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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92049206
Party	Defendant Facebook, Inc.
Correspondence Address	JEFFREY NORBERG COOLEY GODWARD KRONISH LLP 4401 EASTGATE MALL SAN DIEGO, CA 92121 UNITED STATES trademarks@cooley.com, jnorberg@cooley.com, laltieri@cooley.com
Submission	Other Motions/Papers
Filer's Name	Jeffrey T. Norberg
Filer's e-mail	jnorberg@cooley.com, laltieri@cooley.com, trademarks@cooley.com
Signature	/s/ Jeffrey T. Norberg
Date	05/18/2009
Attachments	Declaration of J Norberg - Redacted Public Version.pdf (106 pages)(1854159 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THINK COMPUTER CORPORATION

Petitioner,

v.

FACEBOOK, INC.,

Respondent.

Cancellation No. 92049206

Mark: FACEBOOK

Reg. No. 3,122,052

Reg. Date: July 25, 2006

REDACTED PUBLIC VERSION

**DECLARATION OF JEFFREY T. NORBERG IN SUPPORT OF FACEBOOK, INC.'S OPPOSITION TO
MOTION TO COMPEL**

I, Jeffrey T. Norberg, hereby declare as follows:

1. I am an associate at the law firm of Cooley Godward Kronish LLP, counsel of record for Respondent Facebook, Inc. ("Facebook") in this matter. Unless otherwise stated, I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would testify competently thereto.

2. Attached hereto as Exhibits 1-24 are true and correct copies of the correspondence between counsel regarding the issues addressed in Facebook's Opposition to Think's Motion to Compel, in chronological order from oldest to most recent. I note that four of the Exhibits (7, 8, 10 and 15) were included with Think's Declaration in Support of its motion. They are included again here for ease of reference.

3. On April 24, 2009 I participated in a meet and confer call regarding several discovery issues with counsel for Think Meagan McKinley-Ball and Nicholas Carlin. Noel Egnatios, another associate at this law firm, also participated on behalf of Facebook. During this

call I discussed the scheduling of the depositions of Mark Zuckerberg, Chamath Palihapitiya and the Facebook 30(b)(6) deposition, and notified counsel for Think that Mr. Palihapitiya would be Facebook's designee for topics 5 through 14, 16 and 20 and that Mr. Zuckerberg would be Facebook's designee for topics 4 and 19.

4. Just 19 minutes before the call, Think provided a list of over 80 individual discovery responses Think alleged to be deficient. *See* Ex. 14. Think's April 24 e-mail was the first time Think had identified any complaints regarding Facebook's specific responses to Think's requests.¹ During the call, I told Mr. Carlin and Ms. McKinley-Ball that I needed to confer with my client before responding regarding the numerous issues raised in Think's April 24 e-mail and I agreed to provide a response as soon as possible. I was surprised to learn that Think filed a motion to compel regarding these requests the following business day, before allowing me time to discuss the issues with my client. I subsequently sent a letter to Think asking it to withdraw the motion to allow completion of the meet and confer process required by TBMP §523.02. *See* Ex. 16. Counsel for Think refused this request. *See* Ex. 17.

5. During the April 24 meet and confer call I also asked counsel for Think to articulate why Think believed Ms. Vora and Mr. Bowers to have discoverable information. Counsel for Think was unable to provide any information other than conclusory statements that both had knowledge regarding the use of the term "facebook" at Harvard and that therefore both had knowledge relevant to the fraud claim. Ms. McKinley-Ball also noted that Ms. Vora was the past president of the Harvard Computer Society, but Ms. McKinley-Ball did not explain how the Harvard Computer Society was related to the parties or Harvard SEC, the organization that allegedly ran houseSYSTEM. I explained that neither Ms. Vora nor Mr. Bowers were directors, officers or managing agents of Facebook and, therefore, a subpoena would be required to secure attendance. I further explained that Think had not provided sufficient information for Facebook

¹ On March 13, 2009 Mr. Greenspan made a general complaint regarding the relevance objection in Facebook's responses to Think's requests for production. *See* Ex. 2. However, Ms. McKinley-Ball's April 24 e-mail was the first time Think raised any complaints regarding specific requests for production or admission.

to determine whether either individual is a proper witness in this case.

6. Facebook has produced over 6,000 pages of documents in four separate document productions. *See* Exs. 5, 11, 22, 24. I have requested that Think's counsel confirm whether its document production is complete. As of today's date, Think's counsel has provided no such confirmation and, indeed, has stated that it is still attempting to determine if Think has documents responsive to many of Facebook's requests. *See* Ex. 19.

7. Attached hereto as Exhibit 25 is a true and correct copy of a photograph produced by Think in this litigation. Think has produced several other clearly irrelevant photographs of Mr. Greenspan as a child and teenager, as well as photographs of his family at his graduation. Think has also produced Mark Zuckerberg's application to Harvard.

8. Attached hereto as Exhibit 26 is a true and correct copy of Facebook's Objections to Think's Notice of Deposition of Facebook, Inc., served April 24, 2009.


9. Attached hereto as Exhibit 27 is a true and correct copy of a declaration signed by Neville Bowers.

10. Attached hereto as Exhibit 28 is a true and correct copy of a declaration signed by Ami Vora.

11. Attached hereto as Exhibit 29 is a true and correct copy of Facebook's Supplemental Responses to Think's Requests for Admission (filed under seal).

12. Attached hereto as Exhibit 30 is a true and correct copy of Facebook's Supplemental Responses to Think's Requests for Production (filed under seal).

I declare under penalty of perjury that the foregoing statements are true and correct.
Executed at Palo Alto, California, this 18th day of May, 2009.



Jeffrey T. Norberg

EXHIBIT 1



Noel K. Egnatios
(858) 550-6026
negnatios@cooley.com

VIA EMAIL AARONG@THINKCOMPUTER.COM

March 12, 2009

Aaron Greenspan
Think Computer Corporation
884 College Avenue
Palo Alto, CA 94306-1303

RE: Request to Meet and Confer re: Think Computer's Responses to Facebook's First Set of Interrogatories

Dear Mr. Greenspan:

We write to discuss Facebook's First Set of Interrogatories, which were served via U.S. Mail on January 30, 2009. Pursuant to 37 CFR §2.120(a) and TBMP § 403.03, your response to this discovery request was due on March 6, 2009. As of today's date, we have not yet received any response.

We note that failure to timely respond to a discovery request results in forfeiture of your right to object to the discovery requests on the merits, and that your duty to follow the rules of the Board is not relieved by your status as a *pro se* party. Accordingly, and consistent with 37 CFR § 2.120(e), we request that you provide us with your written responses to Facebook's First Set of Interrogatories no later than tomorrow, Friday March 13, 2009. To the extent you will not agree to provide written responses by tomorrow, please let me know your availability on Monday for a telephonic meet and confer to discuss our motion to compel.

Further, we mention as a courtesy that for a second time your First Set of Interrogatories ("Set") do not meet the requirements of 37 C.F.R. §2.120(d)(1). As we stated previously in our General Objection to the first version of the Set, served February 6, 2009, the total number of written interrogatories which a party may serve upon another party in a cancellation proceeding shall not exceed 75, including subparts. While your second version of the Set lists 48 interrogatories, in fact Interrogatory No. 1 alone consists of 76 separate subparts because it seeks a response for each of the 76 companion requests for admission denied by Facebook. Accordingly, Facebook once again has no obligation to respond to the Set. In the interest of expediency, we are willing to accept your withdrawal, in writing, of your second version of the Set in order to allow you, once again, to revise the Set to comply with the prevailing rules. We make this suggestion in order to expedite the process (that is, so you do not have to wait for us to serve our general objection). At bottom and as admonished in the TTAB's order dated September 24, 2008 at page 16, you must comply with the rules regardless that you are proceeding without counsel.

EXHIBIT 2



Think Computer®

Think Computer Corporation
884 College Avenue
Palo Alto, CA 94306

telephone 415.670.9350

toll free 1.888.815.8599

fax 415.373.3959

web <http://www.thinkcomputer.com>

March 13, 2009

Via E-Mail Only
negnatios@cooley.com

Noel K. Egnatios
Cooley Godward Kronish LLP
4401 Eastgate Mall
San Diego, CA 92121-1909

Re: Petition to Cancel FACEBOOK
USPTO TTAB Cancellation No. 92049206

Dear Ms. Egnatios:

You will be pleased to learn that Think's responses to Facebook's First Set of Interrogatories were sent to Cooley's Palo Alto offices via first class mail today. Think of course does not waive its right to object to Facebook's requests any more than Facebook waived its rights when it responded late to Think's requests earlier this year.

Regarding Think's First Set of Interrogatories (the "First Set"), Think disagrees with your assertion that they do not meet the requirements of 37 C.F.R. §2.120(d)(1). Your deliberate misinterpretation of the rule is nothing more than a delay tactic designed to help your client evade its statutory obligation to comply with Think's discovery requests. As such, Think plans to file a motion to compel if it does not receive responses to the First Set by March 20, 2009 at 9:00 A.M. Pacific Time. This motion to compel will include a request to increase the limit on interrogatories, as permitted by 37 C.F.R. §2.120(d)(1), thereby rendering Facebook's objection moot. With or without Facebook's consent, Think also plans to file a motion to extend discovery due to the unnecessary delay caused by your misinterpretation of this rule.

Also pertaining to discovery, I am in receipt of Respondent Facebook, Inc.'s Responses to Petitioner's First Set of Requests for Production of Documents and Things. Think considers these Responses, which are

March 13, 2009

Noel K. Egnatios, Cooley Godward Kronish LLP

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nothing more than lists of baseless objections, to be completely non-responsive. In particular, Think notes that virtually every request was met with the following response: "Facebook objects to this Request on the ground that it seeks discovery that is not relevant or reasonably calculated to lead to the discovery of admissible evidence." In fact, all of Think's requests are relevant and reasonably calculated to lead to the discovery of admissible evidence. Think further notes that all objections on the basis of privilege must be accompanied by corresponding privilege logs, and that such objections are questionable in light of the entry of Facebook's protective order. Think demands that Facebook provide the documents and things requested by March 20, 2009 at 9:00 A.M. Pacific Time, or Think will file a motion to compel.

Please let me know whether or not your client will stipulate to a motion to extend discovery. I will await that and the earliest available date when Mark Zuckerberg and counsel are available for his deposition.

Sincerely,

A handwritten signature in blue ink, appearing to read "Aaron Greenspan", with a stylized, flowing script.

Aaron Greenspan
President & CEO
Think Computer Corporation

EXHIBIT 3



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA EMAIL AND U.S. MAIL

March 16, 2009

Aaron Greenspan
Think Computer Corporation
884 College Ave.
Palo Alto, CA 94306

RE: TTAB Cancellation No. 92049206

Dear Mr. Greenspan:

This letter responds to your letter to Noel Egnatios dated March 13, 2009.

Thank you for your representation that Think's responses to Facebook's First Set of Interrogatories were served on Friday of last week. In light of this representation, we withdraw our request to meet and confer on these responses until we have had an opportunity for a full review. However, we note that you are incorrect in claiming that Think's delay in responding was somehow excused by an alleged delay by Facebook's responses to Think's written discovery. As we have previously informed you, Think's written discovery was improperly served before Think served the disclosures required under Rule 26 of the Federal Rules of Civil Procedure. Facebook's responses were timely served within the 30 days following Think's Rule 26 disclosures plus five days for service by U.S. Mail. See TBMP §113.05. By contrast, Think's responses to Facebook's First Set of Interrogatories were not served within the 35 day time period for response. Think has therefore waived its right to object to Facebook's Interrogatories.

Your allegations regarding Facebook's objection to Think's Revised First Set of Interrogatories are similarly baseless. As we stated in our prior letter, Think's Revised Interrogatory No. 1 consists of at least 76 separate sub-parts because it asks for information regarding "each of the [76] First Set of Requests for Admission denied" by Facebook. Under existing precedent, Think's request for information regarding each of the 76 requests denied by Facebook constitutes a single interrogatory with 76 sub-parts. See, e.g., *Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 445 (C.D. Cal.1998); *McConnell v. Pacificorp, Inc.*, 2008 WL 3843003 (N.D. Cal, Aug. 15, 2008). In your letter you appear to concede that this interrogatory contains multiple sub-parts when you state that your contemplated motion to compel will request an increase in the limit on interrogatories allowed in this case. Your threatened motion to compel is therefore without merit.

