

CERTIFICATE OF SERVICE

This is to hereby certify that on this 4th day of March, 2008, I caused a true and correct copy of the foregoing document: DECLARATION AND CERTIFICATION OF MARK WEINSTEIN IN SUPPORT OF FACEBOOK'S MOTION FOR PROTECTIVE ORDER to be served via this Court's Electronic Filing ("ECF") System, upon the following:

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Counsel for plaintiff
Cross Atlantic Capital Partners, Inc.

/s/ Heidi Keefe

Heidi Keefe

EXHIBIT A

to

Declaration of Mark Weinstein in Support of Facebook's Motion for Protective Order

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC**

USDC ED PA Case No. 07-CV-02768-JP

White & Case LLP
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February 8, 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:

I write concerning XACP's Notice of Deposition of Mark Zuckerberg dated February 8, 2008. As you know, Mr. Zuckerberg is the CEO of Facebook and has no real involvement in the matters at issue in this case. Before XACP would be entitled to depose Mr. Zuckerberg, it must meet its burden of showing that Mr. Zuckerberg possesses unique or superior knowledge of discoverable information, and that less intrusive avenues of discovery have been exhausted. *See Baine v. General Motors Corp.*, 141 F.R.D. 332 (M.D. Ala. 1991). Unless you can provide substantive information demonstrating that XACP can meet its burden under the applicable case law, Facebook will move for a protective order to prevent this deposition. Please either withdraw your deposition notice or provide the requisite information by the close of business on Tuesday, February 12, 2008, or Facebook will have no choice but to file its motion.

Very truly yours,



Sam O'Rourke

cc: Frederick A. Tecce
Dennis P. McCooe

EXHIBIT B

to

Declaration of Mark Weinstein In Support of Facebook's Motion for Protective Order

**Cross Atlantic Capital Partners, Inc. v
Facebook, Inc. and Thefacebook, LLC**

USDC ED PA Case No. 07-CV-02768-JP

DUFFY & KEENAN

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FAX

DATE:	February 11, 2008	PAGES:	2
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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DUFFY & KEENAN
Attorneys at Law

PATRICK J. KEENAN
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February 11, 2008

Via Facsimile and Regular Mail

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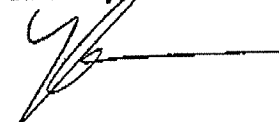
**RE: Cross Atlantic Capital Partners, Inc. v. Facebook, Inc. and Thefacebook, LLC
U.S.D.C., E.D.Pa. 2:07-cv-02768-JP**

Dear Sam:

I am in receipt of your letter dated February 8, 2008 regarding the deposition of Mark Zuckerberg. In the United States District Court for the Eastern District of Pennsylvania, and elsewhere, "the party seeking discovery ... may name a specific officer, director, or managing agent to give deposition testimony on behalf of a party corporation pursuant to Fed. R.C.P. 30(b)(1)." *Triple Crown America, Inc. v. Biosynth AG*, 1998 U.S. Dist. LEXIS 6117 (E.D. Pa. April 30, 1998); *United States v. Afram Lines*, 159 F.R.D. 408, 413 (S.D.N.Y. 1994). There is no "unique or extraordinary knowledge" requirement. Additionally, in response to our client's Interrogatory No. 7, Facebook has identified only four individuals "who significantly contributed to the creation, development and design of Facebook's Groups application," one of whom is Mark Zuckerberg. Mr. Zuckerberg has also publicly taken credit for the founding of Facebook and the infringing website. Therefore, we cannot accept your position that Mr. Zuckerberg may not be deposed and expect to proceed with his deposition as noticed.

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

Sincerely,



PATRICK J. KEENAN

PJK/mk

cc: Frederick A. Tecce, Esquire

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