

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIMELINES, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 11 CV 6867
)	
FACEBOOK, INC.)	HONORABLE JOHN W. DARRAH
)	
Defendant.)	

**DECLARATION OF DR. DEBORAH JAY IN SUPPORT OF
DEFENDANT FACEBOOK, INC.'S OPPOSITION TO TIMELINES, INC.'S
MOTION IN LIMINE NO. 1**

I, Dr. Deborah Jay, declare:

1. I am President and Chief Executive Officer of Field Research Corporation, a research firm specializing in marketing and public opinion surveys retained on behalf of Facebook, Inc. ("Facebook") in connection with the above-titled action. I submit this declaration in support of Facebook's Opposition to Timelines' Motion *in Limine* No. 1. I make this declaration upon personal knowledge and, if called and sworn as a witness, I could and would testify as to the matters set forth herein.

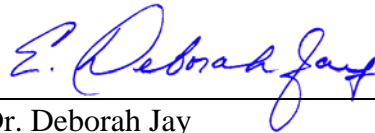
2. Numerous courts, including this one, have admitted and relied upon telephone surveys that I have conducted. *See, e.g., TY Inc. v. Softbelly's Inc.*, 2006 U.S. Dist. LEXIS 100736, at *37 (N.D. Ill. Apr. 7, 2006); *UGG Holdings, Inc. v. Severn*, 2005 WL 5887187, at *5 (C.D. Cal. Feb. 23, 2005); *Auto. Club of S. Cal. v. The Auto Club, Ltd.*, 2007 WL 704892, at *4 (C.D. Cal. Mar. 15, 2007); *Great Am. Rest.*, 2008 WL 1808532, at *3 (E.D. Tex. Apr. 21, 2008). In addition, several courts and the Trademark Trial and Appeal Board have admitted and considered *Teflon* surveys that I conducted using the same recordation process for "have not heard" and "don't know" answers as I used in the survey in this case. *See, e.g., UGG Holdings*,

Inc., 2005 WL 5887187, at *5; *Auto. Club of S. Cal.*, 2007 WL 704892, at *4; *Great Am. Rest.*, 2008 WL 1808532, at *3.

3. In preparing the survey designed to determine the primary significance of the terms “Timeline” and “Timelines” when used in connection with a website or website feature, I randomized the questions relating to the control terms in order to minimize the influence of any particular control term on the responses to the tested term. By reading the control terms first, this method of questioning ensured that all respondents had the same frame of reference before being asked to classify the test term as a brand or common name. This is an approach often used in *Teflon* surveys.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed in San Francisco, California this 15th day of April, 2013.



Dr. Deborah Jay
FIELD RESEARCH CORPORATION
601 California Street, Suite 900
San Francisco, CA 94108
Telephone: (415) 392-5763
Email: edj@field.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he served the foregoing **DECLARATION OF DR. DEBORAH JAY IN SUPPORT OF DEFENDANT FACEBOOK, INC.'S OPPOSITION TO TIMELINES' MOTION *IN LIMINE* NO. 1** by means of the Court's CM/ECF System, which causes a true and correct copy of the same to be served electronically on all CM/ECF registered counsel of record, on April 15, 2013.

Dated: April 15, 2013

/s/ Brendan J. Hughes

Brendan J. Hughes

COOLEY LLP

1299 Pennsylvania Ave., NW, Suite 700

Washington, DC 20004

Telephone: (202) 842-7800

Fax: (202) 457-7899

Email: bhughes@cooley.com

190541 DC