Additionally, any such motion to compel would be premature because you have not fulfilled the pre-motion requirement that the parties attempt to resolve the issue via conference. See TBMP §523.02. Your letter provides no explanation as to the "good cause" basis for the requested increase in the number of interrogatories, as required under the regulation you cite, and your letter ignores the language of that regulation requiring that a motion to increase the number of interrogatories must be filed and granted *before* service of interrogatories in excess of 75. 37

Aaron Greenspan
March 16, 2009
Page Two

C.F.R. §2.120(d)(1). To the extent you still wish to proceed with your contemplated motion, we insist that you first comply with the meet and confer requirements of the TBMP by providing, at a minimum, an explanation as to why an increase in the number of interrogatories is necessary in this case. Alternatively, we reiterate our offer that Think withdraw its Revised First Set of Interrogatories and serve a new set that complies with the numerical limit.

We further disagree with your unspecified complaint that Facebook has improperly objected to Think's written discovery requests based on lack of relevance. As you know, in its September 28, 2008 order, the Board admonished you that several of the allegations set forth in Think's Amended Petition to Cancel, such as the allegations regarding Facebook's petition to make special, the allegations regarding Sean Parker's status as a founder or co-founder of Facebook, and the allegations surrounding Mark Zuckerberg's statements at Stanford University, are not relevant to the issues in these proceedings. On January 29, 2009, the Board reminded the parties of the TBMP's requirement that the parties "make a good faith effort to seek only such discovery as is proper and relevant to the specific issues involved in the proceeding." (Citing TBMP §402.01). Notwithstanding these admonitions, Think's written discovery to Facebook sought broad discovery unrelated to the trademark registration at issue in this cancellation proceeding, including discovery on the specific topics that the Board held in its September 28, 2008 order to be outside the scope of the proceedings. In light of this, your unspecified complaint regarding Facebook's objections is misplaced. We will, however, be happy to address any specific objection you wish to discuss via the meet and confer process.

With respect to Facebook's document production, Facebook is currently in the process of gathering responsive documents that are relevant to these proceedings and intends to produce them on a rolling basis starting later this week, subject to our objections. We note that Think's Responses to Facebook's First Requests for Production of Documents were due on Friday of last week, and request that you provide an update as to when Think will be producing its responsive documents.

Regarding your request to extend discovery, we agree that an extension of the discovery deadlines would be appropriate in this case and suggest a 60 day extension of all Board imposed deadlines. Please let me know at your earliest convenience if Think agrees to the 60 day extension and we will take care of filing a consented motion with the Board.

Finally, enclosed please find Facebook's Notice of Deposition of Aaron Greenspan. We have noticed this deposition to take place in Palo Alto on May 21, 2009. We are, of course, willing to accommodate any reasonable request regarding the scheduling of this deposition. We will contact you shortly to discuss an appropriate schedule for both of the currently noticed depositions.

Sincerely,



Jeffrey T. Norberg

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THINK COMPUTER CORPORATION,

Petitioner

v.

FACEBOOK, INC.,

Respondent.

Cancellation No. 92049206

Mark: FACEBOOK

Reg. No. 3,122,052

Reg. Date: July 25, 2006


**RESPONDENT'S NOTICE OF DEPOSITION OF AARON GREENSPAN
TO PETITIONER THINK COMPUTER CORPORATION:**

NOTICE IS HEREBY GIVEN pursuant to Federal Rule of Civil Procedure 30 that on May 21, 2009 Respondent Facebook, Inc. will take the deposition of Aaron Greenspan at the office of Cooley Godward Kronish, Five Palo Alto Square, 3000 El Camino Real, Palo Alto, California, 94306. The deposition will commence at 9:30 a.m. and continue from day to day or as otherwise agreed upon until completed.

This deposition will be recorded by certified stenographic reporter and/or videotape.

Dated: March 16, 2009

COOLEY GODWARD KRONISH LLP
MICHAEL G. RHODES (116127)
ANNE H. PECK (124790)
JEFFREY T. NORBERG (215087)
NOEL K. EGNATIOS (249142)

By: 
Jeffrey T. Norberg (215087)

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Respondent's Notice of Deposition of Aaron Greenspan was mailed, first-class postage prepaid, to Petitioner:

Think Computer Corporation
Attn: Aaron Greenspan
884 College Avenue
Palo Alto, CA 94306-1303

Date: _____, 2009

Lucy Altieri

EXHIBIT 4



Think Computer®

Think Computer Corporation
884 College Avenue
Palo Alto, CA 94306

telephone 415.670.9350

toll free 1.888.815.8599

fax 415.373.3959

web <http://www.thinkcomputer.com>

March 17, 2009

Via E-Mail Only
jnorberg@cooley.com

Jeffrey T. Norberg
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

Re: Petition to Cancel FACEBOOK
USPTO TTAB Cancellation No. 92049206

Dear Mr. Norberg:

I write in response to your letter dated March 16, 2009.

First, by way of reminder, Think served its First Set of Requests for Admissions from Respondent Facebook, Inc. on December 18, 2008. Allowing two extra days for the Christmas Day and New Year's Day federal holidays, responses were due from Facebook, Inc. thirty days later on January 19, 2009. Granting as well the five-day period allowed for service by postal mail, responses were due from Facebook, Inc. on January 24, 2009. Facebook, Inc. actually served its Responses to Petitioner's First Set of Requests for Admissions on February 6, 2009, some thirteen days late.

Second, contrary to your claim that this delay was excused by Think's filing of its written Initial Disclosures on January 2, 2009—even in which case, were it a valid excuse, service of your client's response would still have been late—Rule 26(d)(1) of the Federal Rules of Civil Procedure merely requires that a conference subject to the requirements of Rule 26(f) take place in order for discovery proceedings to begin, not that written Disclosures be served. As you must know, such a conference took place via telephone at 4:00 P.M. Pacific Time on June 25, 2008 between Ms. Emily F. Burns of Cooley Godward Kronish LLP, representing

March 17, 2009

Jeffrey T. Norberg, Cooley Godward Kronish LLP

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Facebook, Inc., and myself, representing Think Computer Corporation. Therefore, by Rule 26 of the Federal Rules of Civil Procedure, TBMP § 403.01, and by the TTAB's scheduling order of April 16, 2008, discovery opened immediately following that conference on June 25, 2008, not on January 2, 2009. Any delays of service on Facebook's part from that moment forth were completely voluntary in nature, and Facebook's first filing was therefore quite late.

You may find it of interest that two of the clauses cited in Facebook's written Initial Disclosures do not actually relate to the topics that Facebook alleges. Rule 26(a)(1)(C) of the Federal Rules of Civil Procedure involves "Time for Initial Disclosures," not computation of damages. Rule 26(a)(1)(D) involves "Time for Initial Disclosures — For Parties Served or Joined Late," not insurance agreements. Facebook's statement that these rules do not apply to the current proceeding is therefore either incorrect, or a circular reference. I would appreciate it if in future correspondence you would verify that Facebook's citations of legal works are (1) actually correct; and (2) reproduced in reasonable length so as to avoid any misinterpretations, such as those that permeated your most recent letter with somewhat astonishing frequency, and which cause me now to spend considerable time and effort rectifying Facebook's errors.

The third point I wish to address is that the Certificate of Service that accompanied Respondent's First Set of Interrogatories is invalid. It states a date of service of "1/30/2008," or a date that transpired approximately two-and-a-half months before Think filed its Petition to Cancel and proceedings began in this matter. Clearly, it is not possible that Respondent's First Set of Interrogatories were actually mailed on January 30, 2008, and as such, Think had no obligation to respond at all. That Think did respond, as a token of good faith, cannot count against Think. I would strongly urge you to correct the deficiency in your filing.

Think reiterates for clarification that it did not and has not waived any rights of any kind in any matter, nor should any of its statements be construed as such. Facebook has not grounded its assertions regarding Think's supposed lack of rights in any kind of fact, legal precedent, or any other sort of legal document, and as such, Think considers them without merit.

Fourth, your most recent letter deliberately twists a general statement by Think into a more specific statement with a different and incorrect meaning. In my last letter, by writing that Think would "include a request to increase the limit on interrogatories" in this case, Think was not proffering any specific viewpoint on (the apparently controversial) Revised Interrogatory No. 1 or any other specific interrogatory, and was merely suggesting a simple solution to Facebook's persistently baseless objection to the number of aggregate subparts contained in Think's interrogatories. Suffice it to say that discovery would clearly be easier for both parties if the ceiling on interrogatories were not a constant source of conflict.

Think also notes that its Revised Interrogatory No. 1 is anything but frivolous. In its Responses to Petitioner's First Set of Requests for Admissions, Facebook makes assertions that are rather shocking in nature, due to the fact that they are patently false. These assertions by Facebook merit further investigation.

Moreover, Think has good reason to ask for an increase in the interrogatory limit, since Facebook's method for calculating the number of subparts appears to change rather frequently. In Facebook's initial explanation of its decision not to respond to Think's First Set of Interrogatories, dated February 6, 2009, Facebook alleged, "While Petitioner lists 54 distinct interrogatories, it has added subparts to many of its interrogatories

March 17, 2009

Jeffrey T. Norberg, Cooley Godward Kronish LLP

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and has in several instances combined two or more questions in a single compound interrogatory, in order to avoid the limitations on the number of interrogatories imposed by this Board... Facebook counts at least 122 separate and distinct interrogatories in Petitioner's First Set of Interrogatories." Given that each of Think's fifty-four original interrogatories comprised a minimum of one subpart (the interrogatory itself), Facebook counted only sixty-eight additional subparts to reach an alleged total of 122. Yet on March 12, 2009, despite Think's removal of several subparts and several interrogatories altogether, Facebook alleged that the number of subparts had actually increased to at least 123: allegedly seventy-six for the Revised Interrogatory No. 1, plus at least forty-seven for the remaining interrogatories. Think's First Set of Requests for Admissions did not change in the interim, so the fate of the original sixty-eight "additional" subparts is unclear, except to say that on February 6, 2009, Facebook could not have been of the opinion that Interrogatory No. 1 comprised seventy-six separate subparts. Such a rapid change of heart smacks of disingenuousness.

Think never sought to abuse the limit on the number of interrogatories, but the same cannot be said for Facebook. The constant, upward revision of the number of subparts that Facebook alleges it must answer cannot and should not be cured by the repeated issuance of revised interrogatories by Think. Furthermore, your misleading allusion to TBMP § 523.02, which actually states that parties should attempt to resolve disputes of this sort via a "good faith effort, by conference *or correspondence*" (italics mine), is not appreciated. Unless Facebook provides satisfactory and complete answers to Think's First Set of Interrogatories by the aforementioned deadline of March 20, 2009 at 9:00 A.M., a motion to compel, of the nature previously described by my March 13, 2009 letter, will be in order.

Fifth, based on your most recent letter, it seems as though you may need to read 37 C.F.R. § 2.120(d)(1) more closely. A cursory review of the statute will reveal that you have conflated the requirements associated with a motion for leave to serve additional interrogatories with those for a motion to compel, which are separate. The clause actually allows for two completely distinct eventualities, the former for situations where discovery has already proceeded "normally" for some period of time and more interrogatories are required, and the latter for cases such as this, where the number of subparts in a set of interrogatories is in dispute. As you will note, the verbiage in 37 C.F.R. § 2.120(d)(1) does *not* require that a motion to compel be submitted before the interrogatories themselves. (Such a sequence of events, as your letter suggests, would be entirely illogical.)

You would also clearly benefit from a closer look at the Board's September 24, 2008 order. On the first paragraph of page 13 of the order, the Board states, "some of the facts alleged by petitioner are not material *to its fraud claim*" (italics mine). Think's Amended Petition to Cancel includes three grounds for cancellation: priority of use, genericness, and fraud against the USPTO. Therefore, even if Sean Parker's title and Mark Zuckerberg's comments in public are not material to Think's fraud claim, Mr. Parker's behavior (the actual subject of certain of Think's interrogatories) and Mr. Zuckerberg's comments may still be highly relevant to Think's claims of priority of use and/or genericness. In particular, it is crucial for the Board to know whether or not Mr. Zuckerberg was aware of other facebooks when he made videotaped comments at Stanford University (among many other times Mr. Zuckerberg made highly questionable remarks in public), and it is equally crucial for the Board to know whether Sean Parker, the alleged "Founder" of Facebook, Inc., was in a sufficiently alert mental state to sign a legal declaration such as he did.

