

EXHIBIT H

to

**Declaration of Heidi Keefe in
Support of Facebook's
Motion to Compel Further
Production of Documents and
Complete Interrogatory Responses**

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC
USDC ED PA Case No. 07-CV-02768-JP**

McShea\Tecce

FACSIMILE

Bell Atlantic Tower
1717 Arch Street, 28th Floor
Philadelphia, PA 19103
(215) 599-0800 - Tel
(215) 599-0888 - Fax
E-mail: ftecce@mcshea-tecce.com

Recipient	Fax Number	Phone Number
Heidi L. Keefe, Esq.	650-213-8158	

Date: December 21, 2007 **Time:** _____

RE: Cross Atlantic Capital Partners v. Facebook, Inc., et al.

From: Frederick A. Tecce, Esq.

Message: _____

We are transmitting *3* pages, including this page.

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December 21, 2007

VIA FACSIMILE

Heidi Keefe, Esquire
White & Case, LLP
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, California 94306

**RE: Cross Atlantic Capital Partners v. Facebook, Inc., et al.
U.S.D.C., EDPA Civil Action No. 07-cv-2768**

Dear Heidi:

This is to advise that our firm has been retained to represent the following individuals in connection with this action:

- James Harvey
- Andrew Fregly
- Matt Hulan
- Robert Dekelbaum.

As such, we request that defendants have no further contact with any of them. In addition, we have reviewed the Subpoenas which have been issued for Mr. Harvey and Mr. Fregly, copies of which were served on us *via* electronic mail on December 19, 2007 and regular mail thereafter.

Obviously, those witnesses are willing to appear for deposition and produce documents requested by the Subpoena subject to their forthcoming objections. However, they will not be able to do so on the dates indicated on the Subpoenas.

Please contact us at your earliest convenience so that we may schedule mutually convenient dates for the production of documents, as well as the depositions.

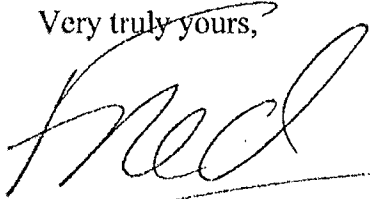
McShea/Tecce

*Heidi Keefe, Esq.
December 21, 2007
Page 2*

In addition, we have been authorized to accept service of process, if Facebook wishes to depose the remaining two inventors.

As always, if you have any questions or comments, please feel free to call me.

Very truly yours,



Frederick A. Tecce

FAT/plr

cc: Patrick J. Keenan, Esq.
Dennis P. McCooe, Esq.

EXHIBIT I

to

**Declaration of Heidi Keefe in
Support of Facebook's
Motion to Compel Further
Production of Documents and
Complete Interrogatory Responses**

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC
USDC ED PA Case No. 07-CV-02768-JP**

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www.whitecase.com

December 28, 2007

VIA FACSIMILE and US MAIL

Patrick J. Keenan, Esq.
Duffy & Keenan
The Curtis Center, Suite 1150
Independence Square West
Philadelphia, PA 19106

Frederick A. Tecce, Esq.
McShea/Tecce, P.C.
The Bell Atlantic Tower – 28th Floor
1717 Arch Street
Philadelphia, PA 19103

Re: Cross-Atlantic Capital Partners, Inc. v Facebook, Inc. and Thefacebook LLC
USDC ED PA 2:07-CV-02768-JP

Gentlemen:

I sent you an email yesterday while I was traveling requesting a time today to discuss outstanding issues. I arrived in the office recently, and we have not yet received a response to that request. As indicated in our email, we clearly disagree with your description of the current status of our protective order situation, and sincerely hope you will live up to your original promise to treat materials produced as confidential until we could agree (both sides agreeing) to a new arrangement. We are ready and willing to attempt to reach a new agreement, and hope to do so soon.

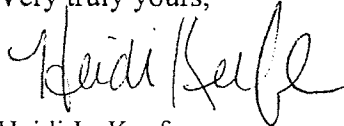
Our office is closed Monday and Tuesday, December 31 and January 1, and we are available to schedule a telephone conference on Wednesday, January 2, after 11:00 am Pacific time to discuss and work out our differences. Please advise what time works best for you.

On a separate note, I also notice that we have not yet received the supplementation of your interrogatory response that you promised by December 21, 2007. When might we be seeing that?

