

2011-1366

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

LEADER TECHNOLOGIES, INC.,

Plaintiff-Appellant,

v.

FACEBOOK, INC.,

Defendant-Appellee.

*Appeal from the United States District Court for the District of Delaware in
Case No. 08-CV-862, Judges Joseph J. Farnan and Leonard P. Stark*

**RENEWED MOTION OF LAKSHMI ARUNACHALAM, PH.D.
FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE IN SUPPORT
OF LEADER TECHNOLOGIES' PETITION FOR
REHEARING AND REHEARING *EN BANC*
*Civil Appeal No. 2011-1366***

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July 27, 2012

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Leader Tech v. Facebook, Case No. 2011-1366

CERTIFICATE OF INTEREST

Amicus Curiae Lakshmi Arunachalam, Ph.D. certifies the following:

1. The full name of every party or amicus represented by me is:
Lakshmi Arunachalam
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: **NONE**
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of amicus curiae represented by me are: **NONE**.
4. The names of the law firms and the partners or associates that appeared for the amicus curiae now represented by me in the trial court or agency or that are expected to appear in this Court are: **NONE**

July 27, 2012

/s/

Signature

Lakshmi Arunachalam, Ph.D.
for Amicus Curiae Lakshmi Arunachalam, Ph.D.

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INTEREST OF AMICUS CURIAE

Inventor and patent holder Lakshmi Arunachalam, Ph.D. as *amicus curiae*, respectfully requests leave for renewal and re-argument of her motion for leave to file a BRIEF OF AMICUS CURIAE LAKSHMI ARUNACHALAM, PH.D. IN SUPPORT OF LEADER TECHNOLOGIES' PETITION FOR REHEARING AND REHEARING *EN BANC* dated July 10, 2012 ("Dr. Arunachalam"),

The Court should consider and grant Dr. Arunachalam's motion, particularly in view of the new information that is emerging showing that officers of this Court are in likely multiple conflicts of interest. These *prima facie* conflicts bring the prior rulings into question and have substantially prejudiced Leader Technologies. Dr. Arunachalam seeks re-argument based on the contention that the court overlooked or misapprehended matters of fact and law in assessing the prior petitions and motions, especially in light of conflicts of interest that may have motivated the (in)actions.

Dr. Arunachalam is an inventor and holder of numerous patents in the field of Internet technologies with a principal place of business in Menlo Park, California. She comments in favor of the Petitioner-Appellants' Corrected Combined Petition For Panel Rehearing And Petition For Rehearing *En Banc* Of Plaintiff-Appellant Leader Technologies, Inc. dated June 12, 2012.

Dr. Arunachalam believes her petition filed pursuant to Fed.R.App.P. Rule 27 raises important issues of patent law that are critical to the future of the patenting process, and most especially for those engaged in the protection of internet software technologies. As grounds for this request, Dr. Arunachalam believes that her *amicus curiae* brief would be of special assistance to the Court because this proceeding presents a number of constitutional, legal and procedural issues of critical importance to the holders of existing patents as well as to prospective patent holders.

For the foregoing reasons, Dr. Arunachalam, as *amicus curiae*, respectfully files this motion pursuant to and requests that this Court grant this motion.

MEMORANDUM

Dr. Arunachalam believes that even one minute of this Court's attention to the *sole* remaining issue of law will result in an outright victory by Leader Technologies on the merits. Instead, this Court appears to be avoiding its duty and protecting the interests of the adjudged infringer Facebook behind a wall of conflicting interests.

Dr. Arunachalam emphasizes that Facebook has been adjudged to infringe 11 of 11 claims of Leader Technologies' U.S. Patent No. 7,139,761. In addition, after substantial element-by-element analysis at trial of alleged prior art, Leader defeated all prior art allegations. This means that Facebook's fortunes are being

made at the expense of important American private property rights. This circumstance offends the senses of anyone who believes that respect for personal property is a bedrock priority of a democracy. “Property must be sacred or liberty cannot exist.” John Adams, *The Works of John Adams*, 6:9, p. 280.

Yet to date, Facebook has succeeded in pulling the wool over the eyes of a jury and thirteen judges regarding Interrogatory No. 9. This Court has determined that Interrogatory No. 9 is the only item of Facebook evidence standing in the way of Leader’s outright victory. Remarkably, this Court is upholding a scandalous misconstruction of The Dictionary Act (Exhibit A) regarding Interrogatory No. 9.¹

Exhibit B.

STATEMENT

On March 5, 2012 this Court heard oral argument before Presiding Judge Alan A. Lourie, Judge Kimberly A. Moore and Judge Evan J. Wallach. On May 8, 2012 this Court issued a written opinion affirming the lower court. On July 16, 2012 this Court issued a denial of Plaintiff’s petition for rehearing and rehearing *en banc* over Clerk of Court Jan Horbaly’s signature and presumably considered by

¹ Judge Stark’s Order on Sep. 4, 2009 limited Interrogatory No. 9 to the present tense. The record shows the district court’s subsequent opinions contradict his earlier decisions. Further, the district court’s earlier rulings in *Honeywell International, Inc. v. Nikon Corp.*, 04-cv-1337-JJF (D.Del. 2004), Opinion, Dec. 4, 2009 ruled that on sale bar element-by-element proof is required. That standard was ignored.

all members of the Court. No officer of the Court disqualified himself or disclosed conflicts of interest.