To date, Think has received a total of zero documents or things from Facebook in response to its discovery

March 17, 2009

Jeffrey T. Norberg, Cooley Godward Kronish LLP

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requests, despite such documents and things being due on January 30, 2009, thirty-five days after Think's Requests for Production were served on December 22, 2008 (once again allowing for federal holidays). By Facebook's own logic, Facebook waives any objections it has to Think's requests as a result of its late response. Think will serve its Responses to Respondent's First Set of Requests for Production of Documents today via first class mail, well within the allowed mailing period of five days after the initial thirty-day window. *See* TBMP § 113.05.

Regarding extension of discovery, Think does not agree to a sixty-day extension, and would suggest a thirty-day extension in its place. Please let me know if this is acceptable.

Regarding your Notice of Deposition of Aaron Greenspan, I am fairly certain that I will not be in California on May 21, 2009, but I will double-check my calendar and get back to you.

Lastly, you and all of your colleagues should direct your future e-mail correspondence to the proper e-mail address for this matter as listed with the USPTO TTAB, which is legal@thinkcomputer.com. This will ensure that any communications coming from Cooley or Facebook, Inc. receive prompt and proper attention.

Please feel free to contact me with any questions regarding the contents of this letter.

Sincerely,



Aaron Greenspan
President & CEO
Think Computer Corporation

EXHIBIT 5

Norberg, Jeffrey

From: Norberg, Jeffrey
Sent: Friday, March 20, 2009 3:55 PM
To: 'legal@thinkcomputer.com'
Subject: Think v. Facebook: TTAB Cancellation No. 92049206

Mr. Greenspan,

Please take notice that Respondent Facebook, Inc. has made available for Petitioner Think Computer Corporation's inspection documents responsive to Think's discovery requests. These documents, which bear the bates labels FB00001-22, FB00310-417 and FB00422-658, are being made available for inspection in connection with Respondent's ongoing document production in the above referenced TTAB Cancellation proceeding. The documents may be inspected during regular business hours at the offices of Cooley Godward Kronish, 3000 El Camino Real, Five Palo Alto Square, Fourth Floor, Palo Alto, CA 94306. Please note that these and any subsequent documents produced for inspection by Facebook are being made available subject to the terms of the Protective Order governing the use of confidential materials in these proceedings.

Please let me know when you expect to come to our offices to inspect these documents. If you intend to use a copy service to take copies of these documents, please let me know the name of the copy service and the approximate timeframe in which the copy service can be expected.

Sincerely,

Jeffrey T. Norberg

Cooley Godward Kronish LLP • Five Palo Alto Square
3000 El Camino Real • Palo Alto, CA 94306-2155

Direct: (650) 843-5889 • Fax: (650) 857-0663

Bio: www.cooley.com/jnorberg • Practice: www.cooley.com/iplitigation

EXHIBIT 6



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA EMAIL AND U.S. MAIL

March 20, 2009

Aaron Greenspan
Think Computer Corporation
884 College Ave.
Palo Alto, CA 94306

RE: TTAB Cancellation No. 92049206

Dear Mr. Greenspan:

I write regarding your letter to me dated March 17, 2009.

With respect to Think's request to increase the limit of interrogatories available in this case, we note that Think has failed to provide any facts to support the "good cause" showing necessary to support an increase in the number of interrogatories in this case. Indeed, given the generous number of interrogatories available in TTAB proceedings (a limit of 75 rather than the limit of 25 set forth in the Federal Rules of Civil Procedure), we do not believe any such increase is necessary. We therefore decline Think's requested increase and will oppose any motion to increase the limits for the reasons set forth in this and our prior letters.

Regarding Think's contemplated motion to compel, we believe we have adequately explained that your interrogatories include sub-parts that place them well in excess of the 75 interrogatory limit and, on that basis, we include with this letter a general objection to Think's Revised First Set of Interrogatories. We believe it would be more productive for Think to revise its interrogatories to comply with the rules than to burden the Board with this dispute. On that basis, last week we offered to allow Think to withdraw its Revised First Set of Interrogatories notwithstanding the absence of any requirement that we do so. We remain willing to respond to discovery requests that comply with the limits on discovery set by the Board but will oppose any motion to compel discovery beyond those limits.

Regarding your proposed 30-day extension of discovery, we consent to your proposed extension. Please let us know if you would like us to file the consented motion to extend.

Additionally, I note that we have received Think's petition to cancel Facebook's Registration No. 3,041,791, assigned Cancellation Proceeding No. 92050675. We believe this new cancellation proceeding should be consolidated with the existing cancellation action under TBMP Section 511. Please let me know your availability for a call next week to discuss a possible joint proposal for consolidating the proceedings.

Finally, we have received your request that all correspondence be sent to legal@thinkcomputer.com. We will direct all future correspondence to that e-mail address and ask that all future correspondence to Facebook be directed to jnorberg@cooley.com and



Aaron Greenspan
March 20, 2009
Page Two

negnatios@cooley.com. We also request that the service of any document to Cooley Godward Kronish's Palo Alto office be addressed to my attention.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeffrey T. Norberg". The signature is written in a cursive style with a long, sweeping underline.

Jeffrey T. Norberg

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THINK COMPUTER CORPORATION,

Petitioner,

v.

FACEBOOK, INC.,

Respondent.

Cancellation No. 92049206

Mark: FACEBOOK

Reg. No. 3,122,052

Reg. Date: July 25, 2006

**RESPONDENT FACEBOOK, INC.'S GENERAL OBJECTION TO PETITIONER'S
REVISED FIRST SET OF INTERROGATORIES**

PROPOUNDING PARTY: PETITIONER THINK COMPUTER CORPORATION

RESPONDING PARTY: RESPONDENT FACEBOOK, INC.

SET NUMBER: ONE (REVISED)

Pursuant to Section 2.120 (d) of the Rules of Practice in Trademark Cases and Section 405.03 of the Trademark Trial and Appeal Board Manual of Procedure ("T.B.M.P."), Respondent Facebook, Inc. ("Facebook") hereby objects to Petitioner Think Computer Corporation's ("Petitioner") First Set of Interrogatories on the grounds that they exceed the total number of allowable interrogatories for this proceeding. The total number of written interrogatories which a party may serve upon another party in a cancellation proceeding shall not exceed seventy-five, counting subparts. 37 C.F.R. § 2.120(d)(1).

Petitioner has once again sought to avoid the limitations on the number of interrogatories imposed by this Board. *See* T.B.M.P. 405.03 (d). The most egregious of these evasions is

Interrogatory No. 1, wherein Petitioner requests: “[f]or each of Petitioner’s First Set of Requests for Admission denied by Respondent, state in reasonable detail the basis for such denial.” Case law establishes that such a broad request cannot be used to evade the rules of procedure, and that interrogatories corresponding to multiple requests for admissions count as multiple interrogatories in the same number as the requests for admission. *See e.g. Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 445 (C.D.Cal.1998); *McConnell v. Pacifcorp, Inc.*, 2008 WL 3843003 (N.D.Cal, Aug. 15, 2008). Because Facebook has denied 76 of Petitioner’s Requests for Admission, Interrogatory No. 1 constitutes 76 separate interrogatories for purposes of calculating the number of allowable interrogatories.

Moreover, Petitioner continues to serve interrogatories containing subparts, and has in several instances combined two or more questions in a single compound interrogatory, in order to avoid the limitations on the number of allowable interrogatories. For example, in Interrogatory No. 7 petitioner requests: “[f]or each product or service on or in connection with which you have used, or intend to use, Respondent’s Marks: (a) identify and describe in detail each such product or service; (b) state the exact date(s) on which you will rely as to when use of Respondents Marks on or in connection with each such product or service commenced in interstate commerce; (c) describe the circumstances of each such first use, including the manner of use; and (d) for each product or service identified in the answer to part (a) hereof, state whether the use has continued to the present date or state a date upon which the use of Respondent’s Marks was discontinued.” The rules of the Board are clear: in an interrogatory that includes questions set forth as numbered or lettered subparts, each separately designated subpart is counted as a separate interrogatory. T.B.M.P. 405.03(d). Further, a party propounding such compound interrogatories will be bound to its own numbering system for computation of the

total number of allowable interrogatories. *See e.g. Jan Bell Marketing, Inc. v. Centennial Jewelers, Inc.* 19 USPQ2d 16136, 1637 (TTAB 1990); *Pyttronic Industries, Inc. v. Terk Technologies Corp.*, 16 USPQ2d 2055, 2056 (TTAB 1990). Consistent with the rules of this Board, and Petitioner's own numbering system, Facebook counts at least 131 separate and distinct interrogatories in Petitioner's Revised First Set of Interrogatories.

Facebook notified Petitioner of the abovementioned deficiencies in its Revised First Set of Interrogatories in writing on March 12 and March 16, 2009, and offered, in the interest of time, to allow Petitioner to withdraw the interrogatories and resubmit a further revised set of interrogatories that complies with the relevant numerical limit imposed by the Board. Petitioner denied these offers. Thus, pursuant to the rules of this Board, Facebook hereby objects, and has no obligation to respond, to Petitioner's Revised First Set of Interrogatories. Facebook must again request that Petitioner serve a revised set of interrogatories not exceeding the numerical limit. *See* T.B.M.P. 405.03 (e).

Dated: March 20, 2009

COOLEY GODWARD KRONISH LLP
MICHAEL G. RHODES (116127)
ANNE H. PECK (124790)
JEFFREY T. NORBERG (215087)
NOEL K. EGNATIOS (249142)

By: _____

Jeffrey T. Norberg (215087)

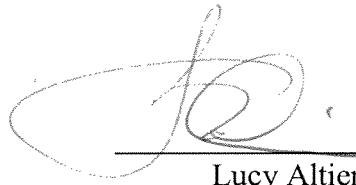
Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Facebook, Inc.'s General Objections to Petitioner's First Set of Interrogatories was mailed, first-class postage prepaid, to Petitioner:

Think Computer Corporation
Attn: Aaron Greenspan
884 College Avenue
Palo Alto, CA 94306-1303

Date: March 20, 2009



Lucy Altieri

EXHIBIT 7

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS AT LAW
50 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 398-0900
FAX (415) 398-0911
WWW.PHILLAW.COM

DAVID M. GIVEN
dmg@phillaw.com

April 1, 2009

BY EMAIL <jnorberg@cooley.com>

Jeffrey T. Norberg, Esq.
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

**Re: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675**

Dear Mr. Norberg:

We represent Think Computer Corporation in the above-referenced TTAB proceedings. Our notices of appearance are enclosed.

There are a number of housekeeping matters we need to take up with you at once.

1. Consolidation of Actions. We agree in principle with your proposal to consolidate the two pending proceedings, as long as consolidation does not act to delay any of the dates currently set in the former proceeding. We believe the latter proceeding is based on the same or substantially the same facts and law and therefore may rely upon the preliminary paperwork (i.e., initial disclosures, etc.), motion practice and discovery of the former proceeding. Our proposal would be to consolidate the two proceedings along those lines.

2. Think's Interrogatories. We agree for meet and confer purposes to withdraw interrogatory no. 1 of Think's pending interrogatories to Facebook. Facebook should answer the balance of those interrogatories. We will grant Facebook another 10 days to comply fully with its discovery obligations attendant to those interrogatories.

Jeffrey T. Norberg, Esq.
April 1, 2009
Page 2

3. Facebook's Interrogatories. Think has provided timely written responses to Facebook's interrogatories. It reserves all objections.

4. Think's Document Demands. Facebook may commence its "rolling" production of responsive documents by delivery of those documents to our office. We will grant Facebook another 10 days to comply fully with its discovery obligations attendant to those demands. While your March 16 letter also speaks of "relevant" documents, as you are no doubt aware, that is not the standard for discovery in this proceeding. We trust Facebook's production will not be so limited.

5. Facebook's Document Demands. Enclosed is a disk containing Think's responsive documents. (This will come to you with the confirming copy of this letter via U.S. mail.) Note that among the file folders on the enclosed disk is one marked CONFIDENTIAL. We intend for all the documents in that folder to be treated as confidential in accordance with the protective order entered in this proceeding.

