

EXHIBIT

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As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online social networking services. Indeed, Facebook's website at www.facebook.com has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website site allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. As of 2009, Facebook provides social networking services in 35 languages to over 175 million active users worldwide. The Facebook site is currently the most popular photosharing application on the Internet, with more than 700 million photos and 4 million videos uploaded each month. There are more than 600,000 entrepreneurs and software developers worldwide who have created over 52,000 software programs (known as "applications") for the Facebook platform. Worldwide, Facebook users spend more than 2.6 billion minutes on the Facebook site each day.

3. Facebook provides tools for each of its users to create a personal web page ("Profile Page") on which the user can choose to display personal information such as education or professional background, favorite music, books, or television shows, political leanings, and contact information.

4. Facebook also provides on each Profile Page a means through which users can communicate with each other, including online chat and private messages that are sent directly to

users' inboxes, similar to e-mail. An additional method of communication allows Facebook users to leave items such as textual messages, links, photographs, or video on its own or another user's Profile Page. Facebook offers these and other services under the "WALL" mark.

FACEBOOK'S MARKS

5. Facebook is the owner of pending U.S. Application Serial No. 78/920335 for the mark THE WALL, which was filed on June 29, 2006 for the following goods and services:

- in International Classes 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images; advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet;
- in International Class 38: providing online chat rooms and electronic bulletin boards for registered users for transmission of messages concerning collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images;
- in International Class 42: computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; and computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; and
- in International Class 45: internet based introduction and social networking services.

6. In addition, Facebook owns common law rights in the WALL mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in

interstate commerce in the United States. All of Facebook's marks that consist of or incorporate the term WALL will hereafter be referred to as the "WALL Marks."

7. The WALL Marks are suggestive marks, and thus inherently distinctive.

APPLICANT'S USE OF THE DRUNK WALL NAME AND MARK

8. Applicant filed Application Serial No. 77/482477 for DRUNK WALL ("DRUNK WALL Application") on an intent-to-use basis on May 23, 2008, in Class 42, for "providing on-line non-downloadable software for the enhancement of the experience of online browsing of products and services and shopping by allowing users to deliver and receive recommendations, reviews and advice on social networking sites, and providing on-line non-downloadable computer programs for sending, creating, receiving, customizing and personalizing digital images, computer graphics, text, metadata, video and photographs, and hyperlinks and hyperlinked files, via a computer and communications network." This application was published in the Official Gazette on October 21, 2008.

9. The services covered by Applicant's trademark application for DRUNK WALL, namely, software that allows users to exchange text, images, links and videos, overlap almost in their entirety with the services claimed in Facebook's THE WALL trademark application, which also generally consist of services that allow users to exchange text, images, links and videos.

10. On information and belief, Applicant is currently using his DRUNK WALL mark in connection with a software application on Facebook's website, which advertises itself as "the best place to chat drunk." A true and correct copy of the webpage for Drunk Wall Application, at <http://www.facebook.com/apps/application.php?id=18853555027>, is attached hereto as Exhibit A. Similar to the services Facebook offers under its WALL Marks, the Drunk Wall Application appears to enable users to exchange information over the Facebook site.

11. The mark Applicant proposes to register, DRUNK WALL, is substantially similar to the WALL Marks. The term “drunk” is descriptive of Applicant’s services, which, on information and belief, are intended to be a variation of the WALL service that is focused on a segment of consumers who are inebriated. Thus, the addition of the “drunk” term does little to create a unique commercial impression; the only distinctive element of Applicant’s mark is WALL. In contrast with the descriptive “drunk” portion of Applicant’s DRUNK WALL Mark, the term “wall” in DRUNK WALL appropriates the entirety of Facebook’s distinctive WALL Marks.

12. Applicant’s alterations to the WALL Marks, therefore, merely emphasize the similarity to Facebook’s well-known WALL Marks, and thereby create a likelihood of confusion with the WALL Marks.

13. There is no issue as to priority of use. Facebook offers, among others, services related to online communications and social networking, and has adopted its WALL Marks well prior to the filing of Applicant’s intent-to-use application.

GROUND FOR OPPOSITION:

LIKELIHOOD OF CONFUSION

14. Facebook incorporates by reference paragraphs 1 through 13, inclusive, as if fully set forth herein.

15. Applicant’s DRUNK WALL Mark is confusingly similar to Facebook’s WALL Marks in appearance, sound, meaning, and commercial impression.

16. The services described in the DRUNK WALL Application are the same as or closely related to the services offered by Facebook under the WALL Marks and identified in THE WALL Application.

17. The types of services identified in the DRUNK WALL Application and the types of services offered by Facebook under the WALL Marks are normally offered through the same channels of trade and specifically, here, are currently both offered on the Facebook website.

18. On information and belief, based on the development and existence of the Drunk Wall application on the Facebook website, Applicant filed the DRUNK WALL Application with knowledge of Facebook and its use of the WALL Marks.

19. Contrary to the suggestion created by the use of the DRUNK WALL mark, Facebook is neither affiliated with nor a sponsor of Applicant, and the services identified in the DRUNK WALL Application do not originate from Facebook.

20. Accordingly, registration of the DRUNK WALL Mark will damage Facebook because the DRUNK WALL Mark is likely, when used in connection with the services described in the DRUNK WALL Application, to cause confusion, or to cause mistake or to deceive. Thus the DRUNK WALL Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

21. Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/482477 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP

Date: February 18, 2009

By:  _____

Emily F. Burns
Attorneys for Opposer

EXHIBIT

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Certificate of Transmission

I hereby certify that this correspondence is being transmitted via the Electronic System for Trademark Trials and Appeal (ESTTA) to: the Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

Christine Hsieh

(Name)

3/30/09

(Date)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/425396
For the Trademark VETBOOK
Published in the Official Gazette on September 30, 2008

FACEBOOK, INC.,)

Opposer,)

v.)

PetsVetSpace, LLC)

Applicant.)

Opposition No.

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 156 University Avenue, Palo Alto, CA 94301, believes that it will be damaged by the issuance of a registration for the mark VETBOOK, as applied for in Application Serial No. 77/425,396 filed on March 18, 2008 by Applicant PetsVetSpace, LLC ("Applicant"), a New

York corporation, with a mailing address at 8 West 65th Street, #4B, New York, New York 10023.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online networking services. Indeed, Facebook's website at www.facebook.com has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of 2009, Facebook provides online networking services in 35 languages to over 175 million active users worldwide. The Facebook site is currently the most popular photosharing application on the Internet, with more than 850 million photos and 7 million videos uploaded each month. There are more than 660,000 entrepreneurs and software developers worldwide who have created over 52,000 software programs (known as "applications") for the Facebook platform. Worldwide, Facebook users spend more than 3 billion minutes on the Facebook site each day.

3. Facebook provides tools for each of its users to create a personal web page on which the user can choose to display personal information such as education, professional background, and contact information.

4. Facebook also provides a "Groups" feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group. As of March 2009, there are over 300 user-created groups on Facebook dedicated to veterinarian-related interests.

FACEBOOK'S MARKS

5. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

6. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in classes 35 and 38.

7. Facebook is also the owner of numerous U.S. pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/920,322), filed on June 29, 2006 in International Classes 35, 38, 42, and 45;
- FACEBOOK word mark (Serial No. 77/189,479), filed on May 24, 2007 in International Classes 9, 38, 41, and 42;
- FACEBOOK word mark (Serial No. 77/039,123), filed on November 7, 2006 in International Classes 9, 38, 41, and 42;
- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK word mark (Serial No. 77/125,103), filed on March 7, 2007 in International Classes 18, 20, and 21;
- FACEBOOK FOR GOOD word mark (Serial No. 77/589,935), filed on October 9, 2008 in International Class 35;
- FACEBOOK PAGES word mark (Serial No. 77/321,801), filed on November 5, 2007 in International Classes 9, 35, 38, 41, 42 and 45;
- FACEBOOK ADS word mark (Serial No. 77/321,779), filed on November 5, 2007 in International Classes 35, 38, 41, 42, and 45;
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

8. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

9. The FACEBOOK Marks are inherently distinctive.

10. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including Harvard Business School's "Entrepreneurial Company of the Year" in June 2008, *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008, The Webby Award's "People's Voice Winner" for Social Networking in 2007 and The Crunchie Award for Best Overall Startup in 2008.

11. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

APPLICANT'S USE OF THE VETBOOK NAME AND MARK

12. Applicant filed Application Serial No. 77/425,396 for VETBOOK ("VETBOOK Application") on an intent-to-use basis on March 18, 2008, for the following goods and services:

- in International Class 35: Providing an on-line directory information service regarding, and in the nature of, veterinary medicine, veterinary services, professional networking, photo sharing, and transmission of photographic images; Information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet; Providing on-line computer and on-line searchable databases in the field of veterinary business networking and animal health care cost containment;
- in International Class 42: Computer services, namely, hosting on-line web facilities for organizing a veterinary socio-professional platform in the nature of customized web pages featuring user-defined information, personal profiles and information; Application service provider featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network in the field of veterinary; and

- in International Class 44: Providing on-line computer and on-line searchable databases in the field of veterinary medicine, animal healthcare services and pet healthcare services.