Chief Judge Randall R. Rader was a law student at George Washington University Law Center when Professor James P. Chandler the Center's director. Professor Chandler has been a close intellectual property adviser and director of Plaintiff-Appellant Leader Technologies. Judge Rader and Clerk of Court Jan Horbaly have a close association with Facebook's attorney Thomas G. Hungar regarding Federal Circuit business. Judge Kimberly Moore holds Facebook stock through a mutual fund whose holdings are well-publicized. Professor Chandler, whose evidentiary facts are in dispute in this case, has consulted with the Judiciary for over a decade regarding intellectual property, patent and economic espionage matters.

The Court published both of its opinions timed to *coincide* with media events, one the commencement of Facebook's initial public offering road show in New York, and the other a nationally televised *Fox Business* interview with Leader Technologies' Michael McKibben. The denial of the rehearing petition contained no explanation of the important matters of patent and contract law being questioned.

THE LAW

Federal law requires a judge to “disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. §455(a).

Because section 455(a) is intended to avoid even the appearance of impartiality, it is not actual bias or prejudice, but rather the *appearance* of bias and prejudice that matters. *Liljeberg v. Health Services Acquisition Corp.*, 486 US 847, 860 (Supreme Court 1988); *Liteky v. United States*, 510 US 540 (Supreme Court 1994). Thus, so long as a judge’s impartiality might reasonably be questioned, disqualification is required “even though no actual partiality exists . . . because the judge actually has no interest in the case or because the judge is pure in heart and incorruptible.” *Liljeberg* at 860. The standard for assessing whether section 455(a) requires disqualification is thus an objective one that “involves ascertaining whether a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” *Preston v. US*, 923 F. 2d 731 (9th Circuit 1991).

Moreover, “a judge faced with a potential ground for disqualification ought to consider how his participation in a given case looks to *the average person on the street*. Use of the word ‘might’ in the statute was intended to indicate that disqualification should follow if the reasonable man, were he to know all the circumstances, would harbor doubts about the judge’s impartiality.” *Potashnick v. Port City Const. Co.*, 609 F. 2d 1101 (5th Circuit 1980) at 1111 (emphasis added). In “a close case, the balance tips in favor of recusal [disqualification].” *US v. Holland*, 519 F. 3d 909 (9th Circuit 2008) at 912.

Canon 2 of The Code of Conduct for United States Judges, including the Clerk of Court, states “A judge should avoid impropriety and the appearance of impropriety in all activities.”

28 U.S.C. § 455 states:

- (b) He shall also disqualify himself in the following circumstances:
 - (1) Where he has a personal bias or prejudice concerning a party, or **personal knowledge of disputed evidentiary facts** concerning the proceeding; . . .
 - (4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a **financial interest in the subject matter** in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
 - (5) **He or his spouse, or a person within the third degree of relationship** to either of them, or the spouse of such a person:
 - (i) Is acting as a lawyer in the proceeding;
 - (ii) Is known by the judge to **have an interest that could be substantially affected by the outcome** of the proceeding;
 - (iii) Is to the judge’s knowledge likely to be a material witness in the proceeding.

FACTS & ARGUMENT

1. New Evidence Suggests That Officers Of The Court Should Have Disqualified Themselves, Or At Least Fully Disclosed Potential Conflicts Of Interest And Sought Waivers.

Chief Judge Randall R. Rader had knowledge that long-time Leader advisor, director and intellectual property counsel **Professor James P. Chandler** was likely to be a material witness in favor of Leader Technologies, and that evidence concerning his involvement was in dispute. At minimum, *en banc* rehearing would have allowed a full and fair assessment of the law without having

to delve into these conflicts. Judge Rader’s lack of disclosure, and the lack of disclosure from every justice regarding the personal knowledge of disputed evidentiary facts about Professor Chandler prejudice this case.

The evidence clearly shows that Professor James P. Chandler (“Professor Chandler”) was closely associated with Leader Technologies as intellectual property adviser and director during the crucial 2002-2003 time frame. **Exhibit F**, *Amicus Curiae* Lakshmi Alunachalam, Ph.D. Brief 19, 20.

In 1977 Professor Chandler was appointed Professor of Law and Director of the Computers in Law Institute at the George Washington University National Law Center.² In 1995 and 1996 the public record as well as the trial testimony of Leader’s founder and inventor Michael McKibben confirms that Professor Chandler was a central adviser to both the U.S. Senate and House Judiciary Committees on intellectual property matters including trade secrets, patents and economic espionage. Ex. F, p. 20, Trial Tr. 10799:17-10800:22.

From 1996 to the present day Professor Chandler has consulted closely with the U.S. Department of Justice in the selection and prosecution of economic espionage cases. For example, the “Economic Espionage and Trade Secrets” U.S.

² James P. Chandler, Computer Transactions: Potential Liability of Computer Users and Vendors, 1977 Wash. Univ. Law Quarterly 405 (1977), p. 405, fn.*
<<http://digitalcommons.law.wustl.edu/cgi/viewcontent.cgi?article=2598&context=lawreview>>.

Attorneys’ Bulletin, Nov. 2009³ cites the Feb. 28, 1996 testimony of FBI Director Louis J. Freeh who began his testimony acknowledging “I am also pleased that the committees have had the opportunity to consult with Professor James P. Chandler from George Washington University.”⁴ Professor Chandler’s consultations with federal courts include the following courts and cases:⁵

Case:	Jurisdiction:
<i>United States v. Okamoto and Serizawa</i> (2001)	N.D. Ohio
<i>United States v. Ye and Zhong</i> (2002)	N.D. Cal.
<i>United States v. Meng</i> (2006)	N.D. Cal.
<i>United States v. Lee and Ge</i> (2007)	N.D. Cal.
<i>United States v. Chung</i> (2008)	C.D. Cal.
<i>United States v. Jin</i> (2008)	N.D. Ill.
<i>United States v. Okamoto and Serizawa</i> (2001)	N.D. Ohio
<i>United States v. Williams</i> (2008)	N.D. Ga.
<i>United States v. Fei Ye</i> (2006)	N.D. Cal., 9th Cir.
<i>United States v. Meng</i> (2009)	N.D. Cal.
<i>United States v. Chung</i> (2008)	C.D. Cal.
<i>United States v. Lange</i> (2002)	7th Cir.
<i>United States v. Yang</i> (2003)	N.D. Ohio
<i>United States v. Martin</i> (2000)	1st Cir.
<i>United States v. Hsu</i> (1998)	3rd Cir.
<i>United States v. Genovese</i> (2005)	S.D. N.Y.
<i>United States v. Zeng</i> (2008)	S.D. Tex.
<i>United States v. Cotton</i> (2008)	E.D. Cal.

