

EXHIBIT

71

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

In the matter of application Serial No. 77/910,252
For the Trademark FACEMOD
Published in the Official Gazette on September 27, 2011

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
RONALD PETER SPICKENAGEL II,)	
)	
Applicant.)	
<hr/>		

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, CA 94025 believes that it will be damaged by the issuance of a registration for the mark FACEMOD ("Applicant's Mark"), as applied for in Application Serial No. 77/910,252 filed on January 12, 2010 by Applicant Ronald Peter Spickenagel II ("Applicant"), an individual, located at 32435 CR 669, Lawton, MI 49065.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services. The FACEBOOK mark is highly distinctive with regard to online networking goods and services.
2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook has common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. As a result of the nature and quality of Facebook's goods and services, Facebook's users are accustomed to seeing and expect to see Facebook across the world wide web, not just on the Facebook site, and through its widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its 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).

6. On January 12, 2010, Applicant filed an application to register Applicant's Mark for: "Computer software which establishes a custom platform that serves as a framework in which powerful customizations are able to be made to existing web platforms; Computer software for the collection, editing, organizing, modifying, transmission, storage and sharing of data and information; Computer software for use as an application programming interface (API) for allowing data retrieval, upload, download, access and management; Application programming interface (API) for computer software for use in building social networking software applications and for allowing data retrieval, upload, download, access and management; Computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, and sharing of information via computer and electronic communication networks" in International Class 009.

7. According to the recitation of services and specimen submitted with the application, Applicant uses Applicant's Mark in connection with software that is designed to be interoperable with Facebook's goods and services offered under the FACEBOOK mark. A true and correct copy of the specimen submitted with the application is attached hereto as Exhibit C.

8. Applicant's Mark was published in the *Official Gazette* on September 27, 2011.

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

9. Facebook incorporates by reference Paragraphs 1 through 8, inclusive, as if fully set forth herein.

10. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's use of and

application to register Applicant's Mark.

11. Applicant's Mark is similar to the registered FACEBOOK Marks in appearance, sound, meaning, and commercial impression.

12. Applicant's intended services under Applicant's Mark, as identified in his application, are the same as and/or highly related to Facebook's goods and services.

13. Applicant offers his services under Applicant's Mark through the same channel of trade as Facebook.

14. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, and/or create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered FACEBOOK Marks.

15. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

16. Facebook is not affiliated or connected with Applicant or his services; nor has Facebook endorsed or sponsored Applicant or his services.

17. Facebook has no control over the nature and quality of the services offered under Applicant's Mark, and the value of Facebook's FACEBOOK Marks are jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's services marketed under Applicant's Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

18. 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, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

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

19. Facebook incorporates by reference Paragraphs 1 through 18 inclusive, as if fully set forth herein.

20. The FACEBOOK Marks are inherently distinctive in relation to Facebook's online networking goods and services.

21. Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

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

23. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

24. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

25. The FACEBOOK Marks became famous before Applicant filed to register Applicant's Mark on January 12, 2010.

26. Applicant's Mark incorporates the entire "face" prefix and particularly as used by

Applicant is likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Mark and Facebook's goods and services.

27. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

- (a) Applicant's Mark is similar to the FACEBOOK Marks;
- (b) The FACEBOOK Marks are inherently distinctive in relation to Facebook's online networking goods and services;
- (c) Facebook has substantially and exclusively used the FACEBOOK Marks in connection with online networking goods and services;
- (d) The FACEBOOK Marks are widely recognized by the general consuming public;
- (e) Facebook is informed and believes, and based thereon alleges, that Applicant's adoption and use of his Mark was and is intended to create an association with the FACEBOOK Marks.


28. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/910,252 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
JONATHAN MILES

Date: January 25, 2012

By: 
Jonathan Miles
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

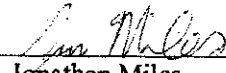
CERTIFICATE OF TRANSMITTAL AND SERVICE

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 via First Class Mail, addressed to the applicant (also identified as the correspondent for the subject application) as follows:

Ronald Peter Spickenagel II
32435 CR 669
Lawton, MI 49065
United States

Date: January 25, 2012



Jonathan Miles

EXHIBIT

72

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

In the matter of application Serial No. 85/201,529
For the Trademark FACEBROKER
Published in the Official Gazette on October 18, 2011

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
BOB WEISS,)	
)	
Applicant.)	
<hr style="border: 0.5px solid black;"/>		

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, CA 94025 believes that it will be damaged by the issuance of a registration for the mark FACEBROKER ("Applicant's Mark"), as applied for in Application Serial No. 85/201,529 filed on December 20, 2010 by Applicant Bob Weiss ("Applicant"), an individual, with a mailing address at P.O. Box 1055, New York, New York, 10002.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services.
2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- Online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook owns common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. The FACEBOOK mark is highly distinctive with regard to online networking goods and services. Moreover, through Facebook's widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its 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).

6. On December 20, 2010, Applicant filed an application to register Applicant's Mark on an intent-use-basis (Section 1(b)), for the following goods and services:

- International Class 009: Computer software development tools; computer software development tools for social networking, namely, building social networking applications and for allowing data retrieval, upload, access and database management; pre-recorded CDs featuring digital photographs, home videos and music; downloadable audio and video recordings, namely, home videos, music videos, music soundtracks, ringtones; downloadable motion pictures, television shows and video recordings, namely, films, movies and syndicated network and cable television shows featuring comedy, drama, action, adventure or animation, and home videos; downloadable ring tones, ring backs in the nature of a computerized call-back feature which returns a call to a previously dialed busy phone number, graphics, wallpaper in the nature of digital pictures that act as the backdrop to your desktop computer's monitor screen or a mobile phone's main viewing screen, downloadable electronic games and music via a global computer network and wireless devices; computer screen saver software; computer game and video game software
- International Class 035: Advertising, promotion and marketing services; providing on-line computer databases and on-line searchable databases featuring classified advertisement listings for goods and services, namely, real estate, personals, want ads and employment opportunities; providing career, employment and job placement information via the Internet; on-line retail store services featuring downloadable pre-recorded digital sound, video and data recordings featuring music, music and home videos, computer games, motion picture and television shows featuring comedy, drama, action, adventure or animation, video and computer games, game-related products in the nature of software and game controllers that enable the computer games to function, comic books, clothing, accessories in the nature of belts, hats, buttons, rings, chains, necklaces, T-shirts, and books; promoting the goods of others by means of operating an on-line shopping mall with links to the retail websites of others; comparison shopping services; dissemination of advertising for others via the Internet; providing and rental of advertising space on the Internet; on-line advertising and marketing services; providing on-line auction services; promoting concerts and entertainment events for others, namely, parties, personal, family and company gatherings, music concerts, graduations, competitions
- International Class 038: Providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest, collegiate life, classifieds, virtual community and social networking; providing

email and instant messaging services; text and numeric wireless digital messaging services; providing multiple-user access to a global computer information network for the transfer and dissemination of messages in the nature of general interest and social networking, and for accessing third party and proprietary websites; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; streaming audio and video material on the Internet; video-on-demand transmission services; providing voice communication services over the Internet; providing on-line facilities for real-time interaction with other computer users concerning topics of general interest and playing games; podcasting services; webcasting services

- International Class 041: Providing on-line information via the internet, namely, online databases in the field of entertainment and academic clubs; on-line journals, namely, blogs in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; providing an on-line computer database featuring information in the field of collegiate life concerning college athletics, concerts, entertainment events, art, performing arts, music, dance and academics; entertainment services in the nature of non-downloadable videos featuring academic clubs, sports and comedy, and providing temporary use of non-downloadable interactive, multiplayer and single player electronic games played via computer; providing images featuring digital photographs of people, places, concerts, collegiate life and sports transmitted via the Internet and wireless communication networks; production and distribution of non-downloadable videos of others featuring user-created text, audio, video, and graphics in the field of music videos, home videos, sports, local and national news videos and images in the nature of people, places, real estate, sports, concerts and athletic competitions transmitted via the Internet and wireless communication networks; entertainment services, namely, providing on-line computer games; on-line journals, namely, blogs in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; on-line publishing of electronic publications featuring text and graphic works of others via computer and communications networks in the fields of entertainment, education, social, political, cultural, economic, scientific and general interest; movie schedule and location information services; entertainment services in the nature of organizing, arranging and conducting events, namely, online video game competitions, sporting events featuring baseball, football, basketball, soccer, and track and field, parties, and educational networking events; organizing community cultural and sporting events; entertainment in the nature of contests, athletic competitions and games in the fields of baseball, football, basketball, soccer, and track and field; entertainment events in the nature of performing arts, music, concerts, and dance
- International Class 042: Computer services in the nature of customized web

pages featuring user-defined information, personal profiles and information; computer services, namely, hosting on-line web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; providing on-line search engines for obtaining data on a wide variety of topics and fields of general interest via the Internet; hosting of digital content on the Internet, namely, on-line journals and blogs; providing temporary use of non-downloadable computer software for use in the creation and publication of on-line journals and blogs; website hosting services; computer services, namely, providing search engines for obtaining data on a global computer network; computer software development; 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 and other communication networks

7. Applicant's Mark was published in the *Official Gazette* on October 18, 2011.

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

8. Facebook incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

9. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's application to register Applicant's Mark.

10. Applicant's Mark is similar to the registered FACEBOOK Marks in commercial impression.

11. Applicant's intended goods and services are the same as and/or highly related to Facebook's goods and services.

12. Applicant's intended goods and services would be offered through the same channel of trade as Facebook's goods and services.

13. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered FACEBOOK

Marks.

14. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

15. Facebook is not affiliated or connected with Applicant or his goods and services; nor has Facebook endorsed or sponsored Applicant or his goods and services.

16. Facebook has no control over the nature and quality of the goods and services offered under Applicant's Mark, and the value of Facebook's FACEBOOK Marks would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's goods or services marketed under Applicant's Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

17. Registration of the mark herein opposed will damage Facebook because Applicant's Mark is likely, when used on or in connection with the goods and services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

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

18. Facebook incorporates by reference Paragraphs 1 through 17 inclusive, as if fully set forth herein.

19. The FACEBOOK Marks are inherently distinctive in relation to Facebook's online networking goods and services.

20. Facebook has used the FACEBOOK trademark since at least as early as 2004 for

online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

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

22. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

23. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

24. The FACEBOOK Marks became famous before Applicant filed to register Applicant's Mark on December 20, 2010.

25. Applicant's Mark is so similar to the registered FACEBOOK Marks as to be likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

26. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

(a) Applicant's Mark is similar to the FACEBOOK Marks;

(b) The FACEBOOK Marks are inherently distinctive in relation to Facebook's online networking goods and services;

(c) Facebook has substantially and exclusively used the FACEBOOK Marks

in connection with online networking goods and services;

(d) The FACEBOOK Marks are widely recognized by the general consuming public;

(e) Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the FACEBOOK Marks.

27. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/201,529 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
KATHRYN D. DUVALL

Date: February 15, 2012

By: Kathryn D. Duvall
Kathryn D. Duvall
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

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 via First Class Mail, addressed to the applicant (also identified as the correspondent for the subject application) as follows:

Bob Weiss
P.O. Box 1055
New York, NY 10002-0902

Date: February 15, 2012



Kathryn D. Duvall

EXHIBIT

73

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

In the matter of application Serial No. 85/140,576
For the Trademark FACETALK
Published in the Official Gazette on August 23, 2011

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
GOOBER NETWORKS, INC.,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, CA 94025 believes that it will be damaged by the issuance of a registration for the mark FACETALK ("Applicant's Mark"), as applied for in Application Serial No. 85/140,576 filed on September 29, 2010 by Applicant Goober Networks, Inc. ("Applicant"), a Delaware corporation having its principal place of business at 435 North Dupont Hwy, Dover, DE 19901.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services.
2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- Online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook owns common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. The FACEBOOK mark is highly distinctive with regard to online networking goods and services. Moreover, through Facebook's widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its numerous trademark registrations and pending applications, and other factors, the FACEBOOK Marks have become

famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

6. On September 29, 2010, Applicant filed an application to register Applicant's Mark on an intent-use-basis (Section 1(b)), for the following goods and services:

- International Class 009: Cellular telephones; Computer software to enable the transmission of photographs to mobile telephones; Computer telephony software; Contingency response communication system designed to provide radio interoperability, streaming video, wireless internet, and VOIP phone; Interoperable communication system designed to provide radio, streaming video, wireless internet, and VOIP phone; Telephone call router, for home and office touchtone phones, for international and long distance calls made from various telephony platforms including VoIP platform without the requirement for internet
- International Class 035: Advertising business especially in the field of telematic and telephone networks
- International Class 042: Design of unified communications services; Telephone number mapping services for unifying the telephone number system with Internet addressing and identification systems

7. Applicant's Mark was published in the *Official Gazette* on August 23, 2011.

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

8. Facebook incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

9. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's application to register Applicant's Mark or, on information and belief, any actual use by Applicant of Applicant's Mark.