6. Zuckerberg Deposition. We need dates. We expect the deposition to run more than one day, so please provide at least three consecutive days.

7. The 30(b)(6) Deposition. We need dates. Perhaps you can start by advising us who Facebook intends to produce for that deposition so that we can coordinate calendars; however, we expect the dates for those witnesses' depositions (to the extent there is more than one) to run consecutively.

8. Greenspan's Deposition. The current date of May 21 does not work. We will set this deposition in conjunction with the dates for the Zuckerberg and 30(b)(6) depositions.

9. Other Facebook Depositions. We also need dates for the depositions of Chamath Palihapitiya, Neville Bowers and Ami Vora.

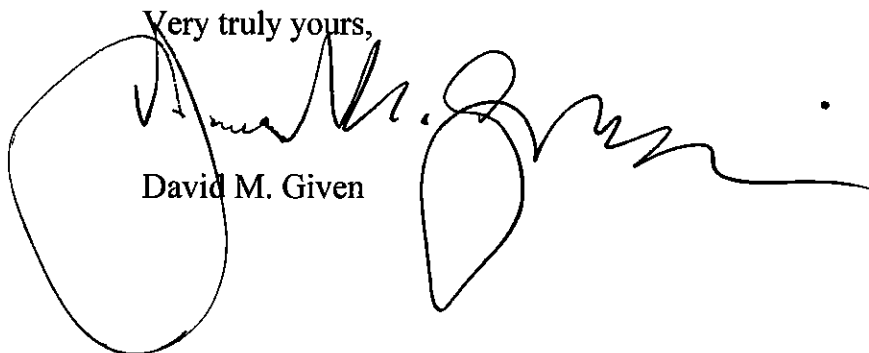
Jeffrey T. Norberg, Esq.

April 1, 2009

Page 3

Our client reserves all rights.

Very truly yours,

A handwritten signature in black ink, appearing to read "David M. Given", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

David M. Given

DMG:hs

Encls.

EXHIBIT 8



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

April 2, 2009

David M. Given, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Mr. Given:

I write in response to your letter of yesterday's date.

Thank you for your agreement to withdraw Think's Interrogatory No. 1. We do not agree to serve responses to the remaining interrogatories within 10 days as demanded in your letter. The Trademark Trial and Appeal Board Manual of Procedure ("TBMP") §405.03(e) provides, in part:

In those cases where a party which has propounded interrogatories realizes, on receipt of a general objection thereto on the ground of excessive number, that the interrogatories are, in fact, excessive in number, it is strongly recommended that the parties voluntarily agree to the service of a revised set of interrogatories, in the manner normally allowed by the Board, instead of bringing their dispute to the Board by motion to compel.

As you may be aware, Facebook has previously offered your client the opportunity to serve a revised set of interrogatories, as contemplated by this provision. Your client has repeatedly rejected this offer and therefore Facebook has no obligation to respond to any previously served sets. In keeping with the rule quoted above, however, Facebook will agree to allow service of a revised set of interrogatories and will consider and respond to any such revised set according to the deadlines set forth in the TBMP and applicable Federal Rules of Civil Procedure.

With respect to your request for deposition dates, we are currently conferring with our client and plan to provide available dates as soon as possible. We note, however, that we will be serving objections to your client's 30(b)(6) notice, as many of the topics seek information well beyond the scope of discovery. For your reference, we direct you page 13 of the Board's September 24, 2008 order regarding the relevance of many of Mr. Greenspan's allegations. We will provide appropriate corporate designees after we have served our formal objections to your client's deposition notice.

Moreover, we do not agree to produce Mr. Zuckerberg for multiple days. As you know, Rule 30(d)(1) limits the duration of any individual deposition to one day no longer than seven hours.

David M. Given, Esq.
April 2, 2009
Page Two

Given Mr. Zuckerberg's position in the company, as well as the limited nature of the issues in dispute in this TTAB proceeding, seven hours should be more than sufficient.

With respect to your other requested depositions, we will confer with our client and provide available dates in due course. We note, however, that at least one of the proposed deponents – Ami Vora – has not previously been disclosed in any discovery response. To the extent your client believes this witness has discoverable information, we request that you provide supplemental discovery responses identifying this witness and the general nature of the discoverable information.

In response to your request that Facebook "commence" its production of documents, we note that Facebook made its initial production of documents available on March 20, 2009 in Cooley's Palo Alto offices. This production remains available for your inspection during regular business hours. If you prefer, we will allow the copy service of your choice to temporarily remove the documents for copying. Please let us know your preference.

Regarding your claim that Think's responses to Facebook's interrogatories were timely, we disagree as stated in our letters of March 12 and 16. Facebook reserves all rights to raise with the Board Think's failure to timely respond to Facebook's interrogatories.

Finally, we agree that consolidation of the two cancellation proceedings should not delay any deadlines in the earlier filed proceeding. We further agree that the parties should be allowed to rely upon in both proceedings the preliminary work (discovery and motion practice) already conducted in the earlier proceeding. Given the substantial overlap in factual issues, we believe that the discovery limits applicable to the former proceeding should apply to both of the consolidated proceedings collectively. Please let me know if this is acceptable to your client and we will prepare a proposed joint motion.

Sincerely,

Cooley Godward Kronish LLP



Jeffrey T. Norberg

EXHIBIT 9

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS AT LAW

50 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 398-0900

FAX (415) 398-0911

WWW.PHILLAW.COM

DAVID M. GIVEN
dmg@phillaw.com

April 3, 2009

BY EMAIL <jnorberg@cooley.com>

Jeffrey T. Norberg, Esq.
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

**Re: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675**

Dear Mr. Norberg:

In response to your letter received today:

1. I will come to the Cooley office on Monday, April 6 at 10:00 a.m. to review documents produced by Facebook and assess how to arrange for copying. Please confirm that all the documents responsive to Think's demands that your client intends to produce will be there.

2. Facebook has had Think's interrogatories for months. Since you've declined my meet and confer proposal, and insist on a new set and service of those same interrogatories, we will go ahead and move to compel on all outstanding interrogatories, including interrogatory no. 1, and you can explain your client's position to the TTAB hearing officer.

3. Objections to the 30(b)(6) deposition notice are unfounded and untimely. We will take this subject up on our motion to compel if need be.

4. I'm at a loss to understand the contention that we have to supplement previous discovery responses to obtain the deposition of a party witness.

Jeffrey T. Norberg, Esq.
April 3, 2009
Page 2

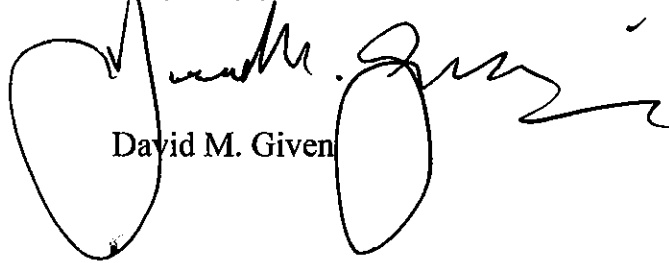
5. We do not agree to the discovery limits you propose with respect to the consolidated action.

6. We still need dates for the depositions that have been noticed. If your client is intent on continuing to obstruct, we'll take that subject up too on our motion to compel. In this respect, the number of motions to compel and for contempt your client was subject to in the *ConnectU* case is instructive.

Enclosed is a deposition notice for Palihapitiya, Bowers and Vora.

Our client reserves all rights.

Very truly yours,


David M. Given

DMG:hs
Encl.

EXHIBIT 10



Noel K. Egnatios
(858) 550-6026
negnatios@cooley.com

VIA E-MAIL

April 6, 2009

David M. Given, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Mr. Given:

I write in response to your letter to Jeffrey Norberg dated April 3, 2009.

At the outset, we note that we are surprised by both the tone of your recent letters and your accusation that Facebook has in any way "obstruct[ed]" discovery. Facebook has made every effort to work with your client to move discovery forward in this matter notwithstanding your client's insistence on ignoring numerous provisions of the TBMP, including those governing the timing and scope of discovery. Your claim that Facebook has in any way obstructed discovery in this case is not only incorrect, it is inconsistent with the Board's admonition that the parties cooperate in discovery. See TBMP §408.01 ("The Board expects the parties (and their attorneys or other authorized representatives) to cooperate with one another in the discovery process, and looks with extreme disfavor on those who do not.") Consistent with the Board's request and our past practice, we will continue to attempt to cooperate to resolve the various discovery disputes between the parties notwithstanding your inflammatory and inaccurate claims.

With respect to your client's interrogatories to Facebook, your claim that Facebook has been in possession of your client's interrogatories "for months" is inaccurate and is not relevant to the issue of Facebook's obligation to respond. Your client has now served, in two separate discovery devices, more than 200 interrogatories including sub parts. Facebook has repeatedly requested that your client re-serve interrogatories in compliance with the limits set by the Board and has even done so earlier than required in an effort to move this case forward. Your client has repeatedly refused these requests. Moreover, neither you nor your client has provided any explanation as to why Facebook should be required to respond to more than 75 interrogatories, nor have you provided any authority upon which your motion to compel will be based. In light of this, we are perplexed by your insistence on further delaying this case by filing a motion to compel rather than complying with the Board's "strong recommend[ation]" that you re-serve compliant interrogatories. TBMP §405.03(e).

With respect to your request for Ms. Vora's deposition, we note that your client did not disclose Ms. Vora in its Rule 26 disclosures, nor was Ms. Vora disclosed in response to Facebook's interrogatories regarding those with knowledge of Think's claims of confusion or likelihood of confusion (No. 2), priority of use (Nos. 5 and 35), fraud (No. 28) and genericness (No. 24). To



David M. Given, Esq.
April 6, 2009
Page Two

the extent you now believe Ms. Vora has discoverable information on any of these topics, we once again request that you supplement Think's prior discovery responses.

With respect to Facebook's document production, as we stated in our last letter, Facebook's initial March 20 production is available for inspection in our Palo Alto offices. Facebook is continuing to collect and review documents for production and will produce such documents on a rolling basis as they become available.

Finally, with respect to consolidation of the two proceedings, we note that you have rejected without explanation our offer to consolidate using a single set of discovery according to the limits already in place for the first filed action. Please provide your basis for rejecting this proposal in light of your stated belief that "the latter proceeding is based on the same or substantially the same facts and law" as the former proceeding.

Sincerely,

Cooley Godward Kronish LLP

A handwritten signature in black ink, appearing to read "Noel Egnatios". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Noel K. Egnatios

EXHIBIT 11

Altieri, Lucy

From: Egnatios, Noel
Sent: Thursday, April 09, 2009 5:03 PM
To: Hittle, Michelle
Subject: FW: Think Computer v. Facebook, Inc.; TTAB Cancellation No. 92049206

From: Egnatios, Noel
Sent: Thursday, April 09, 2009 5:00 PM
To: 'dmg@phillaw.com'
Subject: Think Computer v. Facebook, Inc.; TTAB Cancellation No. 92049206

Mr. Given,

Please take notice that Respondent Facebook, Inc. has made available for Petitioner Think Computer Corporation's inspection additional documents responsive to Think's discovery requests. These documents, which bear the bates labels FB000660-750 and FB001000-1171, are being made available for inspection in connection with Respondent's ongoing document production in the above referenced TTAB Cancellation proceeding. The documents may be inspected during regular business hours at the offices of Cooley Godward Kronish, 3000 El Camino Real, Five Palo Alto Square, Fourth Floor, Palo Alto, CA 94306. Please note that these and any subsequent documents produced for inspection by Facebook are being made available subject to the terms of the Protective Order governing the use of confidential materials in these proceedings.

Please let me know when you expect to come to our offices to inspect these documents. If you intend to use a copy service to take copies of these documents, please let me know the name of the copy service and the approximate timeframe in which the copy service can be expected.

Sincerely,

Noel K. Egnatios


Cooley Godward Kronish LLP • 4401 Eastgate Mall
San Diego, CA 92121-1909
Direct: (858) 550-6026 • Fax: (858) 550-6420
Email: negnatios@cooley.com • Bio: www.cooley.com/negnatios

EXHIBIT 12

FAX**Phillips, Erlewine & Given LLP****50 California Street, 35th Floor****San Francisco, CA 94111****Fax: (415) 398-0911****Tel: (415) 398-0900****www.phillaw.com**

THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE.

