

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LEADER TECHNOLOGIES, INC., a Delaware corporation,)	
)	
Plaintiff-Counterdefendant,)	Civil Action No. 08-862-JJF/LPS
)	
v.)	
)	PUBLIC VERSION
FACEBOOK, INC., a Delaware corporation,)	
)	
Defendant-Counterclaimant.)	

**SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT
OF PLAINTIFF LEADER TECHNOLOGIES, INC.'S MOTION FOR SUMMARY
JUDGMENT OF FACEBOOK'S FALSE MARKING COUNTERCLAIM**

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Dated: May 14, 2010
Public Version: May 21, 2010

Plaintiff and counterclaim defendant Leader Technologies, Inc. (“Leader”) submits this statement of undisputed facts in support of its Motion for Summary Judgment on Facebook, Inc.s (“Facebook”) False Marking Counterclaim. Leader certifies that no genuine issues of material fact exist with regard to the facts argued in support of its motion, as established by the supporting evidence cited herein and in its memorandum in support of its motion. Given these undisputed material facts, Facebook cannot establish with a preponderance of evidence its false-marking counterclaim and therefore Leader is entitled to summary judgment of this counterclaim. The facts set forth herein do not constitute as an admission of any matter by Leader and should not be construed as so, but are submitted for the purposes of this motion only.

UNDISPUTED MATERIAL FACT	SUPPORTING EVIDENCE
1. Leader is assigned all rights in U.S. Patent 7,139,761 (the “761 Patent”) that issued on November 21, 2006.	The ‘761 Patent (D.I. 1, Ex. A).
2. [REDACTED]	Leader’s Response to Facebook’s Interrogatory No. 18 dated October 15, 2009 (Hopkins Decl., Ex. E-1); Leader’s Supplemental Response to Facebook’s Interrogatory No. 18 dated April 1, 2010 (Hopkins Decl., Ex. E-2).
3. Facebook amended its responsive pleading to add a counterclaim of false marking on December 23, 2009.	D.I. 190.
4. Facebook was allowed to reopen and serve limited written discovery regarding its false marking allegation that Leader2Leader® does not practice the invention disclosed by the claims of the ‘761 Patent, and that Leader marks it with the patent to deceive the public and suppressing competition.	D.I. 189; D.I. 212.
5. Mr. McKibben, inventor of the ‘761 Patent and Chief Executive Officer of Leader, testified during his deposition that [REDACTED]	McKibben Deposition Transcript at 246:17-251:5 (Hopkins Decl., Ex. A).


Specifically Mr. McKibben testified that

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CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on May 21, 2010, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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I hereby certify that on May 21, 2010 I have sent by E-mail the foregoing document to the following non-registered participants:

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