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VIA ECF FILING AND HAND DELIVERY

The Hon. Joseph J. Farnan, Jr.
J. Caleb Boggs Federal Building
U.S. District Court for the District of Delaware
844 N. King Street, Unit 26, Room 6100
Wilmington, DE 19801-3556

Re: **Leader Technologies, Inc. v. Facebook, Inc., Civ. No. 08-862-JJF-LPS**

Dear Judge Farnan:

Pursuant to the Court's Order dated January 20, 2010, Defendant Facebook, Inc. ("Facebook") respectfully identifies three claim terms that Your Honor should construe at this time, in addition to the five terms identified by Plaintiff Leader Technologies, Inc. ("LTI"). The eight terms are listed below with a brief reason why their construction is required at this time.

Facebook's narrowed list of terms is set forth below:

Dynamically - because the file history and specification make clear that this term means more than just "automatically" (*see* Facebook's Claim Construction Brief, D.I. 191 at 20-22);

Metadata - because the patentee added this term during prosecution of the '761 patent, and narrowly tailored its scope, in order to overcome prior art (*id.* at 15-18); and

Access - to resolve a clear disagreement between the parties whether "access" of the user's data from the second location can be conflated to include the separate and distinct acts of creation, addition or uploading of that data, as urged by LTI (*id.* at 22-24).

The terms originally identified by LTI which still require construction are identified below:

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Component - While the parties agree that the patentee defined the term in the specification, the Court must resolve the more fundamental questions of (a) whether that term as used in the claims triggers means-plus-function treatment under 35 U.S.C. § 112(6), and, if so, (b) whether the specification identifies sufficient corresponding structure (*id.* at 25-30);

Ordering - to resolve the stark differences between Facebook and LTI as to whether "ordering" requires placing items in a sequence, as the specification and common sense indicate, or simply "organizing," as LTI contends (*id.* at 30-34);

Traversing - because Leader's proposed construction ignores the plain and ordinary meaning of this term and its use in the specification, which indicate that traversing means crossing or moving over in a particular sequence/order (*id.* at 30-34);

Context - because the specification and Figure 9 of the '761 patent require that a context be given a unique meaning *vis-à-vis* workspaces, webs and applications (*id.* at 10-14); and

Many-to-many functionality - because LTI's construction only highlights the indefiniteness of the term by incorporating "data files" and multiple users, neither of which are recited in the claim in which this term appears (*id.* at 37).

We invite the Court to review each of Facebook's arguments as expressed at the January 20 hearing and presented on the pages of Facebook's Claim Construction Brief cited above. Each of the terms identified above could crystallize non-infringement disputes between the parties, guide expert discovery and facilitate possible dispositive motions. Therefore, Facebook respectfully requests that the Court construe the terms identified above at this time.

Respectfully,

/s/ Steven L. Caponi

Steven L. Caponi
I.D. No. 3484

SLC:pfc

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