

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

CROSS ATLANTIC CAPITAL PARTNERS, INC., **CIVIL ACTION**
Plaintiff, **NO. 07-CV- 02768-JP**
v.
FACEBOOK, INC. and THEFACEBOOK, LLC, **JURY TRIAL DEMANDED**
Defendants.

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION
FOR LEAVE TO FILE A REPLY BRIEF IN SUPPORT OF
ITS MOTION TO COMPEL [DOC. NO. 51]**

Two days ago (on Tuesday), Judge Rice held a teleconference with counsel for XACP and Facebook on the underlying motion to compel. Although counsel had the opportunity to do so, and both parties were asked to provide brief explanatory remarks to the Court, at no point did XACP's counsel express any concern to the Court regarding the completeness or quality of the record on the motion to compel. Accordingly, after considering the comments from counsel, Judge Rice stated that no hearing would be held and that he would be issuing an order based on the written record before him.

Ignoring in its entirety Tuesday's court conference, the instant motion states that "Facebook raised issues to which Plaintiff seeks leave to respond." Distilled to its essence, XACP's motion says nothing more than that Plaintiff wants the "last word." Such an argument falls well short of the requirement that replies are only warranted in the face of truly new issues.

Finally and tellingly, Plaintiff did not attach any new documents or declarations to support the factual allegations made in its proposed reply brief – a similar tactic to that taken in its opening brief where Plaintiff misrepresented the record and failed to include a single correspondence from Facebook. Plaintiff's proposed Reply is again replete with

misrepresentations and false allegations, all of which are belied by the documents and sworn declarations attached to Facebook's opposition. If the Court is inclined to consider Plaintiff's reply, Facebook would appreciate the opportunity to counter the inaccuracies contained therein.

For all these reasons, it is respectfully submitted that XACP's motion seeking leave to file a reply brief is without merit and that no consideration need be given to the motion or the attached reply brief.

Dated: December 20, 2007

By: /s/ Heidi L. Keefe

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CERTIFICATE OF SERVICE

This is to hereby certify that on this 20th day of December, 2007, I caused a true and correct copy of the foregoing document: Defendants' Opposition to Plaintiff's Motion For Leave to File a Reply Brief in Support of its Motion to Compel [Doc. No. 51] to be served via this Court's Electronic Filing ("ECF") System, upon the following:

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