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December 4, 2008

Via E-mail and U.S. Mail

Annette L. Hurst, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105-2669

Re: Facebook, Inc. v. StudiVZ

Dear Annette:

I write to follow up on our meet and confer conversations of Wednesday, November 26, and of December 2, 3 and today.

Depositions

We have agreed to your request to appear at the Frankfurt consulate for the depositions. You initially wanted to do the depositions during the week of January 19, 2009. This morning I was told by my clients that Martin Weber and Michael Brehm are available on January 7, 8 and 9 and on January 12 and 13, 2009. Michael Brehm is also available on January 6, 2009. However, after January 13, Michael Brehm will not be available because he will be on a 3 month trip to Asia. He will not return until, at the earliest, April 9, 2009.

You have since informed me that the Frankfurt consulate is not available until February 2009. Given Mr. Brehm's travel plans, I have offered to have Mr. Brehm voluntarily appear in a law firm conference room in Germany on his available dates before he leaves. You are considering that suggestion and will get back to me. Also, please let me know which week you wish to reserve in February at the Frankfurt consulate so that I can check on availability on my end as to other witnesses.

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Written Discovery

As we have discussed, I will provide to you the information referenced in our formal written responses. In addition, per our meet and confer, we can agree to also produce the following:


1. As to Holtzbrinck Ventures and Networks, (a) the identity of the person who analyzed the potential investment opportunity that led to the acquisition of the stock of StudiVZ (that person was Martin Weber); (b) the due diligence documents to the extent they make any reference, direct or inferential, to Facebook; and (c) the transaction documents to the extent they make any reference, direct or inferential, to Facebook. (If there are other terms you think you must see, I need to know them and check because there is a very strict confidentiality provision in the deal documents.) I also anticipate being able to offer any StudiVZ board meeting minutes, to the extent they make any reference, direct or inferential, to Facebook. However, on this last item, I am still awaiting authority from one of my clients.

2. As to StudiVZ, (a) an organizational chart showing the heads of the various departments of the company; (b) with respect to any accounts receivable owed by or accounts payable owed to a person or entity with a California address as of July 18, 2008 (we will also agree to go some time period before and after this date as long as it is reasonable) and the services or goods at issue in any such accounts; (c) the numbers of users who identify themselves as having some form of affiliation with California as of the date of the motions to dismiss and July 18, 2008 (and some other dates as long as reasonable); (d) the identities of all StudiVZ board members; (e) the identity of any California or US college or university to which StudiVZ has directed any marketing/advertising/promotional material or at which StudiVZ has provided other services (the answer is going to be "none"); and (f) the StudiVZ formation documents.

3. We are also still investigating or considering the other categories you mentioned during the meet and confer.

4. As to the information that we agreed to provide in the responses, we can provide that information and those documents within the next week or so. As to the information in 1 and 2 above, it will vary. Some I have already provided (albeit not yet in a formal amended response, which we will send you). Some will take more time. But it should all be produced before the end of this month.

Very truly yours,



Stephen S. Smith

SSS:nl