

**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 BRENDAN J. HUGHES IN SUPPORT OF  
FACEBOOK, INC.'S MOTION FOR SUMMARY JUDGMENT**

I, Brendan J. Hughes, declare:

1. I am an associate with the law firm Cooley LLP, counsel for Defendant Facebook, Inc. (“Facebook”) in connection with the above-titled action. I submit this declaration in support of Facebook’s Motion for Summary Judgment (“Motion”). 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. To the extent that I refer to any screenshots or printouts from websites in my declaration, those screenshots and printouts were created at my direction unless otherwise indicated.

2. Attached hereto as Exhibit 1 is a true and correct screenshot of the webpage available at <http://newsroom.fb.com/Key-Facts> on January 28, 2013, detailing “key facts” about Facebook, including its headquarters address at 1601 Willow Road, Menlo Park, California, 94025.

3. Attached hereto as Exhibit 2 is a true and correct printout of Plaintiff Timelines, Inc.’s (“Plaintiff”) “Frequently Asked Questions” webpage available at <http://timelines.com/faqs> as it appeared on October 2, 2011, bearing Bates Nos. FB\_TL00000660-663, which answers the

question: “What is Timelines?” by stating, in part, “... you can record the details of events, connect them in space and through time to other related events, and contribute to a better collective understanding of what occurred at a particular place and time.” (FB\_TL\_00000660)

4. Attached hereto as Exhibit 3 are true and correct excerpts from Plaintiff’s online blog “Archive 2010” available at <http://blog.timelines.com/2010/> as they appeared on July 30, 2012, bearing Bates Nos. FB\_TL\_00010627, 10649-10650, 10742-746, 10773. The excerpts include the following blog posts:

- “Get Ready for Thanksgiving – Everything You Need to Know About the Pilgrims,” dated November 16, 2010, which states, in part: “Well, our Pilgrims timeline provides all of these details and much more. So take a look at the timeline now, and learn a bunch” (FB\_TL\_00010649-10650);
- “Extra! Extra! Read all about it: Timelines.com’s functionality and service now available for news web sites,” dated April 13, 2010, which states, in part: “We are very proud to announce the official launching of our new service, Timelines SE! ... Like Timelines.com and Lifesnapz.com, Timelines SE uses timelines, maps and lists to enable unique ways for readers to explore and learn about topics ...” and includes screenshots of Plaintiff’s new service and a corresponding press release (FB\_TL\_00010742-746); and
- “Genius timelines,” dated March 26, 2010, which states, in part: “Just a quick post to let you know of some new and interesting timelines that have been recently added to Timelines.com ....” (FB\_TL\_00010773).

5. Attached hereto as Exhibit 4 is a true and correct screenshot of Plaintiff's "Amelia Earhart Timelines" as it appeared in September 2011 on the website at [timelines.com](http://timelines.com), bearing Bates Nos. FB\_TL\_00000548-550.

6. Attached hereto as Exhibit 5 are true and correct excerpts from the deposition transcript of Plaintiff's Rule 30(b)(6) witness, Mr. Brian Hand, Co-Founder and Chairman of Plaintiff Timelines, Inc. (Hand Depo. 40:19-25; 52:12-23; 96:24-97:16; 108:11-24; 177:5-21; 180:4-181:7; 182:12-25; 198:7-200:22; 212:23-213:3.)

7. Attached hereto as Exhibit 6 are true and correct screenshots of Plaintiff's LifeSnapz website available at [www.lifesnapz.com](http://www.lifesnapz.com) as they appeared on May 23, 2012, bearing Bates Nos. FB\_TL\_00000403-432.

8. Attached hereto as Exhibit 7 is a true and correct screenshot of Plaintiff's LifeSnapz website depicting Plaintiff's "timeline" feature as it appeared on September 18, 2012.

9. Attached hereto as Exhibit 8 is a true and correct screenshot of the "Brewers Timelines" provided by Plaintiff on the *Milwaukee Journal Sentinel's* online website JSOnline, as it appeared on October 10, 2011, bearing Bates Nos. FB\_TL\_00000571-572.