10. Applicant's Mark is similar to the registered FACEBOOK Marks in commercial impression.

11. Applicant's intended goods and services are the same as and/or highly related to Facebook's goods and services.

12. Applicant's intended goods and services would be offered through the same channel of trade as Facebook's goods and services.

13. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered FACEBOOK Marks.

14. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

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

16. Facebook has no control over the nature and quality of the goods and services offered under Applicant's Mark, and the value of Facebook's FACEBOOK Marks would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's goods or services marketed under Applicant's Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

17. Registration of the mark herein opposed will damage Facebook because Applicant's Mark is likely, when used on or in connection with the goods and services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be

refused registration.

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

18. Facebook incorporates by reference Paragraphs 1 through 17 inclusive, as if fully set forth herein.

19. The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services.

20. Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

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

22. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

23. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

24. The FACEBOOK Marks became famous before Applicant filed to register Applicant's Mark on September 29, 2010 or, on information and belief, any actual use by Applicant of Applicant's Mark.

25. Applicant's Mark is so similar to the registered FACEBOOK Marks as to be likely to cause an association between Applicant's Mark and the FACEBOOK Marks that

impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

26. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

- (a) Applicant's Mark is similar to the FACEBOOK Marks;
- (b) The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services;
- (c) Facebook has substantially and exclusively used the FACEBOOK Marks in connection with online networking goods and services;
- (d) The FACEBOOK Marks are widely recognized by the general consuming public;
- (e) Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the FACEBOOK Marks.

27. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/140,576 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
KATHRYN D. DUVALL

Date: February 21, 2012

By: Kathryn D. Duvall
Kathryn D. Duvall
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

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 via First Class Mail, addressed to the applicant and correspondent of record for the subject application as follows:

Goober Networks, Inc.
435 North Dupont HWY
Dover, DE 19901

Tawnya Wojciechowski
TRW Law Group
19900 MacArthur Boulevard, Suite 1150
Irvine CA 92612-8433

Date: February 21, 2012



Kathryn D. Duvall

EXHIBIT

74

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

In the matter of application Serial No. 85/281,401
For the Trademark LIFEBOOK
Published in the Official Gazette on November 15, 2011

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
CLEVELAND BROWN,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, California 94025 believes that it will be damaged by the issuance of a registration for the mark LIFEBOOK (the "LIFEBOOK Mark" or "Applicant's Mark"), as applied for in Application Serial No. 85/281,401 filed on March 30, 2011 by Applicant Cleveland Brown ("Applicant") located at 5426 Norwich Ave., Sherman Oaks, California 91411.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services.

2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- Online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook owns common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. The FACEBOOK mark is highly distinctive with regard to online networking goods and services. Moreover, through Facebook's widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its numerous trademark registrations and pending applications, and other factors, the FACEBOOK Marks have become

famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

6. On March 30, 2011, Applicant filed an application to register the LIFEBOOK Mark for: "Online social networking services in the field of recording a persons life (past, present, future) provided via a website" in International Class 045 on a use-in-commerce basis. In response to USPTO Office Action, on September 14, 2011 Applicant refiled its application to register the LIFEBOOK Mark on an intent-to-use basis for "Online social networking services in the field of recording a persons life, namely, past, present and future provided via a website" again in International Class 045.

7. Applicant's Mark was published in the *Official Gazette* on November 15, 2011.

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

8. Facebook incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

9. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's application to register the LIFEBOOK Mark or, on information and belief, any actual use by Applicant of the LIFEBOOK Mark.

10. The LIFEBOOK Mark is similar to the registered FACEBOOK Marks in commercial impression.

11. Applicant's intended services under the LIFEBOOK Mark, as identified in its application, are the same as and/or highly related to Facebook's goods and services.

12. Applicant's intended services would be offered through the same channel of trade as Facebook's goods and services

13. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered FACEBOOK Marks.

14. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

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

16. Facebook has no control over the nature and quality of the services that will be offered under the LIFEBOOK Mark, and the value of Facebook's FACEBOOK Marks would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's services marketed under the LIFEBOOK Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

17. 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, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

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

18. Facebook incorporates by reference Paragraphs 1 through 17 inclusive, as if fully set forth herein.

19. The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services.

20. Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

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

22. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

23. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

24. The FACEBOOK Marks became famous before Applicant filed to register the LIFEBOOK Mark on March 30, 2011, or on information and belief, any actual use by Applicant of the LIFEBOOK Mark.

25. Applicant's Mark is so similar to the registered FACEBOOK Marks as to be likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

26. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

- (a) Applicant's Mark is similar to the FACEBOOK Marks;
- (b) The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services;
- (c) Facebook has made substantially exclusive use of the FACEBOOK Marks in connection with online networking goods and services;
- (d) The FACEBOOK Marks are widely recognized by the general consuming public;
- (e) Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the FACEBOOK Marks.


27. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/281,401 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
JONATHAN MILES

Date: March 14, 2012

By:  _____
JONATHAN MILES
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

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 via First Class Mail, addressed to counsel for the applicant (also identified as the correspondent for the subject application) as follows:

Cleveland Brown
5426 Norwich Ave.
Sherman Oaks, CA 91411

and

Christopher J. Day, Esq.
Law Offices of Christopher Day
9977 N. 90th Street, Suite 155
Scottsdale, Arizona 85258-4499

Date: March 14, 2012



Jonathan Miles

EXHIBIT

75

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

In the matter of application Serial No. 85/195,653
For the Trademark FACEDEKK
Published in the Official Gazette on December 6, 2011

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
TAKNOLOGY, INC.,)	
)	
Applicant.)	
<hr style="border: 0.5px solid black;"/>		

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, California 94025 believes that it will be damaged by the issuance of a registration for the mark FACEDEKK (the "FACEDEKK Mark" or "Applicant's Mark"), as applied for in Application Serial No. 85/195,653 filed on December 10, 2010 by Applicant Taknology, Inc. ("Applicant"), a Maine corporation located at 773 White Road, Bowdoinham, Maine 04008.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services.

2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- Online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook owns common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. The FACEBOOK mark is highly distinctive with regard to online networking goods and services. Moreover, through Facebook's widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its numerous trademark registrations and pending applications, and other factors, the FACEBOOK Marks have become

famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

6. On December 10, 2010, Applicant filed an application to register the FACEDEKK Mark for: "Communications software for connecting users to Facebook online social web application" in International Class 009 on an in-use basis. In response to USPTO Office Action, on March 16, 2011 Applicant amended the description of goods for its application for FACEDEKK Mark to: "Communications software for connecting users to online social networking websites."

7. On information and belief, Applicant is using the FACEDEKK Mark in connection with offering of a mobile application for managing multiple Facebook user profiles in a single interface.

8. Applicant's Mark was published in the *Official Gazette* on December 6, 2011.

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

9. Facebook incorporates by reference Paragraphs 1 through 8, inclusive, as if fully set forth herein.

10. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's application to register the FACEDEKK Mark or, on information and belief, any actual use by Applicant of the FACEDEKK Mark.

11. The FACEDEKK Mark is similar to the registered FACEBOOK Marks in commercial impression.

12. Applicant's goods offered under the FACEDEKK Mark, as identified in its application and specimen of use, are the same as and/or highly related to Facebook's goods and

services.

13. Applicant's goods are offered through the same channel of trade as Facebook's goods and services.

14. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the FACEBOOK Marks.

15. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

16. Facebook is not affiliated or connected with Applicant or its goods; nor has Facebook endorsed or sponsored Applicant or its goods.

17. Facebook has no control over the nature and quality of the goods that will be offered under the FACEDEKK Mark, and the value of Facebook's FACEBOOK Marks would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's services marketed under the FACEDEKK Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

18. 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, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

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

19. Facebook incorporates by reference Paragraphs 1 through 18 inclusive, as if fully set forth herein.

20. The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services.

21. Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

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

23. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

24. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

25. The FACEBOOK Marks became famous before Applicant filed to register the FACEDEKK Mark on December 10, 2010, or on information and belief, any actual use by Applicant of the FACEDEKK Mark.

26. Applicant's Mark is so similar to the registered FACEBOOK Marks as to be likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

27. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

- (a) Applicant's Mark is similar to the FACEBOOK Marks;
- (b) The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services;
- (c) Facebook has made substantially exclusive use of the FACEBOOK Marks in connection with online networking goods and services;
- (d) The FACEBOOK Marks are widely recognized by the general consuming public;
- (e) Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the FACEBOOK Marks.

28. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/195,653 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
KATHRYN D. DUVALL

Date: April 4, 2012

By: Kathryn D Duvall
Kathryn D. Duvall
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

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 via First Class Mail, addressed to applicant and correspondent for applicant as follows:

Taknology, Inc.
773 White Road
Bowdoinham, ME 04008

and

Chelsea E. Callanan
Murray Plumb & Murray
PO Box 9785
Portland ME 04104-5085

Date: April 4, 2012



Kathryn D. Duvall

EXHIBIT

76

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

In the matter of application Serial No. 85/323,282
For the Trademark PRAYBOOK
Published in the Official Gazette on October 11, 2011

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
1 CHRONICLES 4:10, LLC,)	
)	
Applicant.)	
<hr style="border: 0.5px solid black;"/>		

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, California 94025 believes that it will be damaged by the issuance of a registration for the mark PRAYBOOK (the "PRAYBOOK Mark" or "Applicant's Mark"), as applied for in Application Serial No. 85/323,282 filed on May 17, 2011 by Applicant 1 Chronicles 4:10, LLC, ("Applicant"), a Georgia limited liability company located at 1131 East Haven Trail, Bogart, Georgia, 30622.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services.
2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- Online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook owns common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. The FACEBOOK mark is highly distinctive with regard to online networking goods and services. Moreover, through Facebook's widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its numerous trademark registrations and pending applications, and other factors, the FACEBOOK Marks have become

famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

6. On May 17, 2011, Applicant filed an application to register the PRAYBOOK Mark for: "Computer services, namely, creating an on-line community for registered users to facilitate praying for friends" in International Class 042 on an intent-to-use basis.

7. On information and belief, Applicant is using the PRAYBOOK Mark in connection with offering of an application specifically for the Facebook website and Facebook users.

8. Applicant's Mark was published in the *Official Gazette* on October 11, 2011.

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

9. Facebook incorporates by reference Paragraphs 1 through 8, inclusive, as if fully set forth herein.

10. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's application to register the PRAYBOOK Mark or, on information and belief, any actual use by Applicant of the PRAYBOOK Mark.

11. The PRAYBOOK Mark is similar to the registered FACEBOOK Marks in commercial impression.

12. Applicant's goods offered under the PRAYBOOK Mark, as identified in its application, are the same as and/or highly related to Facebook's goods and services.

13. Applicant's goods are offered through the same channel of trade as Facebook's goods and services.

14. Facebook is informed and believes, and based thereon alleges, that Applicant's

Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the FACEBOOK Marks.

15. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

16. Facebook is not affiliated or connected with Applicant or its goods; nor has Facebook endorsed or sponsored Applicant or its goods.

17. Facebook has no control over the nature and quality of the goods that will be offered under the PRAYBOOK Mark, and the value of Facebook's FACEBOOK Marks would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's services marketed under the PRAYBOOK Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

18. 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, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

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

19. Facebook incorporates by reference Paragraphs 1 through 18 inclusive, as if fully set forth herein.

20. The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services.

21. Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many other goods and services.

