

1 **E-Filed 1/28/09**

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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12
13 FACEBOOK, INC.,

14 Plaintiff,

15 v.

16
17 STUDIVZ LTD; VERLAGSGRUPPE GEORG
18 VON HOLTZBRINCK GmBH; HOLTZBRINCK
19 NETWORKS GmBH; and HOLTZBRINCK
20 VENTURES GmBH

21 Defendants.

Case Number C 08-3468 JF (HRL)

**ORDER¹ GRANTING IN PART
MOTION TO ENLARGE TIME**

RE: Docket No. 77

22 Plaintiff Facebook, Inc. ("Facebook") seeks a continuance of the February 13, 2009
23 hearing date on two motions to dismiss filed by Defendants StudiVZ LTD ("Studivz") and
24 Holtzbrinck Networks, GmGH ("Holtzbrinck"). Facebook, which owns and maintains a widely
25 popular social utility website, alleges that Defendants created illegal "knock-offs" of the site in
26 Germany. Defendants have moved to dismiss the complaint on grounds of *forum non*
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28 ¹ This disposition is not designated for publication in the official reports.

1 *conveniens* and lack of personal jurisdiction. Facebook argues that it requires more time to
2 conduct discovery with respect to these issues, justifying a continuance.

3 StudiVZ does not oppose Facebook’s motion with respect to personal jurisdiction,
4 recognizing a good-faith dispute over the proper extent of discovery on that issue. However,
5 StudiVZ maintains that no discovery issues remain as to the *forum non conveniens* issues.
6 Because courts “may dispose of an action by a *forum non conveniens* dismissal, bypassing
7 questions of subject-matter and personal jurisdiction,” *see Sinochem Int’l Co. Ltd. v. Malaysia*
8 *Int’l Shipping Co. Ltd.*, 549 U.S. 422, 423-24 (2007), StudiVZ argues that at least the *forum non*
9 *conveniens* portion of its motion should be heard on February 13, 2009. Holtzbrinck opposes
10 Facebook’s motion for a continuance in its entirety. Holtzbrinck submits that it consistently has
11 accommodated Facebook’s requests to continue the motions to dismiss, but will not do so
12 further in light of Facebook’s sudden and purportedly unjustifiable decision to cancel a
13 deposition, to be conducted in Germany, that was the central reason for the stipulated scheduling
14 adjustments.

15 A review of the record and the parties’ papers reveals that Facebook has failed to
16 demonstrate any reason to continue the February 13, 2009 hearing as to either defendant with
17 respect to *forum non conveniens*, or as to Holtzbrinck with respect to personal jurisdiction.
18 Nonetheless, because considerations of judicial economy weigh in favor of hearing all of the
19 motions concurrently, and because a brief continuance is unlikely to prejudice any party, the
20 Court will grant Facebook’s motion for a continuance. Facebook will be permitted to file a
21 supplemental opposition with respect to whether this Court has personal jurisdiction over
22 StudiVZ in light of any newly discovered material. The continuance will be for sixty days only.
23 Accordingly, Defendants’ motions to dismiss will be heard on April 10, 2009 at 9 AM.

24 **IT IS SO ORDERED.**

DATED: 1/28/09



JEREMY FOGEL
United States District Judge

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1 This Order has been served upon the following persons:

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