10. Attached hereto as Exhibit 9 is a true and correct screenshot of the "About" section of Plaintiff's Facebook page available at <https://www.facebook.com/home.php#!/timelines/info>, as it appeared on January 23, 2013, which identifies Plaintiff's Timelines.com, Timelines SE, and LifeSnapz services as follows:

- "Timelines.com, for individuals and entities that want to reach and interact with a broad audience about publicly shared events";
- "Timelines SE, for media businesses that want a custom-branded, hosted solution as part of their websites to showcase past content in an innovative, contextually

relevant manner”; and

- “LifeSnapz.com, for families and other trusted groups that want a more controlled, permission-based environment for recording and sharing their events.”

11. Attached hereto as Exhibit 10 is a true and correct copy of an excerpt from *The American Heritage College Dictionary* (4th Edition 2010), bearing Bates Nos. FB\_TL\_00011717-719, which defines the term “timeline” as: “1. A schedule of activities or events; a timetable. 2a. A chronology. b. A representation or exhibit of key events within a particular historical period.”

12. Attached hereto as Exhibit 11 is a true and correct copy of an excerpt from *Merriam-Webster’s Collegiate Dictionary* (11th Edition 2012), bearing Bates No. FB\_TL\_00011734-736, which defines “time line” as: “1 : a table listing important events for successive years within a particular historical period” and “2 : a schedule of events and procedures....”

13. Attached hereto as Exhibit 12 is a true and correct copy of an excerpt from *New Oxford American Dictionary* (3d Edition 2010), bearing Bates Nos. FB\_TL\_00011737-739, which defines “timeline” as: “a graphic representation of the passage of time as a line.”

14. Attached hereto as Exhibit 13 is a true and correct copy of an excerpt from *The Oxford College Dictionary* (2d Edition 2007), which defines the term “timeline” as “a graphic representation of the passage of time as a line.”

15. Attached hereto as Exhibit 14 is a true and correct copy of an excerpt from the *Oxford English Dictionary | The definitive record of the English Language* (3d Edition 2012), bearing Bates Nos. FB\_TL\_00011740-742, which defines “timeline” as: “A line used to illustrate or represent a chronological sequence of events; a chronology; a chronological

sequence”; (ii) provides an example of its use from 1907: “A timeline for English history ... can be made with great advantage when the class is taking its first connected course in English history”; and (iii) notes that it was first included in the *New English Dictionary* in 1912.

16. Attached hereto as Exhibit 15 is a true and correct printout of the Wikipedia entry for the term “timeline” as it appeared on October 2, 2011, at <http://en.wikipedia.org/wiki/Timeline>, bearing Bates Nos. FB\_TL\_00000444-446, which defines “timeline” as: “a way of displaying a list of events in chronological order, sometimes described as a project artifact. It is typically a graphic design showing a long bar labeled with dates alongside itself and (usually) events labeled on points where they would have happened.”

17. Attached hereto as Exhibit 16 is a true and correct printout of the first two pages of results of a GOOGLE search for the term “timeline” on January 11, 2013, which shows that the search for the term “timeline” returned 454 million hits.

18. Attached hereto as Exhibit 17 is a true and correct printout of the results of a GOOGLE image search for the term “timeline” on January 11, 2013, which shows that the search for “timeline” returned thousands of image results depicting a variety of timelines.

19. Attached hereto as Exhibit 18 are true and correct printouts of *Chicago Tribune* articles entitled “TIMELINE-U.S. policy shifts on Syria in Obama administration,” bearing Bates Nos. FB\_TL\_00011822-824, and “Timeline of the Blagojevich investigation,” bearing Bates Nos. FB\_TL\_00011829-832.

20. Attached hereto as Exhibit 19 are true and correct printouts of *CNNMoney* articles entitled “Firestone recall timeline,” bearing Bates Nos. FB\_TL\_00011728-730, and “TIMELINE-Gulf of Mexico oil spill,” bearing Bates Nos. FB\_TL\_00011747-750.

21. Attached hereto as Exhibit 20 is a true and correct printout of an article entitled “From Janesville to Washington, a Ryan timeline,” available on *JOnline*, bearing Bates Nos. FB\_TL\_00011841-842.

