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BY HAND & ELECTRONIC FILING **CONFIDENTIAL – FILED UNDER SEAL**

The Hon. Leonard P. Stark
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 Stark:

LTI's motion to compel the *Apex* deposition of Facebook's CEO Mark Zuckerberg should be denied because LTI has failed to provide any new evidence that Mr. Zuckerberg has unique knowledge that could not have been obtained from the numerous other witnesses in this case.

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Following this hearing LTI took the depositions of *nine* additional current and former Facebook employees,

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LTI's briefing tellingly fails to cite or include the testimony of even a single one of these recent depositions. If LTI could not meet its burden in February, it certainly cannot do so now without providing at least some additional supporting deposition testimony, which it did not and could not do.

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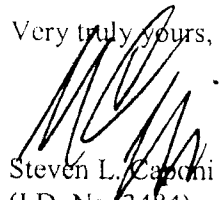
Federal Circuit law is clear that there can be no willful infringement of a patent until the patent has issued. *State Industries, Inc. v. A.O. Smith Corp.*, 751 F.2d 1226,1236 (Fed. Cir. 1985) ("To willfully infringe a *patent*, the patent must exist and one must have knowledge of it. A 'patent pending' notice gives one no knowledge whatsoever.") (emphasis in original).

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Very truly yours,



Steven L. Caproni
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