13. The VETBOOK Application was published in the Official Gazette on September 30, 2008.

14. The services covered by Applicant's VETBOOK Application overlap almost in their entirety with the services claimed in Facebook's FACEBOOK registrations and applications and as provided by Facebook in connection with the FACEBOOK Marks.

15. On information and belief, Applicant intends to use its VETBOOK mark in connection with an online service where veterinarians, veterinarian hospitals and pet owners can create profiles and network with one another. Similar to the services Facebook offers under its FACEBOOK Marks, the services contemplated in the VETBOOK Application appear to enable users to exchange photos, videos, and other media as well as information over a website. Thus the services intended to be offered under the VETBOOK Mark are highly similar and/or identical to those provided by Facebook, namely, online networking services.

16. The mark Applicant proposes to register, VETBOOK, is substantially similar to the FACEBOOK Marks. With respect to the VETBOOK trademark, the term "vet" is generic of Applicant's services as it relates to veterinarians, while the term BOOK is distinctive as it relates to online networking. Thus, by combining the generic term "vet" with the dominant and inherently distinctive term BOOK, Applicant has created a mark that creates a misleading association with Facebook.

17. Upon information and belief, Applicant selected the VETBOOK Mark with knowledge of and intent to cause confusion with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

18. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

19. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of the VETBOOK Application.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

20. Facebook incorporates by reference Paragraphs 1 through 19, inclusive, as if fully set forth herein.

21. Applicant's VETBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks consist of a single-syllabic term combined with the term "book." The VETBOOK mark combines the generic term "vet" with the distinctive and dominant term "book." Thus the most distinctive and dominant component of the VETBOOK mark is identical to the distinctive "book" component of the FACEBOOK Marks.

22. The services described in the VETBOOK Application are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in its VETBOOK application, Applicant intends to use the VETBOOK mark in connection with online networking services, including "providing an on-line directory information service," "providing on-line computer and on-line searchable databases," "computer services, namely, hosting on-line web facilities ... in the nature of customized web pages featuring user-defined information, personal profiles and information; application service provider featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network."

These services are confusingly similar and/or identical to Facebook's online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

23. The types of services identified in the VETBOOK Application and the types of services offered by Facebook under the FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website.

24. On information and belief, Applicant chose the VETBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

25. Accordingly, registration of the VETBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services offered by Applicant under the VETBOOK Mark, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Applicant's services marketed under the VETBOOK name would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

26. Accordingly, registration of the mark herein opposed will damage Facebook because Applicant's Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus the VETBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

27. Facebook incorporates by reference Paragraphs 1 through 26 inclusive, as if fully set forth herein.

28. FACEBOOK is inherently distinctive in relation to Facebook's goods and services.

29. Facebook has used the FACEBOOK Marks since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

30. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

31. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

32. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

33. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

34. Accordingly, when the public encounters the term FACEBOOK, it immediately associates the term with Facebook and its services, and thus the FACEBOOK Marks are famous.

35. The FACEBOOK Marks became famous before the Applicant filed its application for the VETBOOK Mark on March 18, 2008.

36. The dominant portion of the VETBOOK Mark is identical to the "book" portion of the FACEBOOK Marks, and Applicant's use of the VETBOOK Mark is likely to cause

dilution of the famous FACEBOOK Marks. Applicant's use of the VETBOOK Mark in connection with online networking services will blur and weaken the connection in consumers' minds between the FACEBOOK Marks and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK Marks to Facebook's severe detriment.

37. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

38. Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/482,477 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP

Date: March 30, 2009

By: 

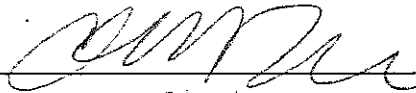
Christine K. Hsieh
Attorneys for Opposer Facebook, Inc.

EXHIBIT

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Certificate of Transmission

I hereby certify that this correspondence is being transmitted via the Electronic System for Trademark Trials and Appeal (ESTTA) to: the Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.



(Name)

9/14/2009

(Date)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 76/693,743
For the Trademark TALKBOOK
Published in the Official Gazette on March 17, 2009

FACEBOOK, INC.,)

Opposer,)

v.)

EVERCLEAR COMMUNICATIONS INC.)

Applicant.)

Opposition No.

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark TALKBOOK, as applied for in Application Serial No. 76/693,743 filed on October 22, 2008 by Applicant Everclear

Communications Inc. ("Applicant"), a Canadian corporation, with a mailing address at 117 Girton Blvd., Winnipeg, Manitoba R3P 0A4, Canada.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online networking services. Indeed, Facebook's website at www.facebook.com has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of September 2009, Facebook provides online networking services in over 50 languages to over 250 million active users worldwide, more than 120 million of whom log on to the Facebook website at least once per day. The fastest growing demographic on the Facebook site is users over age 35 – as of September, 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each

Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of September 2009, there are more than 65 million active users currently accessing the Facebook service through their mobile devices.

5. Facebook provides a "Groups" feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend more than 5 billion minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 1 billion photos and 10 million videos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 350,000 software programs (known as "applications") for the Facebook Platform.

FACEBOOK'S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

8. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in classes 35 and 38.

9. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in class 25.

10. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 77/189,479), filed on May 24, 2007 in International Classes 9, 38, 41, and 42;
- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK word mark (Serial No. 77/125,103), filed on March 7, 2007 in International Classes 18, 20, and 21;
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

11. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

12. The FACEBOOK Marks are inherently distinctive.

13. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including The Webby Award's "People's Voice Winner" for Social Networking in 2007, Harvard Business School's "Entrepreneurial Company of the Year" in June 2008, *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008 and The Crunchie Award for Best Overall Startup in 2008.

14. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK mark, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK mark, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK mark is famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

APPLICANT'S USE OF THE TALKBOOK NAME AND MARK

15. Applicant filed Application Serial No. 76/693,743 for TALKBOOK ("TALKBOOK Application") on an in-use basis on October 22, 2008, claiming a first use date of January 31, 2008, for "[c]ommunication services via the Internet, namely, the transmission of

audio, video, data, image and voice information and recordings via the Internet” in International Class 38.

16. The TALKBOOK Application was published in the Official Gazette on October 22, 2008.

17. The services covered by Applicant’s TALKBOOK Application overlap with the services claimed in Facebook’s FACEBOOK registrations and applications and as provided by Facebook in connection with the FACEBOOK Marks. Similar to the services Facebook offers under its FACEBOOK Marks, the services contemplated in the TALKBOOK Application appear to enable users to communicate and exchange photos, videos, and other media as well as information over a website. Thus the services claimed to be offered under the TALKBOOK Mark are highly similar and/or identical to those provided by Facebook, namely, online networking services.

18. Applicant is using its TALKBOOK mark in connection with an application on the Facebook platform that facilitates telephone calls between Facebook users. In order to use the TALKBOOK application, one must first sign up for the Facebook service and use the Facebook service to connect with other Facebook users (the user’s “Facebook Friends”). Once a Facebook user has signed up for the TALKBOOK application they are able to initiate a phone call to any of their Facebook Friends who have also signed up for the TALKBOOK application. The TALKBOOK application shows a list of the user’s Facebook Friends who have signed up for the TALKBOOK application along with those users’ Facebook profile pictures. The phone call is initiated by clicking on a Friend’s Facebook profile picture and then clicking a link that says “Call [Friend’s Name]” that appears next to that profile picture. On information and belief,

Applicant provides services under the TALKBOOK mark exclusively to Facebook users, and exclusively through the Facebook website.

19. On information and belief, Applicant does not, and has not ever, used the TALKBOOK mark in connection with some of the services claimed in the TALKBOOK application. Specifically, on information and belief, Applicant does not, and has not ever, used the TALKBOOK mark in connection with the transmission of video, data, image and recordings via the Internet.

20. The mark Applicant proposes to register, TALKBOOK, is substantially similar to the FACEBOOK Marks. With respect to the TALKBOOK trademark, the term "talk" is generic of Applicant's services as it relates to allowing users to talk to one another, while the term BOOK is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term "talk" with the dominant and inherently distinctive term BOOK, Applicant has created a mark that creates a misleading association with Facebook.

21. Upon information and belief, Applicant selected the TALKBOOK Mark with knowledge of and intent to cause confusion with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks. On information and belief, as stated above, Applicant provides services under the TALKBOOK mark exclusively to Facebook users, and exclusively through the Facebook website. On information and belief, Applicant's similar service provided online outside of the Facebook Platform is called GUERRILLA.TEL.

22. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

23. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the claimed first use date of the TALKBOOK mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

24. Facebook incorporates by reference Paragraphs 1 through 23, inclusive, as if fully set forth herein.

25. Applicant's TALKBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks consist of a single-syllabic term combined with the term "book." The TALKBOOK mark combines the generic term "talk" with the distinctive and dominant term "book." Thus the most distinctive and dominant component of the TALKBOOK mark is identical to the distinctive "book" component of the FACEBOOK Marks.