22. Attached hereto as Exhibit 21 are true and correct screenshots of the U.S. Patent and Trademark Office’s (“PTO”) website available at [http://www.uspto.gov/trademarks/process/tm\\_timeline.jsp](http://www.uspto.gov/trademarks/process/tm_timeline.jsp) as it appeared on January 3, 2013, which include “Trademark Application and Post-Registration Process Timelines.”

23. Attached hereto as Exhibit 22 is a true and correct printout of Plaintiff’s “Popular Timelines” page from the timelines.com website as it appeared on October 2, 2011, bearing Bates Nos. FB\_TL\_00000575-577.

24. Attached hereto as Exhibit 23 is a true and correct screenshot of Plaintiff’s “Al Capone Timeline” page from the timelines.com website as it appeared on September 29, 2011, bearing Bates Nos. FB\_TL\_00000545-547.

25. Attached hereto as Exhibit 24 is a true and correct screenshot of Plaintiff’s “Battle Of Bull Run Timeline” page from the timelines.com website as it appeared in September 2011, bearing Bates Nos. FB\_TL\_00000558-559.

26. Attached hereto as Exhibit 25 is a true and correct screenshot of Plaintiff’s “Popular Topics” page from the timelines.com website as it appeared on January 7, 2013.

27. Attached hereto as Exhibit 26 is a true and correct screenshot of Plaintiff’s “Al Capone Events” page from the timelines.com website as it appeared on January 10, 2013.

28. Attached hereto as Exhibit 27 is a true and correct screenshot of Plaintiff’s “Amelia Earhart Events” page from the timelines.com website as it appeared on January 10, 2013.

29. Attached hereto as Exhibit 28 is a true and correct screenshot of Plaintiff's "Battle of Bull Run Events" page from the timelines.com website as it appeared on January 10, 2013.

30. Attached hereto as Exhibit 29 is a true and correct screenshot of a webpage available on Plaintiff's timelines.com website entitled "Google Labs Launches Google News Timeline," as it appeared on January 8, 2013.

31. Attached hereto as Exhibit 30 is a true and correct of an excerpt from a printout of Plaintiff's online blog "Archive for 2008" available at <http://blog.timelines.com/2008/> as it appeared on July 30, 2012, bearing Bates Nos. FB\_TL\_00010370 and 10454, which includes Plaintiff's April 17, 2008 blog post entitled "Ripping Our Guts," discussing the development of Plaintiff's LifeSnapz service and Plaintiff's decision to "go down a different path," by stating, in part: "It works great. Events can be shared with multiple people and on multiple timelines. Each person or timeline can have various edit and viewing rights. Events and timelines can be shared publicly or privately."

32. Attached hereto as Exhibit 31 are true and correct excerpts from a printout of Plaintiff's online blog "Archive for 2009" at <http://blog.timelines.com/2009/> as it appeared on July 30, 2012, bearing Bates Nos. FB\_TL\_00010466, 10560-562, 10572, 10574, 10576. The excerpts include the following blog posts:

- "So, who should use Timelines.com?," dated July 14, 2009, which states, in part:

Specifically, there are 4 types of people who use Timelines.com ...

**1. History Buffs.** ... Not only can you learn about the topics you love, Timelines.com gives you the ability to contribute your knowledge so that others can learn from it. Here's a sample of *timelines* that might interest you – Jack the Ripper [hyperlink to Timelines.com's website], World War I [hyperlink to Timelines.com's website], John Dillinger [hyperlink to Timelines.com's website]

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**2. History teachers.** ... Here are some *timelines* that might interest you: Civil Rights Movement in US [hyperlink to Timelines.com’s website], American Revolution [hyperlink to Timelines.com’s website]

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**3. Journalists (professional journalists, citizen journalists and bloggers).** ... You can publish out your articles (or excerpts) on Timelines.com, link them together using the same topic and – voila! – you have a *timeline* to which you can link

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**4. Fans.** ... If you are passionate about something, you can learn about it on Timelines.com. Or better yet, express your knowledge on the site. Build the definitive *timeline* of your subject and share it ....

FB\_TL\_00010560-562 (*bold emphasis in the original; italicized emphasis added*).

