

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CROSS ATLANTIC CAPITAL PARTNERS, INC.,	<b>CIVIL ACTION</b>
Plaintiff,	<b>NO. 07-CV- 02768-JP</b>
v.	
FACEBOOK, INC. and THEFACEBOOK, LLC,	<b>ORAL ARGUMENT REQUESTED</b>
Defendants.	<b>FACEBOOK MOTION NO. 3</b>

**FACEBOOK’S STATEMENT OF MATERIALS FACTS IN SUPPORT OF ITS MOTION  
FOR SUMMARY JUDGMENT OF INVALIDITY**

Defendants Facebook, Inc. and Thefacebook, LLC (collectively “Facebook”) submit the following statement of undisputed material facts in support of its Motion for Summary Judgment of Invalidity. It cannot be disputed that every prior art reference cited in the motion and attached to the Declaration of Mark R. Weinstein (“Weinstein Decl.”) discloses each word and figure that comprises the publication. It is therefore unnecessary to include all text and figures in those documents. The following are undisputed material facts:

1. U.S. Patent No. 6,519,629 entitled “System for Creating a Community for Users with Common Interests to Interact in” (the “’629 patent”) was filed on October 2, 2001 as a “divisional” of an application filed on February 25, 2000, which was a “continuation-in-part” of an application filed on September 15, 1998 (the “1998 Application”). Weinstein Decl. Ex. A (’629 patent).

2. The 1998 Application did not contain any of the material found in Figure 2 of the '629 patent and the text following the section entitled "Creating a Community" (beginning on Col. 7, line 25), describing the steps for creating a community that are required by all of the independent claims. Weinstein Decl. Ex. A, Ex. H (U.S. Patent Application Ser. No. 09/264,988), and Ex. I (Comparison of 1998 Application and '629 patent).

3. The word "community" does not appear in that the 1998 Application. Weinstein Decl. Ex. H and Ex. I.

4. U.S. Patent No. 6,223,177 entitled "Network Based Groupware System" (the "'177 patent") discloses a system that allows a user to create a community with a specified name and selected applications such as chat, bulletin board and calendar to which the user can invite others by sending an e-mail invitation. Weinstein Decl. Ex. B ('177 patent).

5. The application for the '177 patent was filed on November 19, 1998 and claims priority to an earlier October 22, 1997 application and a foreign application filed on November 17, 1997, Canadian Patent No. 2 221 790. Weinstein Decl. Ex. B and Ex. C (Canadian Patent No. 2 221 790). The '177 patent contains an identical disclosure to that of the application that matured into Canadian Patent No. 2 221 790 which was filed on November 19, 1997. *Id.*

6. U.S. Patent No. 6,750,881 ("881 patent"), assigned to America On Line, Inc. (AOL), describes a community creation system that allows users to create customized communities with private chat function, which can be made available and sent to other users. Weinstein Decl. Ex. D ('881 patent).

7. The application for the '881 patent was filed on February 24, 1997. Weinstein

Decl. Ex. D.

8. U.S. Patent No. 6,608,636 (the “’636 patent”) discloses a system for creating a community (in the form of a virtual “conference room”) with applications, like whiteboards, in which invited members can interact. Weinstein Decl. Ex. F (’636 patent).

9. The application for the ’636 patent was filed on May 13, 1992.

10. U.S. Patent No. 6,029,195 (the “’195 patent”) describes a system for delivering information “based on determining the similarity between a profile for the target object and the profiles of target objects for which the user (or a similar user) has provided positive feedback in the past.” Weinstein Decl. Ex. G (’195 patent) at Col. 6, ll. 39-43; *see also* Ex. G *generally*.

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11. There is no dispute of facts as to what the '629 patent, 1998 Application, '177 patent, Canadian Patent No. 2 221 790, '881 patent, '636 patent, or '195 patent disclose.

Dated: June 20, 2008

By:           /s/ Heidi L. Keefe

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