

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FACEBOOK, INC,

Plaintiff,

v.

PHOENIX MEDIA/COMMUNICATIONS
GROUP, INC., PEOPLE2PEOPLE GROUP,
INC., TELE-PUBLISHING, INC., AND FNX
BROADCASTING LLC,

Defendants.

C.A. No. 1:10-cv-11917-DPW

JURY TRIAL DEMANDED**DECLARATION OF REUBEN H. CHEN IN SUPPORT OF
PLAINTIFF FACEBOOK, INC.'S OPPOSITION TO TPI'S MOTION TO DISMISS**

I, Reuben H. Chen, declare as follows:

I am an attorney at the law firm of Cooley LLP. I represent the Plaintiff Facebook, Inc. ("Facebook") in the above captioned matter and have been admitted pro hac vice to this Court. I make this declaration in support of Facebook's Opposition to Defendant Tele-Publishing Inc.'s ("TPI") Motion to Dismiss.

1. Many of the websites that Facebook investigated before filing suit against TPI have since been shut down, including, for example, the accused www.people2people.com website, and the TPI/P2P websites www.people2peoplegroup.com and www.tpigroup.com.

2. Attached hereto as **Exhibit A** are true and correct copies of the "Contact Info" and "Related Links" web pages located at <http://www.alex.com/siteinfo/people2people.com#>.

3. Attached hereto as **Exhibit B** is a true and correct copy of the web page located at <http://www.answers.com/topic/phoenix-media-communications-group>.

4. Attached hereto as **Exhibit C** is a true and correct copy of the web page located at http://en.wikipedia.org/wiki/Phoenix_Media/Communications_Group.

5. Attached hereto as **Exhibit D** is a true and correct copy of the domain history of

people2people.com, indicating that as of January 25, 2007 TPI was the registrant of the people2people.com domain.

6. Attached hereto as **Exhibit E** is a true and correct copy of the information on the PTO website for the trademark “People2People,” indicating that TPI is the owner of record.

7. Attached hereto as **Exhibit F** is a true and correct copy of the web page located at <http://thephoenix.com/about>.

8. Attached hereto as **Exhibit G** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.co.uk.com> (at http://web.archive.org/web/*/http://www.people2people.co.uk/corporate/history.asp) and a copy of the archived tpigroup.com web page reached via the May 2, 2008 link (at <http://web.archive.org/web/20080502101915/http://www.people2people.co.uk/corporate/history.asp>).

9. Attached hereto as **Exhibit H** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com> (at http://web.archive.org/web/*/http://www.people2people.com), a copy of the archived <http://www.people2people.com> web page reached via the July 13, 2008 link (at <http://web.archive.org/web/20080713133755/http://www.people2people.com/>) which has a “Sign Up Now!” button that links to a registration page located at <http://web.archive.org/web/20080611134848/www.people2people.com/default.asp?page=register&connect=pon>, which is also included in the exhibit.

10. Attached hereto as **Exhibit I** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com> (at http://web.archive.org/web/*/http://www.people2people.com), a copy of the archived <http://www.people2people.com> web page reached via the July 27, 2008 link (at

http://web.archive.org/web/20080727033350rn_2/www.people2people.com/welcome/) which has a “Sign Up Now!” link that links to a registration page bearing the People2People logo located at <http://web.archive.org/web/20080727164006/people2people.loveaccess.com/secure/signup-1.htm>, which is also included in the exhibit.

11. Attached hereto as **Exhibit J** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com> (at http://web.archive.org/web/*/http://www.people2people.com), a copy of the archived <http://www.people2people.com> web page reached via the January 1, 2007 link (at <http://web.archive.org/web/20070101212518/http://www.people2people.com/>) which has a “Sign Up Now!” button that links to a registration page located at <http://web.archive.org/web/20070103143940/www.people2people.com/default.asp?page=register&connect=pon>, which is also included in the exhibit.

12. Attached hereto as **Exhibit K** is a true and correct copy of the web page located at <http://www.domaintools.com/historic-thumbnails/people2people.com> and copies of enlarged versions of the thumbnail images of the people2people.com website from April 25, 2009, August 9, 2008, and December 25, 2007.

13. Attached hereto as **Exhibit L** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com/affiliate/whyus.asp> (at http://web.archive.org/web/*/http://www.people2people.com/affiliate/whyus.asp) and a copy of the archived people2people.com web page reached via the August 18, 2007 link (at <http://web.archive.org/web/20070818130329/http://www.people2people.com/affiliate/whyus.asp>).