- “A timeline full of humor: SNL Digital Shorts,” dated June 4, 2009, which states:  
“Need a few laughs courtesy of Saturday Night Live? Check out a developing timeline of Andy Samberg’s SNL Digital Shorts - enjoy!” FB\_TL\_00010572.
- “Some interesting Illinois Politics’ timelines unfolding on Timelines.com,” dated May 27, 2009, which states:

If you follow Illinois politics, you know that the action and happenings with Rod Blagojevich and Roland Burris are unfolding fast and furious. The following timelines help to keep things in order and perspective. Feel free to add to and/or share these.

[Rod Blagojevich Timeline](#)

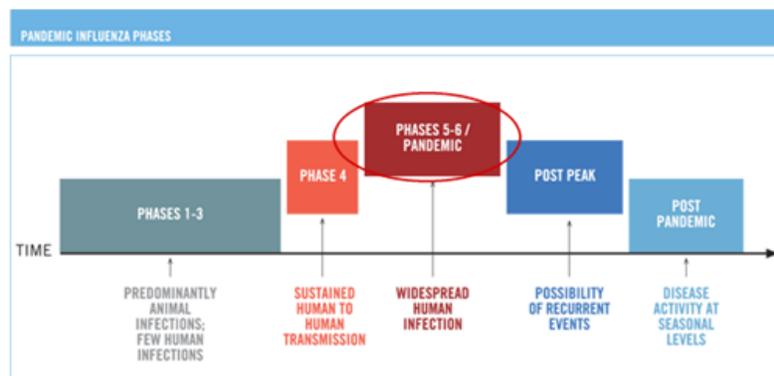
[Roland Burris Timeline](#)

FB\_TL\_00010574.

- “Swine Flu Timeline,” dated April 30, 2009, which states:

Check out a [timeline of the Swine Flu](#) that is developing on Timelines.com. If you have videos, pictures or events to add to it, please do – Timelines.com enables people to collaboratively record history.

#### Chart of Phases of Pandemic Influenza



Posted by Bob Armour

FB\_TL\_00010576.

33. Attached hereto as Exhibit 32 are true and correct printouts from Plaintiff's Rod Blagojevich Timeline website as it appeared on October 10, 2011, bearing Bates Nos. FB\_TL\_00000578-579 and FB\_TL\_00000580-597.

34. Attached hereto as Exhibit 33 are true and correct screenshots of The Boston Globe's "2010 Massachusetts Gubernatorial Election Timeline" page (bearing Bates Number FB\_TL\_00000534-544), "Celtics Timelines" page (bearing Bates Number FB\_TL\_00000553), "Red Sox Timelines" page, and "Beanpot Tournament Timeline" page. The Boston Globe produced the "Red Sox Timelines" and "Beanpot Tournament Timeline" pages in response to a subpoena issued in this case.

35. Attached hereto as Exhibit 34 are true and correct copies of St. Louis Post-Dispatch's "Rams Timelines" page, bearing Bates Nos. FB\_TL\_00000607-608, and an article entitled: "If You Have The Time, We Have The Timelines," produced by the St. Louis Post-Dispatch in response to a subpoena issued in this case.

36. Attached hereto as Exhibit 35 are true and correct copies of the NY Daily News' "NY Giants Timelines" page, "Jets Timelines" page, "Knicks Timelines" page, "Mets Timelines" page, "Rangers Timelines" page, and a "Yankees Timelines" page produced by NY Daily News in response to a subpoena issued in this case.

37. Attached hereto as Exhibit 36 is a true and correct copy of the Affidavit of Jan Battem, founder of TimelineIndex.com, which include screenshots of the TimelineIndex.com website available at <http://timelineindex.com> as exhibits. The affidavit was executed on September 28, 2012. In his affidavit, Mr. Battem describes TimelineIndex.com as "a website that offers historical information and other content in the form of various timelines, as well as timeline creation services" since 2003 (Battem Aff. ¶¶ 2, 5.) The banner at the top of the TimelineIndex.com home page states prominently:



(*Id.*, Ex. A.)