26. The services described in the TALKBOOK Application and those used under the TALKBOOK mark are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in its TALKBOOK application, Applicant claims to use the TALKBOOK mark in connection with "communication services via the Internet, namely, the transmission of audio, video, data, image and voice information and recordings via the Internet." Applicant is using the TALKBOOK mark on the Facebook website in connection with a Facebook application that facilitates communications between Facebook users via phone calls. These services are confusingly similar and/or identical to Facebook's online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

27. The types of services identified in the TALKBOOK Application and used under the TALKBOOK mark and the types of services offered by Facebook under the FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website. On information and belief, Applicant provides services under the TALKBOOK mark exclusively to Facebook users, and exclusively through the Facebook website. Accordingly, the Facebook service is the sole channel of trade for the TALKBOOK application.

28. On information and belief, Applicant chose the TALKBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

29. Accordingly, registration of the TALKBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services offered by Applicant under the TALKBOOK Mark, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Applicant's services marketed under the TALKBOOK name would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

30. Accordingly, registration of the mark herein opposed will damage Facebook because Applicant's Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus the TALKBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

31. Facebook incorporates by reference Paragraphs 1 through 30 inclusive, as if fully set forth herein.

32. FACEBOOK is inherently distinctive in relation to Facebook's goods and services.

33. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK mark to many other goods and services, as evidenced by its applications and as alleged.

34. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK mark.

35. Facebook and the FACEBOOK mark have been the subject of extensive and continuous media attention.

36. Facebook has continuously used the FACEBOOK mark throughout the United States and many countries around the world.

37. As a result of the considerable publicity afforded the FACEBOOK mark and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK mark has extensive consumer recognition.

38. The FACEBOOK mark became famous before Applicant's claimed first use of the TALKBOOK Mark on March 18, 2008.

39. The dominant portion of the TALKBOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Applicant's use of the TALKBOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Applicant's use of the TALKBOOK Mark in connection with online networking services will blur and weaken the connection in consumers'

minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

40. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

**THIRD GROUND FOR OPPOSITION:
FAILURE TO USE MARK WITH ALL CLAIMED SERVICES**

41. Facebook incorporates by reference Paragraphs 1 through 40 inclusive, as if fully set forth herein.

42. Applicant filed Application Serial No. 76/693,743 for TALKBOOK ("TALKBOOK Application") on an in-use basis on October 22, 2008, claiming a first use date of January 31, 2008, for the following goods and services in International Class 38: "[c]ommunication services via the Internet, namely, the transmission of audio, video, data, image and voice information and recordings via the Internet."

43. The specimen submitted by Applicant to the PTO on October 21, 2008 with its application for the TALKBOOK Mark, states "Call your friends, phone to phone, via Talkbook." No mention is made of the transmission of video, data, image and recordings via the Internet.

44. On information and belief, Applicant does not, and has not ever, used the TALKBOOK mark in connection with the transmission of video, data, image and recordings via the Internet.

45. Accordingly, Applicant's Mark is unregistrable pursuant to Section 1(a) of the United States Trademark Act, as amended, 15 U.S.C. § 1051(a) with respect to the transmission of video, data, image and recordings via the Internet, and should be refused registration with respect to those services.

**FOURTH GROUND FOR OPPOSITION:
FRAUD ON THE PTO**

46. Facebook incorporates by reference Paragraphs 1 through 45 inclusive, as if fully set forth herein.

47. On October 21, 2008, in its application for the TALKBOOK Mark, Applicant's CEO, John Pozios, submitted a sworn declaration dated September 17, 2008, to the United States Patent and Trademark Office ("PTO") that that all statements in the application were believed to be true. The TALKBOOK application stated that the mark was in use, and in use in United States commerce, on or in connection with the claimed services, as of January 31, 2008.

48. On information and belief, Applicant is not using, and has never used, the TALKBOOK Mark on or in connection with the transmission of video, data, image and recordings via the Internet services claimed in the TALKBOOK Application. Therefore, on information and belief, when Applicant submitted its application to the PTO indicating that it was using the mark TALKBOOK on or in connection with the claimed services as of January 31, 2008, such information was false.

49. On information and belief, Applicant misrepresented the nature of its use in commerce of the TALKBOOK Mark at the time it submitted its application. On information and belief, Applicant has attempted to procure registration of the TALKBOOK Mark by false means and/or by knowingly and willingly making false and/or fraudulent declarations or representations to the PTO, *inter alia*, falsely alleging in an Application supported by a Declaration under 18 U.S.C. §1001 that Applicant's first use of the TALKBOOK Mark was on January 31, 2008 for the claimed services, when, on information and belief, Applicant did not then and still does not use the mark on or in connection with all the claimed services. On information and belief, said false statements were made with the intent to induce authorized agents of the PTO to grant a

registration, and reasonably relying on the truth of said false statements, the PTO has allowed the TALKBOOK Application to proceed to publication.

50. On information and belief, Applicant knew at the time it was made that the statement of first use made in the TALKBOOK Application was false.

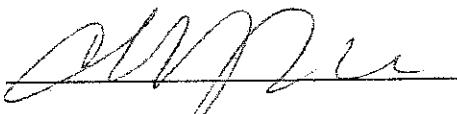
51. In view of the above allegations, Applicant is not entitled to maintain the TALKBOOK Application since Applicant, on information and belief, committed fraud in the prosecution of the TALKBOOK Application.

52. Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 76/693,743 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP

Date: September 14, 2009

By: 
Christen M.R. Dubois
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2009, a true and correct copy of the foregoing **Notice of Opposition** was placed in the United States Mail, postage prepaid, addressed to counsel for Applicant as follows:

James T. Nikolai
Nikolai & Mersereau, P.A.
900 2nd Ave. S. Ste. 820
Minneapolis, MN 55402

Date: September 14, 2009


Christen M.R. Dubois

EXHIBIT

44

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/657,383
For the Trademark DOCTORBOOK
Published in the Official Gazette on May 19, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
AK MEDIA, LLC, D/B/A DOCTORBOOK,)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Facebook, Inc. (“Facebook”), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark DOCTORBOOK (the “DOCTORBOOK Mark”), as applied for in Application Serial No. 77/657,383 filed on January 27, 2009 by Applicant AK Media, LLC (“Applicant”), a Florida limited liability company, with a mailing address at 1310 SW 2nd Court, Unit 112, Fort Lauderdale, Florida 33312.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world’s leading provider of online networking services. Indeed, Facebook’s website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online

communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of November 2009, Facebook provides online networking services in over 70 languages to over 300 million active users worldwide, more than 150 million of whom log on to the Facebook website at least once per day. The fastest growing demographic on the Facebook site is users over age 35—as of September, 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of September 2009, there are more than 65 million active users currently accessing the Facebook service through their mobile devices.

5. Facebook provides a “Groups” feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend more than 8 billion minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 2 billion photos and 14 million videos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 350,000 software programs (known as “applications”) for the Facebook Platform.

FACEBOOK’S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

8. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in classes 35 and 38.

9. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in class 25.

10. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 77/189,479), filed on May 24, 2007 in International Classes 9, 38, 41, and 42;
- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK word mark (Serial No. 77/125,103), filed on March 7, 2007 in International Classes 18, 20, and 21;
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

11. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

12. The FACEBOOK Marks are inherently distinctive.

13. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social

Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

14. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

APPLICANT'S USE OF THE DOCTORBOOK NAME AND MARK

15. Applicant filed Application Serial No. 77/657,383 for DOCTORBOOK ("DOCTORBOOK Application") on an in-use basis on January 27, 2009, claiming a first use date of March 10, 2008, and a first use in commerce date of May 15, 2008, for "[a]dvertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium" in Class 35; and "[p]roviding on-line chat rooms for transmission of messages among computer users concerning medical information, classifieds, virtual community and social networking" in International Class 38.

16. The DOCTORBOOK Application was published in the Official Gazette on May 19, 2009.

17. The services covered by Applicant's DOCTORBOOK Application overlap with the services claimed in Facebook's FACEBOOK registrations and applications and as provided by Facebook in connection with the FACEBOOK Marks. Similar to the services Facebook offers under its FACEBOOK Marks, the services contemplated in the DOCTORBOOK Application appear to enable users to engage in online networking, communicate, and exchange photos, videos, and other media as well as information over a website. Thus the services claimed to be offered under the DOCTORBOOK Mark are highly similar and/or identical to those provided by Facebook, namely, online networking services.

18. Applicant claims on its website at DOCTORBOOK.COM to be using its DOCTORBOOK Mark in connection with "a medical professional directory crossed with a social network site." Applicant encourages users to use its DOCTORBOOK service in order to "find a doctor in [a particular] region," and "learn more about that doctor's professional experience [and] personal hobbies." Doctors are encouraged to promote their services by uploading photos, videos, and online journal posts, and communicate with other doctors throughout the world.

19. The mark Applicant proposes to register, DOCTORBOOK, is substantially similar to the FACEBOOK Marks. With respect to the DOCTORBOOK trademark, the term "doctor" is generic of Applicant's services as it relates to an online networking service for doctors and patients, while the term "book" is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term "doctor" with the dominant and inherently distinctive term BOOK, Applicant has created a mark that creates a misleading association with Facebook.

20. Upon information and belief, Applicant selected the DOCTORBOOK Mark with knowledge of and intent to cause confusion with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

21. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

22. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the claimed first use date of the DOCTORBOOK Mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

23. Facebook incorporates by reference Paragraphs 1 through 22, inclusive, as if fully set forth herein.

24. Applicant's DOCTORBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks consist of a term combined with the term "book." The DOCTORBOOK mark combines the generic term "doctor" with the distinctive and dominant term "book." Thus the most distinctive and dominant component of the DOCTORBOOK mark is identical to the distinctive "book" component of the FACEBOOK Marks.