December 28, 2007

Finally, we appreciate that you are now representing all of the inventors, and we will confirm early next week whether the dates you propose will work. In the meantime, please confirm with Messrs. Harvey and Fregley whether those dates will work for them as well. Also, please confirm that you will produce their documents by January 7, 2008.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Heidi Keefe".

Heidi L. Keefe

cc: Dennis P. McCooe

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4942
 RECIPIENT ADDRESS #224912155990888
 DESTINATION ID
 ST. TIME 12/28 17:05
 TIME USE 00'47
 PAGES SENT 3
 RESULT OK

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Date: December 28, 2007 **No. of Pages (including cover):** -3-

To: Frederick A. Tecce
 McShea\Tecce **Fax Number:** 215-599-0888
 Contact Number: 215-599-0800

cc: Patrick J. Keenan
 Duffy & Keenan **Fax Number:** 215-238-8710
 Contact Number: 215-238-8700

Dennis P. McCooe
 Blank Rome **Fax Number:** 215-569-5555
 Contact Number: 215-569-5500

From: Heidi L. Keefe **Reference No.:** 1630682-0002

Re: Cross Atlantic Capital Partners v Facebook, Inc.
 USDC ED PA 2:07-CV-02768-JP

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Please see attached letter.

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4943
RECIPIENT ADDRESS #224912152388710
DESTINATION ID
ST. TIME 12/28 17:06
TIME USE 00'36
PAGES SENT 3
RESULT OK

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Date: December 28, 2007 **No. of Pages (including cover):** -3-
To: Frederick A. Tecce **Fax Number:** 215-599-0888
McShea\Tecce **Contact Number:** 215-599-0800
cc: Patrick J. Keenan **Fax Number:** 215-238-8710
Duffy & Keenan **Contact Number:** 215-238-8700
Dennis P. McCooe **Fax Number:** 215-569-5555
Blank Rome **Contact Number:** 215-569-5500
From: Heidi L. Keefe **Reference No.:** 1630682-0002
Re: Cross Atlantic Capital Partners v Facebook, Inc.
USDC ED PA 2:07-CV-02768-JP

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Please see attached letter.

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4944
RECIPIENT ADDRESS #710912155695555
DESTINATION ID
ST. TIME 12/28 17:09
TIME USE 02'30
PAGES SENT 3
RESULT OK

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Date: December 28, 2007 **No. of Pages (including cover):** -3-
To: Frederick A. Tecce **Fax Number:** 215-599-0888
McShea\Tecce **Contact Number:** 215-599-0800
cc: Patrick J. Keenan **Fax Number:** 215-238-8710
Duffy & Keenan **Contact Number:** 215-238-8700
Dennis P. McCooe **Fax Number:** 215-569-5555
Blank Rome **Contact Number:** 215-569-5500
From: Heidi L. Keefe **Reference No.:** 1630682-0002
Re: Cross Atlantic Capital Partners v Facebook, Inc.
USDC ED PA 2:07-CV-02768-JP

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Please see attached letter.

EXHIBIT J

to

**Declaration of Heidi Keefe in
Support of Facebook's
Motion to Compel Further
Production of Documents and
Complete Interrogatory Responses**

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC
USDC ED PA Case No. 07-CV-02768-JP**

Neely, Patricia A.

From: O'Rourke, Sam
Sent: Monday, January 07, 2008 6:15 PM
To: Neely, Patricia A.
Subject: FW: FACEBOOK -- Protective Order (1.02.2007).DOC.DOC

For the file

From: O'Rourke, Sam
Sent: Monday, January 07, 2008 6:14 PM
To: 'Patrick J. Keenan'
Cc: 'ftecce@mcshea-tecce.com'
Subject: RE: FACEBOOK -- Protective Order (1.02.2007).DOC.DOC

Those changes are fine. We plan to ship the source code tomorrow via overnight mail. We will sign and return the Protective Order tomorrow also. We should also work out who should file the Protective Order with the Court.

Please also let me know what Fred says about the issues I raised in our phone calls: 1) when we can expect to receive the supplementation to Facebook Interrogatory No. 5 (Fred promised to supplement by December 21), and 2) a confirmation as to whether or not XACP has any more documents concerning the ownership of the patent in suit.

