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April 26, 2010

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:

Pursuant to the Court's April 9 and 23, 2010 orders, Facebook respectfully requests that this Court reopen discovery to allow Facebook to explore over 2,300 NDAs Redacted

It would be extremely prejudicial to deprive Facebook of its right to take discovery on these NDAs,

Redacted

late production occurred nearly one year after Facebook originally served requests requiring production of these documents, and well after written discovery had closed. Exs. 3, 6, 9.

The importance of discovery concerning these NDAs cannot be overstated. Redacted

Redacted

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Page 2

On April 9 this Court held a hearing on these late produced NDAs.

Redacted

Facebook should not be required rely on LTI's representations concerning information which could invalidate its patent. Facebook is entitled to explore all of the third-parties recently revealed, given the fact that any one (or more) of these parties may possess evidence invalidating LTI's patent.

Redacted

As the Court requested, the parties met and conferred to try to find a solution to this “messy situation.” LTI’s compromise position was to permit Facebook to issue document subpoenas within the current case schedule, but to prohibit depositions. This offer is unacceptable for many reasons, including the fact that

Redacted

In considering Facebook’s request, the Court must weigh the impact of its decision on the respective parties. The stakes of this case for Facebook are extremely high

Redacted

On the other hand, should the Court allow Facebook to take the discovery to which it is entitled, LTI will suffer no prejudice whatsoever. The only effect on LTI will be loss of its trial date, a consequence that is entirely attributable to LTI’s own discovery misconduct.

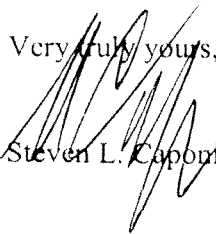
Redacted

It is not sufficient, nor is it fair to require Facebook to rely on the representations of LTI as a surrogate for proper discovery, especially given LTI’s discovery conduct throughout this case. Couple that with the fact that it is strongly in LTI’s interest not to disclose evidence that could lead to the invalidation of its patent, and it becomes clear that the only fair decision is to reopen discovery

Redacted

The remaining dates in this case would necessarily be stayed in order to allow this discovery to take place.

Very truly yours,


Steven L. Caponi (I.D. No. 3484)