³ Economic Espionage and Trade Secrets. United States Attorneys’ Bulletin, Vol. 57, No. 5, Nov. 2009. U.S. Dept. of Justice Executive Office for U.S. Attorneys, Wash. D.C. <http://www.justice.gov/usao/eousa/foia_reading_room/usab5705.pdf>.

⁴ *S.Hrg. 104-499* - Economic Espionage: Hearings before the Select Committee on Intelligence, U.S. Senate, and the Subcommittee on Terrorism, Technology, and Government Information of the Committee on the Judiciary, U.S. Senate, 104th Congress, 2nd Session, Feb. 28 (1996), *Y 4.IN 8/19:S.Hrg. 104-499*, Serial No. J-104-75, p. 10); *Amicus Curiae* Brief 20, Ex. A.

⁵ *Op.cit.*, pp. 7-9.

Therefore, a conflict of interests exists because Professor Chandler is likely to be a material witness during the pendency of this case, and that evidence regarding his involvement with Leader Technologies is in dispute.

Federal Circuit Chief Judge Randall Rader states on the Federal Circuit's website and in numerous other public documents that he received his "J.D. from George Washington University Law School in 1978.⁶ Professor Chandler moved to Washington, D.C. in 1977 to accept an appointment as Professor of Law and Director of the Computers in Law Institute at the George Washington University National Law Center where he served as its Director from 1977 to 1994.⁷

Therefore, the public record shows that Mr. Rader studied intellectual property law at George Washington University for two years during Dr. James P. Chandler's professorship of the very program in which then-student Mr. Rader was enrolled.

US v. Kelly, 888 F. 2d 732 (11th Circuit 1989)(recusal when a close personal friend was a key defense witness).

⁶ Randall R. Rader. Chief Judge. United States Court of Appeals for the Federal Circuit. Accessed Jul. 23, 2012 <<http://www.cafc.uscourts.gov/judges/randall-r-rader-chief-judge.html>>.

⁷ H.Hrg. Y 4.J 89/1:104/30 - Patents Legislation : Hearings Before the Subcommittee On Courts and Intellectual Property of the Committee On the Judiciary, House of Representatives, 104th Congress, First Session, On H.R. 359, H.R. 632, H.R. 1732, and H.R. 1733, June 8 and November 1, 1995. Washington: U.S. G.P.O. (1996)(Testimony of Professor James P. Chandler, President, National Intellectual Property Law Institute, pp. III, IV, 349-354); *Amicus Curiae* Brief 20.

Mr. Rader became General Counsel to Senator Orrin G. Hatch between 1980 and 1988. Professor Chandler consulted with committees chaired by Senator Hatch multiple times. For example, this consultation was acknowledged prominently by FBI Director Louis J. Freeh in testimony before Senator Hatch's Committee on the Judiciary in 1996.⁸ A reasonable assumption from all this contact is that Judge Rader knows Professor Chandler very well as his former intellectual property law professor and the close mutual associations with Senator Hatch regarding intellectual property matters. Judges with knowledge of disputed facts in a case are duty-bound to disqualify themselves. *Potashnick, sub.*

Judge Rader appears to have misperceived the circumstances in this case and neglected to disqualify himself and his fellow justices who have conflicts of interest. At very minimum he should have granted rehearing *en banc* so that a full and fair hearing on the legality of the Court's misconstruction of the The Dictionary Act. *Supra.*

2. Facebook Stock Held By Officers Of The Court

Federal judges are required to disqualify themselves if they have a fiduciary conflict of interest in matters that come before them. 28 U.S.C. §455(b)(4). While

⁸ [S.Hrg. 104-499](#) - Economic espionage: Hearings before the Select Committee on Intelligence, United States Senate, and the Subcommittee on Terrorism, Technology, and Government Information of the Committee on the Judiciary, United States Senate, 104th Congress, Second Session, Feb. 28 (1996), [Y 4.IN 8/19:S.Hrg. 104-499](#), Serial No. J-104-75, (Testimony of FBI Director Louis Freeh acknowledging Professor James P. Chandler, p. 10).

the trend has been not to disqualify judges when investments in a litigant are held in mutual funds, this circumstance is different since (a) Facebook went public *during* this Court’s deliberations, and (b) the appearance of conflict from a well-publicized mutual fund in a judge’s portfolio is impossible for that judge *not* to notice.

a. **The Federal Circuit’s Decision Was Conveniently Issued Within Hours Of Facebook’s IPO Road Show Commencement In New York On May 8, 2012.**

The Federal Circuit Panel announced its decision on Tuesday, May 8, 2012 which was timed within hours of the beginning of Facebook’s Road Show in New York City the same day. The average person on the street would consider this timing suspiciously accommodating to Facebook, and cause that person to “harbor doubts about the judge’s impartiality.” *Postashnick, sub.*

b. **The Federal Circuit’s Denial of Leader’s Rehearing And Rehearing *En Banc* Petition was suspiciously timed within hours of Leader Chairman and Founder Michael McKibben’s nationally televised interview with *Fox Business* on July 16, 2012.**