25. The services described in the DOCTORBOOK Application and those used under the DOCTORBOOK Mark are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in its DOCTORBOOK application, Applicant claims to use the DOCTORBOOK mark in connection with "on-line chat rooms for transmission of messages among computer users concerning . . . virtual community and social

networking,” and related advertising services. Applicant is using the DOCTORBOOK Mark in connection with a service that provides the exact same online networking services provided by Facebook, but to a sub-set target audience of doctors and patients (who are already served on the Facebook website). Applicant’s services are confusingly similar and/or identical to Facebook’s online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

26. The types of services identified in the DOCTORBOOK Application and used under the DOCTORBOOK Mark and the types of services offered by Facebook under the FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website.

27. On information and belief, Applicant chose the DOCTORBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook’s services and the FACEBOOK Marks.

28. Accordingly, registration of the DOCTORBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services offered by Applicant under the DOCTORBOOK Mark, and Facebook’s reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook’s detriment. Further, any defect, objection or fault found with Applicant’s services marketed under the DOCTORBOOK name would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

29. Accordingly, registration of the mark herein opposed will damage Facebook because Applicant's DOCTORBOOK Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus the DOCTORBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

30. Facebook incorporates by reference Paragraphs 1 through 29 inclusive, as if fully set forth herein.

31. FACEBOOK is inherently distinctive in relation to Facebook's goods and services.

32. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

33. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

34. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

35. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

36. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

37. The FACEBOOK Mark became famous before Applicant's claimed first use of the DOCTORBOOK Mark on May 15, 2008.

38. The dominant portion of the DOCTORBOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Applicant's use of the DOCTORBOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Applicant's use of the DOCTORBOOK Mark in connection with online networking services will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

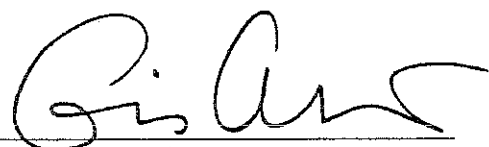
39. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/657,383 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
JEFFREY T. NORBERG
KATHLEEN E. JOHNSTON
CHRISTEN M.R. DUBOIS
GAVIN L. CHARLSTON

Date: November 16, 2009

By: 
Gavin L. Charlston
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail, postage prepaid, addressed to counsel for Applicant (as identified in the above-referenced application) as follows:

Evan Kagan, Esq.
Evan S. Kagan, P.A.
1310 SW 2nd Court, Apt. 112
Fort Lauderdale, Florida 33312

Date: November 16, 2009


Gavin L. Charlston

1152787 v1/SF

EXHIBIT

45

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/701,641
For the Trademark GEEZERBOOK.COM
Published in the *Official Gazette* on July 28, 2009

In the matter of application Serial No. 77/701,642
For the Trademark GEEZERBOOK
Published in the *Official Gazette* on July 28, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
PHILIP J. GEARING, JR.,)	
)	
Applicant.)	
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CONSOLIDATED NOTICE OF OPPOSITION

Opposer Facebook, Inc. (“Facebook”), a Delaware corporation having its principal place of business at 1601 South California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the marks GEEZERBOOK.COM and GEEZERBOOK (collectively, the “GEEZERBOOK Marks”), as applied for in Application Serial Nos. 77/701,641, and 77/701,642, respectively, filed on March 29, 2009 by Applicant Philip J. Gearing, Jr. (“Applicant”), an individual with a mailing address at 1207 H Street, Alexandria, Virginia 22307. Pursuant to 37 C.F.R. § 2.104(b), Facebook files this single, consolidated opposition against the GEEZERBOOK Marks as they both are owned by Applicant and contain the term “GEEZERBOOK,” and because there are common issues of law and fact.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online networking services. Indeed, Facebook's website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of November 2009, Facebook provides online networking services in over 70 languages to over 300 million active users worldwide, more than 150 million of whom log on to the Facebook website at least once per day. The fastest growing demographic on the Facebook site is users over age 35—as of September, 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time

chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of September 2009, there are more than 65 million active users currently accessing the Facebook service through their mobile devices.

5. Facebook provides a "Groups" feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend more than 8 billion minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 2 billion photos and 14 million videos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 350,000 software programs (known as "applications") for the Facebook Platform.

FACEBOOK'S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

8. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in classes 35 and 38.

9. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in class 25.

10. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/920,322), filed on June 29, 2006 in International Classes 35, 38, 41, 42, and 45;
- FACEBOOK word mark (Serial No. 77/189,479), filed on May 24, 2007 in International Classes 9, 38, 41, and 42;
- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK word mark (Serial No. 77/125,103), filed on March 7, 2007 in International Classes 18, 20, and 21;
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

11. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of

Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

12. The FACEBOOK Marks are inherently distinctive.

13. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

14. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

APPLICANT'S ASSERTED GEEZERBOOK NAME AND MARK

15. Applicant filed Application Serial No. 77/701,641 for GEEZERBOOK and Application Serial No. 77/701,642 for GEEZERBOOK.COM (collectively, the "GEEZERBOOK Applications") on an intent-to-use basis on March 29, 2009, for "Internet based social networking, introduction, and dating services; Internet-based dating, social introduction and social networking services" in Class 45.

16. The GEEZERBOOK Applications were published in the *Official Gazette* on July 28, 2009.

17. The services covered by Applicant's GEEZERBOOK Applications overlap with the services claimed in Facebook's FACEBOOK registrations and applications and as provided by Facebook in connection with the FACEBOOK Marks. Similar to the online networking services Facebook offers under its FACEBOOK Marks, the services contemplated in the GEEZERBOOK Applications involve enabling users to engage in online networking, introductions, and dating, which will likely include the exchange of photos, videos, and other media as well as information over a website. Thus the services identified in the GEEZERBOOK Applications are highly similar and/or identical to those provided by Facebook, namely, online networking services.

18. Applicant identifies on his website at <http://geezerbook.com> that his website is "Coming soon," and that it will provide "Social Networking for Adults."

19. The GEEZERBOOK Marks that Applicant proposes to register are substantially similar to the FACEBOOK Marks. With respect to both marks, the term "geezer" is generic of Applicant's claimed services as it relates to an online networking service for adults, or "geezers," which is commonly defined as a colloquial term for the elderly. The generic top-level domain, ".COM," contained within Applicant's GEEZERBOOK.COM mark is also descriptive and weak as it is universally recognized as a domain name, and is entirely non-distinctive standing alone. The term "book," on the other hand, is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term "geezer" with the dominant and inherently distinctive term BOOK, Applicant has created marks that give rise to a misleading association with Facebook.

20. Upon information and belief, Applicant selected the GEEZERBOOK Marks with knowledge of and intent to cause confusion with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

21. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

22. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of Applicant's intent-to-use GEEZERBOOK Applications.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

23. Facebook incorporates by reference Paragraphs 1 through 22, inclusive, as if fully set forth herein.

24. Applicant's GEEZERBOOK Marks are confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. The marks all consist of a term combined with the term "book." The GEEZERBOOK Marks combine the generic term "geezer" with the distinctive and dominant term "book." Thus the most distinctive and dominant component of the GEEZERBOOK Marks is identical to the distinctive "book" component of the FACEBOOK Marks.

25. The services described in the GEEZERBOOK Applications are the same as and/or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in the GEEZERBOOK Applications, Applicant intends to use its marks in connection with online social networking, dating, and introduction services. These are

identical to the online networking services provided by Facebook, but to a purported sub-set target audience of adults (who are already served by and comprise a significant portion of membership on the Facebook website). Applicant's identified services are confusingly similar and/or identical to Facebook's online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

26. The types of services identified in the GEEZERBOOK Applications and the types of services offered by Facebook under the FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website.

27. On information and belief, Applicant chose the GEEZERBOOK Marks with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

28. Registration of the GEEZERBOOK Marks will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services Applicant will offer under the GEEZERBOOK Marks, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Applicant's services marketed under the GEEZERBOOK name would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

29. Registration of the marks herein opposed will damage Facebook because Applicant's GEEZERBOOK Marks are likely, when used on or in connection with the services

described in the opposed applications, to cause confusion, or to cause mistake or to deceive. Thus the GEEZERBOOK Marks are unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

30. Facebook incorporates by reference Paragraphs 1 through 29 inclusive, as if fully set forth herein.

31. FACEBOOK is inherently distinctive in relation to Facebook's goods and services.

32. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

33. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

34. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

35. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

36. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

37. The FACEBOOK Mark became famous before the filing of Applicant's intent-to-use applications for the GEEZERBOOK Marks on March 29, 2009.