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

23. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

24. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

25. The FACEBOOK Marks became famous before Applicant filed to register the PRAYBOOK Mark on May 17, 2011, or on information and belief, any actual use by Applicant of the PRAYBOOK Mark.

26. Applicant's Mark is so similar to the registered FACEBOOK Marks as to be likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

27. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

- (a) Applicant's Mark is similar to the FACEBOOK Marks;
- (b) The FACEBOOK Marks are inherently distinctive in relation to online

networking goods and services;

(c) Facebook has made substantially exclusive use of the FACEBOOK Marks in connection with online networking goods and services;

(d) The FACEBOOK Marks are widely recognized by the general consuming public;

(e) Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the FACEBOOK Marks.

28. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/323,282 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
KATHRYN D. DUVALL

Date: April 9, 2012

By: Kathryn D. Duvall
Kathryn D. Duvall
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

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 via First Class Mail, addressed to applicant (also listed as correspondent for applicant) as follows:

1 Chronicles 4:10, LLC
1131 East Haven Trail
Bogart, GA 30622-5338

Date: April 9, 2012



Kathryn D. Duvall

EXHIBIT

77

TTAB

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

In the matter of application Serial No. 85/416,848
For the Trademark BUDBOOK
Published in the Official Gazette on January 24, 2012

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
SHANE M. THOMPSON,)	
)	
Applicant.)	

05/29/2012 56NIM1 00000023 033118 85416848

01 FC:6402 300.00 DA

NOTICE OF OPPOSITION

Opposer Facebook, Inc. ("Facebook"), a Delaware corporation having its principal place of business at 1601 Willow Rd., Menlo Park, California 94025 believes that it will be damaged by the issuance of a registration for the mark BUDBOOK (the "BUDBOOK Mark" or "Applicant's Mark"), as applied for in Application Serial No. 85/416,848 filed on September 7, 2011 by Applicant Shane M. Thompson, ("Applicant"), an individual residing at 8434 SE 82nd St., Portland, Oregon 97266.

As grounds for opposition, Facebook alleges that:

1. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services.
2. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

05-23-2012

- Creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking;
- Internet based introduction and social networking services;
- Online chat functions for transmission of messages, photographs, videos, and other user-defined content;
- Online forums;
- Audio and video broadcasting services over the Internet or other communications network for uploading, posting, showing, displaying, tagging and sharing audio, and video clips; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

3. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Facebook owns common law rights in the FACEBOOK mark and marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

5. The FACEBOOK mark is highly distinctive with regard to online networking goods and services. Moreover, through Facebook's widespread use of the FACEBOOK Marks, extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, its numerous trademark registrations and pending applications, and other factors, the FACEBOOK Marks have become

famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

6. On September 7, 2011, Applicant filed an application to register the BUDBOOK Mark for: "Social networking services in the field of botany, technology, holistic health and medical marijuana patient administration provided via a website" in International Class 045 on an intent-to-use basis.

7. Applicant's Mark was published in the *Official Gazette* on January 24, 2012.

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

8. Facebook incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

9. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations well prior to Applicant's application to register the BUDBOOK Mark or, on information and belief, any actual use by Applicant of the BUDBOOK Mark.

10. The BUDBOOK Mark is similar to the registered FACEBOOK Marks in commercial impression.

11. Applicant's goods and services offered under the BUDBOOK Mark, as identified in its application, are the same as and/or highly related to Facebook's goods and services.

12. Applicant's goods and services are offered through the same channel of trade as Facebook's goods and services.

13. Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the FACEBOOK Marks.

14. Applicant's Mark suggests an affiliation or connection between Applicant and Facebook, where none exists.

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

16. Facebook has no control over the nature and quality of the goods or services that will be offered under the BUDBOOK Mark, and the value of Facebook's FACEBOOK Marks would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's goods or services marketed under the BUDBOOK Mark would negatively reflect upon and injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

17. 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, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

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

18. Facebook incorporates by reference Paragraphs 1 through 17 inclusive, as if fully set forth herein.

19. The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services.

20. Facebook has used the FACEBOOK trademark since at least as early as 2004 for online networking goods and services, and has expanded use of the FACEBOOK Marks to many

other goods and services.

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

22. Facebook has continuously used the FACEBOOK Marks throughout the United States and internationally.

23. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's goods and services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's goods and services, and are famous.

24. The FACEBOOK Marks became famous before Applicant filed to register the BUDBOOK Mark on September 7, 2011, or on information and belief, any actual use by Applicant of the BUDBOOK Mark.

25. Applicant's Mark is so similar to the registered FACEBOOK Marks as to be likely to cause an association between Applicant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in the public's mind between the FACEBOOK Marks and Facebook's goods and services.

26. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

- (a) Applicant's Mark is similar to the FACEBOOK Marks;
- (b) The FACEBOOK Marks are inherently distinctive in relation to online networking goods and services;
- (c) Facebook has made substantially exclusive use of the FACEBOOK Marks

in connection with online networking goods and services;

(d) The FACEBOOK Marks are widely recognized by the general consuming public;

(e) Facebook is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the FACEBOOK Marks.

27. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 85/416,848 be refused.

Respectfully submitted,

COOLEY LLP
ANNE H. PECK
KATHRYN D. DUVALL

Date: May 23, 2012

By: Kathryn D. Duvall
Kathryn D. Duvall
Attorneys for Opposer Facebook, Inc.

Cooley LLP
777 6th St., NW
Suite 1100
Washington, D.C. 20001
T: 650-843-5000
F: 650-849-7400

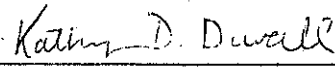
CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being placed in the United States Mail, to be sent via express mail to the Trademark Trial and Appeal Board 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 via First Class Mail, addressed to applicant (also listed as correspondent for applicant) as follows:

Shane Thompson
8434 SE 82nd Street
Portland, OR 97266

Date: May 23, 2012



Kathryn D. Duvall

EXHIBIT

78

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FACEBOOK, INC.,

Plaintiff,

v.

TEACHBOOK.COM LLC,

Defendant.

Civil Action No.

Jury Trial Demanded

**COMPLAINT SEEKING DAMAGES AND INJUNCTIVE RELIEF FOR FEDERAL
TRADEMARK INFRINGEMENT, FEDERAL TRADEMARK DILUTION, FALSE
DESIGNATION OF ORIGIN, COMMON LAW TRADEMARK INFRINGEMENT,
COMMON LAW UNFAIR COMPETITION, VIOLATION OF THE ANTI-
CYBERSQUATTING CONSUMER PROTECTION ACT, VIOLATION OF THE
ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES ACT, AND VIOLATION OF
THE ILLINOIS TRADEMARK AND REGISTRATION ACT**

Plaintiff, Facebook, Inc., for its complaint against Defendant, Teachbook.com LLC,
states as follows:

PARTIES

1. Plaintiff Facebook, Inc. ("Facebook") is a Delaware corporation having its principal place of business at 1601 S. California Avenue, Palo Alto, California 94304.
2. Facebook is informed and believes, and based thereon alleges, that Defendant Teachbook.com LLC ("Teachbook") is a Delaware limited liability company located in the State of Illinois having a place of business at 910 Skokie Boulevard, Suite 200, Northbrook, Illinois 60062.

JURISDICTION AND VENUE

3. This Court has jurisdiction of this action under 15 U.S.C. §§ 1119 and 1121 and 28 U.S.C. §§ 1331, 1338, and 1367. This action is filed under the United States Trademark Act

of July 5, 1946, as amended, 15 U.S.C. § 1501, *et seq.* (the "Lanham Act").

4. This Court has personal jurisdiction over Defendant in that Defendant is a resident of the Northern District of Illinois.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391, as this is a judicial district in which the sole defendant resides.

COMMON ALLEGATIONS

Facebook's Famous Trademarks

6. Since its online networking service was launched in February 2004, Facebook has continuously used the mark FACEBOOK in interstate commerce in the United States in connection with its goods and services. The FACEBOOK mark is highly distinctive with regard to online social networking services, and Facebook users are accustomed to seeing and expect to see Facebook across the world wide web, not just on the Facebook site.

7. Facebook owns multiple U.S. registrations for the mark FACEBOOK. These registrations cover a wide variety of goods and services, including, but not limited to:

- Online networking services; online chat functions for transmission of messages, photographs, videos, and other user-defined content; and online forums;
- Hosting customized web pages featuring user-defined information and personal profiles;
- Online journals featuring user-defined content and electronic publishing services; and
- Software to enable uploading, tagging, and sharing of photographs, videos, and other user-defined content or information.

8. True and correct copies of registrations for the FACEBOOK mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

9. In addition, Facebook has common law rights in the FACEBOOK mark and

marks that incorporate FACEBOOK in connection with various other goods and services, including as identified in pending U.S. trademark applications. True and correct copies of the U.S. Patent and Trademark Office online status pages for Facebook's pending trademark applications for its FACEBOOK and FACEBOOK-formative marks are attached hereto as Exhibit B, and are incorporated by reference as though fully set forth herein. All of Facebook's marks that consist of or incorporate the term FACEBOOK are referred to herein as the "FACEBOOK Marks."

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

11. Through this usage, Facebook has permeated the web and Facebook users are accustomed to seeing and expect to see Facebook across the world wide web, not just on the Facebook site. Facebook, and its FACEBOOK trademark, are famous.

Defendant's Use of the TEACHBOOK Name and Mark

12. Defendant adopted and uses the name and mark TEACHBOOK in connection with a business and online website, accessible at <http://www.teachbook.com>, that offers online networking services for teachers. Defendant's TEACHBOOK mark (including as used in connection with the teachbook.com website) and the Teachbook.com domain name are referred to collectively herein as the "TEACHBOOK Mark."

13. Defendant has touted on its website that TEACHBOOK is a substitute for

Facebook: "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. Teachbook is all about community, utility, and communication for teachers." Defendant uses the TEACHBOOK Mark in connection with offering and/or promoting the aforementioned online networking services. Attached as Exhibit C are true and correct copies of the home page and other pages from the Teachbook.com website as they appeared in December 2009 and as they appeared on August 16, 2010, and are hereby incorporated by reference as though set forth in full herein.

14. On March 16, 2009, Defendant applied on an intent-to-use basis to register the TEACHBOOK trademark with the United States Patent and Trademark Office in International Class 38 (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; 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) and International Class 42 (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). A true and correct copy of the U.S. Patent and Trademark Office online status page for this application is attached hereto as Exhibit D, and is hereby incorporated by reference as though set forth in full herein. Facebook has

opposed registration of this application.

15. Defendant's TEACHBOOK Mark is substantially similar to the FACEBOOK Marks.

16. The services offered under Defendant's Mark are the same as and/or related to some of the services provided by Facebook.

17. Defendant's TEACHBOOK Mark also creates a false suggestion of an affiliation or connection between Defendant and Facebook, where none exists.

18. On information and belief, Defendant adopted its TEACHBOOK Mark with the intention of causing confusion with, and trading on the goodwill of, the FACEBOOK Marks.

19. Facebook began using its FACEBOOK mark at least as early as February 2004, and filed applications resulting in federal registrations, well prior to Defendant's use of the TEACHBOOK Mark. The FACEBOOK Marks also acquired wide recognition in the general consuming public, and became famous, well prior to Defendant's use of the TEACHBOOK Mark.

Procedural History

20. This case was originally filed in the United States District Court for the Northern District of California on August 18, 2010.

21. Defendant Teachbook subsequently moved to dismiss the case for lack of personal jurisdiction in the Northern District of California and, in the alternative, to transfer venue to the Northern District of Illinois.

22. On May 3, 2011 Judge Ronald Whyte dismissed Plaintiff's case for lack of personal jurisdiction. Judge White stated, "Teachbook, somewhat implausibly, insists that it did not intend to trade on Facebook's mark, and that it selected the TEACHBOOK mark in 2009

because of the connection between teachers and books.” Judge Whyte went on to rule, “Facebook has made a prima facie showing that Teachbook committed an intentional act by selecting a confusingly similar trademark, and that the act caused harm that Teachbook knew was likely to be suffered in the Northern District of California. Nonetheless, Facebook fails to satisfy the ‘effects’ test because it has not made a prima facie showing that Teachbook’s conduct was ‘expressly aimed’ at the forum.”