38. Attached hereto as Exhibit 37 is a true and correct screenshot of the login page on the Xtimeline website available at <http://www.xtimeline.com/login.aspx> as it appeared on January 29, 2013, which states in relevant part: "xtimeline is a place for you to create, share and discuss interesting timelines."

39. Attached hereto as Exhibit 38 is a true and correct copy of the Affidavit of Kevin Chen, co-founder of Famento, Inc., which offers the Xtimeline website, including exhibits, which include screenshots of the Xtimelines website. As seen in Exhibit B of Mr. Chen's affidavit, the Xtimeline's "About" page states: "When we developed the timeline tool, our

friends thought of many ways to creatively use the timeline. Some of them thought the timeline could become a great public service, a resource for history education and for debate over current issues. Others wanted to create biographical timelines for celebrities and their scandalous relationships. The ability of these timelines to entertain and educate convinced us that other people would enjoy our timeline as much we do. And that's how xtimeline came to have a home of its own.” (*Id.*, Ex. B.)

40. Attached hereto as Exhibit 39 is a true and correct screenshot of the Dipity website available at [www.dipity.com](http://www.dipity.com) as it appeared on May 23, 2012, bearing Bates Nos. FB\_TL\_00000457-458. This screenshot depicts a “Create a Timeline” tab at the top of the Dipity website and the following content on the website: “Dipity is a free digital timeline website. Our mission is to organize the web's content by date and time. Users can create, share, embed and collaborate on interactive, visually engaging timelines that integrate video, audio, images, text, links, social media, location and timestamps.”

41. Attached hereto as Exhibit 40 is a true and correct copy of excerpts from the deposition transcript of Mr. Derek Dukes, the company witness for Underlying, Inc., which owns and operates the Dipity website, including Defendant’s Deposition Exhibit 6, the “About” page from the Dipity website depicting numerous uses of the “timeline(s)” and Plaintiff’s Deposition Exhibit 2, the U.S. registration for DIPITY (Reg. No. 3519345), covering a variety of services, including “providing on-line . . . software for the creation of *timelines* based on user-supplied information” and “maintaining an online website for users to create *timelines* based on user-supplied information, as well as view the *timelines* of others.” (Dukes Depo. Tr. at 11:25-12:6, 15:13-15, 38:9-39:1, 37:23-38:1, Def. Depo. Ex. 6 and Pl. Depo. Ex. 2) (emphasis added).

42. Attached hereto as Exhibit 41 is a true and correct screenshot of the Kidasa software website available at [www.timelinesoftware.com](http://www.timelinesoftware.com) as it appeared on August 10, 2012, bearing Bates Nos. FB\_TL\_00011682-683. In addition, Exhibit 41 contains a printout from Archive.org which contains the archived page content of <http://timelinesoftware.com> as it appeared on May 29, 2002, the earliest available archived page that contains substantive content, bearing Bates No. FB\_TL\_00011680-681.

43. Attached hereto as Exhibit 42 is a true and correct copy of the Declaration of Jillian West, Global Brand Protection Manager for Twitter, Inc. (“Twitter”), including exhibits. Ms. West executed the declaration on January 22, 2013. The exhibits include screenshots of the Twitter website that demonstrate Twitter’s use of the term “timelines.” In her affidavit, Ms. West describes Twitter’s use of the term “timeline” to refer to “a collected stream of [posts] listed in real-time chronological order” since 2006.

44. Attached hereto as Exhibit 43 is a true and correct screenshot of Twitter’s webpage “What is Twitter” as it was available at <https://business.twitter.com/basics/what-is-twitter/> on January 23, 2013, which states Twitter has over 200,000,000 active users.

45. Attached hereto as Exhibit 44 is a true and correct copy of the Affidavit of Alex Kearns, founder of Webalon Ltd., which offers “beautiful web-based timeline software” at [www.tiki-toki.com](http://www.tiki-toki.com). Mr. Kearns executed the affidavit on August 31, 2012. The exhibits include screenshots of the Tiki-Toki website that demonstrate the use of the term “timeline” to identify its software.

46. Attached hereto as Exhibit 45 are true and correct screenshots of the Timeglider.com website available at [www.timeglider.com](http://www.timeglider.com) offering “web-based timeline software” owned and operated by Mnemograph, LLC.

