

Smith, Steve

From: Devlin, Anne [adevlin@orrick.com] on behalf of Parker, Warrington [wparker@orrick.com]
Sent: Monday, September 15, 2008 4:32 PM
To: Smith, Steve
Subject: FW: Scan from a Xerox WorkCentre

Attachments: DOC001.PDF



DOC001.PDF (47 KB)

Please see the attached document. Thank you.

"EMF <orrick.com>" made the following annotations.

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September 15, 2008

Warrington S. Parker III
(415) 773-5740
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VIA E-MAIL ATTACHMENT

Stephen S. Smith
1900 Avenue of the Stars, 21st Floor
Los Angeles, CA 90067
ssmith@ggfirm.com

Re: Facebook v. StudiVZ

Dear Mr. Smith:

I write to follow up on my request that we schedule a Rule 26 discovery conference. Please let me know your availability.

Additionally, I would like to discuss with you the hearing date on the motion to dismiss of Verlagsgruppe Georg Von Holtzbrinck GmbH. Please let me know whether you intend to oppose the motion for discovery as to that defendant or at all. If you do not intend to oppose the motion for discovery either as to that defendant or at all, I would like to discuss a discovery schedule. If it appears that discovery cannot be completed in sufficient time for the parties to utilize it in connection with the motion to dismiss, Facebook would seek to continue the hearing date on the motion to dismiss.

If you do intend to oppose the motion for discovery, in light of today's order on Facebook's motion to shorten time on its motion for expedited discovery, Facebook intends to ask the court—absent stipulation—to continue the hearing date on the motion to dismiss for personal jurisdiction currently set for October 31, 2008. Facebook will seek this relief because currently Facebook's opposition to the motion is due on October 10, 2008. That is four days prior to the hearing on the motion to expedite discovery, which means that Facebook would have to file an opposition without knowing whether it is entitled to discovery. And of course, no discovery will have been taken.

Facebook would propose that the hearing date be move by three weeks, or the first available date thereafter. Facebook would further propose that, if the court grants the motion for

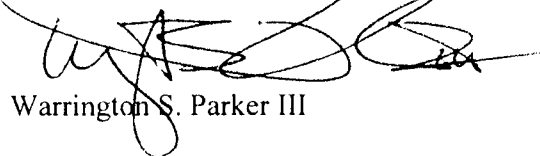


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expedited discovery, the parties would re-schedule the motion, in light of the discovery to be taken, on a date set by the court or a date selected by the parties assuming the parties can reach agreement. Of course, a stipulation would likely obviate the need to file a motion for continuance. Please let me know whether your clients are agreeable to stipulate to continue the hearing date of October 31.

Very truly yours,



Warrington S. Parker III