Thanks very much,

Sam

From: Patrick J. Keenan [mailto:pjk@duffykeen.com]
Sent: Monday, January 07, 2008 3:30 PM
To: O'Rourke, Sam
Cc: Frederick A. Tecce
Subject: Re: FACEBOOK -- Protective Order (1.02.2007).DOC.DOC

Sam,

Attached is the Protective Order which has been signed on behalf of our client. I have made two small changes since we last spoke: (1) paragraph 1 has been changed to be consistent with the prior change to paragraph 5, i.e., that the source code confidentiality applies only to source code, and (2) replaced the name of Charles Bloom with Alfred Zaher under the signature line. Please let me know when we can expect to receive the source code. Thanks.

Pat

----- Original Message -----

From: O'Rourke, Sam
To: pjk@duffykeen.com
Cc: ftecce@mcshea-tecce.com ; Keefe, Heidi L. ; Weinstein, Mark R.
Sent: Friday, January 04, 2008 8:00 PM
Subject: Re: FACEBOOK -- Protective Order (1.02.2007).DOC.DOC

Thank you Pat. We are awaiting client feedback and will plan on giving you a call Monday.

Thanks,

Sam

-----Original Message-----

From: Patrick J. Keenan <pjk@duffykeen.com>

1/8/2008

To: O'Rourke, Sam
CC: Frederick A. Tecce <ftecce@mcshea-tec.com>
Sent: Fri Jan 04 18:18:06 2008
Subject: Re: FACEBOOK -- Protective Order (1.02.2007).DOC.DOC

Sam,

We have accepted most but not all of your changes. Our changes are red (or blue) lined on the attached version. Let me know if this is acceptable.

Pat

----- Original Message -----

From: O'Rourke, Sam <<mailto:sorourke@paloalto.whitecase.com>>
To: pjk@duffykeen.com ; ftecce@mcshea-tec.com
Cc: McCoee, Dennis P. <<mailto:McCoee@BlankRome.com>> ; Keefe, Heidi L. <<mailto:hkeefe@paloalto.whitecase.com>> ; Weinstein, Mark R. <<mailto:mweinstein@paloalto.whitecase.com>>
Sent: Thursday, January 03, 2008 1:44 PM
Subject: FACEBOOK -- Protective Order (1.02.2007).DOC.DOC

Pat -

As promised, attached please find our tweaks to your draft protective order. It is in redline form. We have incorporated source code protection into that draft. We think it addresses many of your concerns, while still affording our client sufficient protection. Please let us know if it is acceptable.

Thanks,

Sam

Sam O'Rourke
White & Case LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, Ca 94306
TEL: (650) 213-0332
FAX: (650) 213-8158
EMAIL: sorourke@whitecase.com

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1/8/2008

EXHIBIT K

to

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Complete Interrogatory Responses**

**Cross Atlantic Capital Partners, Inc. v
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USDC ED PA Case No. 07-CV-02768-JP**

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January 9, 2008

VIA FACSIMILE AND US MAIL

Patrick J. Keenan, Esq.
Duffy & Keenan
The Curtis Center, Suite 1150
Independence Square West
Philadelphia, PA 19106

Re: Cross-Atlantic Capital Partners, Inc. v Facebook, Inc. and Thefacebook LLC
USDC ED PA 2:07-CV-02768-JP

Dear Pat:

As a follow-up to my voice mail to you earlier today and my numerous prior inquires, this letter concerns XACP's failure to supplement its response to Facebook Interrogatory No. 5, despite XACP's promise to do so by December 21.

We first raised the inadequacy of XACP's response in a letter dated November 7, 2007. This issue was the topic of ongoing disagreement and debate for over a month. XACP finally promised that it would serve a supplemental response to the interrogatory on December 21, 2007, conditioned on Facebook first providing a verified statement of its contention "that not a single element of the asserted claims is supported by the original application." (12/07/07 e-mail from F. Tecce to M. Weinstein.) Facebook promptly satisfied XACP's demand on December 10, 2007. Despite our many requests and patience, you have not delivered on your promise. Unless we receive the promised supplementation by close of business on Friday, January 11, 2008, you leave us with no choice but to move to compel a complete supplementation of XACP's response to Interrogatory No. 5.

In addition, we have also repeatedly requested that XACP either produce all documents related to the ownership of the patent-in-suit, or confirm that all such documents have been produced.