38. The dominant portion of the GEEZERBOOK Marks is identical to the "book" portion of the FACEBOOK mark, and Applicant's planned use of the GEEZERBOOK Marks is likely to cause dilution of the famous FACEBOOK mark. Applicant's intended use of the GEEZERBOOK Marks in connection with online networking services will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

39. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

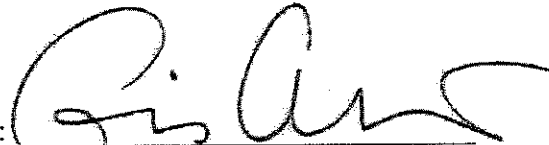
Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial Nos. 77/701,641 and 77/701,642 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
JEFFREY T. NORBERG
KATHLEEN E. JOHNSTON
CHRISTEN M.R. DUBOIS
GAVIN L. CHARLSTON

Date: November 25, 2009

By:



Gavin L. Charlston
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Consolidated Notice of Opposition was placed in the United States Mail, postage prepaid, addressed to the identified correspondent for the GEEZERBOOK Applications as follows:

Philip J. Gearing, Jr.
1207 H Street
Alexandra, Virginia 22307-1414

Date: November 25, 2009


Gavin L. Charlston

1153931 v1/SF

EXHIBIT

46

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/689,405
For the Trademark SHAREWALL
Published in the *Official Gazette* on August 25, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
GREENCODE TECHNOLOGIES, INC.,)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 South California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark SHAREWALL, as applied for in Application Serial No. 77/689,405 filed on March 12, 2009 by Applicant GreenCode Technologies, Inc. ("Applicant"), a Florida corporation having its principal place of business at 11820 Miramar Parkway Suite 104, Miramar, Florida 33025.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online networking services. Indeed, Facebook's website at <http://facebook.com> has been recognized as among the top two most-trafficked websites of any kind in the world. The Facebook website allows computer users to

communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of December 2009, Facebook provides online networking services in over 70 languages to over 350 million active users worldwide, with more than 50% of active users logging on to the Facebook website at least once per day. The average user spends more than 55 minutes per day on the Facebook website.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are able to post or send items such as textual messages, links, photographs, or video on the Wall feature of his or her own Profile Page or the Wall page of another user.

4. The Wall feature of a user's Profile Page is the center of the user's profile for adding and sharing new things, like photos, videos, notes, links, events, and other application content. The Publisher at the top of the Wall page allows a user to update his or her status and share content through many different kinds of Wall posts. When a user posts or creates content on his or her Wall page like an event, a photo album, or a link to an interesting web site, the

content will appear on that user's Wall page as a story. Other users can then comment on the content posted on the user's Wall page. Likewise, a user can add content to another user's Wall page using that user's Publisher.

5. The Facebook site is regularly used for photo and video sharing, with more than 2.5 billion photos and 14 million videos uploaded each month. Uploaded photos and videos appear on users' Wall pages as well as in albums accessible on their Profile Pages.

6. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of September 2009, there are more than 65 million active users currently accessing the Facebook service through their mobile devices.

7. Facebook provides a "Groups" feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

8. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 500,000 software programs (known as "applications") for the Facebook Platform.

FACEBOOK'S MARK

9. Facebook is the owner of U.S. Trademark Registration 3,723,894 for the mark WALL, which was filed on June 29, 2006, claims a first use date of at least as early as September 2004, and registered on December 8, 2009, for the following services:

- in International Class 38: providing online chat rooms and electronic bulletin boards for registered users for transmission of messages concerning collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images
- in International Class 42: computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; and computer services in the nature of customized web pages featuring user-defined information, personal profiles and information and
- in International Class 45: internet based introduction and social networking services.

10. In addition, Facebook owns common law rights in the WALL mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as September 2004. Facebook's WALL mark, as described above, will hereafter be referred to as the "WALL Mark."

11. The WALL Mark is inherently distinctive.

12. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

APPLICANT'S ASSERTED SHAREWALL NAME AND MARK

13. Applicant filed Application Serial No. 77/689,405 for SHAREWALL (the "SHAREWALL Application") on an intent-to-use basis on March 13, 2009, for "Providing an online directory information service featuring information regarding classifieds, social networking, photo sharing, and transmission of photographic images; advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet; providing on-line computer databases and on-line searchable databases in the field of classifieds" in Class 35.

14. The SHAREWALL Application was published in the *Official Gazette* on August 25, 2009.

15. The services covered by Applicant's SHAREWALL Application overlap with the services claimed in Facebook's WALL registration and as provided by Facebook in connection with the WALL Mark. Similar to the online networking services, including messaging, photo sharing and exchange of other media Facebook offers under its WALL Mark, the services contemplated in the SHAREWALL Application involve enabling users to engage in online social networking, specifically including the exchange of photos, and would likely involve the exchange of videos, other media and information over a website. Thus the services identified in the SHAREWALL Application are highly similar and/or identical to those provided by Facebook, namely, online networking services.

16. On information and belief, Applicant is associated with the website <http://mysharewall.com>, which is currently under construction and states "We are busy building a fun and friendly community for you."

17. The SHAREWALL Mark that Applicant proposes to register is substantially similar, and in fact, contains the entirety of the WALL Mark. As the term “share” is descriptive of Applicant’s services, which will allow users to share information, photos, and other media, the dominant portion of the SHAREWALL mark is WALL. By combining the descriptive term “share” with the dominant and inherently distinctive term WALL, Applicant has created a mark that gives rise to a misleading association with Facebook.

18. Upon information and belief, Applicant selected the SHAREWALL Mark with knowledge of and intent to cause confusion with, and to capitalize on the enormous goodwill of, the WALL Mark.

19. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

20. There is no issue as to priority of use. Facebook began using its WALL Mark, and enjoys priority as a result of the filing dates of its trademark registration, well prior to the filing date of Applicant’s intent-to-use SHAREWALL Application.

**GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

21. Facebook incorporates by reference Paragraphs 1 through 19, inclusive, as if fully set forth herein.

22. Applicant’s SHAREWALL Mark is confusingly similar to the WALL Mark in appearance, sound, and commercial impression. The SHAREWALL marks contains the entirety of the WALL Mark. The SHAREWALL Mark combines the descriptive term “share” with the distinctive and dominant term “wall.” Thus the most distinctive and dominant component of the SHAREWALL Mark is identical to the WALL Mark.

23. The services described in the SHAREWALL Application are the same as and/or closely related to the services offered by Facebook under the WALL Mark and identified in Facebook's trademark registration. According to the identification of services in the SHAREWALL Applications, Applicant intends to use its marks in connection with online social networking services, including photosharing. These are identical to the online networking services provided by Facebook under the WALL Mark. Applicant's identified services are confusingly similar and/or identical to Facebook's online networking services.

24. The types of services identified in the SHAREWALL Application and the types of services offered by Facebook under the WALL Mark are normally offered through the same channels of trade, namely, through an on-line website.

25. On information and belief, Applicant chose the WALL Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the WALL Mark.

26. Registration of the SHAREWALL Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services Applicant will offer under the SHAREWALL Mark, and Facebook's reputation and goodwill will be damaged and the value of the WALL Mark jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Applicant's services marketed under the SHAREWALL name would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the WALL Mark.


27. Registration of the mark herein opposed will damage Facebook because Applicant's SHAREWALL Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus the SHAREWALL Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/689,405 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
JEFFREY T. NORBERG
KATHLEEN E. JOHNSTON
CHRISTEN M.R. DUBOIS
GAVIN E. JOHNSTON

Date: December 23, 2009

By: 
Kathleen E. Treiber
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Consolidated Notice of Opposition was placed in the United States Mail, postage prepaid, addressed to the identified correspondent for the SHAREWALL Application as follows:

GreenCode Technologies, Inc.
11820 Miramar Parkway Suite 104
Miramar, Florida 33025-5815

Date: December 23, 2009



Kathleen E. Treiber

EXHIBIT

47

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/657,413
For the Trademark LAWYERBOOK
Published in the Official Gazette on February 9, 2010

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
LAWYERBOOK CORPORATION,)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Facebook, Inc. (“Facebook”), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark LAWYERBOOK (the “LAWYERBOOK Mark”), as applied for in Application Serial No. 77/657,413 filed on January 27, 2009 by Applicant Lawyerbook Corporation (“Applicant”), a Florida corporation, with a mailing address at 1310 SW 2nd Court, Unit 112, Fort Lauderdale, Florida 33312.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world’s leading provider of online networking services. Indeed, Facebook’s website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online

communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of February 2010, Facebook provides online networking services in over 70 languages to over 400 million active users worldwide, more than 200 million of whom typically log on to the Facebook website on any given day. The fastest growing demographic on the Facebook site is users over age 35—as of September, 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the BlackBerry and iPhone smartphones, among others. As of February 2010, there are more than 65 million active users accessing the Facebook service through their mobile devices.

20. Applicant claims on its website at LAWYERBOOK.COM to be using its LAWYERBOOK Mark in connection with “a legal professional directory crossed with a social network site.” Applicant encourages users to use its LAWYERBOOK service in order to “find a lawyer in [a particular] region,” and “learn more about that lawyer’s professional experience [and] personal hobbies.” Lawyers are encouraged to promote their services by uploading photos, videos, and online journal posts, and communicate with other lawyers throughout the world.

21. The mark Applicant proposes to register, LAWYERBOOK, is substantially similar to the FACEBOOK Marks. With respect to the LAWYERBOOK trademark, the term “lawyer” is generic of Applicant’s services as it relates to an online networking service for lawyers and clients, while the term “book” is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term “lawyer” with the dominant and inherently distinctive term BOOK, Applicant has created a mark that creates a misleading association with Facebook.