TO: Noel K. Egnatios, Esq.
OF: Cooley Godward Kronish LLP
FAX: 858-550-6420
PHONE: 858-550-6000

FROM: David M. Given 
dmg@phillaw.com

CLIENT/MATTER: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675

DATE: April 16, 2009

Documents Letter to you of today's date.
transmitted:

NO. OF PAGES: 2 *

* counting cover sheet. If you do not receive all pages, please telephone us immediately.

~~X Fax transmittal only.~~ ☐ For review. ☐ Please call. ☒ Original is being sent.

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS AT LAW
50 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 398-0900
FAX (415) 398-0911
WWW.PHILLAW.COM

DAVID M. GIVEN
dmg@phillaw.com

April 16, 2009

BY FAX

Noel K. Egnatios, Esq.
Cooley Godward Kronish LLP
4401 Eastgate Mall
San Diego, CA 92121

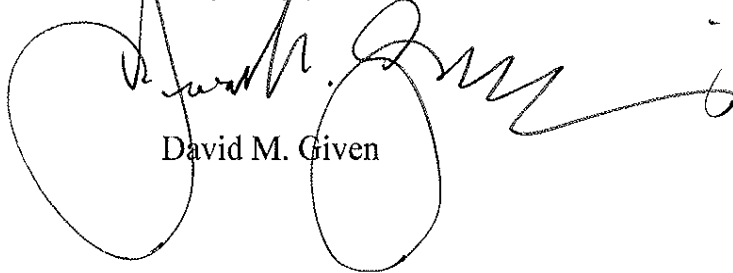
**Re: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675**

Dear Ms. Egnatios:

I have not received a response from your office to the Notice of Depositions of Chamath Palihapitiya, Neville Bowers and Ami Vora, scheduled for April 20-22, 2009. If I do not hear from you by the end of the day today, I will assume that they will proceed as scheduled.

Also, I would like to meet and confer with you concerning your client's responses to Think Computer's First Set of Requests for Admissions and First Set of Requests for Production of Documents. I am available for a telephone conference anytime this afternoon or tomorrow. Please let me know when you are available.

Very truly yours,



David M. Given

DMG:hs

EXHIBIT 13



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

April 16, 2009

David M. Given, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Mr. Given:

I write in response to your letter of today's date to Noel Egnatios.

Next week will not work for the three depositions you have requested. I note that we have not received any response to our April 6 letter requesting, among other things, supplemental discovery responses specifying the relevance of Ms. Vora's testimony. As we stated in that letter, Ms. Vora has not been disclosed as a witness with information regarding any issues relevant to this TTAB proceeding. Additionally, given Mr. Bowers' position and tenure with the company, we do not understand how his deposition is reasonably calculated to lead to the discovery of admissible evidence. We suggest the parties meet and confer early next week regarding these issues as well as the scheduling and order of depositions.

Regarding your request to meet and confer on Facebook's discovery responses, we suggest discussing these issues during our proposed call early next week. We believe the call will be more productive if you let us know in advance the specific topics you would like to discuss.

We further note that you have not responded to our request that you provide your basis for rejecting our proposal for consolidating the two cancellation proceedings using a single set of discovery under the limits applicable to a single action. We believe this issue must be resolved prior to proceeding with any depositions in this case and therefore request that you respond no later than Monday of next week.

We also have yet to receive a response to our April 7 request for contact information for witnesses identified in Think's discovery responses. Please provide this information no later than the close of business tomorrow, April 17.

Additionally, we have reviewed Think's recent document production and note that Think has failed to produce a complete set of documents responsive to many of Facebook's document requests, including Request Nos. 4, 6, 19, 21, 22, 34, 35, 36, 37, 40, 45, 53 and 54. Please confirm whether Think intends to produce documents responsive to these categories.

Finally, we note that many of the documents produced by Think appear to be either incomplete or altered from their original state. For example, in the attached e-mail, the names and e-mail



David M. Given, Esq.
April 16, 2009
Page Two

addresses of the "bcc" recipients appear to have been removed from the original e-mail and replaced with the letter "X." Additionally, many of the Instant Messenger chat logs do not include sign-on or sign-off timestamp information. Notwithstanding these apparent alterations, none of the documents produced by Think bear any statement that information has either been redacted or altered, as required by the instructions accompanying Facebook's discovery requests. Moreover, given the protective order governing the treatment of confidential information in these proceedings, we do not believe such alterations are appropriate or necessary. Please re-produce any altered documents in their unaltered state or provide your basis for refusing to do so.

Sincerely,

Cooley Godward Kronish LLP

/s/ Jeffrey T. Norberg

Enclosure

EXHIBIT 14

Norberg, Jeffrey

From: Meagan Mckinley-Ball [mmb@phillaw.com]
Sent: Friday, April 24, 2009 11:41 AM
To: Norberg, Jeffrey
Cc: dmg@phillaw.com; Nick
Subject: Re: Think v. Facebook

Mr. Norberg,

Following are the issues we plan to discuss on today's call:

1) Deposition dates for Mr. Zuckerberg, Facebook, Chamath Palihapitwa, Neville Bowers and Ami Vora.

2) Requests for Production: It appears that Facebook has failed to produce documents responsive to request numbers 3-10, 12-14, 17-20, 22, 25-26, 30, 33-35, 37-38, 40, 42, 45 and 48, despite the fact that it represented it would do so. Also, we disagree with Facebook's refusal to produce documents responsive to request numbers 15, 16, 21, 23, 24, 27, 28, 29, 32, 36, 39, 41, 43, 44, 46 and 47.

3) Requests for Admissions: Facebook's responses to request numbers 8-13, 27, 31-37, 39-45, 48-50, 58, 60, 69, and 73-75, and 20-26, 28-30, 46, 51-57 are insufficient. In particular, multiple responses alleging a lack of information or knowledge to Facebook's own practices or matters squarely within Facebook's personal knowledge (via its officers, etc.).

4) Interrogatories: Facebook refuses to answer the outstanding interrogatories despite Think's offer to remove Interrogatory No. 1.

I look forward to speaking with you at noon.

Meagan

Norberg, Jeffrey wrote:

>
> Mr. Given,
>
> Thank you for accommodating our schedule request. We will call you at
> Noon tomorrow.
>
> We disagree with the characterizations in your e-mail below and are
> once again perplexed by the non-cooperative tone of your
> correspondence. As a reminder, "[t]he Board expects parties (and
> their attorneys or other authorized representatives) to cooperate with
> one another in the discovery process, and looks with extreme disfavor
> on those that do not." TBMP 401; /see also/ 408.01. We have made
> every effort to comply with this language and intend to continue to do
> so notwithstanding the generally accusatory and non-cooperative tone
> of your correspondence since you first appeared in this matter three
> weeks ago.
>
> With respect to your comments regarding your inspection of Facebook's
> production, I note that we offered you the option of either coming to
> inspect the documents or sending a copy service. Moreover, both you
> and your client were notified of the volume of the production well in
> advance of your inspection. Given this, we do not understand the
> nature of your complaint. To the extent you believe the parties
> should produce documents in a manner other than that set forth in the
> Federal Rules of Civil Procedure, we would be happy to entertain any
> such proposal.
>

> Also, I note that we still have not received responses to numerous
> issues raised in our prior letters to you, including our request that
> you provide contact information for witnesses identified in Think's
> discovery responses (requested on April 7 and April 16); that you
> identify how Ms. Vora's testimony is relevant to any issue in this
> case (April 2, April 6 and April 16); that you provide Think's basis
> for rejecting Facebook's proposed consolidation of the two pending
> proceedings (April 6 and April 16); that you confirm whether Think
> intends to produce documents in response to Facebook's document
> request nos. 4, 6, 19, 21, 22, 34, 35, 37, 40, 45, 53 and 54 (April
> 16); and that you produce unaltered copies of documents that have
> clearly been altered from their original form (April 16). We once
> again request that you provide a response on each of these issues or
> be prepared to discuss them during our call tomorrow.
>
> Finally, as I mentioned in my letter of April 16, to the extent you
> wish to discuss Facebook's responses to Think's discovery, we believe
> our call would be more productive if you provide us with a list of
> issues you would like to discuss in advance of the call. Please let
> me know if you intend to provide such a list.
>
> Sincerely,
>
> Jeff Norberg
>
>
> *From:* dmg@phillaw.com [mailto:dmg@phillaw.com]
> *Sent:* Thursday, April 23, 2009 8:24 AM
> *To:* Norberg, Jeffrey
> *Cc:* Meagan; Nick
> *Subject:* Re: Think v. Facebook
>
> Let me see if I have this right.
>
> Your letter of last week offered a telephone conference anytime this
> week. I responded basically giving you anytime on Monday or Tuesday.
> You waited until after hours on Tuesday to tell me you weren't
> available until Thurs afternoon (what happened to Weds?). I responded
> in the affirmative. Then you wait until after hours on Weds to tell me
> the specific time you offered on Thurs "no longer works" and propose
> Fri afternoon?
>
> Maybe it's me but that looks a lot like the same type of pattern as
> the one reflected in the approach to discovery adopted by your side in
> this matter. (My trip to your firm's Palo Alto office invited by you
> to "inspect" your client's document production of what turned out to
> be a hundred pages or so of publicly available documents comes
> immediately to mind.) What assurance do I have that you won't come
> back with another request to put this off?
>
> I accept your offer to call me tomorrow at Noon. I reserve all rights.
>
> Sent from my BlackBerry® wireless device
>
> *From*: "Norberg, Jeffrey"
> *Date*: Wed, 22 Apr 2009 19:13:01 -0700
> *To*: <dmg@phillaw.com>
> *Subject*: RE: Think v. Facebook
> I apologize but tomorrow afternoon no longer works. Can we push this
> to 12:00 on Friday?
>
> *From:* dmg@phillaw.com [mailto:dmg@phillaw.com]
> *Sent:* Wednesday, April 22, 2009 5:32 PM
> *To:* Norberg, Jeffrey
> *Subject:* Re: Think v. Facebook
>

> Tomorrow afternoon should be fine. We'll call you then.
>
> Sent from my BlackBerry® wireless device
>
> *From*: "Norberg, Jeffrey"
> *Date*: Tue, 21 Apr 2009 19:32:38 -0700
> *To*: David M. Given<dmg@phillaw.com>
> *Subject*: RE: Think v. Facebook
> Mr. Given,
>
> Are you available on Thursday afternoon? I am available anytime after
> 2:00.
>
> Sincerely,
>
> Jeff Norberg
>
> *From*: David M. Given [mailto:dmg@phillaw.com]
> *Sent*: Thursday, April 16, 2009 7:18 PM
> *To*: Norberg, Jeffrey
> *Subject*: Re: Think v. Facebook
>
> Mr. Norberg --
>
> I have reviewed this letter. When would you like to speak?
>
> I am available Monday except from 1130 to 130 and Tuesday except 1230
> to 200.
>
> In the meantime, I reserve all rights relating to our discovery issues.
>
> David G.
>
> Norberg, Jeffrey wrote:
>>
>> Mr. Given,
>>
>> Please see attached correspondence.
>>
>> Sincerely,
>>
>> Jeff Norberg
>>
>> <<April 16 Letter.pdf>>
>>
>> This email message is for the sole use of the intended recipient(s)
>> and may contain confidential and privileged information. Any
>> unauthorized review, use, disclosure or distribution is prohibited.
>> If you are not the intended recipient, please contact the sender by
>> reply email and destroy all copies of the original message. If you
>> are the intended recipient, please be advised that the content of
>> this message is subject to access, review and disclosure by the
>> sender's Email System Administrator.
>>
>> IRS Circular 230 disclosure: To ensure compliance with requirements
>> imposed by the IRS, we inform you that any U.S. federal tax advice
>> contained in this communication (including any attachment) is not
>> intended or written by us to be used, and cannot be used, (i) by any
>> taxpayer for the purpose of avoiding tax penalties under the Internal
>> Revenue Code or (ii) for promoting, marketing or recommending to
>> another party any transaction or matter addressed herein.
>>
>
> -- David M. Given Phillips, Erlewine & Given LLP 50 California Street, 35th Flr. San
Francisco, CA 94111 v. 415.398.0900 f. 415.398.0911dmg@phillaw.com
<mailto:dmg@phillaw.com>www.phillaw.com <http://www.phillaw.com> PRIVILEGED COMMUNICATION

AND CONFIDENTIALITY NOTICE: This communication with its contents, materials, and attachments contains confidential information. It is solely for the use of the intended recipient(s). Recipient(s) is not to share or forward any such information without written consent from Phillips, Erlewine & Given LLP. Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. Furthermore, if the intended recipient is a Client, this communication is protected by the ATTORNEY-CLIENT PRIVILEGE. If you are not the intended recipient, please contact Phillips, Erlewine & Given LLP and the sender and destroy all copies of the communication.