ALMATY ANKARA BANGKOK BEIJING BERLIN BRATISLAVA BRUSSELS BUDAPEST DRESDEN DÜSSELDORF FRANKFURT HAMBURG
HELSINKI HONG KONG ISTANBUL JOHANNESBURG LONDON LOS ANGELES MEXICO CITY MIAMI MILAN MOSCOW MUNICH
NEW YORK PALO ALTO PARIS PRAGUE RIYADH SÃO PAULO SHANGHAI SINGAPORE STOCKHOLM TOKYO WARSAW WASHINGTON, DC

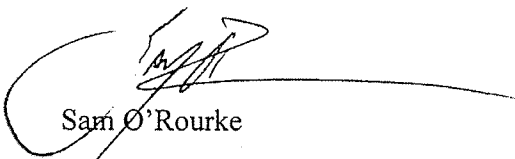
Patrick J. Keenan

WHITE & CASE

January 9, 200

Despite repeated inquiries, we have received neither documents nor confirmation that all have been produced. Unless we receive all documents concerning the ownership of the '629 patent, or a confirmation that XACP has produced all such documents by Friday, January 11, we will have no choice but to move on that issue too.

Very truly yours,



Sam O'Rourke

cc: Frederick A. Tecce
Dennis P. McCooe

*** MULTI TX/RX REPORT ***

TX/RX NO 1585
PGS. 3
TX/RX INCOMPLETE
(2) 2155990888
(3) 2155695555
TRANSACTION OK
(1) #346912152388710
ERROR INFORMATION

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Date:	January 9, 2008	No. of Pages (including cover):	-3-
To:	Patrick J. Keenan Duffy & Keenan	Fax Number:	215-238-8710
		Contact Number:	215-238-8700
To:	Frederick A. Tecce McShea/Tecce	Fax Number:	215-599-0888
		Contact Number:	215-599-0800
	Dennis P. McCooe Blank Rome	Fax Number:	215-569-5555
		Contact Number:	215-569-5500
From:	Sam O'Rourke	Reference No.:	1630682-0002
Re:	Cross Atlantic Capital Partners v Facebook, Inc. USDC ED PA 2:07-CV-02768-JP		

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Please see attached letter.

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1586
RECIPIENT ADDRESS #346912155990888
DESTINATION ID
ST. TIME 01/09 19:39
TIME USE 00'47
PAGES SENT 3
RESULT OK

FACSIMILE



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Date:	January 9, 2008	No. of Pages (including cover):	-3-
To:	Patrick J. Keenan Duffy & Keenan	Fax Number:	215-238-8710
		Contact Number:	215-238-8700
To:	Frederick A. Tecce McShea\Tecce	Fax Number:	215-599-0888
		Contact Number:	215-599-0800
	Dennis P. McCooe Blank Rome	Fax Number:	215-569-5555
		Contact Number:	215-569-5500
From:	Sam O'Rourke	Reference No.:	1630682-0002
Re:	Cross Atlantic Capital Partners v Facebook, Inc. USDC ED PA 2:07-CV-02768-JP		

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Please see attached letter.

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1587
RECIPIENT ADDRESS #346912155695555
DESTINATION ID
ST. TIME 01/09 19:40
TIME USE 02'30
PAGES SENT 3
RESULT OK

FACSIMILE



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Date:	January 9, 2008	No. of Pages (including cover):	-3-
To:	Patrick J. Keenan Duffy & Keenan	Fax Number:	215-238-8710
		Contact Number:	215-238-8700
To:	Frederick A. Tecce McShea\Tecce	Fax Number:	215-599-0888
		Contact Number:	215-599-0800
	Dennis P. McCooe Blank Rome	Fax Number:	215-569-5555
		Contact Number:	215-569-5500
From:	Sam O'Rourke	Reference No.:	1630682-0002
Re:	Cross Atlantic Capital Partners v Facebook, Inc. USDC ED PA 2:07-CV-02768-JP		

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Please see attached letter.

