

MEMO ENDORSED



ROTHWELL, FIGG, ERNST & MANBECK, P.C.

1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

Telephone 202-783-6040
Facsimile 202-783-6031
www.rfem.com
info@rfem.com

March 31, 2011

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3-31-11

VIA FACSIMILE

The Honorable P. Kevin Castel
Daniel Patrick Moynihan
United States Courthouse
Courtroom 12C
500 Pearl Street
New York, New York 10007-1312

Re: *Wireless Ink. v. Facebook, et al.*
Case No. 11 Civ. 1751 (PKC)

Dear Judge Castel:

This Firm represents Defendant MySpace, Inc. ("MySpace") in the above-captioned action. MySpace was served in this action on March 15, 2011. We were retained to represent MySpace on March 30, 2011. As the date to respond to the Complaint is April 5, 2011, I immediately contacted Mr. Pitcock, counsel for Plaintiff Wireless Ink, Corp. and requested his consent to an extension of time for MySpace to respond to the Complaint. Mr. Pitcock refused to consent to an extension. MySpace, therefore, respectfully requests a 20-day extension of the time to respond to the Complaint until April 25, 2011.

The primary reason given by Mr. Pitcock for refusing to consent to an extension for MySpace relate to complaints he has with respect to the purported conduct of other defendants in the related action involving Facebook and Google (1:10-CV-01841-PKC). Mr. Pitcock's email setting forth his reasons for not agreeing to an extension is attached hereto. MySpace is not a party to and is not involved in that related litigation. Moreover, the complexity of the issues involved in this matter warrants allowing additional time for counsel for MySpace to evaluate this matter before responding to the Complaint.

There have been no previous requests for extensions by MySpace.

G. Franklin Rothwell
E. Anthony Figg
Harry F. Manbeck, Jr.
George R. Repper
Steven Lieberman
Joseph A. Hynds
Martin M. Zoltick
Richard Wydeven
Minaksi Bhatt
Sharon L. Davis
Robert B. Murray
Jeffrey L. Ihnen
Glenn E. Karta
Martha Cassidy, Ph.D.
Brian S. Rosenbloom
Jason M. Shapiro
Anne M. Sterba
Brian A. Tollefson
C. Nichole Gifford
Patrick T. Skacel
Joo Mee Kim
R. Elizabeth Brenner-Leifer

Nancy J. Linck, Ph.D.
R. Danny Huntington
Sharon E. Crane, Ph.D.
Lisa N. Phillips
Monica C. Kitts
Daniel L. Shores
Carolyn L. Greene
Julia A. Kim
Jenny L. Workman
Bradford C. Frese
Matthew D. Stephens
Michael V. Battaglia
James K. Chang
Seth E. Cockrum, Ph.D.
Derek F. Dahlgren*
Michael H. Jones*
Lisa M. Allen*
James A. Gromada

Of Counsel
William N. Huguet

*Not a member of the D.C. Bar. Practice limited to patent, trademark and copyright matters and cases in federal courts.

Amplification granted.
SO ORDERED
[Signature]
USDS
3-31-11

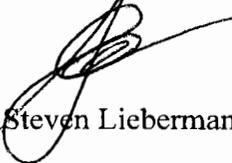
VIA FACSIMILE

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

The Honorable P. Kevin Castel
March 31, 2011
Page 2

We note that the Court has scheduled an initial pretrial conference for May 9, 2011 in this matter. The extension requested herein would not impact that conference or any other dates set in this matter.

Respectfully submitted,



Steven Lieberman

SL:SLD:brp
Attachment

cc: All Counsel of Record (by Facsimile)

1844972_1

Steven Lieberman

From: Jeremy Pitcock [jpitcock@pitcocklawgroup.com]
Sent: Thursday, March 31, 2011 9:47 AM
To: Steven Lieberman
Subject: RE: Wireless Ink

Steven:

I do object to an extension, and I will explain why.

In the first litigation, the Defendants have a pattern of filing motion after motion attacking the sufficiency of the pleadings. Since the Court requires a conference prior to filing any motion, we would prefer that the Defendants seek permission to file prior to the case management conference set for May 9, 2011. Since Judge Castel is likely to take up such motions on May 9th, you will functionally receive an extension of time anyway. However, if we grant an extension now, the Defendants will wait until the last possible moment, thus further delaying the pre-trial conference. The last date for a 26(f) conference is April 18, 2011. We would prefer for that to be a meaningful exercise in this case, and would like to know if the Defendants plan to bring any motions on the pleadings, and what the grounds for such a motion would be prior to the 26(f) conference.

Moreover, we sent notice of the claims and their issue date to counsel for all Defendants on February 23, 2011. Thus, there is no reason why the Defendants should not have been well prepared to address our patent claims.

In short, we will not agree to an extension of time, so feel free to seek an extension of time from the Court if you believe it is necessary.

Best regards,

Jeremy

From: Debora O. Herndon [mailto:dherndon@rothwellfigg.com] **On Behalf Of** Steven Lieberman
Sent: Wednesday, March 30, 2011 4:38 PM
To: jpitcock@pitcocklawgroup.com
Cc: Steven Lieberman
Subject: Wireless Ink

Jeremy:

We have just been retained to represent MySpace in this case. Our time to respond to the Complaint is April 5. We would like a 30-day extension of our time to move, answer or otherwise plead with respect to the Complaint. Please let me know by return e-mail whether you have any objection to such an extension.

I understand you are home with a sick child today. I look forward to speaking with you tomorrow.

**Debora Herndon, Assistant to
Steven Lieberman, Esquire
Rothwell, Figg, Ernst & Manbeck, P.C.**
1425 K Street, N.W. | Suite 800 | Washington, DC 20005
Voice: 202-772-5667 | Fax: 202-783-6031
www.rfem.com

3/31/2011