14. Attached hereto as **Exhibit M** are true and correct copies of the web pages on the

Internet Archive indicating the dates on which there is archived information for the URL http://www.people2people.com/affiliate/whyus_p2pgroup.asp, (at http://web.archive.org/web/*/www.people2people.com/affiliate/whyus_p2pgroup.asp) and a copy of the archived http://www.people2people.com/affiliate/whyus_p2pgroup.asp web page reached via the April 16, 2007 link (at http://web.archive.org/web/20070416095549/http://www.people2people.com/affiliate/whyus_p2pgroup.asp).

15. Attached hereto as **Exhibit N** are true and correct copies of the “Contact Info” and “Related Links” web pages located at <http://www.alex.com/siteinfo/tpigroup.com>.

16. Attached hereto as **Exhibit O** is a true and correct copy of the web page located at http://www.alex.com/search?q=people2peoplegroup.com&r=site_screener&p=bigtop.

17. Attached hereto as **Exhibit P** are true and correct copies of screen captures for what happens when one enters the URL <http://www.tpigroup.com> into a web browser, indicating that the browser is automatically redirected to the URL <http://www.people2peoplegroup.com>, which is now a non-functioning URL.

18. Attached hereto as **Exhibit Q** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.tpigroup.com>, (at http://web.archive.org/web/*/http://www.tpigroup.com) and a copy of the archived <http://www.tpigrpoup.com> web page reached via the February 7, 2007 link (at <http://web.archive.org/web/20070207122723/http://www.tpigroup.com/>) and the web page reached through the “Click here to view existing site” link on that page which redirects to a web page titled “People2People Group - The Relationship Experts” (at <http://web.archive.org/web/20070209023506/www.tpigroup.com/indexold.html>).

19. Attached hereto as **Exhibit R** is a true and correct copy of the web page located at <http://web.archive.org/web/20041209005456/www.tpigroup.com/p2pweb.html>.

20. Attached hereto as **Exhibit S** is a true and correct copy of the web page located at <http://thephoenix.com/BLOGS/mediakit/pages/p2p-contact-us.aspx>.

21. Attached hereto as **Exhibit T** is a true and correct copy of the web page located at <http://graphics.kurtmalec.com/tpi.html>.

22. Attached hereto as **Exhibit U** is a true and correct copy of the web page located at <http://boston.bizjournals.com/boston/stories/2009/10/05/daily50.html>.

23. Attached hereto as **Exhibit V** is a true and correct copy of the web page located at <http://posting.altweeklies.com/aan/people-2-people-group-and-matchcom-agree-to-partner/Article?oid=117378>.

24. Attached hereto as **Exhibit W** is a true and correct copy of the web page located at <http://posting.altweeklies.com/aan/worcester-phoenix-closes-doors/Article?oid=1149>.

25. Attached hereto as **Exhibit X** is a true and correct copy of the web page located at <http://www.bizjournals.com/sacramento/stories/2009/10/05/daily70.html>.

26. Attached hereto as **Exhibit Y** is a true and correct copy of the web page located at <http://www.thefreelibrary.com/Mobile+Technologies+and+Web+Integration+Drive+Consolidation+in...-a081395539>.

27. Attached hereto as **Exhibit Z** are true and correct copies of the corporate registration information provided by the Secretary of the State of Massachusetts for TPI, P2P, and PMC.

28. Attached hereto as **Exhibit AA** is a true and correct copy of the web page located at <http://posting.altweeklies.com/aan/tpi-sues-competing-personals-ad-business-alleging-patent-infringement/Article?oid=13>.

29. Attached hereto as **Exhibit BB** is a true and correct copy of the web page located at <http://posting.altweeklies.com/aan/executive-reorganization-at-phoenix-mediacomunications-group/Article?oid=168069>.

30. Attached hereto as **Exhibit CC** is a true and correct copy of the corporate registration information provided by the Secretary of the State of Massachusetts for PMCG Management Company LLC.

31. Attached hereto as **Exhibit DD** is a true and correct copy of a PowerPoint that

contains a presentation entitled “People2People: Introducing the next generation of newspaper Personals,” previously downloaded from <http://people2people.com/corp/2009.ppt>, which is now a non-functioning web page.

32. Attached hereto as **Exhibit EE** is a true and correct copy of the web page located at <http://www.washingtonpost.com/wp-dyn/content/artsandliving/adviceandrelationships/index.html> and images related to the “try it” link on the Washington Post’s web page that links to the URL www.people2people.com/?connect=washpost, which is now a non-functioning URL.

33. Attached hereto as **Exhibit FF** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com/?connect=washpost>, (at http://web.archive.org/web/*/http://www.people2people.com/?connect=washpost) and a copy of the archived <http://www.people2people.com/?connect=washpost> web page reached via the May 28, 2008 link (at <http://web.archive.org/web/20080528234805/http://www.people2people.com/?connect=washpost> t).