23. Accordingly, Facebook brings the present action in this District, where Defendant has admitted to be resident.

**FIRST CAUSE OF ACTION
(Federal Trademark Infringement)**

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

25. The TEACHBOOK Mark is highly similar to the registered FACEBOOK Marks in appearance, sound, meaning, and commercial impression.

26. Defendant’s services are the same as and/or related to some of Facebook’s services.

27. Both Facebook and Defendant offer their services through the same channel of trade, i.e., the internet.

28. Facebook is informed and believes, and based thereon alleges, that Defendant adopted the TEACHBOOK Mark with knowledge of, and the intent to call to mind and create a likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered FACEBOOK Marks.

29. Facebook has given notice of its registrations, applications, and claimed trademark rights pursuant to section 29 of the Lanham Act, 15 U.S.C. § 1111. Defendant

continues to use the TEACHBOOK Mark despite Facebook's express objection thereto.

30. Defendant's continued use of the TEACHBOOK Mark will injure Facebook by causing a likelihood that the public will be confused or mistaken into believing that the goods or services provided by Defendant are endorsed or sponsored by Facebook.

31. Facebook has no control over the nature and quality of the goods or services offered by Defendant under Defendant's Mark, and Facebook's reputation and goodwill will be damaged and the value of Facebook's registered and common law marks jeopardized by Defendant's continued use of the TEACHBOOK name and mark. Because of the likelihood of confusion between the parties' marks, any defects, objections, or faults found with Defendant's services marketed under the TEACHBOOK Mark would negatively reflect upon and injure the reputation that Facebook has established for the services it offers in connection with the registered FACEBOOK Marks. As such, Defendant is liable to Facebook for infringement of a registered mark under 15 U.S.C. §1114.

32. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

33. As a result of Defendant's infringement of Facebook's registered marks, Facebook has incurred damages in an amount to be proven at trial.

34. Defendant's infringement of Facebook's registered marks is deliberate, willful, fraudulent and without any extenuating circumstances, and constitutes a knowing use of Facebook's marks and an exceptional case within the meaning of Lanham Act section 35, 15 U.S.C. § 1117. Facebook is therefore entitled to recover three times the amount of its actual

damages and the attorneys' fees and costs incurred in this action, and prejudgment interest.

**SECOND CAUSE OF ACTION
(Federal Trademark Dilution)**

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

36. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's services, and are famous.

37. The FACEBOOK Marks became famous before Defendant adopted the TEACHBOOK Mark.

38. Defendant's Mark incorporates a distinctive part of the FACEBOOK Marks, i.e., "book," and thus its use is likely to cause an association between Defendant's Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in consumers' minds between the FACEBOOK Marks and Facebook's services. Defendant's use of the TEACHBOOK Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:

(a) Defendant's Mark is similar to the FACEBOOK Marks in that the Defendant's Mark combines the distinctive BOOK suffix of the FACEBOOK mark with a generic term for Defendant's target market;

(b) The FACEBOOK Marks are inherently distinctive;

(c) Facebook is engaging in substantially exclusive use of the FACEBOOK Marks in connection with social and professional networking services;

(d) The FACEBOOK Marks are widely recognized by the general consuming

public; and

(e) Facebook is informed and believes, and based thereon alleges, that Defendant intends to create an association with the FACEBOOK Marks.

39. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

40. As a result of Defendant's acts as alleged above, Facebook has incurred damages in an amount to be proven at trial.

41. Defendant's wrongful use of the TEACHBOOK Mark is deliberate, willful, fraudulent, and without any extenuating circumstances, and constitutes a willful intent to trade on Facebook's reputation or to cause dilution of the famous FACEBOOK Marks and an exceptional case within the meaning of Lanham Act section 35, 15 U.S.C. § 1117. Facebook is therefore entitled to recover three times the amount of its actual damages and the attorneys' fees and costs incurred in this action, and prejudgment interest.

**THIRD CAUSE OF ACTION
(Federal False Designation of Origin)**

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

43. In connection with Defendant's services, Defendant has used in commerce and without Facebook's authorization or consent the TEACHBOOK Mark, which is highly similar to the registered and common law FACEBOOK Marks.

44. Such acts are likely to cause confusion and deception among the purchasing public and/or are likely to lead the consuming public to believe that Facebook has authorized,

approved or somehow sponsored Defendant's use of the TEACHBOOK Mark in connection with Defendant's services.

45. The aforesaid wrongful acts of Defendant constitute the use of a false designation of origin and false description or representation, all in violation of 15 U.S.C. § 1125(a).

46. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

47. As a result of Defendant's acts as alleged above, Facebook has incurred damages in an amount to be proven at trial.

48. Defendant's wrongful use of the TEACHBOOK Mark is deliberate, willful, fraudulent and without any extenuating circumstances, and constitutes a knowing use of Facebook's marks and an exceptional case within the meaning of Lanham Act section 35, 15 U.S.C. § 1117. Facebook is therefore entitled to recover three times the amount of its actual damages and the attorneys' fees and costs incurred in this action, and prejudgment interest.

**FOURTH CAUSE OF ACTION
(Common Law Trademark Infringement)**

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

50. Defendant's acts alleged herein and specifically, without limitation, Defendant's use of the TEACHBOOK Mark, infringe Facebook's exclusive trademark rights in the FACEBOOK Marks, in violation of the common law.

51. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill.

Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

52. As a result of Defendant's acts as alleged above, Facebook has incurred damages in an amount to be proven at trial.

53. Defendant's wrongful use of the TEACHBOOK Mark is deliberate, willful, and in reckless disregard of Facebook's trademark rights, entitling Facebook to the recovery of punitive damages.

**FIFTH CAUSE OF ACTION
(Common Law Unfair Competition)**

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

55. Facebook is informed and believes, and based thereon alleges, that Defendant has engaged in and continues to engage in unfair competition by using the TEACHBOOK Mark, with the intention of interfering with and trading on the business reputation and goodwill engendered by Facebook through hard work and diligent effort.

56. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

57. As a result of Defendant's acts as alleged above, Facebook has incurred damages in an amount to be proven at trial.

**SIXTH CAUSE OF ACTION
(Cybersquatting)**

58. Facebook incorporates by reference paragraphs 1 through 23, inclusive, as if fully

set forth herein.

59. Facebook is informed and believes, and based thereon alleges, that Defendant acquired, and subsequently made use of, the TEACHBOOK.COM domain. True and correct copies of the domain name registration records for TEACHBOOK.COM reflecting Defendant's ownership of the domain are attached hereto as Exhibit E, and are hereby incorporated by reference as though set forth in full herein.

60. Facebook is informed and believes, and based thereon alleges, that Facebook began using the distinctive and famous FACEBOOK Marks years prior to Defendant's acquisition of the TEACHBOOK.COM domain name. By the time Defendant acquired the TEACHBOOK.COM domain name, the FACEBOOK Marks were widely recognized as an indicator of source for Facebook's services, and were famous.

61. Defendant's TEACHBOOK.COM domain name is confusingly similar and/or dilutive of the FACEBOOK Marks.

62. Facebook is informed and believes, and based thereon alleges, that Defendant acquired and has used the TEACHBOOK.COM domain name with bad faith intent to profit from the FACEBOOK Marks.

63. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

64. Facebook is entitled to cancellation of Defendant's TEACHBOOK.COM domain name registration or transfer of the domain name to Facebook, along with monetary compensation and statutory penalties pursuant to the Anti-Cybersquatting Consumer Protection

Act, 15 U.S.C. § 1125(d).

SEVENTH CAUSE OF ACTION
(Violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS §§ 510, *et seq.*)

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

66. By the acts described herein, Defendant has engaged in unlawful and unfair business practices that have injured and will continue to injure Facebook in its business and property, in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS §§ 510, *et seq.*

67. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

68. As a direct and proximate result of Defendant's conduct alleged herein, Defendant has been unjustly enriched and should be ordered to disgorge any and all profits earned as a result of such unlawful conduct.

EIGHTH CAUSE OF ACTION
(Trademark Dilution, Illinois Trademark and Registration Act, 765 ILCS §§ 1036, *et seq.*)

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

70. The FACEBOOK Marks are distinctive and famous within the meaning of section 65 of the Illinois Trademark and Registration Act, 765 ILCS § 1036/65.

71. Defendant's use of the TEACHBOOK Mark began after the FACEBOOK Marks became famous.

72. Defendant's continued use of the TEACHBOOK Mark is likely to cause injury to Facebook's business reputation and/or the dilution of the distinctive quality of Facebook's famous FACEBOOK Marks, in violation of the Illinois Trademark and Registration Act, 765 ILCS § 1036/65.

73. Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Facebook's marks, business, reputation, and goodwill. Facebook has no adequate remedy at law as monetary damages are inadequate to compensate Facebook for the injuries caused by Defendant.

74. Defendant's wrongful use of the TEACHBOOK Mark is deliberate, willful, and in reckless disregard of Facebook's trademark rights, entitling Facebook to the recovery of damages in an amount to be proved at trial, and treble damages.

PRAYER FOR RELIEF

WHEREFORE, Facebook prays:

A. That this Court grant preliminary and permanent injunctive relief enjoining Defendant and all others acting in concert with and having knowledge thereof, from using the TEACHBOOK Mark, and any similar trade name or mark or variant thereof, or other "generic plus BOOK" mark, as a trade name, trademark, service mark, domain name, or for any other purpose;

B. That this Court declare the TEACHBOOK trademark application void ab initio;

C. That this Court order Defendant to account to Facebook any and all revenues and profits that Defendant has derived from its wrongful actions and to pay all damages which Facebook has sustained by reason of the acts complained of herein, and that such damages be trebled;

D. That this Court award Facebook the costs of this action and reasonable attorneys' fees and expenses;

E. That this Court award Facebook punitive damages;

F. That this Court order the Registrar of the TEACHBOOK.com domain name to cancel or transfer the registrations to Facebook; and

G. That this Court grant such other and further relief as it should deem just.

DEMAND FOR JURY TRIAL

Plaintiff Facebook, Inc. hereby demands a trial by jury on all issues for which a trial by jury may be had.

Respectfully submitted,

Dated: May 6, 2011

/s/ Michael J. Harris

Christopher J. Renk (IL Bar No. 6199012)

Michael J. Harris (IL Bar No. 6280168)

BANNER & WITCOFF, LTD.

10 S. Wacker Drive, Ste. 3000

Chicago, IL 60606

Tel: (312) 463-5000

Fax: (312) 463-5001

Email: crenk@bannerwitcoff.com

mharris@bannerwitcoff.com

Michael G. Rhodes (*pro hac vice* pending)

COOLEY LLP

101 California Street, 5th Floor

San Francisco, CA 94111-5800

Phone: (415) 693-2000

Fax: (415) 693-2222

Email: rhodesmg@cooley.com

Anne H. Peck (*pro hac vice* pending)

Jeffrey T. Norberg (*pro hac vice* pending)

COOLEY LLP

3175 Hanover Street

Palo Alto, CA 94304-1130

Telephone: (650) 843-5000

Facsimile: (650) 849-7400

Email: peckah@cooley.com

jnorberg@cooley.com

Attorneys for Plaintiff, Facebook, Inc.

EXHIBIT

79

ORIGINAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COOLEY LLP
MICHAEL G. RHODES (SBN 116127)
(rhodesmg@cooley.com)
101 California Street, 5th Floor
San Francisco, CA 94111-5800
Phone: (415) 693-2000
Fax: (415) 693-2222

ANNE H. PECK (SBN 124790) (apeck@cooley.com)
EMILY F. BURNS (SBN 228123) (eburns@cooley.com)
3175 Hanover Street
Palo Alto, CA 94304-1130
Telephone: (650) 843-5000
Facsimile: (650) 849-7400

Attorneys for Plaintiff
FACEBOOK, INC.

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MEJ

FACEBOOK, INC.,
Plaintiff,
v.
TEACHBOOK.COM LLC,
Defendant.

