZEICHNIS.COM> AND <STUDIVERZEICHNIS.NET>**

Dear ladies and gentlemen,

We would like to announce that we represent the legal interests of the company Facebook, Inc. in issues of intellectual property rights. Power of attorney is legally assured. Our client has asked us to inform you of the following regarding the websites that can be accessed on the aforementioned domains:

1. Our client, "Facebook, Inc." is no doubt familiar to you. The company offers a search engine that allows personalized search results to be obtained when searching ("social search engine"). For details, we direct you to the Internet presence of our client at [www.facebook.com](http://www.facebook.com). This relatively new type of search engine enjoys increasing popularity and our client was one of the first well-known providers. Because "facebook" has been well-known in the USA for a long time, it is now building up comparable popularity in Europe. In order to preserve its market position and existing reputation, our client takes action against any kind of imitation.
2. Recently, our client became aware that you offer an identical search engine on your websites.

Our client has used the abovementioned website since beginning operations. This use began in the European Union in February 2005 and clearly extends back even further in the USA. The websites on your domains are

**HAMLIB01/HAMVD/247097.01**

Alicante Amsterdam Berlin Brussels Düsseldorf Frankfurt am Main Hamburg Ho Chi Minh City Hong Kong London Madrid Milan Moscow Munich New York Paris Beijing Prague Rome Shanghai Singapore Tokyo Warsaw Cooperative offices: Budapest Zagreb

Lovells is the firm name of the limited partnership registered in Spain as Lovells Boesebeck Droste S.L. & Cia

[cut off]

-2-

nearly identical, except for the coloring (red instead of blue), from not only a superficial point of view. As your domains were only registered to your name in November 2005, this use is clearly subsequent in any case.

Upon closer observation, additional similarities are apparent. In particular, both websites can be printed only in black/white, not in color, which is unusual. In addition, exactly the same frames are printed out for both. To illustrate this, we are submitting in the attachment a print-out and screenshot of our client's website and an example of a print-out and screenshot of the website accessible from <StudiVZ.de>.

An advanced comparison of the source codes of both pages shows that they are nearly identical and the differences are only isolated cases (e.g., <sidebar> instead of <leftbar>). In particular, an error in the source code of our client's website can also be found in the source code of your website. We are enclosing the comparative documentation in the attachment for your information.

It is obvious, in this respect, that not only the design of our client's website was imitated, but that our client's source code was copied completely.

3. Our client's website is protected by copyright because it is a database. According to § 87 b I 1 UrhG, our client has the exclusive right, as the creator of the database, to copy, distribute, or publicly reproduce the entire database or a significant part of the database. Your websites, however, are based on the source code of our client's website with only minor changes, i.e., they contain a significant part of the protected database. The substantial agreement of the source codes shows that the use of your website infringes on the right afforded to our client as per § 87 b I 1 UrhG.
4. According to § 97 I UrhG, our client also possesses a right to injunctive relief against you as regards such use, in addition to a claim for damages. According to § 98 I UrhG, our client can additionally request the destruction of the website, because it is a copy of the protected website and is intended for distribution.
5. Finally, we refer to the provisions of the UWG, as the use of a website nearly identical in outward appearance obviously also constitutes imitation and exploitation of a reputation.

Our client would gladly like to save the expenses and costs of such a legal procedure from the outset. In light of the clear infringement, you should also avoid useless expenditures in connection with the use of the website, as its deletion and the prohibition of corresponding use are foreseeable.

Therefore, we request, in the name and by the authorization of our client, that you sign the enclosed cease and desist letter effective in law and send it back to us by, at the latest,

**June 15, 2006, 12 o'clock**  
**(Receipt of an advance declaration by fax is sufficient)**

-3-

If we do not receive the aforementioned letter or receive only part of it before the deadline, we would counsel our client to legally assert all existing rights to injunction, destruction, and compensation, even claims going beyond the enclosed cease and desist letter.

Best regards,

*[signature]*

Yvonne Draheim

Attachments

### Cease and Desist Letter

StudiVZ Ltd, represented by Director Ehssan Dariani, empowered as sole representative, Voigtstr. 38, 10247 Berlin and/or Friedrichstr. 172, 10117 Berlin, hereby commits itself vis-à-vis Facebook, Inc., 471, Emerson Street, 94301-1605 Palo Alto, USA, immediately after submission of the present letter

1. to immediately cease use of all websites that significantly correspond to the item represented in the annex (outward appearance/source code), especially on the domains <studivz.de>, <studivz.com>, <studivz.net>, <studiverzeichnis.de>, <studiverzeichnis.com> and <studiverzeichnis.net>, including other regional and sub-domains.
2. in order to avoid paying, for every case of violation against Facebook, Inc., a fine amounting to 5.100,-- EURO, to

**desist**

from using the websites specified in more detail under Number 1 and/or resuming use of similar websites.

3. to immediately destroy all websites that significantly correspond to the item represented in the annex, by deletion or other appropriate means, where it must particularly be ensured that all existing copies (in particular, versions of the websites also contained on storage media) are included.

Berlin, on \_\_\_\_\_

\_\_\_\_\_  
For StudiVZ Ltd.  
Director Ehssan Dariani



TRANSPERFECT

CERTIFICATE OF ACCURACY

- ALBANY
- AMSTERDAM
- ATLANTA
- AUSTIN
- BARCELONA
- BERLIN
- BOSTON
- BRUSSELS
- CHARLOTTE
- CHICAGO
- DALLAS
- DENVER
- DUBAI
- DUBLIN
- FRANKFURT
- GENEVA
- HONG KONG
- HOUSTON
- IRVINE
- LONDON
- LOS ANGELES
- MIAMI
- MINNEAPOLIS
- MONTREAL
- MUNICH
- NEW YORK
- PARIS
- PHILADELPHIA
- PHOENIX
- PORTLAND
- RESEARCH TRIANGLE PARK
- SAN DIEGO
- SAN FRANCISCO
- SAN JOSE
- SEATTLE
- SINGAPORE
- STOCKHOLM
- SYDNEY
- TOKYO
- TORONTO
- VANCOUVER
- WASHINGTON, DC

I, Angela Hsu of TransPerfect Translations, Inc. do hereby declare that the following are to the best of my knowledge and belief, a true and accurate translation of the following document, "Declaration of 20080918141112499 re Translation of Correspondence Dated 8 June, 2006" translated from German into English.

A copy of the final translation is attached.

I so declare under penalty of perjury under the laws of the State of California on this 22<sup>nd</sup> day of September, 2008.

Angela Hsu  
TransPerfect Translations, Inc

Sworn to before me this

22<sup>nd</sup> day of September, 2008

Signature, Notary Public

Stephanie Dill  
Notary Public, State of New York  
No. 01D16180934  
Qualified in NEW YORK County  
Commission Expires Jan 22, 2012

Stamp, Notary Public