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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
15

16 FACEBOOK, INC.,

17 Plaintiff,

18 v.

19 STUDIVZ LTD., HOLTZBRINCK
20 NETWORKS GmbH, HOLTZBRINCK
VENTURES GmbH AND DOES 1-25,

21 Defendants.

Case No. 5:08-cv-03468 JF

**DECLARATION OF CLEMENS
MAYER-WEGELIN**

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23
24 I, Clemens Mayer-Wegelin, declare as follows:
25

26 1. I am an attorney with the law firm of Heymann & Partner, German counsel for
27 Plaintiff Facebook, Inc. I am a citizen of Germany and reside in Bad Homburg and I am in good

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1 standing with my local bar. I make this Declaration in support of Facebook's legal arguments.
2 Except as set forth herein, I have personally researched the below quoted articles via publicly
3 accessible declarations and statements and if called as a witness, could and would competently
4 testify thereto.

5 2. Attached hereto as **Exhibit A** is a true and correct hard copy of the web page
6 located at
7 [http://berufundchance.fazjob.net/s/Rub1A09F6EF89FE4FD19B3755342A3F509A/Doc~EB3E7C](http://berufundchance.fazjob.net/s/Rub1A09F6EF89FE4FD19B3755342A3F509A/Doc~EB3E7C2CF11134DA9B6402D39BDAAC03E~ATpl~Ecommon~Scontent.html)
8 [2CF11134DA9B6402D39BDAAC03E~ATpl~Ecommon~Scontent.html](http://berufundchance.fazjob.net/s/Rub1A09F6EF89FE4FD19B3755342A3F509A/Doc~EB3E7C2CF11134DA9B6402D39BDAAC03E~ATpl~Ecommon~Scontent.html) (as shown on my
9 computer). The web page is a news article in German dated October 24, 2006 from the German
10 daily newspaper *Frankfurter Allgemeine Zeitung*. The article states that StudiVZ founder Ehssan
11 Dariani worked for two months in 2005 as an intern in the United States office of the internet
12 startup company Spreadshirt. The article quotes Mr. Dariani as saying, "So I was looking for the
13 next big thing. And where is the search more promising than overseas in a young start-up
14 company?" The article states that during his internship at Spreadshirt, Mr. Dariani became aware
15 of an American social network. The article quotes Mr. Dariani as saying, "That's when I thought:
16 That's good, adopt it, do it." (*Also habe ich nach dem nächsten großen Fang gesucht. Und wo ist*
17 *das Angeln am Vielversprechendsten, wenn nicht in Übersee in einem jungen Start-up-*
18 *Unternehmen? 'Zwei Monate blieb Dariani im vergangenen Jahr bei der neuen amerikanischen*
19 *Dependance des Leipziger Unternehmens Spreadshirt. Dort kam er schnell auf die gesuchte Idee:*
20 *Ein soziales Netzwerk für Studenten zu schaffen. In den Vereinigten Staaten keine Neuheit. ,Da*
21 *dachte ich mir: Das ist gut, übernehmen, machen', sagt Dariani."*)

22 3. Attached hereto as **Exhibit B** is a true and correct hard copy of the web page
23 located at <http://www.spiegel.de/international/0,1518,446353,00.html> (as shown on my
24 computer). The web page is a news article in English dated November 7, 2006 from the German
25 website *Spiegel Online International*. According to the article, Lukasz Gadowski, the founder of
26 Spreadshirt.com, the company at which Mr. Dariani had interned in 2005 according to the article
27 in Exhibit A, was one of the early investors in StudiVZ. According to the article, Mr. Gadowski

1 provided Mr. Dariani and Dennis Bemann with 5,000 Euros.

2 4. Attached hereto as **Exhibit C** is a true and correct hard copy of the web page
3 located at <http://www.heise.de/tr/Ich-war-damals-nicht-dabei--/artikel/80925> (as shown on my
4 computer). The web page is a news article in German dated November 13, 2006 from the
5 German magazine *Technology Review*. The article features an interview with Lukasz Gadowski,
6 the founder of "Spreadshirt". Asked about copycat websites, Mr. Gadowski says according to the
7 article, "No offense, but your objections are not justified. However, concerning "MyVideo" and
8 "StudiVZ" you are right with the copycat, these two orient themselves very much to the U.S.
9 models." (*"Nichts für ungut, aber ihre Einwände sind leider nicht berechtigt. Aber bei
10 "MyVideo" und "StudiVZ" haben sie mit dem Nachmachen recht, diese orientieren sich in Modell
11 und Aufmachung sehr an den US-Vorbildern."*)