22. Upon information and belief, Applicant selected the LAWYERBOOK Mark with knowledge of and intent to cause confusion with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

23. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

24. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the claimed first use date of the LAWYERBOOK Mark.

APPLICANT'S USE OF THE LAWYERBOOK NAME AND MARK

17. Applicant filed Application Serial No. 77/657,413 for LAWYERBOOK ("LAWYERBOOK Application") on an in-use basis on January 27, 2009, claiming a first use date of November 1, 2008, and a first use in commerce date of November 1, 2008, for "[a]dvertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; [a]dvertising and marketing services, namely, promoting the goods and services of others; [a]dvertising services, namely, providing a website for the promotion of the books of others in the field of law, including news and reviews regarding same; [a]dvertising via electronic media and specifically the internet; [a]dvertising, marketing and promotion services; [p]roviding an on-line directory information service featuring information regarding legal information, attorney listings, virtual community, and social networking" in Class 35 (as amended).

18. The LAWYERBOOK Application was published in the *Official Gazette* on February 9, 2010.

19. The services covered by Applicant's LAWYERBOOK Application overlap with the services claimed in Facebook's FACEBOOK registrations and applications and as provided by Facebook in connection with the FACEBOOK Marks. Similar to the services Facebook offers under its FACEBOOK Marks, the services contemplated in the LAWYERBOOK Application appear to enable users to engage in online networking, communicate, and exchange photos, videos, and other media as well as information over a website. Thus the services claimed to be offered under the LAWYERBOOK Mark are highly similar and/or identical to those provided by Facebook, namely, online networking services.

- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

13. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

14. The FACEBOOK Marks are inherently distinctive.

15. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

16. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

- in International Class 42: application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of February 2004).

8. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

9. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in Classes 35 and 38.

10. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in Class 25.

11. Facebook is the owner of U.S. Trademark Registration 3,716,926 for the mark FACEBOOK, which was filed on March 7, 2007 and registered on November 24, 2009, covering goods in Classes 18, 20, and 21.

12. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK logo (Serial Nos. 77/896,312, 77/896,315, 77/896,317, 77/896,318, 77/896,322, 77/896,323, 77/896,325), filed on December 17, 2009 in International Classes 9, 35, 36, 38, 41, 42, and 45.

5. Facebook provides a “Groups” feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend an average of 55 minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 3 billion photos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 500,000 software programs (known as “applications”) for the Facebook Platform.

FACEBOOK’S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,734,637 for the mark FACEBOOK, which was filed on May 24, 2007 and issued on January 5, 2010, for the following goods and services:

- in International Class 9: software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of August 2006);
- in International Class 38: audio and video broadcasting services over the internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic bulleting boards for transmission of messages among users in the field of general interest (claiming a first use date of February 2004);
- in International Class 41: on-line journals, namely, blogs featuring user-defined content (claiming a first use date of February 2004); and

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

25. Facebook incorporates by reference Paragraphs 1 through 24, inclusive, as if fully set forth herein.

26. Applicant's LAWYERBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks consist of a term combined with the term "book." The LAWYERBOOK mark combines the generic term "lawyer" with the distinctive and dominant term "book." Thus the most distinctive and dominant component of the LAWYERBOOK mark is identical to the distinctive "book" component of the FACEBOOK Marks.

27. The services described in the LAWYERBOOK Application and those used under the LAWYERBOOK Mark are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in its LAWYERBOOK application, Applicant claims to use the LAWYERBOOK mark in connection with "information regarding legal information, attorney listings, virtual community, and social networking," and related advertising services. Applicant is using the LAWYERBOOK Mark in connection with a service that provides the exact same online networking services provided by Facebook, but to a sub-set target audience of lawyers and clients (who are already served on the Facebook website). Applicant's services are confusingly similar and/or identical to Facebook's online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

28. The types of services identified in the LAWYERBOOK Application and used under the LAWYERBOOK Mark and the types of services offered by Facebook under the

FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website.

29. On information and belief, Applicant chose the LAWYERBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

30. Accordingly, registration of the LAWYERBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services offered by Applicant under the LAWYERBOOK Mark, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Applicant's services marketed under the LAWYERBOOK name would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

31. Accordingly, registration of the mark herein opposed will damage Facebook because Applicant's LAWYERBOOK Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus the LAWYERBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

32. Facebook incorporates by reference Paragraphs 1 through 31 inclusive, as if fully set forth herein.

33. FACEBOOK is inherently distinctive in relation to Facebook's goods and services.

34. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

35. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

36. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

37. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

38. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

39. The FACEBOOK Mark became famous before Applicant's claimed first use of the LAWYERBOOK Mark on November 1, 2008.

40. The dominant portion of the LAWYERBOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Applicant's use of the LAWYERBOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Applicant's use of the LAWYERBOOK Mark in connection with online networking services will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

41. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

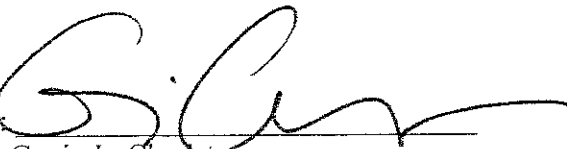
Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/657,413 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
JEFFREY T. NORBERG
KATHLEEN E. JOHNSTON
CHRISTEN M.R. DUBOIS
GAVIN L. CHARLSTON

Date: February 23, 2010

By



Gavin L. Charlston
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail, to be sent via express mail, addressed to the correspondent for the subject application as follows:

Evan Kagan, Esq.
Evan S. Kagan, P.A.
1310 SW 2nd Court, Apt. 112
Fort Lauderdale, Florida 33312

Date: February 23, 2010



Gavin L. Charlston

1163144 v1/SF

EXHIBIT

48

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/691,822
For the Trademark TEACHBOOK
Published in the Official Gazette on September 15, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
TEACHBOOK.COM LLC,)	
)	
Applicant.)	
<hr/>		

NOTICE OF OPPOSITION

Opposer Facebook, Inc. (“Facebook”), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark TEACHBOOK (the “TEACHBOOK Mark”), as applied for in Application Serial No. 77/691,822 filed on March 16, 2009 by Applicant Teachbook.com LLC (“Applicant”), a Delaware limited liability company, with a mailing address at 910 Skokie Boulevard, Suite 200, Northbrook, Illinois 60062.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world’s leading provider of online networking services. Indeed, Facebook’s website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online

communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of February 2010, Facebook provides online networking services in over 70 languages to over 400 million active users worldwide, more than 200 million of whom typically log on to the Facebook website on any given day. The fastest growing demographic on the Facebook site is users over age 35—as of September 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a “Profile Page”) on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of February 2010, there are more than 65 million active users accessing the Facebook service through their mobile devices.

5. Facebook provides a “Groups” feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend an average of 55 minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 3 billion photos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 500,000 software programs (known as “applications”) for the Facebook Platform.

FACEBOOK’S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,734,637 for the mark FACEBOOK, which was filed on May 24, 2007 and issued on January 5, 2010, for the following goods and services:

- in International Class 9: software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of August 2006);
- in International Class 38: audio and video broadcasting services over the internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic bulleting boards for transmission of messages among users in the field of general interest (claiming a first use date of February 2004);
- in International Class 41: on-line journals, namely, blogs featuring user-defined content (claiming a first use date of February 2004); and

- in International Class 42: application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of February 2004).

8. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

9. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in Classes 35 and 38.

10. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in Class 25.

11. Facebook is the owner of U.S. Trademark Registration 3,716,926 for the mark FACEBOOK, which was filed on March 7, 2007 and registered on November 24, 2009, covering goods in Classes 18, 20, and 21.

12. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK logo (Serial Nos. 77/896,312, 77/896,315, 77/896,317, 77/896,318, 77/896,322, 77/896,323, 77/896,325), filed on December 17, 2009 in International Classes 9, 35, 36, 38, 41, 42, and 45.

- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

13. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

14. The FACEBOOK Marks are inherently distinctive.

15. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

16. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

APPLICANT'S USE OF THE TEACHBOOK NAME AND MARK

17. Applicant filed Application Serial No. 77/691,822 for TEACHBOOK ("TEACHBOOK Application") on an intent-to-use basis on March 16, 2009, for "[p]roviding on-line chat rooms and electronic bulletin boards for transmission of messages among registered users concerning educational careers, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images; providing access to on-line computer databases and on-line searchable databases in the field of educational careers, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images" in Class 38 and "design and development of computer hardware and software; computer services, namely, hosting on-line web facilities for others for organizing and conducting on-line meetings, gatherings, and interactive discussions; computer service in the nature of customized web pages featuring user-defined information, personal profiles and information" in Class 42.

18. The TEACHBOOK Application was published in the *Official Gazette* on September 15, 2009.

19. The services covered by Applicant's TEACHBOOK Application are nearly identical, and in most respects identical, to those provided by Facebook. For example, Applicant intends to provide social networking services, on-line chat rooms and electronic bulletins for transmitting messages among its registered users.

20. Applicant claims on its website at TEACHBOOK.COM to be using its TEACHBOOK Mark in connection with "a professional community for teachers." Applicant touts on its website that TEACHBOOK is in effect Facebook for teachers: "Many schools forbid their teachers to maintain Facebook and MySpace accounts because of the danger that students

might learn personal information about their teachers. With Teachbook, you can manage your profile so that only other teachers and/or school administrators can see your personal information, blogs, posts, and so on.”