Mr. McKibben was informed while on the air during a nationally televised *Fox Business* interview at about 2:45 PM EDT on July 16th⁹ that the Federal Circuit had denied Leader’s petition earlier that day. Two days later, on July 18th, Facebook indicated in an email to Dr. Arunachalam that they were aware of the

⁹ Shibani Joshi. Interview with Michael McKibben. *Fox Business*, Jul. 19, 2012, 2:40 PM EDT. <http://video.foxbusiness.com/v/1738073255001/leader-technologies-sues-facebook-for-patent-infringement/?playlist_id=163589>.

decision. However, Leader's attorneys received no notice until Thursday, July 19, 2012. A reasonable person would consider that the Court was acting prejudicially and with suspicious timing, and thus "would harbor doubts about the judge's impartiality." *Potashnick, sub.*; See also *Lamprecht v. FCC*, 958 F. 2d 382 (D.C. Circuit 1992) at 403, 404 (breach of trust by a law clerk providing information to a news organization before it was known by the parties).

c. Denial Of Rehearing Out-Of-Order; Pleadings Un-docketed.

The Court is further prejudicing this case with questionable docketing practices. The Court has never posted for downloading by the public the 7/11/2012 Dr. Arunachalam's Motion of Lakshmi Arunachalam, Ph.D. for Leave to File Brief of Amicus Curiae. Then, the Court denied the motion the *same day*. No reasonable person believes that all twelve justices had time to consider this motion.

Likewise, the Court has never posted for downloading by the public Dr. Arunachalam's 7/19/2012 Motion for Reconsideration. Further, the Court's declaration of "moot" and exceeding the page limit is improper since conclusory declarations without citing page limit rules are not convincing except in totalitarian states, it cannot be moot if the petition denial was out of order, and even if there was a deficiency, no courtesy cure time was extended. *Pro se* parties are to be provided "liberal construction." *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

The actions of this Court do not “promote public confidence in the integrity of the judicial process” and are procedurally out of order. *Liljeberg, supra*; Fed.R.App.P. Rule 27(a)(2); *See also Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 US 344 (Supreme Court 1999)(case reversed and remanded due to improper dismissal of the case during a notice period); *Burns v. Ohio*, 360 US 252 (Supreme Court 1959)(case remanded where clerk refused to docket a filing on clerk-contrived procedural grounds); Fed. Cir. R.27(d)(1)(E)(2) (“not exceed 20 pages”).

d. At Least Judge Kimberly A. Moore Has Undisclosed Fiduciary Conflicts Of Interests

In her Financial Disclosure Form AO10 Judge Kimberly A Moore reveals that she holds investments in **Fidelity Contrafund**. **Exhibit D**. Fidelity Contrafund¹⁰ widely publicized its holdings in Facebook during the course of these proceedings. **Exhibit E**. This publicity created a temptation for Judge Moore to act in her own self-interest in this case. Fidelity Contrafund’s Facebook holdings are (all footnotes accessed 7/24/12):

¹⁰ Fidelity Contrafund. Form N-Q, Mar. 31, 2012. U.S. S.E.C. <<http://www.sec.gov/Archives/edgar/data/24238/000003540212000012/main.htm>>; *See also* Tim McLaughlin. “Fidelity's Contrafund snaps up stakes in Facebook at \$63 billion valuation.” *Silicon Valley Business Journal*, Jun. 2, 2011. <<http://www.bizjournals.com/sanjose/news/2011/06/02/fidelitys-contrafund-snaps-up-stakes.html>>; *See also* Miles Weiss. “Fidelity’s Danoff Bets on Facebook, Zynga.” *Bloomberg*, Jun. 1, 2011. <<http://www.bloomberg.com/news/2011-06-01/fidelity-s-danoff-bets-on-facebook-zynga.html>>.

- i. 2.97 million shares of **Facebook, Inc.** Class B stock valued at \$74.2 million at the end of March 2012;
- ii. 2.93 million shares of **Zynga Game Network Inc.** convertible preferred stock valued at \$82.24 million; and
- iii. 2.63 million shares of **Groupon, Inc.** convertible preferred stock.

Judge Moore appears to have misperceived the circumstances in this case and neglected to acknowledge her conflicts of interest and acknowledge the perceived impropriety that would dictate her disqualification. *Potashnick v. Port City Const. Co.*, 609 F. 2d 1101 (5th Circuit 1980) at 1114 (“The judge's business dealings . . . constituted a ground for disqualification under section 455(a). Had the judge fully disclosed his relationship . . . on the record, the parties could have waived this ground”).

(1) Facebook shareholders who sold their Facebook interests between May 22-24, 2012 following the Facebook IPO are:

- (a) \$633,009,358 -- **Peter Thiel** (Facebook Director) (not including option awards and purchases).¹¹
- (b) \$2,169,376,940 -- **James W. Breyer** (Facebook Director) / **Accel Partners** et al / **Ping Li** (not including option awards and purchases; total value is approx. \$6,510,000,000).¹²
- (c) \$2,540,482,881 -- **DST Holdings Ltd.** / **Mail.ru Group Ltd.** et al . (**Juri Milner**, Moscow, Russia)(Facebook’s second largest shareholder)(not including option awards and purchases; total value is approx. \$3,790,000,000).^{13 14}

¹¹ 16,844,315 shares, Peter Thiel, <<http://www.secform4.com/insider-trading/1211060.htm>>.

¹² 57,726,901 shares, James W. Breyer et al <<http://www.secform4.com/insider-trading/1542464.htm>>.

