

# EXHIBIT 10

**THIS EXHIBIT HAS BEEN  
REDACTED IN ITS ENTIRETY**

# **EXHIBIT 11**

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UNITED STATES DISTRICT COURT

for the Southern District of Ohio

LEADER TECHNOLOGIES, INC.,
Plaintiff

v.

FACEBOOK, INC.,
Defendant

Civil Action No. 1:008-cv-00862-JJF

(If the action is pending in another district, state where: District of Delaware)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Jeffrey R. Lamb
c/o King & Spalding
333 Twin Dolphin Drive
Suite 400
Redwood Shores, CA 94065

Alternate (home) Address:
5012 Bancroft Drive
Hilliard, OH 43026

[X] Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

SEE EXHIBIT A ATTACHED HERETO

Place: Cooley Godward Kronish LLP, Five Palo Alto Square, 3000 El Camino Real, Palo Alto, CA 94307
Date and Time: November 20, 2009, 9:00 a.m.

[ ] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: November 3, 2009

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) FACEBOOK, INC., who issues or requests this subpoena, are:

Jeffrey Norberg, jnorberg@cooley.com
Cooley Godward Kronish, LLP, Five Palo Alto Square
3000 El Camino Real, Palo Alto, CA 94306
(650) 843-5000

Civil Action No. 1:008-cv-00862-JJF

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

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**EXHIBIT A TO SUBPOENA TO JEFFREY LAMB**

**DEFINITIONS**

A. "You" shall mean Jeffrey Lamb or other persons or entities acting or purporting to act for, or on behalf of Jeffrey Lamb.

B. "Documents" means all writings, recordings, and photographs, including the original, all drafts, and any and each copy bearing notations or marks not found on the original or draft, of any written, recorded or graphic matter, however produced or reproduced, including, but not limited to, any typed or printed matter, microfilm, photographs, maps, correspondence, electronic correspondence, letters, interoffice communications, diaries, calendars, memoranda insurance policies, contracts, checks, statements of account, receipts, summaries, notes, papers, files, books, records, telegrams, messages, reports, tables, graphs, computer printouts, tape recordings, charts, logs, ledgers, surveys, blue prints, engineering or architectural drawings or diagrams, studies, manuals, consultants' or experts' reports, resumes, exhibits, notices, instructions, minutes, purchase orders, financial records, accounting records, tax records, county or tax worksheets, magnetic tapes, and any other data compilations from which the information can be obtained or translated. The term "Documents" also includes all electronic media on which responsive information is stored or recorded, including, but not limited to, all computer databases, indexes, and e-mails.

C. "Communication" means any contact, oral or documentary, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including, without limitation, a single person seeing or hearing any information by any means.

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## INSTRUCTIONS

1. Each document is to be produced along with all drafts thereof in its entirety, without abbreviation or redaction.
2. In the event that any document called for by the Requests is to be withheld on the basis of a claim of privilege or work product protection, that document shall be identified by stating (i) each addressor and addressee, (ii) any indicator or blind copy; (iii) the document's date, subject matter, number of pages and attachments or appendices; (iv) all persons to whom the document was distributed, shown or explained; (v) its present custodian; and (vi) the nature of the privilege being claimed.
3. In the event that any document called for by these Requests has been lost, destroyed or discarded, that document is to be identified by stating: (i) any addressor and addressee; (ii) any indicated or blind copies (iii) the document's date, subject matter, number of pages and attachments or appendices; (iv) all persons to whom the document was distributed, shown or explained; (v) the date of loss, destruction or discard, manner of destruction or discard, and reason for destruction or discard; (vi) the persons who were authorized to carry out such destruction or discard; and (vii) whether any copies of the document presently exist and if so, the name of the custodian of each copy.
4. These Requests shall be deemed continuing so as to require further and supplemental production in accordance with the Federal Rules of Civil Procedure.

## DOCUMENTS AND THINGS REQUESTED

1. All Documents that refer to, relate to and/or mention Leader Technologies, Inc., Leader Technologies, LLC, and/or Michael McKibben.
2. All Communications that refer to, relate to, or comprise any communications between you and Leader Technologies, Inc. and/or Michael McKibben and/or Computer Wizards Consulting Inc. and/or anyone acting on Leader Technologies, Inc.'s or Michael McKibben's or Computer Wizards Consulting Inc.'s behalf.



3. All Documents or Communications that refer to, relate to, or comprise any communications between Computer Wizards Consulting Inc. and Leader Technologies, Inc.

4. All Documents or Communications that refer to, relate to, comprise and/or mention U.S. Patent No. 7,139,761 and/or any litigation considered or commenced involving U.S. Patent No. 7,139,761.