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> and may contain confidential and privileged information. Any
> unauthorized review, use, disclosure or distribution is prohibited. If
> you are not the intended recipient, please contact the sender by reply
> email and destroy all copies of the original message. If you are the
> intended recipient, please be advised that the content of this message
> is subject to access, review and disclosure by the sender's Email
> System Administrator.

>
> IRS Circular 230 disclosure: To ensure compliance with requirements
> imposed by the IRS, we inform you that any U.S. federal tax advice
> contained in this communication (including any attachment) is not
> intended or written by us to be used, and cannot be used, (i) by any
> taxpayer for the purpose of avoiding tax penalties under the Internal
> Revenue Code or (ii) for promoting, marketing or recommending to
> another party any transaction or matter addressed herein.

>
> This email message is for the sole use of the intended recipient(s)
> and may contain confidential and privileged information. Any
> unauthorized review, use, disclosure or distribution is prohibited. If
> you are not the intended recipient, please contact the sender by reply
> email and destroy all copies of the original message. If you are the
> intended recipient, please be advised that the content of this message
> is subject to access, review and disclosure by the sender's Email
> System Administrator.

>
> IRS Circular 230 disclosure: To ensure compliance with requirements
> imposed by the IRS, we inform you that any U.S. federal tax advice
> contained in this communication (including any attachment) is not
> intended or written by us to be used, and cannot be used, (i) by any
> taxpayer for the purpose of avoiding tax penalties under the Internal
> Revenue Code or (ii) for promoting, marketing or recommending to
> another party any transaction or matter addressed herein.

>
> This email message is for the sole use of the intended recipient(s)
> and may contain confidential and privileged information. Any
> unauthorized review, use, disclosure or distribution is prohibited. If
> you are not the intended recipient, please contact the sender by reply
> email and destroy all copies of the original message. If you are the
> intended recipient, please be advised that the content of this message
> is subject to access, review and disclosure by the sender's Email
> System Administrator. IRS Circular 230 disclosure: To ensure compliance
> with requirements imposed by the IRS, we inform you that any U.S.
> federal tax advice contained in this communication (including any
> attachment) is not intended or written by us to be used, and cannot be
> used, (i) by any taxpayer for the purpose of avoiding tax penalties
> under the Internal Revenue Code or (ii) for promoting, marketing or
> recommending to another party any transaction or matter addressed herein.

>
>
>
>

--
Meagan McKinley-Ball
Phillips, Erlewine & Given LLP

50 California Street, 35th Flr.
San Francisco, CA 94111

v. 415.398.0900
f. 415.398.0911
mmb@phillaw.com
www.phillaw.com

PRIVILEGED COMMUNICATION AND CONFIDENTIALITY NOTICE: This communication with its contents, materials, and attachments contains confidential information. It is solely for the use of the intended recipient(s). Recipient(s) is not to share or forward any such information without written consent from Phillips, Erlewine & Given LLP. Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. Furthermore, if the intended recipient is a Client, this communication is protected by the ATTORNEY-CLIENT PRIVILEGE. If you are not the intended recipient, please contact Phillips, Erlewine & Given LLP and the sender and destroy all copies of the communication.

EXHIBIT 15



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

April 24, 2009

Nicholas A. Carlin, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Mr. Carlin:

Confirming our discussion regarding consolidation this afternoon, Facebook intends to file a motion to consolidate the two pending cancellation proceedings using the discovery limits applicable to a single proceeding for both proceedings collectively and adopting the schedule of the earlier filed proceeding. See, e.g., TBMP §405.03(c) ("Trademark Rule 2.120(d)(1) does not provide for extra interrogatories in cases where more than one mark is pleaded and/or attacked by the plaintiff (whether in a single proceeding, or in consolidated proceedings), because in such cases, the propounding party may simply request that each interrogatory be answered with respect to each involved mark of the responding party, and the interrogatories will be counted the same as if they pertained to only one mark."). Our understanding is that Think does not object to the consolidation of the proceedings using the earlier schedule but that Think intends to request that it be allowed a complete set of discovery for each action notwithstanding the consolidation (*i.e.* 150 interrogatories, 20 depositions, etc.). We do not agree that two sets of discovery are warranted in this case and we will note Think's opposition in our motion papers.

Also, during the call you reinstated Think's request that Facebook respond to all but Interrogatory No. 1 from Think's Revised First Set of Interrogatories. As I stated during the call and in my prior letters, the Board's rules are clear that the proper course of action for a party who has served an excessive number of interrogatories is to withdraw the excessive set and serve a new set that complies with the numerical limits. TBMP §403(e). Indeed, the rules specifically prohibit Facebook from responding to some but not all of the excessive set or risk waiver of the objection. *Id.*

In light of the unambiguous language of the TBMP, we remain perplexed at Think's continued refusal to serve a new set of interrogatories in compliance with the TTAB limits. As I stated during the call, service of a revised set is not only required by the rules, but would also allow Think to revise its interrogatories so as to avoid the claimed need for two sets of interrogatories to cover both cancellation actions. Notwithstanding the above, Facebook is willing to provide appropriate objections and responses to Interrogatory Nos. 2-48 of Think's Revised First Set of Interrogatories so long as Think agrees that Facebook's provision of such objections and responses does not constitute a waiver of the objection that Think's interrogatories exceed the numerical limit. If Think accepts this proposal, Facebook will provide such responses and objections 30 days following the date of Think's acceptance.



Nicholas A. Carlin, Esq.
April 24, 2009
Page Two

Please contact me at 650-843-5889 if you wish to discuss this matter further.

Sincerely,

Cooley Godward Kronish LLP

A handwritten signature in black ink, appearing to read "Jeffrey T. Norberg". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeffrey T. Norberg

CC: David Given; Megan McKinley-Ball

EXHIBIT 16



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

April 29, 2009

Megan McKinley-Ball, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Ms. McKinley-Ball:

We received today a motion to compel requesting, among other things, further responses to Petitioner's Document Request Nos. 3-10, 12-14, 17-20, 22, 25-26, 30, 33-35, 37-38, 40, 42, 45 and 48, and a ruling on the sufficiency of Facebook's responses to Think's Requests for Admission. TBMP §523.02 requires Think to make a good faith effort to resolve any discovery disputes prior to filing any motion to compel. Think has made no such effort here.

As you know, Think first identified its specific complaints regarding these issues in an e-mail sent to me on Friday, April 24 at 11:41 a.m., just 19 minutes before the parties' scheduled meet and confer call. I told both you and Mr. Carlin on that call that we were unable to discuss Think's complaints with our client in the intervening 19 minutes and that we would provide a response to Think's complaints after conferring with our client. We were therefore quite surprised to learn that Think filed a motion to compel on these issues on Monday, just one business day after raising them.

Think's hasty motion to compel violates the good faith meet and confer requirements attendant to such motions as well as the Board's admonition that the parties cooperate in discovery. TBMP §§523.02; 408.01. In light of this failure to comply with the Board's rules, we request that Think immediately withdraw its motion. If you refuse to do so, we will raise this issue in our opposition brief and seek all appropriate relief.

Sincerely,

Cooley Godward Kronish LLP

/s/ Jeffrey T. Norberg

CC: David Given; Nicholas Carlin

EXHIBIT 17

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS AT LAW

50 CALIFORNIA STREET, 35TH FLOOR
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FAX (415) 398-0911

WWW.PHILLAW.COM

MEAGAN MCKINLEY-BALL
mmb@phillaw.com

April 30, 2009

BY EMAIL <jnorberg@cooley.com>

Jeffrey T. Norberg, Esq.
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

**Re: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675**

Dear Mr. Norberg:

Your letter of April 29th misrepresents the facts.

You knew since April 16th that we wanted to have a telephone meet and confer with you regarding Facebook's inadequate responses to Think's discovery requests. Despite having plenty of advance time, when we finally had the telephone conference on April 24th you were totally unprepared and unwilling to discuss ANY specific written request or to propose ANY specific deposition dates.

There is no requirement that a meet and confer be preceded by a letter outlining all of the issues. Indeed, one benefit of a telephone meet and confer is to save time by not having to write long letters back and forth. My email to you prior to the telephone conference was merely a courtesy to assist us in going forward. Think has fulfilled its meet and confer requirement and the motion is therefore timely. If Facebook wishes to comply fully with its discovery obligations in good faith prior to the time your opposition is due, then the motion will be unnecessary.

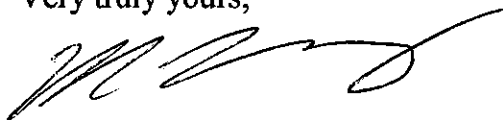
Jeffrey T. Norberg, Esq.

April 30, 2009

Page 2

Our client reserves all rights.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Meagan McKinley-Ball', with a stylized, flowing script.

Meagan McKinley-Ball

MMB:hs

EXHIBIT 18



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

May 1, 2009

Meagan McKinley-Ball, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Ms. McKinley-Ball:

I write regarding several discovery issues.

Contact Information for Think Witnesses / Think's Document Production

In your e-mail last Friday you told us that Think would be providing early this week responses to several issues raised in Facebook's prior meet and confer correspondence, including contact information for Think witnesses, an explanation regarding the altered documents produced by Think and information as to whether Think intends to produce any additional documents. Notwithstanding this representation, as of today (Friday) we have received no further response. Please provide this information no later than the end of the day today.

Deposition Dates

Mr. Palihapitiya is available for deposition on July 8 and Mr. Zuckerberg is available on July 22. Both witnesses are available for deposition in Cooley's Palo Alto office. As I stated during our call last Friday, these witnesses are being produced in both their personal capacity and as corporate designees in response to Think's 30(b)(6) notice, subject to Facebook's objections. Mr. Palihapitiya is Facebook's designee on topics 5 through 14, 16 and 20. Mr. Zuckerberg is Facebook's designee on topics 4 and 19. Please confirm these dates as soon as possible. Also, please let us know Mr. Greenspan's availability. We are generally available for Mr. Greenspan's deposition during the first week of June or anytime in July.

Extension of Discovery Schedule

During our call last Friday, Mr. Carlin stated that he believed that a 30-day extension would be necessary but that he would need to check with Mr. Greenspan first. We believe that a 60-day extension would be more appropriate under the circumstances. Please let me know as soon as possible whether you agree to an extension of the schedule.



Meagan McKinley-Ball, Esq.
May 1, 2009
Page Two

Ami Vora and Neville Bowers

Further to our call on Friday, I confirm that this office represents Ms. Vora and Mr. Bowers in connection with this matter. Without conceding that these individuals are proper witnesses in these proceedings, I further confirm that we agree to accept service of any subpoena you wish to serve on these individuals.

Electronic Service

We propose that the parties agree to electronic service pursuant to Federal Rule 5(b)(2)(E). Please let us know if you are willing to enter into such an agreement and, if so, what e-mail address(es) to use for service. If you agree to electronic service, any document electronically served on Facebook should be sent to the following e-mail addresses: trademarks@cooley.com; rhodesmq@cooley.com; peckah@cooley.com; jnorberg@cooley.com; and negnatios@cooley.com.

Sincerely,

Cooley Godward Kronish LLP

/s/ Jeffrey T. Norberg

EXHIBIT 19

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS AT LAW

50 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 398-0900

FAX (415) 398-0911

WWW.PHILLAW.COM

MEAGAN MCKINLEY-BALL
mmb@phillaw.com

May 1, 2009

BY US MAIL AND EMAIL:(jnorberg@cooley.com)

Jeffrey T. Norberg, Esq.
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

**Re: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675**

Dear Mr. Norberg:

This responds to your letter of today's date.

Contact Information

Rule 26(a)(1)(A)(i) provides that a party must disclose in its initial disclosures the name and address of those individuals likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment. Accordingly, attached is Think's supplemental initial disclosures, which provide the names and contact information for those individuals likely to have discoverable information who Think may use to support its claims.