EXHIBIT L

to

**Declaration of Heidi Keefe in
Support of Facebook's
Motion to Compel Further
Production of Documents and
Complete Interrogatory Responses**

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC
USDC ED PA Case No. 07-CV-02768-JP**

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February 5, 2008

VIA FACSIMILE and US MAIL

Patrick Keenan
Duffy & Keenan
One Liberty Place
1650 Market Street, 55th Floor
Philadelphia, PA 19103-7301

Re: Cross Atlantic Capital Partners, Inc. v Facebook, Inc. and Thefacebook LLC
USDC ED PA 2:07-CV-02768-JP

Pat:

This letter serves to highlight the deficiencies in XACP's discovery responses. Despite indicating that it would provide responsive documents, XACP has failed to produce any documents responsive to request Nos. 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, 17-24, 26, 28, 30, 31, 32, 34, 36, 37, 39, 41-46, and 50-58. XACP has also failed to provide adequate responses to Interrogatory Nos. 2 or 5.

Documents Regarding XACP

XACP has failed to provide documents about itself and its business activities. The following documents and things have been requested, but no responsive materials have been produced:

- Documents showing XACP's organizational structure (Request 45);
- Documents evidencing damages and/or lost profits XACP has suffered as the result of Facebook's alleged infringement (Request 41);
- Costs and/or expenditures XACP has incurred as the result of Facebook's alleged infringement (Request 42); and
- Revenue XACP purports to have lost as a result of Facebook's alleged infringement (Request 58).

Please produce all materials responsive to these requests or confirm that none exist. If XACP is withholding any such documents based on a claim of privilege, please provide a privilege log substantiating such withholding.

Documents Concerning The Alleged Invention Of The '629 Patent

XACP has failed to produce requested materials concerning the alleged invention of the '629 patent, including:

- Prior art related to the '629 patent (Request 8);
- Any publications relating to the invention claimed in the '629 Patent (Request 23);
- Design and research concerning, and the conception of, the alleged invention of the '629 Patent (Request 9);
- Any investigation of the '629 Patent (Request 17),
- Any use of the alleged invention of the '629 Patent, including use by XACP (Request 20);
- The sale of any product embodying any invention described by the claims of the '629 Patent, including by XACP (Request 21); and
- The first use, display or demonstration of any invention described by the claims of the '629 Patent (Request 22).

XACP has also failed to produce any communications with the USPTO relating to the '629 patent (Request 34). The only communications produced were unrelated to the '629 patent (communications regarding U.S. Patent 6,487,583 (Filed 2-25-00) entitled "System and Method for Information and Application Distribution").

Please produce all materials responsive to these requests or confirm that none exist. If XACP is withholding any such documents based on a claim of privilege, please provide a privilege log substantiating such withholding.

Interrogatory Responses Concerning The Alleged Invention Of The '629 Patent

Facebook Interrogatory No. 2 states:

Identify and describe the circumstances surrounding any alleged invention of United States Patent No. 6,519,629 B2, including the precise date of conception, the persons involved and the nature of their involvement, the date of actual or constructive reduction to practice, the date and circumstances of first experimental or test use, the date and circumstances of first public disclosure, the date and circumstances of the first offer to

sell or sale, and the steps constituting diligence from conception to actual or constructive reduction to practice.

XACP refused to provide a complete response to this interrogatory on the basis that it lacked personal knowledge because “the inventors are not and have never been employees or agents of the plaintiff.” XACP further explained that it “does not have personal knowledge concerning dates of initial conception, reduction to practice, use, public disclosure, offering to sell, or sale of the invention set forth in the ’629 Patent.” On December 21, 2007, Facebook was notified that you are now representing all named inventors of the ’629 patent and that Mr. Harvey (the primary inventor) is a paid XACP consultant. Accordingly, please now supplement your response to provide a complete answer to Interrogatory No. 2.

To the extent that XACP has relied on the same lack of personal knowledge in failing to respond to any other Facebook interrogatories, document requests, or in its responses to Facebook requests for admission, Facebook requests that XACP supplement all such responses.

Documents Concerning The Issued ’629 Patent

XACP has failed to produce requested materials concerning the ’629 patent, including:

- The identity of customers to whom sales or offers to sell the alleged invention of the ’629 Patent have been made (Request 24);
- All efforts to sell, assign, transfer, or license the ’629 Patent (Request 30);
- All licenses granted under the ’629 Patent (Request 31);
- All offers to sell any interest in the ’629 Patent (Request 32);
- Any available substitute or noninfringing alternatives to the technology claimed in the ’629 Patent (Request 43);
- The cost associated with implementing those alternatives (Request 44); and
- Any lawsuit, arbitration or other legal proceeding involving the ’629 Patent or any related patents (Request 10).