¹³ 9,821,228 shares, Yury Milner, DST USA Ltd.; 18,340,758 shares, DST Global III, L.P.; 19,835,710 shares, DST Managers Ltd.; 19,600,699 shares, Mail.ru Group

- (d) \$745,465,653 -- **Mark Zuckerberg** (not including option awards and purchases).¹⁵
- (e) \$717,128,487 -- **Goldman Sachs** et al (Facebook Underwriter).¹⁶

(2) Facebook shareholders also with substantial insider stakes in Zynga¹⁷ in addition to Fidelity include:

- (a) Reid Hoffman (Facebook Director)¹⁸
- (b) Clarium Capital (Peter Thiel, Facebook Director)].¹⁹
- (c) Peter Thiel (Facebook Director). *Id.*
- (d) Digital Sky Technologies (Moscow, Russia, second largest Facebook stockholder). *Id.*
- (e) Andreessen Horowitz (Marc L. Andreessen, Facebook Director). *Id.*
- (f) T. Rowe Price. *Id.*

(3) Facebook shareholders also with substantial insider stakes in Groupon²⁰ in addition to Fidelity include:

- (a) Digital Sky Technologies. *Id.*

Ltd. <<http://www.secform4.com/insider-trading/1549931.htm> | [1545066.htm](http://www.secform4.com/insider-trading/1545066.htm) | [1550224.htm](http://www.secform4.com/insider-trading/1550224.htm) | [1326801.htm](http://www.secform4.com/insider-trading/1326801.htm)>.

¹⁴ Ryan Tate, “The ‘Hard’ Russian Oligarch Behind Facebook’s New Money.” *Gawker*, May 27, 2009. Last accessed May 2, 2011

<<http://gawker.com/5537538/the-humiliation-of-a-creepy-russian-sugar-daddy>>;

See also Simon Goodley. “Facebook investor DST comes with ties to Alisher Usmanov and the Kremlin – Three Goldman Sachs bankers, Alexander Tamas, Verdi Israelian and John Lindfors joined DST over the past three years.” *The Guardian*, Jan. 4, 2011.

<http://www.guardian.co.uk/technology/2011/jan/04/facebook-dst-goldman-sachs>>

¹⁵ 30,200,000 shares, Mark Zuckerberg,

<<http://www.secform4.com/insider-trading/1548760.htm>>.

¹⁶ 24,324,886 shares, Goldman Sachs et al,

<<http://www.secform4.com/insider-trading/1420392.htm>>.

¹⁷ Zynga, Inc., Crunchbase. <<http://www.crunchbase.com/company/zynga>>.

¹⁸ Hoffman, Reid, Director, Zynga, Inc. <<http://www.secform4.com/insider-trading/1439404.htm>>.

¹⁹ Clarium Capital (Peter Thiel), *Op.cit.*

²⁰ Groupon. Crunchbase. <<http://www.crunchbase.com/company/groupon>>.

- (b) Accel Partners. *Id.*
- (c) Morgan Stanley Ventures. *Id.*
- (d) Andreessen Horowitz. *Id.*

3. Undisclosed Attorney Associations Among Facebook, Federal Circuit Justices and Clerk of Court.

a. Clerk of Court Jan Horbaly sponsored a Federal Circuit conference in 2006 titled “The State of the U.S. Court of Appeals” where Facebook’s appellate attorney in this case, **Thomas G. Hungar** of Gibson, Dunn & Crutcher LLP, was one of *his* guest speakers.²¹ The appearance of impropriety dictates that the Clerk disqualifies himself from this matter. *Byrne v. Nezhad*, 261 F. 3d 1075 (11th Circuit 2001) at 1102 (“a law clerk has a financial incentive to benefit a future employer”).

b. Chief Judge Randall Rader was the keynote speaker on March 15, 2012 at the 2012 USC Law Intellectual Property Institute where Facebook’s appellate **Thomas G. Hungar** of Gibson, Dunn & Crutcher LLP was, again, a session speaker on the topic of “The Supreme Court’s Impact on Intellectual Property Law and the *Federal Circuit*” (emphasis added). Five other Facebook attorneys participated in the invitation of Judge Rader, namely: (i) **Wayne M. Barsky**, Gibson, Dunn & Crutcher LLP; (ii) **James C. Brooks**, Orrick, Herrington & Sutcliffe LLP; (iii) **Mark P. Wine**, Orrick, Herrington & Sutcliffe LLP; (iv)

²¹ Thomas Hungar. “The Federal Circuit, Looking Ahead.” C-SPAN-2 video, @33m53s. May 19, 2006. <<http://www.c-spanvideo.org/program/192618-1>>.

Andrew P. Bridges, Fenwick & West LLP; and (v) **David L. Hayes**, Fenwick & West LLP.²²

The average person would never believe that these familiar relationships among **Chief Judge Randall Rader**, **Clerk of Court Jan Horbaly**, and **Facebook's** appellate counsel **Thomas G. Hungar** would not create temptations to do favors for attorney Hungar, who is an analyst of the Federal Circuit. *See* H. Rep. 111-427 (Mar. 4, 2010), Impeachment of G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana; and H. Res. 1031, 111th Cong. 2d Sess. (Mar. 11, 2010)(“solicitation and receipt of things of value”).

The record shows no attempt by any of the justices to disclose their conflicts in this case, or to address how their participation in this case “looks to the average person on the street.” *Postashnick* at 1111.