Think's Document Production

No documents were redacted for purposes of this litigation. The documents about which you expressed concern were printed from the Think Press website, where they appear in redacted form to protect the privacy of various individuals.

Request Nos 4, 6, 34, 37, 45, and 54: Think has produced all non-privileged responsive documents in Think's custody possession or control.

Jeffrey T. Norberg, Esq.
May 1, 2009
Page 2

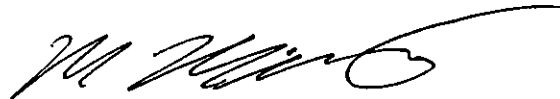
Requests 19, 21 and 53: There are no non-privileged responsive documents in Think's custody, possession or control.

In regards to the remaining requests mentioned in your April 16th letter, I am still consulting with my client concerning these. I expect to have an answer for you in the next few business days on the remaining document requests and the related question of whether Think's document production is complete.

Electronic Service

We are willing to enter into an agreement providing for electronic service. Any document so served should be sent to mmb@phillaw.com, dmg@phillaw.com and nac@phillaw.com.

Very truly yours,



Meagan McKinley-Ball

MMB:hs
Encl.

EXHIBIT 20

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS AT LAW
50 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111
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WWW.PHILLAW.COM

MEAGAN MCKINLEY-BALL
mmb@phillaw.com

May 5, 2009

BY EMAIL <jnorberg@cooley.com>

Jeffrey T. Norberg, Esq.
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

**Re: Think Computer -w- Facebook
TTAB Cancellation No. 92049206/92050675**

Dear Mr. Norberg:

I write concerning the following matters.

Facebook's Recent Discovery

We received Facebook's First Set of Requests for Admissions and Facebook's Notice of Deposition of Think Computer Corporation. Under 37 C.F.R. 2.120(e)(2), the filing of a motion to compel suspends the proceeding and a party may not serve any additional discovery until the period of suspension is lifted. Accordingly, the foregoing discovery, both of which were served after Think filed its motion to compel, was improper. Think therefore has no obligation to respond to said discovery unless Facebook re-serves it after the period of suspension is lifted.

Depositions

We are available on July 8 and July 22 for the depositions of Mr. Palihapitiya and Mr. Zuckerberg. I note that Facebook has failed to designate a person most knowledgeable for topics 1-3, 15 and 21-23.. Please identify Facebook's designated individual for those topics or state Facebook's basis for failing to do so immediately.

Jeffrey T. Norberg, Esq.
May 5, 2009
Page 2

Mr. Greenspan is available for deposition on July 23.

Thank you for agreeing to accept service of deposition subpoenas for Ami Vora and Neville Bowers. We intend on issuing subpoenas for Ms. Vora and Mr. Bowers to testify on June 10 and 11, respectively. Please advise us immediately (and provide alternative dates) if those dates will not work.

Extension of Discovery Schedule

We agree to a 60-day extension of the discovery schedule.

Our client reserves all rights.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Meagan McKinley-Ball', with a stylized, flowing script.

Meagan McKinley-Ball

MMB:hs

EXHIBIT 21



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

May 11, 2009

Meagan McKinley-Ball, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding Nos. 92049206 and 92050675

Dear Ms. McKinley-Ball:

I write regarding several discovery issues.

Altered Documents in Think's Production

In your May 1 letter you state that certain of the documents produced by Think "were printed from the Think Press website, where they appear in redacted form to protect the privacy of the individuals." Please immediately produce unaltered copies of each of these documents. To the extent Think no longer has unaltered copies in its possession, custody or control, please provide an explanation as to the disposition of such documents, including the dates upon which any of the documents were destroyed.

Ami Vora and Neville Bowers

We have agreed to accept service of subpoenas for Mr. Bowers and Ms. Vora to avoid the need for personal service. As we stated in our last letter, we do not concede that either of these individuals are proper witnesses in this matter. Neither individual was employed at Facebook at the time the trademark at issue was adopted, nor were they involved in the trademark application process. We have asked you several times to explain why Think believes each of these individuals has discoverable information and Think has failed to provide this information.

Given the lack of any relevant connection to the events giving rise to Think's claims in this trademark matter, we will consider any subpoena of these individuals to be an attempt to take discovery that is neither proper nor relevant to the claims at issue, in violation of TBMP §402.01 and the Board's January 29, 2009 order. Accordingly, we will move to quash any subpoena to Mr. Bowers or Ms. Vora unless Think can show that these witnesses are likely to possess discoverable information that cannot be obtained from other sources, such as the parties.



Meagan McKinley-Ball, Esq.
May 11, 2009
Page Two

Contact Information for Think Witnesses

We have received Think's Supplemental Initial Disclosures and note that Think has failed to disclose the addresses and phone numbers of Wentao Mo, Priya Tantrativud, Rui Dong, Felix Yu and Rodica Buzescu. Please immediately provide this information or provide supplemental initial disclosures certifying that Think does not have this information in its possession, custody or control.

Think's Responses to Facebook's Interrogatories

Petitioner's Responses to Facebook's Interrogatory Nos. 3, 12, 14, 18, 19, 20, 22, 25, 26, 27, 31, 39, 41, 42, 43 and 44 include references to documents that form the basis for at least a portion of each response. Please immediately produce all referenced documents or confirm that all such documents have already been produced.

Sincerely,

Cooley Godward Kronish LLP

/s/ Jeffrey T. Norberg

EXHIBIT 22



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

May 11, 2009

Meagan McKinley-Ball, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding No. 92049206

Dear Ms. McKinley-Ball:

Please take notice that Respondent Facebook, Inc. has made available for Petitioner Think Computer Corporation's inspection documents responsive to Think's discovery requests. These documents, which bear the bates labels FB001172-FB002946, are being made available for inspection and/or copying in connection with Respondent's ongoing document production in the above referenced TTAB Cancellation proceeding. These documents may be inspected and/or copied during regular business hours at the offices of Cooley Godward Kronish, 3000 El Camino Real, Five Palo Alto Square, Fourth Floor, Palo Alto, California 94306. Please note that these and any subsequent documents produced by Facebook are being made available subject to the terms of the Protective Order governing the use of confidential materials in these proceedings.

Please contact Rich Nieva at 650-843-5618 to arrange for a time to inspect and/or copy these documents.

Sincerely,

Cooley Godward Kronish LLP

/s/ Jeffrey T. Norberg

EXHIBIT 23

PHILLIPS, ERLEWINE & GIVEN LLP

ATTORNEYS-AT LAW
50 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 398-0900
FAX (415) 398-0911
WWW.PHILLAW.COM

MEAGAN MCKINLEY-BALL
mmb@phillaw.com

May 15, 2009

BY US MAIL AND EMAIL <jnorberg@cooley.com>

Jeffrey T. Norberg, Esq.
Cooley Godward Kronish LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

Re: **Think Computer -w- Facebook**
TTAB Cancellation No. 92049206/92050675

Dear Mr. Norberg:

I write concerning the following matters:

Zuckerberg and Palihapitiya Depositions

In your letter of May 1, you stated that Mr. Palihapitiya and Mr. Zuckerberg were available for deposition on July 8 and July 22, respectively, at Cooley's Palo Alto office. While we agreed to those dates, we did not and do not agree to taking these depositions in Palo Alto. A party may unilaterally choose the location for deposing an opposing party. *Turner v. Prudential Ins. Co. of America*, 119 F.R.D. 381, 383 (MD NC 1988); *Willis v. Mullins*, 2006 WL 894922, *1 (N.D. Cal. April 4, 2006). Accordingly, enclosed is a notice for the depositions of Mr. Palihapitiya and Mr. Zuckerberg for July 8 and 22 at our offices.

Facebook's Document Production

I note that Facebook continues to fail to produce documents responsive to Think's Requests for Production of Documents. If Facebook does not produce all responsive documents in its custody, possession or control at least two weeks prior to the scheduled depositions, Think reserves the right to re-call these witnesses.

Jeffrey T. Norberg, Esq.
May 15, 2009
Page 2

You stated that some additional documents are available for inspection. Is Facebook refusing to copy and mail responsive documents as is customary in our profession?

Facebook's privilege log attempts to assert the attorney-client privilege as to communications from and to Lisa Greenwald-Swire. Ms. Greenwald-Swire personally signed the declaration, submitted to the USPTO on behalf of Facebook, for Facebook's amended application for registration of the mark "FACEBOOK," which reaffirmed the truth of all prior statements. Ms. Greenwald-Swire is therefore a percipient witness and her communications concerning this subject are discoverable and not subject to the attorney-client privilege. Please produce all such communications as well as a revised privileged log immediately.

Think's Document Production

Please provide a list of documents that Facebook requests be produced in a form other than that appearing on Think's website.

Bowers and Vora Depositions

As I previously informed you during our April 24 telephone conference, Ami Vora was President of the Harvard Computer Society while Aaron Greenspan attended Harvard. Ms. Vora has knowledge concerning houseSYSTEM and the Universal Face Book as well as Harvard's facebook.

Neville Bowers was an active member of the TECH Student Association (which was later renamed the Harvard College Student Entrepreneurship Council) while both he and Aaron Greenspan attended Harvard College. He has knowledge concerning both Harvard's facebook and the houseSYSTEM Universal Face Book.

Deposing both Ms. Vora and Mr. Bowers is likely to lead to the discovery of admissible evidence. In my May 5 letter, I asked that you immediately inform me if you have any conflict with Think subpoenaing these witnesses for deposition on June 10 and 11. I received no objection to those dates. Accordingly, enclosed please find deposition subpoenas for those dates along with checks for witness fees.

Jeffrey T. Norberg, Esq.
May 15, 2009
Page 3

Supplemental Disclosures

Enclosed are Think's Second Supplemental Disclosures.

Our client reserves all rights.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Meagan McKinley-Ball', with a long, sweeping horizontal stroke at the end.

Meagan McKinley-Ball

MMB:hs

Encl.

EXHIBIT 24



Jeffrey T. Norberg
(650) 843-5889
jnorberg@cooley.com

VIA E-MAIL

May 18, 2009

Meagan McKinley-Ball, Esq.
Phillips, Erlewine & Given, LLP
50 California St., 35th Floor
San Francisco, CA 94111

RE: Think v. Facebook, TTAB Cancellation Proceeding No. 92049206

Dear Ms. McKinley-Ball:

Please take notice that Respondent Facebook, Inc. has made available for Petitioner Think Computer Corporation's inspection documents responsive to Think's discovery requests. These documents, which bear the bates labels FB002947-FB007172, are being made available for inspection and/or copying in connection with Respondent's ongoing document production in the above referenced TTAB Cancellation proceeding. These documents may be inspected and/or copied during regular business hours at the offices of Cooley Godward Kronish, 3000 El Camino Real, Five Palo Alto Square, Fourth Floor, Palo Alto, California 94306. Please note that these and any subsequent documents produced by Facebook are being made available subject to the terms of the Protective Order governing the use of confidential materials in these proceedings.

Please contact Rich Nieva at 650-843-5618 to arrange for a time to inspect and/or copy these documents.

Sincerely,

Cooley Godward Kronish LLP

/s/ Jeffrey T. Norberg

EXHIBIT 25



EXHIBIT 26

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THINK COMPUTER CORPORATION,

Petitioner,

v.

FACEBOOK, INC.,

Respondent.

Cancellation No. 92049206

Mark: FACEBOOK

Reg. No. 3,122,052

Reg. Date: July 25, 2006

**RESPONDENT FACEBOOK, INC.'S OBJECTIONS TO PETITIONER'S
NOTICE OF DEPOSITION OF FACEBOOK, INC.**

Respondent Facebook, Inc. ("Facebook") hereby objects to Petitioner Think Computer Corporation's ("Petitioner") Notice of Deposition of Facebook, Inc. propounded by Petitioner.

I. GENERAL OBJECTIONS

Facebook makes the following general objections, whether or not separately set forth in response to each deposition topic below, to each and every instruction, definition, and deposition topic included in Petitioner's Notice of Deposition of Facebook, Inc.:

1. Facebook objects generally to Petitioner's Notice of Deposition of Facebook, Inc. insofar as any it calls for testimony or information protected by the attorney-client privilege or the work product doctrine. Such testimony shall not be provided in response to Petitioner's Notice of Deposition of Facebook, Inc. and any inadvertent disclosure thereof shall not be deemed a waiver of any privilege with respect to such information or of any work product doctrine which may attach thereto.