Finally, Facebook requested documents supporting XACP’s contention that “on or about November 13, 2001, the inventors assigned their complete interest in [United States Patent Application Serial No. 09/513,844] and any patent that issued therefrom to iKimbo, Inc.” (Request 28). Please confirm that the complete documentation of this assignment has been produced.

Please produce materials responsive to the above referenced requests or confirm that no such documents exist. If XACP is withholding any such documents based on a claim of privilege, please provide a privilege log substantiating such withholding.

Documents Related To This Lawsuit

XACP has failed to produce requested materials concerning this lawsuit, including:

- All communications between XACP and others regarding the litigation (Requests 3 and 4);
- Any claim that Facebook infringes the '629 Patent (Request 13);
- XACP's right to sue for infringement of the '629 Patent (Request 26); and
- All documents related to XACP's contention that it is entitled to a permanent injunction against Facebook (request 57).

Please produce materials responsive to these requests or confirm that no such documents exist. If XACP is withholding any such documents based on a claim of privilege, please provide a privilege log substantiating such withholding.

Documents Concerning Facebook's Alleged Activities And Conduct

XACP has made a number of allegations concerning Facebook's knowledge and conduct that it has not substantiated with documentation. XACP has failed to produce materials concerning the following allegations:

- That Facebook has been using and marketing systems and methods for creating online communities covered by the claims of the '629 Patent (Requests 14 and 15);
- That Facebook has willfully infringed the '629 Patent (Request 50);
- That Facebook had notice of the '629 Patent prior to the filing of the Complaint (Request 51),
- That notice of the '629 Patent had been given to Facebook (Request 52);
- That Facebook has knowingly and intentionally induced others to infringe the '629 Patent (Requests 53 and 55);
- That Facebook is contributorily infringing the '629 Patent (Request 54);
- That Facebook continues to aid and abet others to infringe the '629 Patent (Request 56);
- That the Facebook website targets Pennsylvania residents (Request 18); and
- That Facebook has entered into commercial agreements, collaborations, joint ventures, and/or partnerships with residents of Pennsylvania (Request 19).

XACP was required to have had a Rule 11 basis to make the above referenced allegations. Accordingly, please produce materials substantiating these allegations or confirm that no such

documents exist. If XACP is withholding any such documents based on a claim of privilege, please provide a privilege log substantiating such withholding.

Subpoenaed Inventor Documents

XACP agreed to accept service of subpoenas on the named inventors of the '629 patent. Accordingly, on January 16, 2007, Facebook served deposition subpoenas for Robert Dekelbaum and Matthew Hulan. These subpoenas included requests for documents to be produced at the White & Case, Palo Alto Office on January 29, 2008. These documents are fundamental to Facebook's ability to efficiently take the depositions of these two inventors. We have not yet received any documents, and we received no indication that you could not produce these documents by this date. Please produce the documents immediately or confirm that none exist.

Additionally, at his deposition on January 25, 2008, Jamey Harvey testified that he had communicated with the other named inventors listed on the '629 patent. Specifically, Mr. Harvey stated he had communicated through email with Mr. Dekelbaum, Mr. Hulan, and Mr. Andrew Fregly about this litigation. Mr. Harvey also stated he has a consulting agreement with Cross Atlantic Capital Partners for consulting services regarding this litigation. These communications, as well as those related to Mr. Harvey's consulting agreement, are responsive to the document requests included with Mr. Harvey's deposition subpoena, yet they were not produced. Please produce them.

Prior Unanswered Facebook Communications

We have sent you and Mr. Tecce a number of letters and emails raising important issues to which you have not responded.

Letter of January 30, 2008

In my letter dated January 30, 2008, I raised several issues to which you have yet to respond. Specifically, I referred you to Facebook's letter of January 17, 2008 regarding shortcomings in XACP's response to Facebook Interrogatory No. 5 and asked whether XACP intends to further supplement its response to that interrogatory. I have not received a response to the January 17 or January 31 inquiries.

In my January 30 letter (and an email of the same date), I proposed that, in light of the Judge's postponement of the Claim Construction hearing by two weeks, the parties agree to push all dates out two weeks (except the trial date) in order to adjust to the new schedule. I sent you a proposed stipulation to that effect via email of the same date. I have not received a response on that issue either.

