

1 I. NEEL CHATTERJEE (State Bar No. 173985)
 nchatterjee@orrick.com
 2 JULIO C. AVALOS (STATE BAR NO. 255350)
 javalos@orrick.com
 3 ORRICK, HERRINGTON & SUTCLIFFE LLP
 1000 Marsh Road
 4 Menlo Park, CA 94025
 Telephone: 650-614-7400
 5 Facsimile: 650-614-7401

6 THOMAS J. GRAY (STATE BAR NO. 191411)
 tgray@orrick.com
 7 ORRICK, HERRINGTON & SUTCLIFFE LLP
 4 Park Plaza
 8 Suite 1600
 Irvine, CA 92614-2558
 9 Telephone: +1-949-567-6700
 Facsimile: 949-567 6710

10 Attorneys for Plaintiff
 11 FACEBOOK, INC.

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

16 FACEBOOK, INC.,
 17 Plaintiff,
 18 v.
 19 STUDIVZ LTD., HOLTZBRINCK
 NETWORKS GmbH, HOLTZBRINCK
 20 VENTURES GmbH AND DOES 1-25,
 21 Defendants.

Case No. 5:08-cv-03468 JF

**SUPPLEMENTAL DECLARATION
 OF THOMAS J. GRAY IN SUPPORT
 OF FACEBOOK'S MOTION TO
 ENLARGE TIME PURSUANT TO
 L.R. 6-3**

Room: Courtroom 3, 5th Floor
 Judge: Honorable Jeremy Fogel

22
 23
 24
 25
 26
 27
 28

1 I, Thomas J. Gray, declare as follows:

2 1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel
3 for Plaintiff Facebook, Inc. I make this Declaration in support of Facebook's Motion to Enlarge
4 Time Pursuant to L.R. 6-3. I am an active member in good standing of the California State Bar.
5 Except as set forth herein, I have personal knowledge of the facts stated herein and if called as a
6 witness, could and would competently testify thereto.

7 2. During the week of January 19, through and including January 22, 2009, the
8 Parties met and conferred regarding the timing of Defendants' motions to dismiss. Attached as
9 **Exhibit A** is a true and correct copy of an email string in which Defendants' counsel, Steven
10 Smith, recognizes that Facebook likely will win its request for jurisdictional discovery as to
11 Defendant StudiVZ.

12 3. Despite their concessions that Facebook is permitted to conduct discovery as to
13 issues that go to the merits if they are intertwined with jurisdiction issues, Defendants have failed
14 to produce any such documents and refused to have their witnesses testify as to those issues.
15 Defendants' actions will be the subject of a motion to compel that Facebook soon will file, likely
16 for a March 3, 2009 hearing date before Judge Lloyd.

17 4. I have read the declaration of Julio Avalos filed in support of Facebook's Motion
18 to Enlarge Time Pursuant to L.R. 6-3. Mr. Avalos participated on all of the meet and confer
19 telephone calls I had with Mr. Smith in December and on January 6, 2009. Mr. Avalos also took
20 extensive notes during these calls. His descriptions of the events are accurate and consistent with
21 my recollection and my notes.

22 I declare, under penalty of perjury, that the foregoing is true and correct to the best of my
23 knowledge. Executed this 23rd day of January 2009, Menlo Park, California.

24
25
26
27
28

/s/ Thomas J. Gray
Thomas J. Gray

