

# **EXHIBIT A**

**EXHIBIT A**

**FILED UNDER SEAL**

# **EXHIBIT B**



You are invited to attend and examine the witness if you so desire.

Respectfully submitted,



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PATRICK J. KEENAN, ESQ.

**Duffy & Keenan**

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FREDERICK A. TECCE, ESQ.

**MCSHEA/TECCE, P.C.**

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(215) 599-0888 (Fax)

Counsel for plaintiff

Cross Atlantic Capital Partners, Inc.

Dated: February 4, 2008

CERTIFICATE OF SERVICE

This is to certify that on this 4th day of February, 2008, I caused a true and correct copy of the foregoing Notice under Federal Rule 30(b)(1) of Deposition Upon Oral Examination to be served by facsimile and first class, regular mail upon the following:

Alfred W. Zaher, Esquire  
Dennis P. McCooe, Esquire  
Joel L. Dion, Esquire  
Blank Rome  
One Logan Square  
130 North 18<sup>th</sup> Street  
Philadelphia, PA 19103

Heidi L. Keefe, Esquire  
Mark R. Weinstein, Esquire  
Sam C. O'Rourke, Esquire  
WHITE & CASE, LLP  
3000 El Camino Real  
5 Palo Alto Square  
9<sup>th</sup> Floor  
Palo Alto, California 94306

Counsel for defendants  
Facebook, Inc. and Thefacebook, LLC



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PATRICK J. KEENAN, ESQ.

# **EXHIBIT C**





30(b)(1) of Deposition Upon Oral examination of Mr. Zuckerberg on February 4, 2008, a copy of which to the accompanying brief as Exhibit B. The deposition was noticed to take place on February 19, 2008.

F. On February 8, 2008, Facebook objected to the deposition of Mr. Zuckerberg on the sole basis that he allegedly lacks "unique or extraordinary knowledge" concerning any issue relevant to this case.

G. On February 11, 2008, XACP' advised Facebook in writing that Mr. Zuckerberg's deposition was permitted under the Federal Rules of Civil Procedure and applicable case law.

H. Subsequently, I spoke on more than one occasion to Facebook's counsel, Sam O'Rourke, Esquire, about the scheduling of Mr. Zuckerberg's deposition. I told Mr. O'Rourke that XACP was agreeable to conducting the deposition in California.

I. Mr. O'Rourke told me that Facebook was considering producing Mr. Zuckerberg for deposition, and that he would advise me of their final decision as soon as possible.

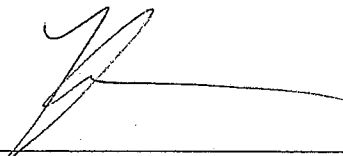
J. Without any additional notice, Facebook filed the present motion for protective order.

K. On March 4, 2008, XACP deposed Victor Valdez as a corporate designee of Facebook on issues relating to the infringing website. On March 7, 2008, Gideon Yu was deposed as a corporate designee of Facebook regarding its finances. On March 6, XACP deposed Dustin Moskovitz of Facebook. These depositions were conducted in California.

L. Mr. Valdez was not employed by Facebook when the accused website and Groups application were originally developed. Additionally, Mr. Valdez claimed to lack knowledge about even basic aspects of Facebook's website that are relevant to XACP's infringement claims, such as Facebook's processes for user registration and enabling user's to create targeted advertisements.

The above statements are true and correct to the best of my knowledge, information and belief and are made under penalty of perjury.

Dated: March 17, 2008



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**Patrick J. Keenan, Esquire**

# **EXHIBIT D**

**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, 9<sup>th</sup> Floor  
Palo Alto, CA 94306

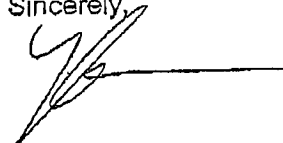
**RE: Cross Atlantic Capital Partners, Inc. v. Facebook, Inc. and Thefacebook, LLC  
U.S.D.C., E.D.Pa. 2:07-cv-02768-JP**

Dear Sam:

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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