Case No. CV 10-03654 MEJ

COMPLAINT SEEKING DAMAGES
AND INJUNCTIVE RELIEF FOR:

- (1) FEDERAL TRADEMARK INFRINGEMENT, 15 U.S.C. § 1114;
- (2) FEDERAL TRADEMARK DILUTION, 15 U.S.C. § 1125;
- (3) FALSE DESIGNATION OF ORIGIN, 15 U.S.C. § 1125;
- (4) COMMON LAW TRADEMARK INFRINGEMENT;
- (5) COMMON LAW UNFAIR COMPETITION;
- (6) TRADEMARK DILUTION UNDER CAL. BUS. & PROF. CODE § 14247;
- (7) UNFAIR COMPETITION UNDER CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.;
- AND
- (8) VIOLATION OF THE ANTI-CYBERSQUATTING CONSUMER PROTECTION ACT, 15 U.S.C. § 1125(D).

JURY TRIAL DEMANDED

FILED
2010 APR 15
9

FAXED

1 enjoy personalized and relevant internet experiences. As of the filing of this Complaint, more
2 than 500 million monthly active Facebook users spend more than 700 billion minutes per month
3 on <http://www.facebook.com>, making the site the second most trafficked website in the United
4 States. More than 150 million Facebook users also engage with Facebook through external, third-
5 party websites every month. And more than one million websites have implemented tools
6 Facebook makes available to engage users and to make their sites more social and relevant.
7 Through Facebook, users can interact with over 900 million objects (individual and community
8 pages, groups, and events) and 30 billion pieces of content (web links, news stories, blog posts,
9 notes, photo albums, etc.).

10 8. Through this usage, Facebook has permeated the web and Facebook users are
11 accustomed to seeing and expect to see Facebook across the world wide web, not just on the
12 Facebook site. Facebook, and its FACEBOOK trademark, are famous.

13 THE FAME OF THE FACEBOOK MARKS

14 9. Since its online networking service was launched in February 2004, Facebook has
15 continuously used the mark FACEBOOK in interstate commerce in the United States in
16 connection with its goods and services. FACEBOOK is an arbitrary mark, which is highly
17 distinctive with regard to online networking services.

18 10. Facebook owns a number of U.S. registrations for the mark FACEBOOK. These
19 registrations cover a wide variety of goods and services, including, but not limited, to:

- 20 • Online networking services, online chat functions for transmission of messages
21 and electronic media, and online forums;
- 22 • Online journals featuring user-defined content and electronic publishing services;
23 and
- 24 • Software to enable uploading, tagging, and sharing of electronic media or
25 information.

26 True and correct copies of registrations for the FACEBOOK mark are attached hereto as
27 Exhibit A, and are hereby incorporated by reference as though set forth in full herein.

28 11. In addition, Facebook has U.S. common law rights in the FACEBOOK mark in

1 connection with various other goods and services, including as identified in pending U.S.
2 trademark applications. These applications cover a wide variety of goods and services, including:

- 3 • Online computer databases in the fields of classified ads, collegiate life, general
4 interest, classifieds, virtual community, social networking, photo sharing, and
5 transmission of photographic images;
- 6 • Customized web pages featuring user-defined information, personal profiles and
7 information; and
- 8 • Hosting online web facilities for others for organizing and conducting online
9 meetings, gatherings, and interactive discussions.

10 True and correct copies of the U.S. Patent and Trademark Office online status pages for
11 these trademark applications are attached hereto as Exhibit B, and are hereby incorporated by
12 reference as though set forth in full herein.

13 **12.** Facebook also owns a number of other pending U.S. applications to register marks
14 that incorporate the FACEBOOK mark, many of which currently are in use in U.S. commerce.
15 All of Facebook's marks that consist of or incorporate the term FACEBOOK will hereafter be
16 referred to as the "FACEBOOK Marks."

17 **13.** The BOOK component of the FACEBOOK mark has no descriptive meaning and
18 is arbitrary and highly distinctive in the context of online communities and networking websites.
19 If others could freely use "generic plus BOOK" marks for online networking services targeted to
20 that particular generic category of individuals, the suffix BOOK could become a generic term for
21 "online community/networking services" or "social networking services." That would dilute the
22 distinctiveness of the FACEBOOK Marks, impairing their ability to function as unique and
23 distinctive identifiers of Facebook's goods and services.

24 **14.** As a result of Facebook's widespread use of the FACEBOOK Marks worldwide,
25 its prolific presence on third party websites, the continuous and unsolicited media coverage of
26 Facebook, the high degree of consumer recognition of the FACEBOOK Marks, the strong and
27 loyal base of customers that enjoys Facebook's services, among other factors, the FACEBOOK
28 Marks are famous within the meaning of Section 43(e) of the United States Trademark Act, 15

1 U.S.C. §1125(c).

2 **DEFENDANT'S USE OF THE TEACHBOOK NAME AND MARK**

3 15. Defendant uses the name and mark TEACHBOOK in connection with a business
4 and online website, accessible at <http://www.teachbook.com>, that offers online networking
5 services for teachers. Defendant's TEACHBOOK mark (including as used in connection with the
6 teachbook.com website) and the Teachbook.com domain name are referred to collectively herein
7 as the "TEACHBOOK Mark."

8 16. Defendant has touted on its website that TEACHBOOK is a substitute for
9 Facebook: "Many schools forbid their teachers to maintain Facebook and MySpace accounts
10 because of the danger that students might learn personal information about their teachers. With
11 Teachbook, you can manage your profile so that only other teachers and/or school administrators
12 can see your personal information, blogs, posts, and so on. Teachbook is all about community,
13 utility, and communication for teachers." Defendant uses the TEACHBOOK Mark in connection
14 with offering and/or promoting the aforementioned online networking services. Attached as
15 Exhibit C are true and correct copies of the home page and other pages from the Teachbook.com
16 website as they appeared in December 2009 and as they appeared on August 16, 2010, and are
17 hereby incorporated by reference as though set forth in full herein.

18 17. On March 16, 2009, Defendant applied on an intent-to-use basis to register the
19 TEACHBOOK trademark with the United States Patent and Trademark Office in International
20 Class 38 (providing on-line chat rooms and electronic bulletin boards for transmission of
21 messages among registered users concerning educational careers, general interest, classifieds,
22 virtual community, social networking, photo sharing, and transmission of photographic images;
23 providing access to on-line computer databases and on-line searchable databases in the field of
24 educational careers, general interest, classifieds, virtual community, social networking, photo
25 sharing, and transmission of photographic images) and International Class 42 (design and
26 development of computer hardware and software; computer services, namely, hosting on-line web
27 facilities for others for organizing and conducting on-line meetings, gatherings, and interactive
28 discussions; computer service in the nature of customized web pages featuring user-defined

1 information, personal profiles and information). A true and correct copy of the U.S. Patent and
2 Trademark Office online status page for this application is attached hereto as Exhibit D, and is
3 hereby incorporated by reference as though set forth in full herein. Facebook has opposed
4 registration of this application.

5 **18.** Defendant's TEACHBOOK Mark is substantially similar to the FACEBOOK
6 Marks. The term "teacher" is highly descriptive or generic of Defendant's services (i.e., online
7 networking services for teachers), and thus does little to create a unique commercial impression.
8 In contrast with the descriptive prefix of Defendant's Mark, the term "book" in the mark pilfers a
9 distinctive part of the FACEBOOK Marks, and is completely arbitrary as applied to Defendant's
10 services. As such, the only conceivable reason to incorporate "book" into Defendant's Mark is an
11 intention to call to mind the FACEBOOK Marks, and to unfairly benefit from their fame.

12 **19.** The services offered under Defendant's Mark are the same as and/or related to
13 some of the services provided by Facebook. Indeed, Facebook provides online networking
14 services for all sorts of professionals, including educational professionals, to create user profiles;
15 upload photos, videos, and other online content; and connect with employers, colleagues, and
16 other professionals. As of the time of filing this Complaint, thousands of Facebook Pages,
17 Groups and Events existed relating to teachers or the teaching profession. Defendant provides
18 online networking services of that very same nature for educational professionals. While
19 Facebook does not object to Defendant's provision of online social networking services, it does
20 object to Defendant's use of the infringing and dilutive TEACHBOOK mark while doing so.

21 **20.** Defendant's TEACHBOOK Mark also creates a false suggestion of an affiliation
22 or connection between Defendant and Facebook, where none exists.

23 **21.** Facebook began using its FACEBOOK mark at least as early as February 2004,
24 and filed applications resulting in federal registrations, well prior to Defendant's use of the
25 TEACHBOOK Mark. The FACEBOOK Marks also acquired wide recognition in the general
26 consuming public, and became famous, well prior to Defendant's use of the TEACHBOOK
27 Mark.

28

**FIRST CAUSE OF ACTION
(FEDERAL TRADEMARK INFRINGEMENT)**

1
2
3 22. Facebook incorporates by reference paragraphs 1 through 21, inclusive, as if fully
4 set forth herein.

5 23. The TEACHBOOK Mark is highly similar to the registered FACEBOOK Marks
6 in appearance, sound, meaning, and commercial impression.

7 24. Defendant's services are the same as and/or related to some of Facebook's
8 services.

9 25. Both Facebook and Defendant offer their services through the same channel of
10 trade, i.e., the internet.

11 26. The instantaneous nature of internet navigation, the speed at which people
12 navigate and are presented with advertisements, images and/or data on the internet, and the speed
13 at which consumers perform transactions on the internet, all tend to increase the risk of confusion
14 or mistake about the source of a product or service.

15 27. Facebook is informed and believes, and based thereon alleges, that Defendant
16 adopted the TEACHBOOK Mark with knowledge of, and the intent to call to mind and create a
17 likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered
18 FACEBOOK Marks.

19 28. Facebook has given notice of its registrations, applications, and claimed trademark
20 rights pursuant to section 29 of the Lanham Act, 15 U.S.C. § 1111. Defendant continues to use
21 the TEACHBOOK Mark despite Facebook's express objection thereto.

22 29. Defendant's continued use of the TEACHBOOK Mark will injure Facebook by
23 causing a likelihood that the public will be confused or mistaken into believing that the goods or
24 services provided by Defendant are endorsed or sponsored by Facebook.

25 30. Facebook has no control over the nature and quality of the goods or services
26 offered by Defendant under Defendant's Mark, and Facebook's reputation and goodwill will be
27 damaged and the value of Facebook's registered and common law marks jeopardized by
28 Defendant's continued use of the TEACHBOOK name and mark. Because of the likelihood of

1 confusion between the parties' marks, any defects, objections, or faults found with Defendant's
2 services marketed under the TEACHBOOK Mark would negatively reflect upon and injure the
3 reputation that Facebook has established for the services it offers in connection with the
4 registered FACEBOOK Marks. As such, Defendant is liable to Facebook for infringement of a
5 registered mark under 15 U.S.C. §1114.

6 31. Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no
7 adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

8 32. As a result of Defendant's infringement of Facebook's registered marks, Facebook
9 has incurred damages in an amount to be proven at trial consisting of, among other things,
10 diminution in the value of and goodwill associated with the marks.

11 33. Defendant's infringement of Facebook's registered marks is deliberate, willful,
12 fraudulent and without any extenuating circumstances, and constitutes a knowing use of
13 Facebook's marks and an exceptional case within the meaning of Lanham Act section 35, 15
14 U.S.C. § 1117. Facebook is therefore entitled to recover three times the amount of its actual
15 damages and the attorneys' fees and costs incurred in this action, and prejudgment interest.

16 **SECOND CAUSE OF ACTION**
17 **(FEDERAL TRADEMARK DILUTION)**

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

20 35. As a result of the enormous publicity afforded the FACEBOOK Marks, and the
21 strong and loyal base of customers that enjoys Facebook's services, the FACEBOOK Marks have
22 a high degree of consumer recognition, are widely recognized by the general consuming public of
23 the United States as a designation of Facebook's services, and are famous.

24 36. The FACEBOOK Marks became famous before Defendant adopted the
25 TEACHBOOK Mark.

