

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
 IN AND FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,) Civil Action
 a Delaware corporation,)
 Plaintiff and Counterclaim)
 Defendant,)
 v.)
 FACEBOOK, INC.,)
 a Delaware Corporation,)
 Defendant and Counterclaim)
 Plaintiff.) No. 08-862-JJF-LPS

Wilmington, Delaware
 Friday, October 23, 2009
 11:30 a.m.
 Telephone Conference

BEFORE: HONORABLE LEONARD P. STARK, U.S.M.J.

APPEARANCES:

PHILIP A. ROVNER, ESQ.
 Potter Anderson & Corroon LLP
 -and-
 PAUL J. ANDRE, ESQ., and
 JAMES R. HANNAH, ESQ.
 King & Spalding
 (Silicon Valley, CA)
 Counsel for Leader
 Technologies, Inc.

11:34:22 1 little bit late starting this morning. As I am sure you all
 11:34:28 2 know, we are very busy over here, the judges, and the court
 11:34:32 3 reporters as well. I know that you are all busy, also. I
 11:34:34 4 do apologize for having to move the call back a bit to track
 11:34:38 5 down a court reporter.
 11:34:40 6 The purpose of the call today is to talk about
 11:34:44 7 the latest discovery disputes that the parties have put in
 11:34:48 8 front of me. Both sides are complaining about certain
 11:34:52 9 aspects of the other side's discovery to date. I have, of
 11:34:56 10 course, reviewed the letters, and I do want to give you all
 11:35:00 11 a chance to add a little bit more, if you wish, to what you
 11:35:04 12 set out in the letters.
 11:35:06 13 Let's start with Facebook's complaint and your
 11:35:14 14 request that there be more complete responses to your
 11:35:18 15 Interrogatories Nos. 4 and 11 regarding the allegation of
 11:35:22 16 willful infringement. And I want to hear first from
 11:35:26 17 Facebook on that, please.
 11:35:26 18 MS. KEEFE: Thank you very much, Your Honor.
 11:35:28 19 Good morning.
 11:35:28 20 Your Honor, it is interesting, having read the
 11:35:32 21 opponent's opposition brief, I might be able to
 11:35:34 22 short-circuit some of this.
 11:35:36 23 This is another case where we had asked for more
 11:35:40 24 information and received more information in their
 11:35:42 25 opposition brief than we had in the original response. If

1 APPEARANCES CONTINUED:

2 STEVEN L. CAPONI, ESQ.
 Blank Rome LLP
 3 -and-
 HEIDI L. KEEFE, ESQ., and
 4 MARK R. WEINSTEIN, ESQ.
 Cleary Godward & Kronish LLP
 5 (Palo Alto, CA)

6 Counsel for Facebook, Inc.

11:33:44 13 THE COURT: Good morning, everyone. This is
 11:33:44 14 Judge Stark. Who is there, please?
 11:33:46 15 MR. ROVNER: Good morning, Your Honor. This is
 11:33:48 16 Phil Rovner from Potter Anderson on behalf of the plaintiff.
 11:33:52 17 With me on the line is Paul Andre and James Hannah from King
 11:33:58 18 & Spalding.
 11:33:58 19 MR. CAPONI: Good morning, Your Honor. Steve
 0 20 Caponi from Blank Rome. With me on the phone is also Heidi
 04 21 Keefe and Mark Weinstein from Cleary Godward.
 11:34:08 22 THE COURT: Good morning to everyone.
 11:34:08 23 For the record, this is Leader Technologies,
 11:34:12 24 Inc. v. Facebook, Inc., Civil Action 08-862-JJF-LPS.
 11:34:20 25 I want to start just by apologizing. We are a

11:35:46 1 Your Honor would be willing to simply order that the facts
 11:35:50 2 contained in the opposition letter be their interrogatory
 11:35:56 3 response, I think we would be satisfied, since they have
 11:36:00 4 said in their opposition letter that these facts are all
 11:36:02 5 they have. Those are more than in their response. If they
 11:36:06 6 are all concatenated and turned into a response, I think we
 11:36:10 7 would be satisfied.
 11:36:10 8 THE COURT: Let's stop you there and see what
 11:36:12 9 the plaintiff's position is, just on what you have said so
 11:36:16 10 far.
 11:36:16 11 MR. ANDRE: Your Honor, I think most of what we
 11:36:20 12 put in our letter brief was a response. We have no problem
 11:36:28 13 supplementing a response to that level. The big issue with
 11:36:30 14 this is that willfulness is really an examination of the
 11:36:32 15 defendant's activity. We haven't had a chance to do that
 11:36:36 16 yet. We can supplement our interrogatory with what's in our
 11:36:38 17 letter brief and make this issue go away.
 11:36:44 18 THE COURT: Ms. Keefe, if I order Leader to
 11:36:48 19 supplement its interrogatories, let's say, by next
 11:36:54 20 Wednesday, to incorporate the contents of its letter, that
 11:36:58 21 is the end of this dispute and you withdraw your request for
 11:37:02 22 a stay with respect to willful infringement discovery?
 11:37:04 23 MS. KEEFE: Not quite, Your Honor. Close.
 11:37:06 24 What I heard Mr. Andre say was that he is
 11:37:10 25 willing to continue to put that in but everything is still

