IN THE UNITED STATES COURT FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC., a Delaware corporation,) CIVIL ACTION
Plaintiff and Counterdefendant,) No. 1:08-cv-00862-JJF
v.)
FACEBOOK, INC., a Delaware corporation,)
Defendant and Counterclaimant.) _)

DECLARATION OF JEFFREY NORBERG IN SUPPORT OF DEFENDANT FACEBOOK, INC.'S MOTION TO STAY PENDING REEXAMINATION OF U.S. PATENT NO. 7,139,761

I, Jeffrey Norberg, declare:

- 1. I am an attorney with Cooley Godward Kronish LLP, of counsel in this action for defendant Facebook, Inc. I make this declaration in support of Facebook's Motion to Stay Pending Reexamination of U.S. Patent No. 7,139,761. I have personal knowledge of the facts contained within this declaration, and if called as a witness, could testify competently to the matters contained herein.
- 2. Facebook made a reasonable effort to reach agreement with Leader Technologies, Inc. ("LTI") on the matters set forth in this motion. The parties met-and-conferred regarding Facebook's intention to seek a stay of this action pending reexamination on October 20, 2009. In that meet-and-confer, the parties were unable to reach an agreement sufficient to obviate Facebook's need to seek a stay from the Court. Additionally, during the meet and confer, I asked counsel for LTI to explain what prejudice LTI would suffer as a result of a stay. Counsel for LTI

did not provide any explanation during the call and promised to send me an explanation by the end of the day via e-mail. Notwithstanding this promise, LTI's counsel to date has not provided any explanation of the prejudice it would suffer as a result of a stay.

- 3. On October 15, 2009, LTI supplemented its response to Facebook's Interrogatory No. 1, which requested detailed infringement contentions. These contentions confirm that all of the claims LTI is asserting in this litigation are currently subject to the PTO's ex parte reexamination process.
- 4. Attached hereto as Exhibit A is a true and correct copy of United States Patent No. 7,139,761.
- 5. Attached hereto as Exhibit B is a true and correct copy of the Request for Ex Parte Reexamination Under 35 U.S.C. §§ 302-307, submitted to the United States Patent and Trademark Office On June 2, 2009.
- 6. Attached hereto as Exhibit C is a true and correct copy of the Order Granting Facebook's *Ex Parte* Petition for Reexamination, issued by the United States Patent and Trademark Office on September 25, 2009.
- 7. Attached hereto as Exhibit D is a true and correct copy of the United States Patent and Trademark Office Reexamination Filing Data for *inter partes* requests, dated March 31, 2009, which was obtained from the website for the U.S. Patent and Trademark Office.
- 8. Attached hereto as Exhibit E is a true and correct copy of the United States Patent and Trademark Office Reexamination Filing Data for *ex parte* requests, dated June 30, 2009.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 21, 2009 in Palo Alto, California.

Jeffrey Norberg