26 37. Defendant's Mark incorporates a distinctive part of the FACEBOOK Marks, i.e.,
27 "book," and thus its use is likely to cause an association between Defendant's Mark and the
28 FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the

1 connection in consumers' minds between the FACEBOOK Marks and Facebook's services.
2 Defendant's use of the TEACHBOOK Mark is likely to cause dilution by blurring based on a
3 number of relevant considerations, including:

4 (a) Defendant's Mark is similar to the FACEBOOK Marks in that the
5 Defendant's Mark combines the distinctive BOOK suffix of the FACEBOOK mark with the
6 generic term for Defendant's services;

7 (b) The FACEBOOK Marks are inherently distinctive;

8 (c) Facebook is engaging in substantially exclusive use of the FACEBOOK
9 Marks in connection with social and professional networking services;

10 (d) The FACEBOOK Marks are widely recognized by the general consuming
11 public; and

12 (e) Facebook is informed and believes, and based thereon alleges, that
13 Defendant intends to create an association with the FACEBOOK Marks.

14 38. Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no
15 adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

16 39. As a result of Defendant's acts as alleged above, Facebook has incurred damages
17 in an amount to be proven at trial consisting of, among other things, diminution in the value of the
18 goodwill associated with the FACEBOOK Marks.

19 40. Defendant's wrongful use of the TEACHBOOK Mark is deliberate, willful,
20 fraudulent, and without any extenuating circumstances, and constitutes a willful intent to trade on
21 Facebook's reputation or to cause dilution of the famous FACEBOOK Marks and an exceptional
22 case within the meaning of Lanham Act section 35, 15 U.S.C. § 1117. Facebook is therefore
23 entitled to recover three times the amount of its actual damages and the attorneys' fees and costs
24 incurred in this action, and prejudgment interest.

25 **THIRD CAUSE OF ACTION**
26 **(FEDERAL FALSE DESIGNATION OF ORIGIN)**

27 41. Facebook incorporates by reference paragraphs 1 through 21, inclusive, as if fully
28 set forth herein.

1 FACEBOOK Marks, in violation of the common law.

2 50. Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no
3 adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

4 51. As a result of Defendant's acts as alleged above, Facebook has incurred damages
5 in an amount to be proven at trial consisting of, among other things, diminution in the value of the
6 goodwill associated with the FACEBOOK Marks.

7 **FIFTH CAUSE OF ACTION**
8 **(COMMON LAW UNFAIR COMPETITION)**

9 52. Facebook incorporates by reference paragraphs 1 through 21, inclusive, as if fully
10 set forth herein.

11 53. Facebook is informed and believes, and based thereon alleges, that Defendant has
12 engaged in and continues to engage in unfair competition by using the TEACHBOOK Mark, with
13 the intention of interfering with and trading on the business reputation and goodwill engendered
14 by Facebook through hard work and diligent effort.

15 54. Defendant's acts have caused Facebook competitive injury, as described herein,
16 and specifically have caused Facebook to incur damages in an amount to be proven at trial
17 consisting of, among other things, diminution in the value of and goodwill associated with
18 Facebook's marks.

19 55. Defendant's acts as alleged above, and specifically, without limitation,
20 Defendant's use of the TEACHBOOK Mark, if not enjoined, will continue. Facebook has no
21 adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

22 **SIXTH CAUSE OF ACTION**
23 **(TRADEMARK DILUTION UNDER CAL. BUS. & PROF. CODE § 14247)**

24 56. Facebook incorporates by reference paragraphs 1 through 21, inclusive, as if fully
25 set forth here.

26 57. The FACEBOOK Marks are distinctive and famous within the meaning of section
27 14247 of the California Business and Professions Code.

28 58. Defendant's use of the TEACHBOOK Mark began after the FACEBOOK Marks

1 the domain are attached hereto as Exhibit E, and are hereby incorporated by reference as though
2 set forth in full herein.

3 67. Facebook is informed and believes and thereon alleges that Facebook began using
4 the distinctive and famous FACEBOOK Marks years prior to Defendant's acquisition of the
5 TEACHBOOK.COM domain name. By the time Defendant acquired the TEACHBOOK.COM
6 domain name, the FACEBOOK Marks were widely recognized as an indicator of source for
7 Facebook's services, and were famous.

8 68. Defendant's TEACHBOOK.COM domain name is confusingly similar and/or
9 dilutive of the FACEBOOK Marks.

10 69. Facebook is informed and believes and thereon alleges that Defendant acquired
11 and has used the TEACHBOOK.COM domain name with a bad faith intent to profit from the
12 FACEBOOK Marks.

13 70. Defendant's actions have caused, and continue to cause, great and irreparable
14 injury to Facebook. Unless these acts are restrained by this Court, they will continue, and
15 Facebook will continue to suffer such injury.

16 71. Facebook is entitled to cancellation of Defendant's TEACHBOOK.COM domain
17 name registration or transfer of the domain name to Facebook, along with monetary
18 compensation and statutory penalties pursuant to the Anti-Cybersquatting Consumer Protection
19 Act, 15 U.S.C. § 1125(d).

20 PRAYER FOR RELIEF

21 WHEREFORE, Facebook prays:

22 A. That this Court grant preliminary and permanent injunctive relief enjoining
23 Defendant and all others acting in concert with and having knowledge thereof, from using the
24 TEACHBOOK Mark, and any similar trade name or mark or variant thereof, or other "generic
25 plus BOOK" mark, as a trade name, trademark, service mark, domain name, or for any other
26 purpose;

27 B. That this Court declare the TEACHBOOK trademark application void
28 *ab initio*;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C. That this Court order Defendant to account to Facebook any and all revenues and profits that Defendant has derived from its wrongful actions and to pay all damages which Facebook has sustained by reason of the acts complained of herein, and that such damages be trebled;

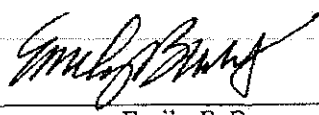
D. That this Court award Facebook the costs of this action and reasonable attorneys' fees and expenses;

E. That the Court order the Registrar of the TEACHBOOK.com domain name to transfer it to Facebook; and

F. That this Court grant such other and further relief as it should deem just.

Dated: August 18, 2010

COOLEY LLP
MICHAEL G. RHODES
ANNE H. PECK
EMILY F. BURNS



Emily F. Burns

Attorneys for Plaintiff
FACEBOOK, INC.

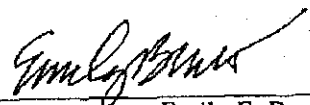
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff Facebook, Inc. hereby demands a trial by jury on all issues for which a trial by jury may be had.

Dated: August 18, 2010

COOLEY LLP
MICHAEL G. RHODES
ANNE H. PECK
EMILY F. BURNS



Emily F. Burns

Attorneys for Plaintiff
FACEBOOK, INC.

862823 v11/HN

EXHIBIT

80

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COOLEY LLP
MICHAEL G. RHODES (SBN 116127) (rhodesmg@cooley.com)
GAVIN L. CHARLSTON (SBN 253899) (gcharlston@cooley.com)
101 California Street, 5th Floor
San Francisco, CA 94111-5800
Telephone: (415) 693-2000
Facsimile: (415) 693-2222
ANNE H. PECK (SBN 124790) (peckah@cooley.com)
JEFFREY T. NORBERG (SBN 215087) (jnorberg@cooley.com)
3175 Hanover Street
Palo Alto, CA 94304-1130
Telephone: (650) 843-5000
Facsimile: (650) 849-7400

Attorneys for Plaintiff
FACEBOOK, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EMC

CV 10-5048 EMC
Case No.

FACEBOOK, INC.,
Plaintiff,
v.
LAMEBOOK, LLC,
Defendant.

COMPLAINT SEEKING DAMAGES
AND INJUNCTIVE RELIEF FOR:
(1) FEDERAL TRADEMARK DILUTION,
15 U.S.C. § 1125;
(2) TRADEMARK DILUTION UNDER CAL.
BUS. & PROF. CODE § 14247;
(3) FALSE DESIGNATION OF ORIGIN,
15 U.S.C. § 1125;
(4) FEDERAL TRADEMARK
INFRINGEMENT, 15 U.S.C. § 1114
(FACEBOOK);
(5) COMMON LAW TRADEMARK
INFRINGEMENT (FACEBOOK);
(6) VIOLATION OF THE ANTI-
CYBERSQUATTING CONSUMER
PROTECTION ACT, 15 U.S.C. § 1125(d).
(7) FEDERAL TRADEMARK
INFRINGEMENT, 15 U.S.C. § 1114
(WALL);
(8) COMMON LAW TRADEMARK
INFRINGEMENT (WALL);
(9) COMMON LAW UNFAIR
COMPETITION; AND
(10) UNFAIR COMPETITION UNDER CAL.
BUS. & PROF. CODE §§ 17200, ET SEQ.
JURY TRIAL DEMANDED

Paid
SE

9

ADP
RECEIVED BY MAILING
UNITED STATES DISTRICT COURT
SAN JOSE, CALIFORNIA

NOV - 8 P 4: 15

EMC

1 1. Facebook is among the world's most popular social networks. Defendant
2 Lamebook, LLC capitalizes on the fame and enormous goodwill of the FACEBOOK trademark
3 through its use of the LAMEBOOK trademark, adoption of a logo and website design that is no
4 more than a knock-off of Facebook's logo and site, and provision of services that compete
5 directly with Facebook. Despite Facebook's protests, Defendant has willfully and deliberately
6 persisted in its misappropriation of the Facebook brand, forcing Facebook to protect its user
7 community and the strength of the famous FACEBOOK trademark through this action.

8 **PARTIES**

9 2. Plaintiff Facebook, Inc. ("Facebook") is a Delaware corporation having its
10 principal place of business at 1601 South California Avenue, Palo Alto, California 94304.

11 3. Facebook is informed and believes, and based thereon alleges, that Defendant
12 Lamebook, LLC ("Lamebook") is a Texas limited liability company located in the State of Texas
13 having a place of business at 5008 Rowena Ave., Unit A, Austin, Texas 78751.

14 **JURISDICTION AND VENUE**

15 4. This Court has jurisdiction of this action under 15 U.S.C. §§ 1119 and 1121 and
16 28 U.S.C. §§ 1331, 1338, and 1367. This action is filed under the United States Trademark Act
17 of July 5, 1946, as amended, 15 U.S.C. § 1501, *et seq.* (the "Lanham Act").

18 5. This Court has personal jurisdiction over Defendant in that Defendant's willful
19 actions herein alleged took place and/or caused tortious injury to Facebook in this jurisdiction.

20 6. Venue is proper in this district pursuant to 28 U.S.C. § 1391, as this is a judicial
21 district in which a substantial part of the events giving rise to the claims occurred.

22 **INTRA-DISTRICT ASSIGNMENT**

23 7. Assignment in this division is proper under Civil L.R. 3-2(c) because this is an
24 intellectual property case.

25 **COMMON ALLEGATIONS**

26 **FACEBOOK'S BUSINESS**

27 8. Facebook is a preeminent provider of online networking services and is dedicated
28 to helping people share and connect. Through Facebook's website, the Facebook Platform,

1 Social Plugins and other tools, hundreds of millions of Facebook users enjoy personalized and
2 relevant internet experiences. As of the filing of this Complaint, more than 500 million Facebook
3 users spend more than 700 billion minutes per month on mobile Facebook applications and
4 www.facebook.com, making the site the second most trafficked website in the United States and
5 worldwide. And more than one million websites have implemented tools that Facebook makes
6 available to engage users and to make their sites more social and relevant. Through Facebook,
7 users can interact with over 900 million objects (individual and community pages, groups, and
8 events) and 30 billion pieces of content (web links, news stories, blog posts, notes, photo albums,
9 etc.).

10 9. Facebook has permeated the web and Facebook users are accustomed to seeing
11 and expect to encounter Facebook and its products and services across the web, not just on
12 www.facebook.com. Facebook, and its FACEBOOK trademark, are recognized and renowned in
13 the U.S. and internationally.

14 THE FAME OF THE FACEBOOK MARKS

15 10. Since its launch in February 2004, Facebook has continuously used the mark
16 FACEBOOK in interstate commerce in the United States in connection with its goods and
17 services. FACEBOOK is an arbitrary mark, which is highly distinctive with regard to online
18 networking services.