11:54:18 1 documents. I have been doing this a long time. I have seen
 11:54:22 2 a lot of different patent cases involving this technology.
 11:54:24 3 I have never seen such a small production of technical
 78 4 documents.
 .30 5 My guess is, on the e-mail side, they have not
 11:54:34 6 done anything to search for technical documents that would
 11:54:38 7 normally happen in the course of this type of litigation.
 11:54:40 8 When we start taking these depositions, my guess is that the
 11:54:44 9 engineers are going to start identifying a lot of documents
 11:54:46 10 that they have that they used that we do not have access to.
 11:54:50 11 The only thing we have at this point other than
 11:54:52 12 the 390 pages is the source code. We can't use the source
 11:54:54 13 code in deposition. We are lawyers. We are not technical
 11:54:58 14 experts.
 11:55:00 15 So it is something that puts us at a huge
 11:55:04 16 disadvantage by them just, you know, not fulfilling their
 11:55:06 17 obligations under the Federal Rules.
 11:55:08 18 E-mails, as Your Honor knows, are required to be
 11:55:12 19 produced. They are relevant documents under the Federal
 11:55:16 20 Rules of Civil Procedure. Just because they haven't done it
 11:55:20 21 in the last eight months and it will be a burden on them to
 11:55:22 22 do it now, it seems to be prejudicial to us. We produced
 11:55:24 23 our e-mails. It was a burden. But that's what the rulings
 11:55:28 24 call for.
 11:55:28 25 I am more concerned with the technical documents

11:55:32 1 than the e-mails, given search terms for e-mails, to run a
 11:55:36 2 search five or ten times. But the technical documents I
 11:55:40 3 have a huge concern with, because we have to identify some
 11:55:42 4 of the engineers based on 398 pages, but I don't know how
 11:55:48 5 many more there are out there that we should be looking at.
 11:55:50 6 That is my big issue.
 11:55:50 7 THE COURT: But what is it that is in the record
 11:55:54 8 other than your prior experience in other cases with other
 11:55:56 9 types of companies that should cause me to doubt the
 11:56:00 10 repeated representations from Facebook that they have
 11:56:02 11 provided the responsive technical documents, send you off to
 11:56:06 12 do your depositions? If you find there is more, that would
 11:56:10 13 show that Facebook didn't comply with its discovery
 11:56:14 14 obligations, they are going to have to produce them then,
 11:56:18 15 and maybe you will be moving for sanctions. I don't know.
 11:56:20 16 What do you have today that should cause me,
 11:56:22 17 other than your past experience, to believe that they are
 11:56:26 18 not being forthcoming when they insist that they are?
 11:56:28 19 MR. ANDRE: The declarations provided by the
 11:56:32 20 attorney, the search method they used, they really just
 11:56:40 21 looked at the wicking. It is something ---these cases come
 11:56:42 22 along, you generally talk to the engineers who work on this.
 11:56:44 23 You then have e-mails to the company, saying do you have
 11:56:46 24 relevant documents? What are your design documents?
 11:56:48 25 They had in-house attorneys and outside counsel

11:56:52 1 do searches, that is about it. That declaration was not
 11:56:54 2 what I would call going to the level needed to produce
 11:56:58 3 documents in this type of case.
 11:57:00 4 As far as e-mail goes, they didn't try to search
 11:57:04 5 for technical documents. I mean, I wish e-mails were not
 11:57:08 6 part of discovery, I really do, because they are the biggest
 11:57:10 7 pain in discovery in these types of cases.
 11:57:14 8 But that is not the rules at this point.
 11:57:14 9 E-mails are part of the documents that you have to collect.
 11:57:18 10 And there was no agreement between the parties that e-mails
 11:57:20 11 would not be collected.
 11:57:22 12 So at this point, we are being prejudiced
 11:57:26 13 because we spent the hours, hundreds of attorney hours
 11:57:30 14 reviewing e-mails, producing them, and they didn't try,
 11:57:34 15 other than the fact they didn't even try to look at for
 11:57:40 16 technical information in the e-mails, but then their
 11:57:42 17 declaration was such that they have outside counsel do the
 11:57:46 18 search.
 11:57:46 19 Other than my own experience, that is what I
 11:57:50 20 rely on.
 11:57:50 21 THE COURT: I am prepared to rule on this. I am
 11:57:58 22 denying Leader's request for production of further technical
 11:58:04 23 documents. I believe, considering the fact that we have had
 11:58:08 24 extensive discussions and analysis of what technical
 11:58:14 25 documents and what access to source code Facebook was going

11:58:18 1 to have to provide, given how we got here, given that that
 11:58:26 2 access to the entire source code has been provided and that
 11:58:30 3 there can be no better discovery for plaintiff in trying to
 11:58:38 4 prove infringement in a case like this than to have the
 11:58:42 5 access to the source code, and mindful of the fact that
 11:58:46 6 plaintiff's expert indicated in a declaration that he needed
 11:58:50 7 full access to the source code, along with technical
 11:58:54 8 documents in order to make a meaningful discovery of the
 11:58:58 9 source code, and that I thereafter ordered that to happen,
 11:59:02 10 and that that happened, I am satisfied at this point,
 11:59:08 11 weighing what I find to be the likely very minimal relevance
 11:59:14 12 of additional documents from Facebook, technical documents,
 11:59:18 13 that is, and particularly the very minimal relevance of any
 11:59:24 14 e-mails. Weighing that against the burden that I believe
 11:59:28 15 would be imposed if Facebook were required to do anything
 11:59:32 16 more than the searches that it has already indicated it has
 11:59:36 17 done for e-mails, particularly by searching for keywords on
 11:59:42 18 the most relevant keywords related to this case, that
 11:59:46 19 balance favors, in my view quite strongly, Facebook at this
 11:59:52 20 point in this case.
 11:59:54 21 I am mindful that depositions will be starting I
 11:59:58 22 think about three or four weeks from now that will include
 12:00:02 23 30(b)(6) depositions. I agree with Facebook that Leader can
 12:00:08 24 designate some of these topics on 30(b)(6). They can get
 12:00:12 25 their answers and you can depose engineers and ask them if