21. The mark Applicant proposes to register, TEACHBOOK, is substantially similar to the FACEBOOK Marks. With respect to the TEACHBOOK mark, the term “teach” is generic of Applicant’s services as it relates to an online networking service for teachers, while the term “book” is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term “teach” with the dominant and inherently distinctive term BOOK, Applicant has created a mark that creates a misleading association with Facebook.

22. Upon information and belief, Applicant selected the TEACHBOOK Mark with knowledge of and intent to cause confusion or association with, and/or to capitalize on the enormous goodwill of, the FACEBOOK Marks.

23. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

24. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of the TEACHBOOK Mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

25. Facebook incorporates by reference Paragraphs 1 through 24, inclusive, as if fully set forth herein.

26. Applicant’s TEACHBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks consist of a term combined with the term “book.” The TEACHBOOK mark combines the generic term “teach”

with the distinctive and dominant term “book.” Thus, the most distinctive and dominant component of the TEACHBOOK mark is identical to the distinctive “book” component of the FACEBOOK Marks.

27. The services described in the TEACHBOOK Application are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook’s trademark registrations and applications. According to the identification of services in its TEACHBOOK application, Applicant intends to use the TEACHBOOK mark in connection with online networking services, including “providing on-line chat rooms and electronic bulletin boards for transmission of messages among registered users concerning educational careers, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images,” “computer services, namely, hosting on-line web facilities for others for organizing and conducting on-line meetings, gatherings, and interactive discussions; computer service in the nature of customized web pages featuring user-defined information, personal profiles and information.” Applicant is using the TEACHBOOK Mark in connection with a service that provides the exact same online networking services provided by Facebook, but to a sub-set target audience of teachers and school administrators (who are already served on the Facebook website). Applicant’s services are confusingly similar and/or identical to Facebook’s online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

28. The types of services identified in the TEACHBOOK Application and the types of services offered by Facebook under the FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website.

29. On information and belief, Applicant chose the TEACHBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

30. Accordingly, registration of the TEACHBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services offered by Applicant under the TEACHBOOK Mark, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Applicant's services marketed under the TEACHBOOK Mark would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

31. Accordingly, registration of the mark herein opposed will damage Facebook because Applicant's TEACHBOOK Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, the TEACHBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

32. Facebook incorporates by reference Paragraphs 1 through 31 inclusive, as if fully set forth herein.

33. FACEBOOK is inherently distinctive in relation to Facebook's goods and services.

34. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

35. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

36. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

37. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

38. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

39. The FACEBOOK Mark became famous before Applicant's filing of TEACHBOOK Mark on March 16, 2009.

40. The dominant portion of the TEACHBOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Applicant's use of the TEACHBOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Applicant's use of the TEACHBOOK Mark in connection with online networking services will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

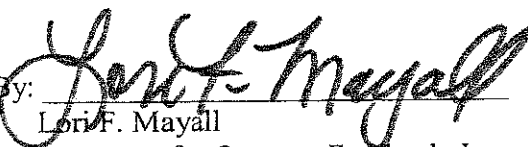
41. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/691,822 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
KATHLEEN E. JOHNSTON
GAVIN L. CHARLSTON
LORI F. MAYALL

Date: March 15, 2010

By: 
Lori F. Mayall
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

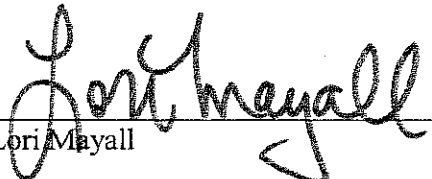
I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail, to be sent via express mail, addressed to the applicant and correspondent for the subject application as follows:

TEACHBOOK.COM LLC
910 Skokie Blvd.
Suite 200
Northbrook, IL 60062

&

Paul D. Mcgrady
Greenberg Traurig LLP
77 W. Wacker Drive
Suite 3000
Chicago, IL 60601

Date: March 15, 2010


Lori Mayall

837903 v3/HN

EXHIBIT

49

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/626,341
For the Trademark BOSS BOOK
Published in the Official Gazette on September 22, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
WHITE DIGITAL MEDIA LIMITED,)	
)	
Applicant.)	
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NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark BOSS BOOK (the "BOSS BOOK Mark"), as applied for in Application Serial No. 77/626,341 filed on December 04, 2008 by Applicant White Digital Media Limited ("Applicant"), an United Kingdom company, with a mailing address at Grosvenor House, Prince of Wales Road, Norwich, NR1 1NS, United Kingdom.

As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online networking services. Indeed, Facebook's website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share

their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of February 2010, Facebook provides online networking services in over 70 languages to over 400 million active users worldwide, more than 200 million of whom typically log on to the Facebook website on any given day. The fastest growing demographic on the Facebook site is users over age 35—as of September 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and

iPhone smartphones, among others. As of February 2010, there are more than 65 million active users accessing the Facebook service through their mobile devices.

5. Facebook provides a “Groups” feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend an average of 55 minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 3 billion photos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 500,000 software programs (known as “applications”) for the Facebook Platform.

FACEBOOK’S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,734,637 for the mark FACEBOOK, which was filed on May 24, 2007 and issued on January 5, 2010, for the following goods and services:

- in International Class 9: software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of August 2006);
- in International Class 38: audio and video broadcasting services over the internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic

bulleting boards for transmission of messages among users in the field of general interest (claiming a first use date of February 2004);

- in International Class 41: on-line journals, namely, blogs featuring user-defined content (claiming a first use date of February 2004); and
- in International Class 42: application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of February 2004).

8. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

9. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in Classes 35 and 38.

10. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in Class 25.

11. Facebook is the owner of U.S. Trademark Registration 3,716,926 for the mark FACEBOOK, which was filed on March 7, 2007 and registered on November 24, 2009, covering goods in Classes 18, 20, and 21.

12. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK logo (Serial Nos. 77/896,312, 77/896,315, 77/896,317, 77/896,318, 77/896,322, 77/896,323, 77/896,325), filed on December 17, 2009 in International Classes 9, 35, 36, 38, 41, 42, and 45.
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

13. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

14. The FACEBOOK Marks are inherently distinctive.

15. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

16. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base,

numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

APPLICANT'S USE OF THE BOSS BOOK NAME AND MARK

17. Applicant filed Application Serial No. 77/626,341 for BOSS BOOK ("BOSS BOOK Application") on an intent-to-use basis on December 04, 2008, for "[p]roviding on-line database for senior business executives featuring business networking and business contact information, and information pertaining to businesses and job opportunities" in Class 35 and "[p]roviding an on-line forum for transmission of messages among senior business executives featuring business networking and business contact information" in Class 38.

18. The BOSS BOOK Application was published in the *Official Gazette* on September 22, 2009.

19. The services covered by Applicant's BOSS BOOK Application are nearly identical, and in most respects identical, to those provided by Facebook. For example, Applicant intends to provide networking services, on-line forum for transmission of messages among its registered users.

20. On information and belief, Applicant owns and is operating a website at www.bossbook.com. The BOSSBOOK.COM website bears the tagline "BOSSBOOK Where Leaders Meet," and claims to be "The Future of Corporate and Executive Social Media."

21. The mark Applicant proposes to register, BOSS BOOK, is substantially similar to the FACEBOOK Marks. With respect to the BOSS BOOK mark, the term "boss" is generic of Applicant's services as it relates to an online networking service for executives, or "bosses," while the term "book" is distinctive and arbitrary as used in connection with an online

networking application. Thus, by combining the generic term “boss” with the dominant and inherently distinctive term BOOK, Applicant has created a mark that creates a misleading association with Facebook.

22. Upon information and belief, Applicant selected the BOSS BOOK Mark with knowledge of and intent to cause confusion or association with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

23. Facebook is not affiliated or connected with Applicant or its services; nor has Facebook endorsed or sponsored Applicant or its services.

24. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of the BOSS BOOK Mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

25. Facebook incorporates by reference Paragraphs 1 through 24, inclusive, as if fully set forth herein.

26. Applicant’s BOSS BOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks consist of a term combined with the term “book.” The BOSS BOOK mark combines the generic term “boss” with the distinctive and dominant term “book.” Thus, the most distinctive and dominant component of the BOSS BOOK mark is identical to the distinctive “book” component of the FACEBOOK Marks.

27. The services described in the BOSS BOOK Application are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook’s trademark registrations and applications. According to the identification of services in its BOSS BOOK application, Applicant intends to use the BOSS BOOK mark in connection

with online networking services, including “providing an on-line database for senior business executives featuring business networking and business contact information, and information pertaining to businesses and job opportunities,” “[p]roviding an on-line forum for transmission of messages among senior business executives featuring business networking and business contact information.” Applicant is using the BOSS BOOK Mark in connection with a service that provides the exact same online networking services provided by Facebook, but to a sub-set target audience of executives (or “bosses”), who are already served on the Facebook website. Applicant’s services are confusingly similar and/or identical to Facebook’s online networking services. However, Facebook is not affiliated or connected with Applicant or its services, nor has Facebook endorsed or sponsored Applicant or its services.