Maintenance of an untarnished judiciary compels the judges in this case to err on the side of caution and disqualification. *Id.* 1111 (“question the judge's impartiality” due to attorney associations); *Id.* 1112 (“ Our desire to maintain an untarnished judiciary compels us to hold that Judge Hand was required by 28 U.S.C. § 455(a) to disqualify himself from the Potashnick case, and his failure to do so constituted an abuse of sound judicial discretion.”).

²² USC LAW. 2012 Intellectual Property Institute, Mar. 15, 2012. Accessed Jul. 26, 2012 <<http://weblaw.usc.edu/why/academics/cle/ip/assets/docs/IPIbrochure.pdf>>.

4. Judicial Officials Should Provide Full Disclosure Before Proceeding So That Disqualification Or Waiver May Be Fully And Fairly Considered To Insure Impartiality And Avoid The Appearance Of Impropriety.

“In certain situations, disqualification can be waived. When the basis for disqualification is that the judge's "impartiality might reasonably be questioned," section 455(e) permits waiver after a full disclosure on the record of the grounds for disqualification.” *Potashnick* at 1114. The Clerk of Court and Justices should provide full disclosure of potential conflicts before this proceeding continues.

“Moreover, advancement of the purpose of the [impartiality] provision — to promote public confidence in the integrity of the judicial process . . . — does not depend upon whether or not the judge actually knew of facts creating an appearance of impropriety, so long as the public might reasonably believe that he or she knew.” *Liljeberg* at 859, 860.

5. Jury Instruction 4.7 For On Sale Bar Is Deficient As A Matter Of Law; Never Mentioned The Uniform Commercial Code.

Remarkably, Jury Instruction No. 4.7 does not contain a single instruction of law. Nowhere is the jury instructed to look to the Uniform Commercial Code (“U.C.C.”) to determine whether an alleged offer “rises to the level of a commercial offer for sale.” **Exhibit C**; *Group One, Ltd. v. Hallmark Cards, Inc.*, 254 F. 3d 1041 (Fed. Cir. 2001).

Further, the jury instruction implies that nondisclosure agreements are “irrelevant” to on sale bar. 35 U.S.C. 102(b). As this case shows, and as the Restatement (Second) of Contracts §21 (1981) dictates (i.e., if you agree not to be legally bound by your discussions, then you are not legally bound), nondisclosure contracts among parties become absolutely relevant. The instructions are a naked misstatement of the law. The court-approved Facebook edits provided no assistance. Without such assistance, *the jury was understandably lost*. It is the duty of this Court to correct this error and **create new law** to clarify the totality of what constitutes a minimum standard to prove on sale bar by clear and convincing evidence, including the proper role of nondisclosure agreements and other secrecy deeds.

6. Since A Reasonable Probability Of A Different Outcome Exists, Except For Conflicts Of Interest; Why Else Would The Court Not Rehear This Case?

Except for conflicts of interest, why else would the Court not rehear this case? Only one remaining issue of law exists—whether Interrogatory No. 9 can be interpreted to apply to past states of Leader’s products. Justice demands attention to this question of law since application of The Dictionary Act to this legal question will create “a different result”—Leader will win this case outright. Exs. A, B.

The Supreme Court has defined materiality in terms of a "reasonable probability" of a different outcome. *Kyles v. Whitley*, 514 US 419 (Supreme Court 1995). Such a reasonable probability results when nondisclosure places the case in

a different light so as to undermine confidence in the verdict. *Id.* at 435. As Dr. Arunachalam has shown, one minute of attention by this Court to The Dictionary Act and Interrogatory No. 9 will create a different outcome. Confidence in the verdict has been undermined by the current state of the evident conflicts of interest.

CONCLUSION

For the reasons stated above, Dr. Arunachalam respectfully submits the RENEWED MOTION OF LAKSHMI ARUNACHALAM, PH.D. FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE IN SUPPORT OF LEADER TECHNOLOGIES' PETITION FOR REHEARING AND REHEARING *EN BANC*.

Dr. Arunachalam. further respectfully requests that the Court rule its July 16, 2012 denial of rehearing and rehearing *en banc* to be out of order since Dr. Arunachalam was not given ten day's notice before the denial was issued, and grant Leader's *en banc* rehearing once the conflict of interests issues disclosed in this motion have been addressed.

Respectfully submitted

/s/

Dated: July 27, 2012
Menlo Park, California

Lakshmi Arunachalam, Ph.D.
222 Stanford Avenue,
Menlo Park, CA 94025
(650) 854-3393
for Amicus Curiae
Lakshmi Anrunachalam, Ph.D.

AFFIDAVIT OF MS. LAKSHMI ARUNACHALAM, PH.D.

State of California }
 } ss:
County of San Mateo }

FIRST BEING DULY CAUTIONED AND SWORN, AFFIANT STATES:

1. My name is Ms. Lakshmi Arunachalam, Ph.D., and I am of legal age, sound mind and otherwise competent to make this affidavit. At all times herein, I am a resident of 222 Stanford Avenue, Menlo Park, CA 94025. I have personal, direct knowledge of each of the facts set forth in this affidavit.

2. I certify and verify that the document contained in **Exhibit A** titled “1 USC 1, Title 1 – General Provisions, Chapter 1 – Rules of Construction, §1. Words denoting number, gender, and so forth” is a true and accurate copy of the document downloaded from the Cornell University Law School, Legal Information Institute with the URL
<http://www.law.cornell.edu/uscode/pdf/uscode01/lii_usc_TI_01_CH_1_SE_1.pdf> on July 26, 2012 (“The Dictionary Act”).