47. Attached hereto as Exhibit 46 is a true and correct copy of excerpts from the deposition transcript of Mr. Michael Richardson, the company witness for Mnemograph, LLC, the company that owns and operates Timeglider.com, a website offering “web-based timeline software,” including Facebook Exhibit 6. (Richardson Depo. Tr. at 19:4-20; 20:3-13, 40:22-42:2, 49:3-50:3.)

48. Attached hereto as Exhibit 47 are true and correct screenshots from SmartDraw’s website available at [www.smartdraw.com](http://www.smartdraw.com), which advertises and promotes its timeline software, as it appeared on August 9 and 10, 2012, bearing Bates Nos. FB-TL\_00011614-617, 11620. As depicted in the screenshots, the SmartDraw website includes the following statement: “Easy Timeline Software [-] Easily create timelines, schedules, timetables, Gantt charts, chronologies, and must more! Download Our Timeline Software FREE!”

49. Attached hereto as Exhibit 48 is a true and correct copy of excerpts from the deposition transcript of Mr. Anthony Patterson, the company witness for SmartDraw. (Patterson Depo. Tr. at 21:13-17; 21:22-22:5; 23:1-6; 26:6-15, 40:11-41:4.)

50. Attached hereto as Exhibit 49 are true and correct screenshots of the website promoting the software program TIMELINER XE available at <http://www.tomsnyder.com/timelinerxe/> as it appeared on October 4, 2011, bearing Bates Nos. FB\_TL\_00000498-502. As depicted in the screenshots, the TIMELINER XE website includes the following content:

Timeliner XE is the powerful and intuitive software program students use to organize data—on multimedia timelines, sequences, and cycles—to see the connections, and transform a world of information into real knowledge.

51. Attached hereto as Exhibit 50 is a true and correct copy of excerpts from the deposition transcript of Mr. Richard Abrams, the company witness for Tom Snyder Productions,

Inc., which offers the Timeliner XE software program. (Abrams Depo. Tr. at 14:15-15:13; 22:4-23:12; 37:2-38:3.)

52. Attached hereto as Exhibit 51 is a true and correct copy of excerpts from Ms. Bridget Hilferty, the company witness for International Reading Association, which offers interactive timeline tools, including Deposition Exhibits 4-10. (Hilferty Depo. Tr. at 17:10-19, 55:25-57:3, 31:19-32:7.)

53. Attached hereto as Exhibit 52 are true and correct screenshots of the Simile Widget: Timeline website available at <http://www.simile-widgets.org/timeline/> as it appeared on October 4, 2011, bearing Bates Nos. FB\_TL\_00011622-623. As depicted in the screenshots, the Simile Widgets website includes the following content:

## **Timeline**

Web Widget for Visualizing Temporal Data

With this widget, you can make beautiful interactive timelines like the one below. Try dragging it horizontally or using your mouse-wheel. Click on each event for more details.

54. Attached hereto as Exhibit 53 is a true and correct copy of an excerpt of the deposition transcript of Dr. David Karger, the company witness for the Massachusetts Institute of Technology, the operator of the Simile Widget Timeline project. (Karger Depo. Tr. at 16:5-11, 37:9-15, 54:22-25, 55:15-20, 57:2-21.)

55. Attached hereto as Exhibit 54 are true and correct screenshots of the Timetoast website available at <http://timetoast.com> as it appeared on October 4, 2011, bearing Bates Nos. FB\_TL\_00000515-521. As depicted in the screenshots, the Timetoast website includes the following statements:

Create timelines, share them on the web.

Timetoast is a great way to share the past, or even the future...

Creating a timeline takes minutes, it's as simple as can be.

In addition, Exhibit 54 includes a printout from Archive.org which contains the archived page content of <http://timetoast.com> as it appeared on May 1, 2008, the earliest available archived page that contains substantive content, bearing Bates No. FB\_TL\_00000522-523.

56. Attached hereto as Exhibit 55 are true and correct screenshots of the ZTimeline website available at <http://www.ztimeline.com> as it appeared on August 13, 2012, bearing Bates Nos. FB\_-TL\_00011701-705. As depicted in the screenshots, the ZTimeline website includes the following content:

Ztimeline allows you to view your life chronologically since it allows you to organize your pictures in your own timeline!