34. Attached hereto as **Exhibit GG** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com/?connect=eastbay>, (at http://web.archive.org/web/*/http://www.people2people.com/?connect=eastbay) and a copy of the archived <http://www.people2people.com/?connect=eastbay> web page reached via the February 5, 2005 link (at <http://web.archive.org/web/20050205011713/http://www.people2people.com/?connect=eastbay>).

35. Attached hereto as **Exhibit HH** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://sloconnections.com> (at http://web.archive.org/web/*/http://www.sloconnections.com) and a copy of the archived <http://www.sloconnections.com> web page reached via the June 8, 2007

link (at <http://web.archive.org/web/20070608153213/http://www.sloconnections.com/>). The web page reached at the June 8, 2007 link has links to “search ads,” “place an ad,” and “internet personals.” True and correct copies of screenshots demonstrating the URL’s linked through these options are provided in the exhibit and demonstrate the following: (1) the “search ads” button links to a tpigroup.com web page; (2) the “place an ad” button links to a tpiconnect.com web page; (3) the “internet personals” button links to a people2people.com web page.

36. Attached hereto as **Exhibit II** are true and correct copies of the web page located at <http://www.sfbg.com/index.php> and a screen capture of the “Personals” link that links to <http://www.people2people.com/welcome>, and a screen capture indicating that that link is no longer functional.

37. Attached hereto as **Exhibit JJ** is a true and correct copy of the web page located at <http://people2people.loveaccess.com/htm> that provides a link to “Return to People2People.com.”

38. Attached hereto as **Exhibit KK** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://people2people.loveaccess.com> (at http://web.archive.org/web/*/http://people2people.loveaccess.com) and a copy of the archived web page reached via the July 25, 2008 link (at <http://web.archive.org/web/20080725042229/http://people2people.loveaccess.com/>) and a “negative” copy of that same page to facilitate view of the statement “Copyright People2People.com All Rights Reserved.”

39. Attached hereto as **Exhibit LL** is a true and correct copy of the web page located at <http://web.archive.org/web/20101219220803/http://people2people.loveaccess.com/legal.htm?brief=1> that states: “COMPLAINTS. To resolve a complaint regarding the Service or the Site, you should contact People2People.com Customer Support at service@People2People.com.”

40. Attached hereto as **Exhibit MM** are true and correct copies of the

people2people.loveaccess.com “Frequently Asked Questions” web page from the Internet Archive located at <http://web.archive.org/web/20101219221951/http://people2people.loveaccess.com/faq.htm?catid=2>, which provides a link to “Partnership Opportunities” (<http://web.archive.org/web/20101219221951/http://www.people2peoplegroup.com/>) that redirects to a www.people2peoplegroup.com URL, as demonstrated by the true and correct copy of the linked web page located at <http://web.archive.org/web/20050210030438/www.people2peoplegroup.com/>, which is also included.

41. Attached hereto as **Exhibit NN** is a true and correct copy of the web page located at <http://indyweek.loveaccess.com/>.

42. Attached hereto as **Exhibit OO** is a true and correct copy of the web page located at <http://indyweek.loveaccess.com/legal.htm?brief=1>.

43. Attached hereto as **Exhibit PP** are true and correct copies of the web pages on the Internet Archive indicating the dates on which there is archived information for the URL <http://www.people2people.com/affiliate/welcome.asp>, (at http://web.archive.org/web/*/http://www.people2people.com/affiliate/welcome.asp) and a copy of the archived <http://www.people2people.com/affiliate/welcome.asp> web page reached via the May 7, 2006 link (at [http://web.archive.org/web/20060507231326/http://www.people2people.com/affiliate/welcome.a sp](http://web.archive.org/web/20060507231326/http://www.people2people.com/affiliate/welcome.asp)).

44. Attached hereto as **Exhibit QQ** is a true and correct copy of the web page located at <http://www.loveaccess.com/affiliates-index.htm>.

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45. Attached hereto as **Exhibit RR** is a true and correct copy of the web page located at <http://people2people.loveaccess.com/>.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 22nd day of December, 2010 at Palo Alto, California.

/s/ Reuben H. Chen

Reuben H. Chen

CERTIFICATE OF SERVICE

I, Reuben H. Chen, hereby certify that pursuant to Local Rule 5.4(C), this document has been filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). For those parties indicated as non-registered participants, if any, a paper copy will be sent by facsimile and/or U.S. First Class Mail on December 22, 2010.

/s/ Reuben H. Chen

Reuben H. Chen

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