5. All Documents or Communications that refer to, relate to, or comprise any agreements or communications between you and any other person or entity that refer to, relate to and/or mention U.S. Patent No. 7,139,761 and/or any litigation considered or commenced involving U.S. Patent No. 7,139,761.

6. All Documents or Communications that refer to, relate to and/or mention the validity and/or invalidity of U.S. Patent No. 7,139,761.

7. All Documents or Communications that refer to, relate to and/or mention the application(s) leading to U.S. Patent No. 7,139,761 and any related patent application(s), including any WIPO, EPO or other foreign counterpart applications or patents, any continuations, continuations-in-part, divisionals, reissues, reexaminations, extensions or parents thereof.

8. All Documents or Communications that refer to, relate to, mention and/or comprise any actual or purported prior art to U.S. Patent No. 7,139,761 and/or U.S. Patent Application No. 10/732,744 and/or Provisional U.S. Patent Application No. 60/432,255, including all patents, publications, written descriptions, products or other prior art.

9. All Documents or Communications that purport to identify actual or purported prior art to U.S. Patent No. 7,139,761 and/or U.S. Patent Application No. 10/732,744 and/or Provisional U.S. Patent Application No. 60/432,255.

10. All Documents constituting the results of any search for prior art to U.S. Patent No. 7,139,761 and/or U.S. Patent Application No. 10/732,744 and/or Provisional U.S. Patent Application No. 60/432,255.

11. All Documents or Communications that refer to, relate to and/or mention the conception, design, research, experimental work, development, reduction to practice, examination, analysis, testing and/or evaluation of any product, system, process or method related to the invention(s) claimed in U.S. Patent No. 7,139,761.

12. All Documents or Communications that refer to, relate to and/or mention the conception, design, research, experimental work, development, reduction to practice, examination, analysis, testing and/or evaluation of any product, system, process or method related to Digital Leaderboard and/or Leader2Leader.

13. All Documents or Communications that refer to, relate to and/or mention the invention(s) claimed in U.S. Patent No. 7,139,761.

14. All Documents or Communications that refer to, relate to and/or mention Digital Leaderboard and/or Leader2Leader.

15. All Documents or Communications that refer to, relate to and/or mention any use of the alleged invention(s) described in U.S. Patent No. 7,139,761.

16. All Documents or Communications that refer to, relate to and/or mention the first use, disclosure, display, demonstration, and/or first sale or offer for sale of the alleged invention(s) disclosed, described or claimed in U.S. Patent No. 7,139,761, or of services utilizing any of said invention(s).

17. All Documents or Communications that refer to, relate to and/or mention any alleged infringement by any party of U.S. Patent No. 7,139,761, including, but not limited to, any infringement analyses.

18. All Documents dating from 2004 to the present that refer to, relate to and/or mention Facebook, Inc., TheFacebook LLC, and/or the websites available at facebook.com or thefacebook.com.

19. All Communications between you and any other person or entity that refer to, relate to and/or mention Facebook, Inc., TheFacebook LLC, and/or the websites available at facebook.com or thefacebook.com.

20. All Documents or Communications that refer to, relate to, and/or mention any infringement of U.S. Patent No. 7,139,761 by Facebook, Inc. and/or the website available at facebook.com, including, but not limited to, infringement analyses.

21. Documents sufficient to show the identity of any parties alleged by Leader Technologies, Inc., Michael McKibben, or you to infringe U.S. Patent No. 7,139,761.

22. All Documents or Communications that refer to, relate to and/or mention any contemplated litigation for infringement of U.S. Patent No. 7,139,761 against Facebook, Inc. and/or the website available at facebook.com, including, but not limited to, any infringement analyses or damages estimates. This request includes but is not limited to Documents that refer to or relate to Facebook that do not on their face contain the word "Facebook," such as documents referring to Facebook as "Target A" or any other name.

23. All Documents or Communications that refer to, relate to, memorialize and/or mention the acquisition, assignment, or encumbrance of any right in U.S. Patent No. 7,139,761.

24. All Documents or Communications that refer to, relate to, comprise, memorialize and/or mention any license(s) granted under U.S. Patent No. 7,139,761 and/or offers to grant a license under said patent, including but not limited to documents reflecting any license fees obtained in connection with said patent.

# **EXHIBIT 12**

**THIS EXHIBIT HAS BEEN  
REDACTED IN ITS ENTIRETY**

# **EXHIBIT 13**

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**THIS EXHIBIT HAS BEEN  
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# **EXHIBIT 14**

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**THIS EXHIBIT HAS BEEN  
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