\* \* \*

Ztimeline is special and different from other social networks and websites that allow you to upload photos in that it lets you organize your pictures in your OWN timeline. It lets you view your entire life in a 'chronological' way and helps you keep in touch with your friends and family all over the world.

In addition, Exhibit 55 includes a printout from Archive.org which contains the archived page content of <http://www.ztimeline.com> as it appeared on October 21, 2007, the earliest available archived page that contains substantive content, bearing Bates No. FB\_TL\_00011706.

57. Attached hereto as Exhibit 56 are true and correct screenshots of the AllofMe website available at <http://allofme.com> as it appeared on August 9, 2012, bearing Bates Nos. FB\_TL\_00011589-590. As depicted in the screenshots, the AllofMe website includes the following content:

AllofMe is a Timeline-creating application platform. The platform enables auto-creating, publishing, managing and comparing multiple Timelines. AllofMe platform creates highly-visual

Timelines, containing an endless number of assets and providing an unmatched, compelling user experience. AllofMe Timeline Platform can serve corporate publishers, content creators and end-users.

In addition, Exhibit 56 includes a printout from Archive.org which contains the archived page content of <http://allofme.com> as it appeared on July 1, 2008, the earliest available archived page that contains substantive content, bearing Bates No. FB\_TL\_00011591.

58. Attached hereto as Exhibit 57 are true and correct screenshots of the TimeRime website available at <http://timerime.com> as it appeared on August 9, 2012, bearing Bates Nos. FB\_TL\_00011684-687. As depicted in the screenshots, the TimeRime website includes the following content:

TimeRime.com is an online community that allows people to view, create and compare timelines. The subjects of the timelines can be anything that relates to time. For instance a timeline about a popstar, or a timeline about a scientific subject, like history. But also timelines about company history, individuals as yourself, your favorite summer melodies or your favorite car.

The TimeRime timelines can be characterized as interactive and multimedia. The timelines can be filled with text, music, YouTube movies, Google Maps et cetera, which makes TimeRime.com a platform that combines popular communities and other internet applications into one new portal.

In addition, Exhibit 57 includes a printout from Archive.org which contains the archived page content of <http://timerime.com> as it appeared on October 6, 2008, one of the earliest available archived pages that contains substantive content, bearing Bates No. FB\_TL\_00000513-514.

59. Attached hereto as Exhibit 58 are true and correct screenshots of the Timeline Maker website available at <http://timelinemaker.com> as it appeared on August 9, 2012, bearing Bates Nos. FB\_TL\_00011658-663. As depicted in the screenshots, the Timeline Maker website includes the following content:

If you've been struggling to create timeline charts manually or wrestling with ordinary office software like Excel, Visio or MS Project, then you will really appreciate how easy it can be to create great looking timeline charts like these with Timeline Maker.

In addition, Exhibit 58 includes a printout from Archive.org which contains the archived page content of <http://timelinemaker.com> as it appeared on February 9, 2003, the earliest available archived page that contains substantive content, bearing Bates No. FB\_TL\_00011657.

60. Attached hereto as Exhibit 59 are true and correct screenshots of the Historical Timeline website available at <http://historicaltimeline.com> as it appeared on August 9, 2012, bearing Bates Nos. FB\_TL\_00011594-599. As depicted in the screenshots, the Historical Timeline website includes the following content:

Welcome to HistoricalTimeline.com Here you will find 5 timelines featuring some of the key events, inventions, and leaders which had a major impact on the world's history.

Alongside the timelines, we have added a selected bibliography and list of online resources to help in your research.

In addition, Exhibit 59 includes a printout from Archive.org which contains the archived page content of <http://historicaltimeline.com> as it appeared on July 22, 2001, the earliest available archived page that contains substantive content, bearing Bates Nos. FB\_TL\_00011592-593.

61. Attached hereto as Exhibit 60 are true and correct screenshots of the website available at <http://www.timelines.info> (not related to Plaintiff) as it appeared on August 9, 2012, bearing Bates Nos. FB\_TL\_00011675, FB\_TL\_00011677-679 . As depicted in the screenshots, the timelines.info website includes the following content:

Timelines.info contains hundreds of timelines covering an entire spectrum of world history.