3. I certify and verify that the documents contained in **Exhibit B** captioned (a) Case 1:08-cv-00862-LPS, Document 627-23, “Leader Technologies, Inc.’s First Supplemental Responses To Facebook, Inc.’s Interrogatories Nos. 3 and 9,” and (b) Case 1:08-cv-00862-LPS, Document 627-24, “Leader Technologies, Inc.’s Second Supplemental Response To Facebook’s Interrogatory No. 1, First Supplemental Responses To Facebook’s Interrogatory Nos. 4, 11-17 And Third Supplemental Response To Facebook’s Interrogatory No. 9” are true and accurate copies of the documents downloaded from the District Court of Delaware PACER docket obtained on or before July 26, 2012.

4. I certify and verify that the document contained herein in **Exhibit C** titled “Jury Instruction No. 4.7, On Sale Bar” was downloaded from the District Court of Delaware PACER docket on July 25, 2012. I further certify and verify that the caption on this document is “Case 1:08-cv-00862-LPS, Document 601, Filed 07/26/10, Page 44 of 57” and that the PACER document entry read “Date Filed: 07/26/2010. Final Jury Instruction. (ntl) (Entered: 07/26/2010).” I further certify and verify that the pages contained in the exhibit, namely Pages 44 and 45 are not altered in any way.

5. I certify and verify that the document contained herein in **Exhibit D** titled “Financial Disclosure Report For Calendar Year 2010; 1. Person Reporting: Moore, Kimberly A.; 2. Court or Organization: Federal Circuit; Date of Report: 05/12/2011” is a true and accurate copy of the document as downloaded without alteration from JudicialWatch.org <<http://www.judicialwatch.org/judge/moore-kimberly/>> on July 25, 2012.

6. I certify and verify that the documents contained in **Exhibit E** are true and accurate copies of the financial articles downloaded on July 26, 2012 and represented by the following citations: (a) Tim McLaughlin. “Fidelity's Contrafund snaps up stakes in Facebook at \$63 billion valuation.” *Silicon Valley Business Journal*, Jun. 2, 2011. <<http://www.bizjournals.com/sanjose/news/2011/06/02/fidelitys-contrafund-snaps-up-stakes.html>>; and (b) Miles Weiss. “Fidelity’s Danoff Bets on Facebook, Zynga.” *Bloomberg*, Jun. 1, 2011. <<http://www.bloomberg.com/news/2011-06-01/fidelity-s-danoff-bets-on-facebook-zynga.html>>.

7. I certify and verify that the document contained herein in **Exhibit F** titled “BRIEF OF AMICUS CURIAE LAKSHMI ARUNACHALAM, PH.D. IN SUPPORT OF LEADER TECHNOLOGIES’ PETITION FOR REHEARING AND REHEARING *EN BANC*” dated July 10, 2012 is a true and accurate copy of the document sent to the Clerk of Court on July 10, 2012 by United States Express Mail and signed for by the Clerk’s office at 10:52 AM via U.S. Express Mail No. EI 081 026 663 US. To my best knowledge and belief, the Clerk has not made these documents available for public review as of the date of this affidavit.

FURTHER AFFIANT SAYETH NAUGHT

/s/

Lakshmi Arunachalam, Ph.D.

SWORN AND SUBSCRIBED before me, a Notary Public,
this ____ day of _____, 2012.

EXHIBIT A

TITLE 1 - GENERAL PROVISIONS
CHAPTER 1 - RULES OF CONSTRUCTION

§ 1. Words denoting number, gender, and so forth

In determining the meaning of any Act of Congress, unless the context indicates otherwise—
words importing the singular include and apply to several persons, parties, or things;

words importing the plural include the singular;

words importing the masculine gender include the feminine as well;

words used in the present tense include the future as well as the present;

the words “insane” and “insane person” and “lunatic” shall include every idiot, lunatic, insane person, and person non compos mentis;

the words “person” and “whoever” include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals;

“officer” includes any person authorized by law to perform the duties of the office;

“signature” or “subscription” includes a mark when the person making the same intended it as such;

“oath” includes affirmation, and “sworn” includes affirmed;

“writing” includes printing and typewriting and reproductions of visual symbols by photographing, multigraphing, mimeographing, manifolding, or otherwise.

(July 30, 1947, ch. 388, 61 Stat. 633; June 25, 1948, ch. 645, § 6, 62 Stat. 859; Oct. 31, 1951, ch. 655, § 1, 65 Stat. 710.)

Amendments

1951—Act Oct. 31, 1951, substituted, in fourth clause after opening clause, “used” for “use”.

1948—Act June 25, 1948, included “tense”, “whoever”, “signature”, “subscription”, “writing” and a broader definition of “person”.

Short Title of 2002 Amendment

Pub. L. 107–207, § 1, Aug. 5, 2002, 116 Stat. 926, provided that: “This Act [enacting section 8 of this title] may be cited as the ‘Born-Alive Infants Protection Act of 2002’.”

Short Title of 1996 Amendment

Pub. L. 104–199, § 1, Sept. 21, 1996, 110 Stat. 2419, provided that: “This Act [enacting section 7 of this title and section 1738C of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Defense of Marriage Act’.”

References in Pub. L. 112–74

Pub. L. 112–74, § 3, Dec. 23, 2011, 125 Stat. 787, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Consolidated Appropriations Act, 2012, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 112–55

Pub. L. 112–55, § 3, Nov. 18, 2011, 125 Stat. 552, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Consolidated and Further Continuing Appropriations Act, 2012, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 112–10

Pub. L. 112–10, div. A, title IX, § 9015, Apr. 15, 2011, 125 Stat. 102, provided that: “Any reference to ‘this Act’ in this division [Department of Defense Appropriations Act, 2011, see Tables for classification] shall apply solely to this division.”

