

5. Facebook supplemented Interrogatory Nos. 3, 5, 11 and 12 and made documents responsive to Document Requests Nos. 23 and 24 available for inspection on December 10.

6. During the initial case management conference held on September 26, 2007, XACP represented to the Court that it was able to prove its case by reference solely to the Facebook website.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 13, 2007, at Palo Alto, California.

Dated: December 13, 2007

/s/ Heidi L. Keefe
Heidi L. Keefe