19 11. For more than five years, Facebook has used the FACEBOOK logo in interstate
20 commerce in the United States in connection with its goods and services. The FACEBOOK logo,
21 as depicted below, is highly distinctive and uniquely associated with Facebook's online
22 networking services.

23 The image shows the Facebook logo, which consists of the word "facebook" in a white, lowercase, sans-serif font, centered within a solid black rectangular background.

24
25
26 12. Facebook owns a number of U.S. registrations for the mark FACEBOOK. These
27 registrations cover a wide variety of goods and services, including, but not limited, to:

- 28 • Online networking services, online chat functions for transmission of messages,

1 user-defined content, and online forums;

- 2 • Online journals featuring user-defined content and electronic publishing services;
3 and
4 • Software to enable uploading, tagging, and sharing of user-defined content or
5 information.

6 True and correct copies of registration certificates for the FACEBOOK mark are attached hereto
7 as Exhibit A, and are hereby incorporated by reference as though set forth in full herein.

8 13. In addition, Facebook has U.S. common law rights in the FACEBOOK mark and
9 logo in connection with various other goods and services, including as identified in pending U.S.
10 trademark applications. These applications cover a wide variety of goods and services, including:

- 11 • Online computer databases in the fields of classified ads, collegiate life, general
12 interest, classifieds, virtual community, social networking, photo sharing, and
13 transmission of photographic images;
14 • Customized web pages featuring user-defined information, personal profiles and
15 information; and
16 • Hosting online web facilities for others for organizing and conducting online
17 meetings, gatherings, and interactive discussions.

18 True and correct copies of the U.S. Patent and Trademark Office online status pages for these
19 trademark applications are attached hereto as Exhibit B, and are hereby incorporated by reference
20 as though set forth in full herein.

21 14. Facebook also owns a number of other pending U.S. applications to register other
22 marks that incorporate the FACEBOOK mark, many of which currently are in use in U.S.
23 commerce. All of Facebook's marks that consist of or incorporate the term FACEBOOK,
24 including but not limited to the FACEBOOK logo, will hereafter be referred to as the
25 "FACEBOOK Marks."

26 15. The Facebook Platform is made available to application developers, enabling them
27 to develop games and other tools for Facebook users. More than one million software developers
28 hailing from over 180 countries have developed applications on Facebook Platform.

1 16. The Facebook Platform has enabled Facebook to broaden its reach beyond the
2 Facebook website. Facebook Platform allows third party websites to integrate aspects of the
3 Facebook experience into their sites, and lets Facebook users interact and connect in other places
4 across the web. In turn, these third party websites increase the visibility of Facebook and the
5 FACEBOOK Marks. More than one million third party websites have integrated with the
6 Facebook Platform. Two-thirds of comScore's U.S. Top 100 websites and half of comScore's
7 Global Top 100 websites have integrated with Facebook. More than 150 million people engage
8 with Facebook on external websites every month.

9 17. As a result of Facebook's widespread use of the FACEBOOK Marks worldwide,
10 its prolific presence on third party websites, the continuous media coverage of Facebook, the high
11 degree of recognition of the FACEBOOK Marks, and the broad base of users that enjoy
12 Facebook's services, among other factors, the FACEBOOK Marks are famous within the
13 meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. §1125(c).

14 **DEFENDANT'S USE OF THE LAMEBOOK NAME AND MARK**

15 18. Defendant uses the name and mark LAMEBOOK in connection with a business
16 and online social networking website, accessible at www.lamebook.com, that contains content
17 that has been taken from the Facebook site. Defendant's LAMEBOOK mark (including as used
18 in connection with the lamebook.com website) and the lamebook.com domain name are referred
19 to collectively herein as the "LAMEBOOK Mark."

20 19. Facebook is informed and believes, and based thereon alleges, that the initial
21 version of the Lamebook site presented the LAMEBOOK Mark in a manner nearly identical to
22 the FACEBOOK logo. This initial version of the Lamebook site featured the LAMEBOOK Mark
23 in white lower case letters against a blue background, as depicted below.

24
25 
26

27 20. While the Lamebook site has changed somewhat over time, Defendant continues
28 to use the LAMEBOOK Mark in a manner that is nearly identical to the FACEBOOK Mark.

1 Like the FACEBOOK mark, the LAMEBOOK Mark is presented to Lamebook users in the upper
2 left-hand corner of Lamebook's splash page, and on each of Lamebook's other pages. Also like
3 Facebook's famous FACEBOOK mark, the LAMEBOOK Mark is presented in all lower case
4 white letters on a blue background, and in a font that is identical or nearly identical to the
5 FACEBOOK mark, as depicted below.



9 21. Defendant touts on its website that Lamebook is "the funniest and lamest of
10 facebook®." In the "FAQ" section of Defendant's site, Defendant references Facebook without
11 actually mentioning Facebook's name: "Lamebook is for fun and the name says it all: We post
12 lame and funny pictures, status updates, and other gems found on your favorite social networking
13 site." Under the "Advertise Here" section of the Lamebook site, Defendant notes that Lamebook
14 is "dedicated to the best and worst posts found on facebook."

15 22. Facebook is informed and believes, and based thereon alleges that Defendant is
16 generating substantial commercial revenue through its operation of the Lamebook website.
17 Advertising permeates the Lamebook site, including but not limited to prominent advertising at
18 the top of each page, directly next to the LAMEBOOK Mark. These advertisements are for
19 leading consumer brands including UNIVERSAL ORLANDO, JEEP, KINDLE, TIVO,
20 CONTINENTAL AIRLINES, PROGRESSIVE INSURANCE, AT&T, FINGERHUT, BARE
21 ESCENTUALS, PITNEY BOWES, AOL, QUIZNOS, NETWORK SOLUTIONS, ALLSTATE
22 INSURANCE, BOWFLEX, GOOGLE, and others. Lamebook t-shirts are also made available
23 for sale on the website. In short, the Lamebook site is simply a commercial endeavor built on the
24 famous FACEBOOK Marks.

25 23. The content and functionality that appears on the Lamebook site is essentially
26 derived entirely from the Facebook site. Facebook is informed and believes and based thereon
27 alleges that Lamebook originates very little of its own content, instead publishing screenshots of
28 Facebook content. This Facebook content is filtered and consolidated by Lamebook into a

1 compilation of content selected by Lamebook, in effect creating a “mini” version of Facebook.
2 Defendant uses the LAMEBOOK Mark in connection with offering and/or promoting the
3 aforementioned services.

4 24. This copying and posting of Facebook content on the Lamebook site contributes to
5 the likelihood of confusion by making the Lamebook site appear even more like Facebook.
6 Because content is copied directly from Facebook, it appears on Lamebook exactly as it does on
7 the Facebook site. Moreover, like Facebook, the Defendant’s site includes functionality that
8 allows users to “like” each post. At the bottom of each Lamebook post, the Defendant provides a
9 “like” button in the form of a small “thumbs up” that is identical to the “thumbs up” icon used on
10 the Facebook site. This icon appears directly next to a “thumbs down” icon that is presented in
11 the same color and format as the Facebook “thumbs up” icon. Compounding the confusion, the
12 Defendant’s site also uses a “Like” button social plug-in provided by Facebook, which includes
13 the Facebook “F” logo, and allows any Lamebook user who has a Facebook account to post on
14 his or her Facebook profile that he or she likes a particular Lamebook post.

15 25. As part and parcel of its social networking features, the Lamebook site encourages
16 its users to post their current status. Defendant describes this social networking feature as
17 follows:

18 Our readers are one of the best things about Lamebook and as a
19 reader this is your chance to tell us what’s REALLY on your mind.
20 Think of it as your chance to write on our wall. So go ahead. Make
up your own lame or funny status, submit a thought of yours, or just
tell us what you are up to!

21 In the FAQ section of the Lamebook site, Defendant writes about the status feature: “This feature
22 allows you to write on our wall! Tell us what you are up to, how you feel about something, really
23 whatever the hell you want.” The Facebook site promotes a similar feature under its registered
24 WALL trademark. A true and correct copy of Facebook’s WALL registration is attached hereto
25 as Exhibit D, and is hereby incorporated by reference as though set forth in full herein.

26 26. Attached as Exhibit C are true and correct copies of the home page and other pages
27 from the Lamebook.com website as they appeared on or about June 10, 2009 and on November 8,
28 2010, and are hereby incorporated by reference as though set forth in full herein.

1 27. On November 24, 2009, Defendant filed its first application to register the
2 LAMEBOOK trademark with the United States Patent and Trademark Office in International
3 Class 41 (on-line journals, namely, blogs featuring commentary regarding social networking)
4 (Serial No. 77/880,306). In March of 2010 Facebook notified Lamebook that Facebook objected
5 to Lamebook's application and, on or about May 10, 2010, Lamebook filed an express
6 abandonment of this application. A true and correct copy of the U.S. Patent and Trademark
7 Office online status page for this application is attached hereto as Exhibit E, and is hereby
8 incorporated by reference as though set forth in full herein.

9 28. On May 6, 2010, Lamebook filed a second application to register the
10 LAMEBOOK mark, again in Class 41 ("Entertainment services, namely, providing a web site
11 featuring information and commentary regarding social network content and pop culture") (Serial
12 No. 85/031,994). A true and correct copy of the U.S. Patent and Trademark Office online status
13 page for this application is attached hereto as Exhibit F, and is hereby incorporated by reference
14 as though set forth in full herein.

15 29. Between March and November of 2010, Facebook and Lamebook engaged in
16 lengthy discussions regarding changes to the LAMEBOOK Mark and site. On July 1, 2010, at
17 the request of counsel for Lamebook, Facebook sent Lamebook a letter outlining Facebook's
18 objections. Prior to November 4, the parties engaged in extensive negotiations, which included e-
19 mail exchanges and more than 10 telephone calls. As recently as October 20, 2010, counsel for
20 Lamebook represented that Lamebook had completed the necessary clearance work to change
21 Lamebook's mark and was in the process of market testing a new mark.

22 30. On November 4, 2010 Defendant Lamebook filed a declaratory relief action
23 against Facebook concerning this matter in the U.S. District Court for the Western District of
24 Texas, Austin Division, *Lamebook, LLC v. Facebook, Inc.*, Civil Action No. 1:10-cv-00833.
25 Lamebook provided no notice to Facebook that it intended to file suit in Texas, and because the
26 parties were continuing to engage in settlement discussions, Facebook had no reason to believe
27 that such a filing was imminent. As of the date of the Texas filing, Lamebook had never
28 indicated that it had decided not to proceed with its proposed change to a new mark. Indeed, just

1 two days before filing the Texas action, counsel for Lamebook left counsel for Facebook a voice
2 message requesting that the parties continue the ongoing discussions on the afternoon of
3 November 4—the day of the Texas filing. Because Lamebook’s Texas filing was made in the
4 course of discussions between Facebook and Lamebook concerning resolution of this matter and
5 was made without prior notice, threat, or warning, Lamebook’s Texas filing was anticipatory and
6 made in order to obtain an unfair procedural and logistical advantage over Facebook, which is the
7 actual and rightful plaintiff in this dispute.

8 31. In an interview appearing on an Austin local news station (KTBC), Lamebook
9 founder Jonathan Standefer admitted that the LAMEBOOK Mark and the FACEBOOK Marks
10 are “very similar.” Indeed, the LAMEBOOK Mark is no more than a knock-off of the
11 FACEBOOK Marks. Facebook is informed and believes, and based thereon alleges, that
12 Defendant adopted the LAMEBOOK Mark with the intention of capitalizing on the fame of the
13 FACEBOOK Marks, and avoiding the “drudgery” of building its own brand.

14 32. The social networking services offered under the Defendant’s LAMEBOOK Mark
15 are the same as and/or related to the services provided by Facebook. Lamebook users can create
16 profiles, comment on and indicate their preference for content posted on the site, submit “status
17 updates,” and participate in forums and online communities. Moreover, much of the user
18 generated content that appears on Lamebook originated on Facebook. Defendant’s LAMEBOOK
19 Mark also creates a false suggestion of an affiliation or connection between Defendant and
20 Facebook, where none exists. Users encountering the LAMEBOOK mark and the presentation of
21 content on the Lamebook website (which appears highly similar to the presentation of content on
22 the Facebook website) are likely to be confused as to the source of Lamebook’s services and
23 associate them with Facebook, to Facebook’s detriment. In addition, Defendant’s use of the
24 LAMEBOOK Mark is likely to dilute the famous FACEBOOK Marks.