28. The types of services identified in the BOSS BOOK Application and the types of services offered by Facebook under the FACEBOOK Marks are normally offered through the same channels of trade, namely, through an on-line website.

29. On information and belief, Applicant chose the BOSS BOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook’s services and the FACEBOOK Marks.

30. Accordingly, registration of the BOSS BOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the services provided by Applicant are associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the services offered by Applicant under the BOSS BOOK Mark, and Facebook’s reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook’s detriment. Further, any defect, objection or fault found with Applicant’s services marketed under the BOSS BOOK Mark would necessarily reflect upon and

seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

31. Registration of the mark herein opposed will damage Facebook because Applicant's BOSS BOOK Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, the BOSS BOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

32. Facebook incorporates by reference Paragraphs 1 through 31 inclusive, as if fully set forth herein.

33. The FACEBOOK Mark is inherently distinctive in relation to Facebook's goods and services.

34. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

35. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

36. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

37. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

38. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

39. The FACEBOOK Mark became famous before Applicant's filing of BOSS BOOK Mark on December 04, 2008.

40. The dominant portion of the BOSS BOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Applicant's use of the BOSS BOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Applicant's use of the BOSS BOOK Mark in connection with online networking services will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

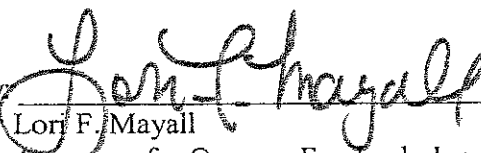
41. Accordingly, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/626,341 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
KATHLEEN E. JOHNSTON
GAVIN L. CHARLSTON
LORI F. MAYALL

Date: March 22, 2010

By: 
Lori F. Mayall
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

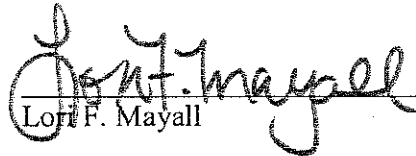
I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail, to be sent via express mail, addressed to the applicant and correspondent for the subject application as follows:

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Grosvenor House, Prince of Wales Road
Norwich, NR1 1NS
United Kingdom

&

WILLIAM C. WRIGHT
EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 E 42ND ST STE 820
NEW YORK, NY 10165-0808

Date: March 22, 2010


Lori F. Mayall

838741 v1/HN

EXHIBIT

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 77/769,840
For the Trademark SAFARIBOOK
Published in the Official Gazette on December 15, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
KINGORIAH DUANE KITHINJI,)	
)	
WANDIMI PAUL MURUTHI,)	
)	
WANDIMI JOSEPH MUCHEMI,)	
)	
MARINA CHARLENE WANGUI,)	
)	
Joint Applicants.)	
)	

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark SAFARIBOOK (the "SAFARIBOOK Mark"), as applied for in Application Serial No. 77/769,840 filed on June 29, 2009 by Applicants (1) Kingoriah Duane Kithinji, a Kenyan individual located at Kirichwa Gardens, Nairobi 51158,002, Kenya; (2) Wandimi Paul Muruthi, a Kenyan individual located at Wanyce Road, Nairobi, 25715,006, Kenya; (3) Wandimi Joseph Muchemi, a Kenyan individual located at 9 Queensgate Hse, 1 Hereford Rd., London, United Kingdom; and (4) Marina Charlene Wangui, a

Kenyan individual located at 601, 310 Queens St., Kitchener, Ontario, Canada ("Joint Applicants").

As grounds for opposition, Facebook alleges that:

1. Facebook is the world's leading provider of online networking services. Indeed, Facebook's website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook's services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of February 2010, Facebook provides online networking services in over 70 languages to over 400 million active users worldwide, more than 200 million of whom typically log on to the Facebook website on any given day. The fastest growing demographic on the Facebook site is users over age 35 as of September 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a "Profile Page") on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each

Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of February 2010, there are more than 65 million active users accessing the Facebook service through their mobile devices.

5. Facebook provides a "Groups" feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend an average of 55 minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 3 billion photos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 500,000 software programs (known as "applications") for the Facebook Platform.

FACEBOOK'S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,734,637 for the mark FACEBOOK, which was filed on May 24, 2007 and issued on January 5, 2010, for the following goods and services:

- in International Class 9: software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of August 2006);
- in International Class 38: audio and video broadcasting services over the internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic bulleting boards for transmission of messages among users in the field of general interest (claiming a first use date of February 2004);
- in International Class 41: on-line journals, namely, blogs featuring user-defined content (claiming a first use date of February 2004); and
- in International Class 42: application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of February 2004).

8. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

9. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in Classes 35 and 38.

10. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in Class 25.

11. Facebook is the owner of U.S. Trademark Registration 3,716,926 for the mark FACEBOOK, which was filed on March 7, 2007 and registered on November 24, 2009, covering goods in Classes 18, 20, and 21.

12. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK logo (Serial Nos. 77/896,312, 77/896,315, 77/896,317, 77/896,318, 77/896,322, 77/896,323, 77/896,325), filed on December 17, 2009 in International Classes 9, 35, 36, 38, 41, 42, and 45.
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

13. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

14. The FACEBOOK Marks are inherently distinctive.

15. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek's* "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

16. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

JOINT APPLICANTS' USE OF THE SAFARIBOOK NAME AND MARK

17. Joint Applicants filed Application Serial No. 77/769,840 for SAFARIBOOK ("SAFARIBOOK Application") on an intent-to-use basis on June 29, 2009, for "[o]nline social networking service for registered users to upload and share photos, videos and other forms of captured media experiences while on travel" in Class 45.

18. The SAFARIBOOK Application was published in the *Official Gazette* on December 15, 2009.

19. The services covered by Joint Applicants' SAFARIBOOK Application are identical to and encompassed by services provided by Facebook.

20. The mark Joint Applicants propose to register, SAFARIBOOK, is similar to the FACEBOOK Marks. With respect to the SAFARIBOOK mark, the term “safari” is generic of Joint Applicants’ service as it relates to travel, or “safari,” while the term “book” is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term “safari” with the dominant and inherently distinctive term BOOK, Joint Applicants have created a mark that creates a misleading association with Facebook.

21. Upon information and belief, Joint Applicants selected the SAFARIBOOK Mark with knowledge of and intent to cause confusion or association with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

22. Facebook is not affiliated or connected with Joint Applicants or their service; nor has Facebook endorsed or sponsored Joint Applicants or their service.

23. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of the SAFARIBOOK Mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

24. Facebook incorporates by reference Paragraphs 1 through 23, inclusive, as if fully set forth herein.

25. Joint Applicants’ SAFARIBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks end with the term “book.” The SAFARIBOOK mark combines the generic term “safari” with the distinctive and dominant term “book.” Thus, the most distinctive and dominant component of the SAFARIBOOK mark is identical to the distinctive “book” component of the FACEBOOK Marks.

26. The services described in the SAFARIBOOK Application are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in their SAFARIBOOK application, Joint Applicants intend to use the SAFARIBOOK mark in connection with an online social networking service, including "[o]nline social networking service for registered users to upload and share photos, videos and other forms of captured media experiences while on travel." Joint Applicants intend to use the SAFARIBOOK Mark in connection with a service that provides the exact same online networking service provided by Facebook, but to a sub-set target audience of travelers (or those on "safari"), who are already served on the Facebook website. Joint Applicants' service is identical to and encompassed by Facebook's online networking services. However, Facebook is not affiliated or connected with Joint Applicants or their service, nor has Facebook endorsed or sponsored Joint Applicants or their service.

27. The types of service identified in the SAFARIBOOK Application and the types of services offered by Facebook under the FACEBOOK Marks are offered through the same channels of trade, namely, through an on-line website.

28. On information and belief, Joint Applicants chose the SAFARIBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

29. Accordingly, registration of the SAFARIBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the service provided by Joint Applicants is associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the service offered by Joint Applicants under the SAFARIBOOK

Mark, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Joint Applicants' service marketed under the SAFARIBOOK Mark would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

30. Registration of the mark herein opposed will damage Facebook because Joint Applicants' SAFARIBOOK Mark is likely, when used on or in connection with the service described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, the SAFARIBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

31. Facebook incorporates by reference Paragraphs 1 through 30 inclusive, as if fully set forth herein.

32. The FACEBOOK Mark is inherently distinctive in relation to Facebook's goods and services.

33. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

34. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

35. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

36. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

37. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

38. The FACEBOOK Mark became famous before Joint Applicants' filing of SAFARIBOOK Mark on December 04, 2008.

39. The dominant portion of the SAFARIBOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Joint Applicants' use of the SAFARIBOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Joint Applicants' use of the SAFARIBOOK Mark in connection with an online social networking service will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

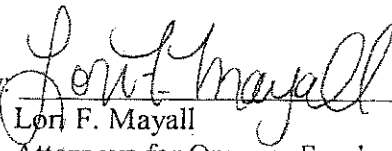
40. Accordingly, Joint Applicants' Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/769,840 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
KATHLEEN E. JOHNSTON
GAVIN L. CHARLSTON
LORI F. MAYALL

Date: April 14, 2010

By: 
Lori F. Mayall
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail, to be sent via express mail, addressed to the applicants and correspondent (being the same as one of the applicants) for the subject application as follows:

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Date: April 14, 2010


Lori F. Mayall