Use the menu on the left to start your journey through our timelines, or search for a timeline below

The website identifies a launch date of November 1, 2001.

62. Attached hereto as Exhibit 61 are true and correct screenshots of the OurTimelines.com website available at <http://www.ourtimelines.com> as it appeared on August 10, 2012, bearing Bates Nos. FB\_TL\_00011602-604. As depicted in the screenshots, the ourtimelines.com website includes the following content:

Your may use the timelines you generate here on your own web pages ... The only condition is that you ensure that there is a link from each page where the timeline is used back to [www.OurTimelines.com](http://www.OurTimelines.com) so that your web page visitors may also have an opportunity to generate their own timelines.

In addition, Exhibit 61 includes a printout from Archive.org which contains the archived page content of <http://www.ourtimelines.com> as it appeared on August 15, 2000, the earliest available archived page that contains substantive content, bearing Bates Nos. FB\_TL\_00011600-601.

63. Attached hereto as Exhibit 62 is a true and correct copy of Dr. Deborah Jay's survey expert report dated October 23, 2012.

64. Attached hereto as Exhibit 63 is a certified copy of the file wrapper for Plaintiff's trademark application for TIMELINES (Serial No. 85/432,026), bearing Bates Nos. FB\_TL0002580-2643.

65. Based on my review of Plaintiff's document production to date, Plaintiff has not produced any consumer survey evidence or direct consumer testimony relevant to establishing secondary meaning in the term "timelines."

66. Attached hereto as Exhibit 64 is a true and correct copy of Plaintiff's Balance Sheet as of January 31, 2012 produced by Plaintiff, bearing Bates Nos. T0000001-008 (Confidential).

67. Attached hereto as Exhibit 65 is a true and correct copy of a document identifying Plaintiff's users statistics on timelines.com produced by Plaintiff, bearing Bates Nos. T0001475.

68. Attached hereto as Exhibit 66 is a true and correct screenshot of a Mashable article entitled “Facebook Timeline” regarding Facebook’s timeline feature, which was created at my direction, bearing Bates Nos. FB\_TL\_00000003-006.

69. Attached hereto as Exhibit 67 is a true and correct screenshot from the Facebook website depicting the timeline feature while logged into Facebook as a registered user in January 2013.

70. Attached hereto as Exhibit 68 are true and correct screenshots from the Facebook website depicting the “About” feature, the “Map” feature, the “Friends” feature, the “Photos” feature, and the “Events” feature, all available on a user’s profile page as of January 2013.

71. Attached hereto as Exhibit 69 is a true and correct copy of excerpts from the deposition transcript of Mr. Samuel Lessin, the company witness for Facebook. (Lessin Depo. 86:17-87:2 (Highly Confidential – Outside Counsel Only); 100:25-101:12, 312:13-313:17.)

72. Attached hereto as Exhibit 70 are true and correct screenshots of a Facebook page describing the “timeline” feature of its user interface at <https://www.facebook.com/about/timeline>, bearing Bates Nos. FB\_TL00000007- 009. In addition, Exhibit 70 includes true and correct screenshot of the same Facebook page as they appeared on January 31, 2013, which are more legible than the Bates labeled version.

73. Attached hereto as Exhibit 71 are true and correct excerpts from the deposition transcript of Mr. Robert Armour, Plaintiff’s prior Chief Executive Officer. (Armour Depo. 89:23-90:17.)

/ / /

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

Executed in Washington, D.C. this 31st day of January, 2013.

/s/ *Brendan J. Hughes*  
Brendan J. Hughes (*pro hac vice*)  
COOLEY LLP  
1299 Pennsylvania Avenue, NW  
Suite 700  
Washington, DC 20004

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that he served the foregoing **DECLARATION OF BRENDAN J. HUGHES IN SUPPORT OF FACEBOOK, INC.'S MOTION FOR SUMMARY JUDGMENT** 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 January 31, 2013.

Dated: January 31, 2013

/s/ Brendan J. Hughes  
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