

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

API TECHNOLOGIES, LLC

Plaintiff,

v.

FACEBOOK, INC., ET AL,

Defendants.

Civil Action No. 2:09-CV-00147

JURY TRIAL DEMANDED

DECLARATION OF ERICH SPANGENBERG

My name is Erich L. Spangenberg. I make this declaration in my capacity as the manager of API Technologies, LLC (“API”), and in a personal capacity insofar as that information is relevant to state background facts regarding the formation of API. These background facts are necessary in light of inaccurate statements made by Defendants in their Motion to Transfer Venue concerning API’s headquarters. I therefore have personal knowledge regarding the facts stated below, and, if called upon to testify I would testify truthfully to those facts:

1. I am the manager of API Technologies, LLC a limited liability company organized under Texas law. As shown on the formation documents filed with the Texas Secretary of State, API is headquartered in Marshall, Texas.

2. Based on my review of the court filings in this case, specifically, Defendants’ Motion to Transfer Venue (Dkt. No. 174), I am aware of several misstatements and file this declaration to correct those misstatements.

3. One of those misstatements concerns the Defendants’ allegation that API is headquartered in Dallas, Texas, at the following address: 901 Main Street, Suite 3100, Dallas, Texas 75202. This address is not API’s address. It is the address at that time for the law firm of

Haynes & Boone, LLP, the firm I retained to perform the legal work to form API and ensure that API's formation complied with Texas law.

4. The attorney I retained to perform this work is Mitch Miller. This is the same Mitch Miller whose name appears on the document that Defendants include as Exhibit RM-3, showing J. Mitchell Miller as the registered agent for API.

5. It is at its Marshall, Texas address that API retains all of its records and files concerning its formation and operations, including its lease agreement and corporate records. API also maintains in those files in Marshall, Texas settlement agreements concerning this litigation, filings related to this litigation, and documents concerning the acquisition of United States Patent No. 6,859,699, the patent in suit.

6. Although I am a resident of Dallas, Texas, I frequently travel to Marshall, Texas for other business matters, including matters concerning API. Because it is a short driving distance to Marshall from Dallas, it is far more convenient for me to attend trial or any other legal proceedings that may occur in Marshall concerning this matter as opposed to the time required to travel to the west coast.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of June, 2010.



Erich L. Spangenberg
Manager, API Technologies, LLC