2. Facebook objects generally to all introductory definitions and instructions, and all deposition topics inclusive, insofar as they exceed the scope of the Federal Rules of Civil

Procedure, and Trademark Rule 2.120, 37 C.F.R. § 2.120, on the grounds that said definitions, instructions and topics are unreasonably broad, require identification of documents and information that are not reasonably calculated to lead to the discovery of admissible evidence, require identification of documents and information that are not sufficiently related to the issues of this litigation, and render the requests overly broad and unduly burdensome.

3. Facebook objects to the introductory definitions and instructions to all topics to the extent said definitions or instructions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific topic on the ground that such enlargement, expansion, or alteration renders said topic vague, ambiguous, unintelligible, uncertain and/or overbroad insofar (without limitation) as said topic seeks testimony not within Facebook's possession, custody or control.

4. Facebook objects to introductory definition number 1 as overbroad, vague, ambiguous and unintelligible. Facebook further objects to introductory definition number 1 to the extent it seeks information outside the scope of Rule 30(b)(6) and discovery in these proceedings. Facebook will consider the terms "You," "Your," and "Facebook" to mean Respondent Facebook, Inc.

5. Facebook objects to introductory definition number 2 as vague, ambiguous and unintelligible. Facebook further objects to introductory definition number 2 to the extent it seeks information outside the scope discovery in these proceedings. Facebook will consider the term "Facebook's Mark" to mean U.S. Registration No. 3,112,052.

6. Facebook objects to Petitioner's Notice of Deposition of Facebook, Inc. to the extent that Petitioner purports to require a designated corporate representative of Facebook to attend a deposition on a date upon which such individual may not be available. Counsel for

Facebook is presently working with counsel for Petitioner on selecting a mutually agreeable date for conducting the deposition of a designated corporate representative or representatives of Facebook.

III. SPECIFIC OBJECTIONS AND RESPONSES TO DEPOSITION TOPICS

Without waiving or limiting in any manner any of the foregoing General Responses and Objections, but rather incorporating them into each of the following responses to the extent applicable, Facebook responds to the specific deposition topics in Petitioner's Notice of Deposition of Facebook, Inc. as follows:

SUBJECT MATTER NO. 4:

The circumstances surrounding the selection, adoption and initial use in commerce of Facebook's Mark.

OBJECTION TO SUBJECT MATTER NO. 4:

Facebook objects to this topic to the extent it seeks information of third parties not under Facebook's possession, custody or control. Facebook further objects to this topic on the ground that the phrase "[t]he circumstances surrounding the selection, adoption and initial use in commerce of Facebook's Mark" is vague, ambiguous and unintelligible. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 5:

Your purported rights in Facebook's Mark.

OBJECTION TO SUBJECT MATTER NO. 5:

Facebook objects to this topic on the grounds that the phrase “purported rights” is vague, ambiguous, overbroad, undefined and unintelligible. Facebook further objects to this topic to the extent it calls for expert testimony. Facebook further objects to this topic to the extent it calls for a legal conclusion. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 6:

Your knowledge of use of the term “FACEBOOK” by educational and commercial institutions worldwide, prior to the inception of Facebook, Inc.

OBJECTION TO SUBJECT MATTER NO. 6:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook’s possession, custody or control. Facebook further objects to this topic to the extent it calls for expert testimony. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic.

SUBJECT MATTER NO. 7:

Your knowledge of ongoing use of the term “FACEBOOK” by any other entity than Facebook, Inc.

OBJECTION TO SUBJECT MATTER NO. 7:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook’s possession, custody or control. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic.

SUBJECT MATTER NO. 8:

The circumstances surrounding the application for Facebook’s Mark.

OBJECTION TO SUBJECT MATTER NO. 8:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic on the ground that the phrase “[t]he circumstances surrounding the application” is vague, ambiguous and unintelligible. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook’s possession, custody or control. Without

waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 9:

Facebook's past and current use of Facebook's Mark on the goods listed in the statement of use filed in support of registration of Facebook's Mark.

OBJECTION TO SUBJECT MATTER NO. 9:

Facebook objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic.

SUBJECT MATTER NO. 10:

Facebook's first use of Facebook's Mark on each of the products listed in the statement of use filed in support of registration of Facebook's Mark.

OBJECTION TO SUBJECT MATTER NO. 10:

Facebook objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic.

SUBJECT MATTER NO. 11:

Facebook's intent to use Facebook's Mark on each of the products listed in the statement of use filed in support of registration of Facebook's Mark (if applicable).

OBJECTION TO SUBJECT MATTER NO. 11:

Facebook objects to this topic as vague, ambiguous and unintelligible. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 12:

Facebook's continuous use of Facebook's Mark on each of the products listed in the statement of use filed in support of registration of Facebook's Mark.

OBJECTION TO SUBJECT MATTER NO. 12:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook's possession, custody or control. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 13:

Any license agreements between Facebook and any third parties and the circumstances surrounding those license agreements.

OBJECTION TO SUBJECT MATTER NO. 13:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive, because this topic seeks is not limited to licenses between Facebook and third parties for use of the trademark at issue in this TTAB proceeding. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook's possession, custody or control. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative to testify in general regarding the licensing of the trademark at issue in this TTAB proceeding.

SUBJECT MATTER NO. 14:

Marketing channels used by Facebook.

OBJECTION TO SUBJECT MATTER NO. 14:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook's possession, custody or control. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook will designate a corporate representative with regard its "established, likely-to-continue trade channels," as the

factor is articulated in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

SUBJECT MATTER NO. 15:

Documents produced by Facebook in this proceeding.

OBJECTION TO SUBJECT MATTER NO. 15:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic on the grounds that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges.

SUBJECT MATTER NO. 16:

Facebook's document retention policies from February 4, 2004 until present.

OBJECTION TO SUBJECT MATTER NO. 16:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent that it seeks information that is not relevant to the present dispute and is not calculated to lead to the discovery of admissible evidence. Facebook further objects to this topic to the extent it seeks information of third parties not under Facebook's possession, custody or control. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic.

SUBJECT MATTER NO. 17:

Facebook's responses to Think's interrogatories, requests for production, and requests for admission.

OBJECTION TO SUBJECT MATTER NO. 17:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges.

SUBJECT MATTER NO. 18:

Facebook's claims, allegations, contentions, or defenses in this proceeding.

OBJECTION TO SUBJECT MATTER NO. 18:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic on the ground that it calls for a legal conclusion. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges.

SUBJECT MATTER NO. 19:

Any consumer confusion of any kind relating to Facebook's use of Facebook's Mark and Think's use of FACEBOOK.

OBJECTION TO SUBJECT MATTER NO. 19:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client

communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 20:

The manner in which Facebook has regulated third-party uses of the word “FACEBOOK,” “FACE BOOK,” or of Facebook’s Mark, including the manner in which Facebook has regulated dictionaries’ uses.

OBJECTION TO SUBJECT MATTER NO. 20:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges. Without waiving the foregoing general and specific objections, Facebook responds that it will designate a corporate representative for this topic as it is understood by Facebook.

SUBJECT MATTER NO. 21:

Facebook’s contentions regarding the *DuPont* factors.

OBJECTION TO SUBJECT MATTER NO. 21:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic to the extent it calls for expert testimony. Facebook further objects to this topic on the ground that it calls for a legal conclusion. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges.

SUBJECT MATTER NO. 22:

Facebook's contentions regarding genericness.

OBJECTION TO SUBJECT MATTER NO. 22:

Facebook objects to this topic on the grounds that it is overbroad, vague, ambiguous, unintelligible, uncertain, and unduly burdensome and oppressive. Facebook further objects to this topic as seeking testimony that is not relevant or reasonably calculated to the discovery of admissible evidence. Facebook further objects to this topic to the extent it calls for expert testimony. Facebook further objects to this topic on the ground that it calls for a legal conclusion. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges.

SUBJECT MATTER NO. 23:

Facebook's contentions regarding its fraudulent application for Facebook's Mark.

OBJECTION TO SUBJECT MATTER NO. 23:

Facebook objects to this topic on the grounds that the phrase "[Facebook's] fraudulent application" is vague, ambiguous, unintelligible, uncertain, and unduly burdensome, oppressive and assumes a fact and a legal conclusion. Facebook further objects to this topic to the extent it seeks information protected from disclosure by the attorney-client communication and/or attorney work product privileges.

Dated: April 24, 2009

COOLEY GODWARD KRONISH LLP
MICHAEL G. RHODES (116127)
ANNE H. PECK (124790)
JEFFREY T. NORBERG (215087)
NOEL K. EGNATIOS (249142)

By: _____

Jeffrey T. Norberg (215087)

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Respondent Facebook, Inc.'s Objections to Petitioner's Notice of Deposition of Facebook, Inc. was mailed, first-class postage prepaid, to

Petitioner:

Think Computer Corporation
David M. Given, Esq.
Phillips, Erlewine & Given LLP
50 California Street, 35th Floor
San Francisco, CA 94111

Date: April 24, 2009

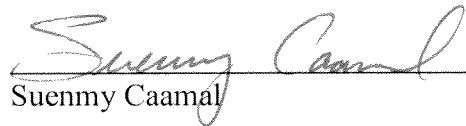

Suenmy Caamal

EXHIBIT 27

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THINK COMPUTER CORPORATION

Petitioner,

v.

FACEBOOK, INC.,

Respondent.

Cancellation No. 92049206

Mark: FACEBOOK

Reg. No. 3,122,052

Reg. Date: January 10, 2006

DECLARATION OF NEVILLE BOWERS

I, Neville Bowers, hereby declare as follows:

1. I am currently an employee in the engineering department of Facebook, Inc. ("Facebook"), Respondent in this matter. Unless otherwise stated, I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would testify competently thereto.

2. I joined Facebook as an employee in September of 2007. Prior to that date, I was not involved in Facebook in any capacity other than as a user of the Facebook product. I am not now, nor have I ever been an officer, director, or managing agent of Facebook.

3. I attended Harvard University from 2001 through 2005. I did not know Mark Zuckerberg when I was at Harvard, and was not involved in any way with the launch of Facebook or the Facebook website (www.thefacebook.com or www.facebook.com).

I declare under penalty of perjury that the foregoing statements are true and correct.
Executed at Palo Alto, California, this 18 day of May, 2009.

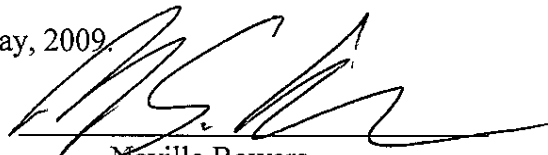

Neville Bowers

EXHIBIT 28

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THINK COMPUTER CORPORATION

Petitioner,

v.

FACEBOOK, INC.,

Respondent.

Cancellation No. 9204/9206

Mark: FACEBOOK

Reg. No. 3,122,052

Reg. Date: January 10, 2006

DECLARATION OF AMI VORA

I, Ami Vora, hereby declare as follows:

1. I am currently an employee in the product marketing department of Facebook, Inc. ("Facebook"). Respondent in this matter. Unless otherwise stated, I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would testify competently thereto.

2. I joined Facebook as an independent contractor on April 24, 2007, and became a full-time employee on August 17, 2007. Prior to April 24, 2007, I was not involved in Facebook in any capacity other than as a user of the Facebook product. I am not now, nor have I ever been an officer, director, or managing agent of Facebook.

3. I attended Harvard University from the Fall of 1999 until the Spring of 2003. I was not a member of the TECH Student Association ("TECH SA") or the Harvard Student Entrepreneurship Council ("HarvardSEC"), and I never signed up to be a member of the houseSYSTEM website.

4. I did not know Mark Zuckerberg when I was at Harvard, and was not involved in

any way with the launch of Facebook or the Facebook website (www.thefacebook.com or www.facebook.com).

I declare under penalty of perjury that the foregoing statements are true and correct.
Executed at Waynesburg, Pennsylvania, this 17th day of May, 2009.



Ami Vora

EXHIBIT 29

FILED UNDER SEAL SUBJECT TO PROTECTIVE ORDER

EXHIBIT 30

FILED UNDER SEAL SUBJECT TO PROTECTIVE ORDER