12 5. Attached hereto as **Exhibit D** is a true and correct hard copy of the web page
13 located at <http://www.netzeitung.de/arbeitsundberuf/existenzgruendung/444776.html> (as shown on
14 my computer). The web page is a news article in German dated October 6, 2006 from the
15 German website netzeitung.de. In the article, Mr. Dariani is quoted as saying, "When I saw
16 student networks in the USA, I wanted to have that in Germany, too. One of my major strengths
17 is to anticipate human behavior. I always had the feeling that German students are interested in
18 such networks." (*"Als ich Studentennetzwerke in den USA gesehen habe, da wollte ich das auch
19 in Deutschland haben. Eine meiner Hauptstärken ist es, das menschliche Verhalten zu
20 prognostizieren. Ich habe immer das Gefühl gehabt, dass sich deutsche Studenten für so ein
21 Netzwerk interessieren."*)

22 6. Attached hereto as **Exhibit E** is a true and correct hard copy of the web page
23 located at <http://www.spiegel.de/netzwelt/web/0,1518,448444,00.html> (as shown on my
24 computer). The web page is a news article in German dated November 15, 2006 from the
25 German website *Spiegel Online*. The article contains an interview with the StudiVZ founders,
26 Dennis Bemann and Ehssan Dariani, and Michael Brehm. According to the article, by meaning
27 and by my own translation Mr. Dariani wrote, "We [StudiVZ] analyzed American platforms,

1 combined the best ideas and adapted those to the European campus culture.” (“*Wir haben*
2 *amerikanische Plattformen analysiert, die besten Ideen miteinander kombiniert und an die*
3 *europäische Campuskultur angepasst.*”)

4 7. Attached hereto as **Exhibit F** is a true and correct copy of the web page located at
5 <http://www.faz.net/s/RubD16E1F55D21144C4AE3F9DDDF52B6E1D9/Doc~E8348168B1A164D>
6 [2792AFC848A1DFB742~ATpl~Ecommon~Scontent.html](http://www.faz.net/s/RubD16E1F55D21144C4AE3F9DDDF52B6E1D9/Doc~E8348168B1A164D) (as shown on my computer). The web
7 page is a news article in German dated July 19, 2008 from the German daily newspaper
8 *Frankfurter Allgemeine Zeitung*. The article states, “Of course StudiVZ would lean against
9 Facebook, Dariani said to the *Frankfurter Allgemeine Sonntagszeitung*, but this could not be
10 considered a bad thing. ‘One cannot copy the software behind the site, you have to write it
11 yourself.’ The two websites have a very similar look indeed. However, they could not be
12 mistaken for one another, Dariani said. ‘The colors are different: StudiVZ is red, Facebook is
13 blue.’” (“*Natürlich sei StudiVZ an Facebook angelehnt, sagte Dariani der Frankfurter*
14 *Allgemeinen Sonntagszeitung (F.A.S.), aber schlimm sei das nicht. ‚Die Software hinter der Seite*
15 *kann man ja gar nicht kopieren, die muss man selbst schreiben.‘ Tatsächlich sehen die beiden*
16 *Webseiten einander sehr ähnlich. Sie könnten aber nicht miteinander verwechselt werden, sagte*
17 *Dariani. ‚Die Farben unterscheiden sich: StudiVZ ist rot, Facebook ist blau.‘”).*

18 8. At <http://video.google.com/videoplay?docid=-244685056142160705> (as shown on
19 my computer) is a video presentation in German featuring Mr. Dariani. According to the web
20 page, the video was uploaded in May 2007. At approximately 2:17 in the video, Mr. Dariani
21 basically states that he had the idea for developing StudiVZ in June 2005 while he was an intern
22 at Spreadshirt in the United States. At approximately 9:30 in the video, Mr. Dariani basically
23 admits that in developing StudiVZ, the StudiVZ founders oriented themselves strongly toward
24 Facebook as a tested business model; however, they would nevertheless try to differ. At
25 approximately 16:00 in the video, Mr. Dariani basically states that he first learned of Facebook
26 while at Spreadshirt as Spreadshirt advertised on Facebook or vice versa. Mr. Dariani basically
27 states that upon looking at Facebook, he thought, “Wow, super, it’s a lot of fun. I want to have

1 that too, there's no such thing in Germany." Mr. Dariani basically states that he then contacted
2 Dennis Bemmann about developing StudiVZ.