Letter of February 1, 2008

In a letter from Ms. Keefe, dated February 1, 2008, we took issue with several aspect of XACP's 30(b)(6) deposition of Facebook. I refer you to that letter for a recitation of the specific issues.

February 5, 2008



We have not received any response, despite attempting to meet and confer several times on the matter (included emails from Ms. Keefe dated January 30 and 31, 2008).

We would appreciate responses to the above referenced letters, as well as to the requests set for in this letter concerning XACP's deficient discovery responses by close of business on Thursday, February 7, 2008. Specifically, please advise when XACP will be supplementing its discovery responses and confirming the requests for which it believes it has provided complete responses.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sam O'Rourke", with a long horizontal flourish extending to the right.

Sam O'Rourke

cc: Frederick A. Tecce
Dennis P. McCooe

EXHIBIT M

to

**Declaration of Heidi Keefe in
Support of Facebook's
Motion to Compel Further
Production of Documents and
Complete Interrogatory Responses**

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC
USDC ED PA Case No. 07-CV-02768-JP**

DUFFY & KEENAN
Attorneys at Law

PATRICK J. KEENAN
DIRECT DIAL 215.238.8707

February 11, 2008

Via Facsimile and Regular Mail

Sam O'Rourke, Esquire
White & Case
3000 El Camino Real
5 Palo Alto Square, 9th Floor
Palo Alto, CA 94306

**RE: Cross Atlantic Capital Partners, Inc. v. Facebook, Inc. and Thefacebook, LLC
U.S.D.C., E.D.Pa. 2:07-cv-02768-JP**

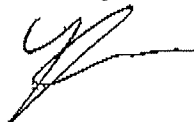
Dear Sam:

After considering your request for further supplementation of our client's answer to Facebook's Interrogatory No. 5, we have determined that the request is unreasonable and must be denied. As you know, we initially answered the interrogatory on October 29, 2007. Although our client's answer fully complied with the Federal Rules of Civil Procedure, we supplemented the answer at your request on January 15, 2008.

In requesting further supplementation, you have taken issue with the statement in the supplemental answer that the citations to the '988 Application that support the elements of the claims in the '629 Patent are "[r]epresentative (but not exclusive) support..." Your client's position on this issue is inconsistent with its own discovery responses. On December 20, 2007, the Court ordered Facebook to provide "full and complete answers" to Plaintiff's Interrogatories Nos. 3, 5 and 11. Interrogatory No. 5 requested Facebook's invalidity contentions and support. In response, Facebook has cited to non-exclusive examples for support of its contentions as follows: (1) "With respect to claims 8, 16, 24, and 32; these claims are indefinite under 35 U.S.C. § 112 ¶ 2 because it cannot be determined from the claims in light of the written description, *for example*..."; (2) "The alleged invention of these claims is anticipated or obvious in view of *at least* the following prior art..." In the attached Prior Art Chart, Facebook cites to non-exclusive examples ("*e.g.*") within the alleged prior art references for support of its invalidity contentions. If Facebook considers these to be sufficient answers in response to the Court's order, its criticism of XACP's answer is baseless.

If you have any questions, please feel free to contact me.

Sincerely,



PATRICK J. KEENAN

PJK/mk

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1650 Market Street, 55th Floor
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02/11/2008 11:17 IFAX plem2@whitecase.com
FEB. 11. 2008 2:16PM DUFFY & KEENAN

→ PALO ALTO FAX 003/003
NO. 935 P. 3

DUFFY & KEENAN

Sam O'Rourke, Esquire
February 11, 2008
Page 2

cc: Frederick A. Tecce, Esquire

DUFFY & KEENAN

Attorneys at Law
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FAX

DATE:	February 11, 2008	PAGES:	3
TO:	Sam O'Rourke Frederick A. Tecce	FROM:	Patrick J. Keenan
FAX:	650-213-8158 215-599-0888	PHONE:	215-238-8707
RE:	Cross Atlantic Capital Partners v. Facebook, Inc.		
NOTE:	PLEASE ADVISE IF ALL PAGES AS SPECIFIED ABOVE ARE NOT RECEIVED.		
FILE #:			

MESSAGE:

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