25 33. Facebook began using its FACEBOOK mark at least as early as February 2004,
26 and filed applications resulting in federal registrations well prior to Defendant’s use of the
27 LAMEBOOK Mark. The FACEBOOK Marks also acquired wide recognition in the general
28 consuming public, and became famous, well prior to Defendant’s use of the LAMEBOOK Mark.

**FIRST CAUSE OF ACTION
(FEDERAL TRADEMARK DILUTION)**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

34. Facebook incorporates by reference paragraphs 1 through 33, inclusive, as if fully set forth herein.

35. As a result of the enormous publicity afforded the FACEBOOK Marks, and the strong and loyal base of customers that enjoys Facebook's services, the FACEBOOK Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Facebook's services, and are famous.

36. The FACEBOOK Marks became famous before Defendant adopted the LAMEBOOK Mark.

37. Defendant's LAMEBOOK Mark incorporates distinctive parts of the FACEBOOK Marks, including the "book" element and stylization of the FACEBOOK Marks, and thus its use is likely to cause an association between Defendant's LAMEBOOK Mark and the FACEBOOK Marks that impairs the distinctiveness of the FACEBOOK Marks and weakens the connection in consumers' minds between the FACEBOOK Marks and Facebook's services. Defendant's use of the LAMEBOOK Mark is likely to cause dilution based on a number of relevant considerations, including:

(a) Defendant's LAMEBOOK Mark is similar to the FACEBOOK Marks in its overall commercial impression;

(b) The FACEBOOK Marks are inherently distinctive;

(c) Facebook is engaging in substantially exclusive use of the FACEBOOK Marks in connection with social networking services;

(d) The FACEBOOK Marks are widely recognized by the general consuming public; and

(e) Facebook is informed and believes, and based thereon alleges, that Defendant intends to create an association with the FACEBOOK Marks.

38. Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

1 without Facebook's authorization or consent the LAMEBOOK Mark, which is highly similar to
2 the registered and common law FACEBOOK Marks.

3 48. Such acts are likely to cause confusion and deception among the purchasing public
4 and/or are likely to lead the consuming public to believe that Facebook has authorized, approved
5 or somehow sponsored Defendant's use of the LAMEBOOK Mark in connection with
6 Defendant's services.

7 49. The aforesaid wrongful acts of Defendant constitute the use of a false designation
8 of origin and false description or representation, all in violation of 15 U.S.C. § 1125(a).

9 50. Defendant's false designation of origin and false description through Defendant's
10 use of the LAMEBOOK Mark has caused, and if not enjoined will continue to cause, irreparable
11 and continuing harm to Facebook's marks, business, reputation, and goodwill, for which
12 Facebook has no adequate remedy at law.

13 51. As a direct and proximate result of Defendant's wrongful use of the LAMEBOOK
14 Mark, Facebook has been and will continue to be damaged by, without limitation, the diminution
15 in the value of its trademarks, reputation, business and good will in an amount to be proven at
16 trial.

17 52. Defendant's wrongful use of the LAMEBOOK Mark is deliberate, willful,
18 fraudulent and without any extenuating circumstances, and constitutes a knowing use of
19 Facebook's marks and an exceptional case within the meaning of 15 U.S.C. § 1117. Facebook is
20 therefore entitled to recover three times the amount of its actual damages and the attorneys' fees
21 and costs incurred in this action, and prejudgment interest.

22 **FOURTH CAUSE OF ACTION**
23 **(FEDERAL TRADEMARK INFRINGEMENT)**

24 53. Facebook incorporates by reference paragraphs 1 through 33, inclusive, as if fully
25 set forth herein.

26 54. The LAMEBOOK Mark is highly similar to the registered FACEBOOK Marks in
27 appearance, sound, meaning, and commercial impression.

28 55. Defendant's services are the same as and/or related to some of Facebook's

1 services.

2 56. Both Facebook and Defendant offer their services through the same channel of
3 trade, i.e., the internet.

4 57. The instantaneous nature of internet navigation, the speed at which people
5 navigate and are presented with advertisements, images and/or data on the internet, and the speed
6 at which consumers perform transactions on the internet, all tend to increase the risk of confusion
7 or mistake about the source of a product or service.

8 58. Facebook is informed and believes, and based thereon alleges, that Defendant
9 adopted the LAMEBOOK Mark with knowledge of, and the intent to call to mind and create a
10 likelihood of confusion with regard to, and/or trade off the fame of Facebook and the registered
11 FACEBOOK Marks.

12 59. Facebook has given notice of its registrations, applications, and claimed trademark
13 rights pursuant to 15 U.S.C. § 1111. Defendant continues to use the LAMEBOOK Mark despite
14 Facebook's express objection thereto.

15 60. Defendant's continued use of the LAMEBOOK Mark will injure Facebook by
16 causing a likelihood that the public will be confused or mistaken into believing that the goods or
17 services provided by Defendant are endorsed or sponsored by Facebook.

18 61. Facebook has no control over the nature and quality of the goods or services
19 offered by Defendant under Defendant's LAMEBOOK Mark, and Facebook's reputation and
20 goodwill will be damaged and the value of Facebook's registered and common law marks
21 jeopardized by Defendant's continued use of the LAMEBOOK name and mark. Because of the
22 likelihood of confusion between the parties' marks, any defects, objections, or faults found with
23 Defendant's services marketed under the LAMEBOOK Mark would negatively reflect upon and
24 injure the reputation that Facebook has established for the services it offers in connection with the
25 registered FACEBOOK Marks. As such, Defendant is liable to Facebook for infringement of a
26 registered mark under 15 U.S.C. §1114.

27 62. Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no
28 adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

1 LAMEBOOK.COM domain name. By the time Defendant acquired the LAMEBOOK.COM
2 domain name, the FACEBOOK Marks were widely recognized as an indicator of source for
3 Facebook's services, and were famous.

4 72. Defendant's LAMEBOOK.COM domain name is confusingly similar and/or
5 dilutive of the FACEBOOK Marks.

6 73. Facebook is informed and believes and thereon alleges that Defendant acquired
7 and has used the LAMEBOOK.COM domain name with a bad faith intent to profit from the
8 FACEBOOK Marks.

9 74. Defendant's actions have caused, and continue to cause, great and irreparable
10 injury to Facebook. Unless these acts are restrained by this Court, they will continue, and
11 Facebook will continue to suffer such injury.

12 75. Facebook is entitled to cancellation of Defendant's LAMEBOOK.COM domain
13 name registration and transfer of the domain name to Facebook, along with monetary
14 compensation and statutory penalties pursuant to the Anti-Cybersquatting Consumer Protection
15 Act, 15 U.S.C. § 1125(d).

16 **SEVENTH CAUSE OF ACTION**
17 **(FEDERAL TRADEMARK INFRINGEMENT)**

18 76. Facebook incorporates by reference paragraphs 1 through 33, inclusive, as if fully
19 set forth herein.

20 77. Defendant's social networking services rendered under the designation
21 "WALL"—among other things, online messaging—are the same as the services Facebook
22 renders under its WALL mark.

23 78. Both Facebook and Defendant offer their services through the same channel of
24 trade, i.e., the internet.

25 79. The instantaneous nature of internet navigation, the speed at which people
26 navigate and are presented with advertisements, images and/or data on the internet, and the speed
27 at which internet users perform transactions on the internet, all tend to increase the risk of
28 confusion or mistake about the source of a product or service.

1 **80.** Facebook is informed and believes, and based thereon alleges, that Defendant
2 adopted and is using WALL with knowledge of, and the intent to call to mind, create a likelihood
3 of confusion with regard to, and/or trade off Facebook's registered WALL mark.

4 **81.** Defendant's continued use of the WALL mark will injure Facebook by causing a
5 likelihood that the public will be confused or mistaken into believing that the goods or services
6 provided by Defendant are endorsed or sponsored by Facebook.

7 **82.** Facebook has no control over the nature and quality of the goods or services
8 offered by Defendant in connection with the WALL mark, and Facebook's reputation and
9 goodwill will be damaged and the value of Facebook's registered and common law marks
10 jeopardized by Defendant's continued use of Facebook's WALL mark. Because of the likelihood
11 of confusion between the parties' marks, any defects, faults, or deleterious aspects found with
12 Defendant's services offered under the WALL mark would negatively reflect upon and injure the
13 reputation that Facebook has established for the services it offers in connection with its registered
14 WALL mark. As such, Defendant is liable to Facebook for infringement of a registered mark
15 under 15 U.S.C. §1114.

16 **83.** Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no
17 adequate remedy at law.

18 **84.** As a result of Defendant's infringement of Facebook's registered marks, Facebook
19 has incurred damages in an amount to be proven at trial consisting of, among other things,
20 diminution in the value of and goodwill associated with the marks.

21 **85.** Defendant's infringement of Facebook's registered marks is deliberate, willful,
22 and without any extenuating circumstances, and constitutes a knowing use of Facebook's marks
23 and an exceptional case within the meaning of Lanham Act section 35, 15 U.S.C. § 1117.
24 Facebook is therefore entitled to recover three times the amount of its actual damages and the
25 attorneys' fees and costs incurred in this action, and prejudgment interest.

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**EIGHTH CAUSE OF ACTION
(COMMON LAW TRADEMARK INFRINGEMENT)**

86. Facebook incorporates by reference paragraphs 1 through 33, inclusive, as if fully set forth herein.

87. Defendant's acts alleged herein and specifically, without limitation, Defendant's use of the WALL mark, infringe Facebook's exclusive trademark rights in its WALL mark, in violation of the common law.

88. Defendant's acts as alleged above, if not enjoined, will continue. Facebook has no adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity. As a result of Defendant's acts as alleged above, Facebook has incurred damages in an amount to be proven at trial consisting of, among other things, diminution in the value of the goodwill associated with Facebook's WALL mark.

**NINTH CAUSE OF ACTION
(COMMON LAW UNFAIR COMPETITION)**

89. Facebook incorporates by reference paragraphs 1 through 33, inclusive, as if fully set forth herein.

90. Facebook is informed and believes, and based thereon alleges, that Defendant has engaged in and continues to engage in unfair competition by using the LAMEBOOK Mark, with the intention of interfering with and trading on the business reputation and goodwill engendered by Facebook through hard work and diligent effort.

91. Defendant's acts have caused Facebook competitive injury, as described herein, and specifically have caused Facebook to incur damages in an amount to be proven at trial consisting of, among other things, diminution in the value of and goodwill associated with the FACEBOOK Marks.

92. Defendant's acts as alleged above, and specifically, without limitation, Defendant's use of the LAMEBOOK Mark, if not enjoined, will continue. Facebook has no adequate remedy at law in that the amount of its damages is difficult to ascertain with specificity.

1 D. That this Court award Facebook the costs of this action and reasonable
2 attorneys' fees and expenses;

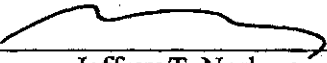
3 E. That the Court order the Registrar of the LAMEBOOK.com domain name
4 to transfer it to Facebook; and

5 F. That this Court grant such other and further relief as it should deem just.

6 Dated: November 8, 2010

COOLEY LLP
MICHAEL G. RHODES
ANNE H. PECK
JEFFREY T. NORBERG
GAVIN L. CHARLSTON

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Jeffrey T. Norberg
Attorneys for Plaintiff
FACEBOOK, INC.

DEMAND FOR JURY TRIAL

Plaintiff Facebook, Inc. hereby demands a trial by jury on all issues for which a trial by jury may be had.

Dated: November 8, 2010

COOLEY LLP
MICHAEL G. RHODES
ANNE H. PECK
JEFFREY T. NORBERG
GAVIN L. CHARLSTON

Jeffrey T. Norberg
Attorneys for Plaintiff
FACEBOOK, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28