3 9. At [http://de.sevenload.com/videos/njJWPwS-ATEC-2008-Vortrag-von-Ehssan-](http://de.sevenload.com/videos/njJWPwS-ATEC-2008-Vortrag-von-Ehssan-Dariani)
4 [Dariani](http://de.sevenload.com/videos/njJWPwS-ATEC-2008-Vortrag-von-Ehssan-Dariani) (as shown on my computer) is a video presentation in German. According to the web
5 page the video was uploaded in November 2008. At approximately 8:40 of the video, Mr.
6 Dariani basically states that as an intern at Spreadshirt, he was in charge of spending a \$100,000
7 marketing budget on Facebook. After looking at Facebook he liked it a lot and wanted to launch
8 such a website in Germany. He then basically states that he contacted Mr. Bemmann regarding
9 the development of such a site.

10 10. Attached hereto as **Exhibit G** is a true and correct copy of the web page located at
11 [http://209.85.129.132/search?q=cache:5NhiDvg-](http://209.85.129.132/search?q=cache:5NhiDvg-eQYJ:www.schuelervz.net/l/press/1/+Xilinx+Dennis+Bemmann&hl=de&ct=clnk&cd=1)
12 [eQYJ:www.schuelervz.net/l/press/1/+Xilinx+Dennis+Bemmann&hl=de&ct=clnk&cd=1](http://209.85.129.132/search?q=cache:5NhiDvg-eQYJ:www.schuelervz.net/l/press/1/+Xilinx+Dennis+Bemmann&hl=de&ct=clnk&cd=1) (as
13 shown on my computer). According to this outdated version of the SchuelerVZ-page "*über uns*"
14 (about us), which I retrieved on January 12, 2009 via Google cache, Mr. Dennis Bemmann, one
15 of the co-founders of StudiVZ, was working as a System Level Designer in the Xilinx Research
16 Labs in Longmont, Colorado, USA and San José, California, USA. According to the website, his
17 task was to develop microchips for Internet routers. This article does not clarify the dates that
18 Mr. Bemmann was working for Xilinx.

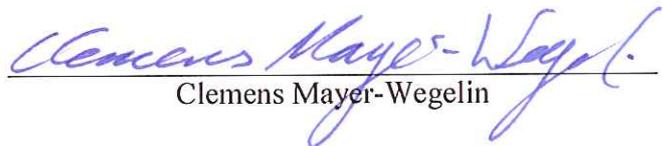
19 11. Attached hereto as **Exhibit H** is a true and correct copy of the web pages located
20 at <http://portal.acm.org/citation.cfm?id=1025811> and
21 [http://portal.acm.org/author_page.cfm?id=81100640987&dsp=coll&coll=GUIDE&dl=GUIDE&](http://portal.acm.org/author_page.cfm?id=81100640987&dsp=coll&coll=GUIDE&dl=GUIDE&trk=1&CFID=18306310&CFTOKEN=56483771)
22 [trk=1&CFID=18306310&CFTOKEN=56483771](http://portal.acm.org/author_page.cfm?id=81100640987&dsp=coll&coll=GUIDE&dl=GUIDE&trk=1&CFID=18306310&CFTOKEN=56483771) (as shown on my computer). According to the
23 first website, Mr. Dennis Bemmann was co-author of "Time-Critical Software Deceleration in an
24 FCCM" published in 2004. Further co-authors are, according to the first website, Phil James-
25 Roxby of Xilinx Research Labs, Longmont, Colorado, USA and Gordon Brebner of Xilinx
26 Research Labs, San José, California, USA. According to the second website, Mr. Bemmann's
27 publishing years are 2004-2005.

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12. While I have tried to accurately convey the above items, I cannot guarantee for the correct transmission of web pages to my computer. However, I am not aware of an incorrect transmission. Also, I have summarized and translated the above quoted articles and statements in my own words to my best knowledge.

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

Executed this 16th day of January, at Frankfurt, Germany.


Clemens Mayer-Wegelin