References in Pub. L. 111–118

Pub. L. 111–118, § 3, Dec. 19, 2009, 123 Stat. 3409, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Department of Defense Appropriations Act, 2010, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 111–117

Pub. L. 111–117, § 3, Dec. 16, 2009, 123 Stat. 3035, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Consolidated Appropriations Act, 2010, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 111–8

Pub. L. 111–8, § 3, Mar. 11, 2009, 123 Stat. 525, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Omnibus Appropriations Act, 2009, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 111–5

Pub. L. 111–5, § 4, Feb. 17, 2009, 123 Stat. 116, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [American Recovery and Reinvestment Act of 2009, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 110–329

Pub. L. 110–329, § 3, Sept. 30, 2008, 122 Stat. 3574, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ or ‘this joint resolution’ contained in any division of this Act [Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 110–161

Pub. L. 110–161, § 3, Dec. 26, 2007, 121 Stat. 1845, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Consolidated Appropriations Act, 2008, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 110–116

Pub. L. 110–116, § 2, Nov. 13, 2007, 121 Stat. 1295, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [see Tables for classification] shall be treated as referencing only to the provisions of that division.”

References in Pub. L. 109–289

Pub. L. 109–289, div. A, title VIII, § 8112, Sept. 29, 2006, 120 Stat. 1299, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in this division [Department of Defense Appropriations Act, 2007, see Tables for classification] shall be referring only to the provisions of this division.”

References in Pub. L. 109–148

Pub. L. 109–148, div. B, title V, § 5002, Dec. 30, 2005, 119 Stat. 2813, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in either division A [Department of Defense Appropriations Act, 2006, see Tables for classification] or division B [Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 109–115

Pub. L. 109–115, div. A, title VIII, § 847, Nov. 30, 2005, 119 Stat. 2507, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in this division [Transportation, Treasury, Housing and Urban

Development, the Judiciary, and Independent Agencies Appropriations Act, 2006, see Tables for classification] shall be treated as referring only to the provisions of this division.”

References in Pub. L. 108–447

Pub. L. 108–447, § 3, Dec. 8, 2004, 118 Stat. 2810, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Consolidated Appropriations Act, 2005, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 108–199

Pub. L. 108–199, § 3, Jan. 23, 2004, 118 Stat. 4, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this Act [Consolidated Appropriations Act, 2004, see Tables for classification] shall be treated as referring only to the provisions of that division.”

References in Pub. L. 108–7

Pub. L. 108–7, § 3, Feb. 20, 2003, 117 Stat. 12, provided that: “Except as expressly provided otherwise, any reference to ‘this Act’ contained in any division of this joint resolution [Consolidated Appropriations Resolution, 2003, see Tables for classification] shall be treated as referring only to the provisions of that division.”

Continental United States

Section 48 of Pub. L. 86–70, June 25, 1959, 73 Stat. 154, provided that: “Whenever the phrase ‘continental United States’ is used in any law of the United States enacted after the date of enactment of this Act [June 25, 1959], it shall mean the 49 States on the North American Continent and the District of Columbia, unless otherwise expressly provided.”

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC., a Delaware
corporation,)

Plaintiff-Counterdefendant,)

v.)

FACEBOOK, INC., a Delaware corporation,)

Defendant-Counterclaimant)

Civil Action No. 08-862-JJF

**HIGHLY CONFIDENTIAL—
FOR ATTORNEY'S EYES ONLY**

**LEADER TECHNOLOGIES, INC.'S FIRST SUPPLEMENTAL RESPONSES
TO FACEBOOK, INC.'S INTERROGATORIES NOS. 3 AND 9**

Redacted

DEFENDANT'S EXHIBIT
DTX 0963
CASE NO. 1:08-CV-00862-LPS
Exhibit B, p 1

INTERROGATORY NO. 9:

For each claim of the '761 Patent that LTI contends is practiced by any product(s) and/or services of LTI, identify all such product(s) and/or service(s) and provide a chart identifying specifically where each limitation of each claim is found within such product(s) and/or service(s).

Redacted

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Redacted

Leader2Leader® powered by the Digital Leaderboard® engine is covered by the '761

Patent.

Redacted

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

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Lisa Kobialka
King & Spalding, LLP
333 Twin Dolphin Drive
Suite 400
Redwood Shores, California 94065-6109
(650) 590-7100

Dated: April 17, 2009
912447

By: _____



Philip A. Rovner (#3215)
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provner@potteranderson.com

*Attorneys for Plaintiff-Counterdefendant
Leader Technologies, Inc.*

VERIFICATION

I, Michael T. McKibben, Chairman and Founder of Leader Technologies, Inc., being duly sworn, deposes and says that I am authorized to sign this Verification and that I am informed and believe that the factual statements in **Plaintiff Leader Technologies, Inc.'s First Supplemental Responses to Facebook, Inc.'s Interrogatories Nos. 3 and 9** are true and correct to the best of my knowledge, information and belief. I declare under penalty of perjury under the laws of the State of Ohio and the United States that the above statement is true and correct.

April 17, 2009
Date


Michael T. McKibben

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on April 17, 2009, true and correct copies of the within document were served on the following counsel of record, at the addresses and in the manner indicated:

BY HAND DELIVERY AND E-MAIL

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC., a Delaware corporation,)
)
Plaintiff-Counterdefendant,) Civil Action No. 08-862-JJF/LPS
)
v.) **HIGHLY CONFIDENTIAL--**
) **FOR ATTORNEY'S EYES ONLY**
)
FACEBOOK, INC., a Delaware corporation,)
)
Defendant-Counterclaimant)

**LEADER TECHNOLOGIES, INC.'S SECOND SUPPLEMENTAL RESPONSE
TO FACEBOOK, INC.'S INTERROGATORY NO. 1, FIRST SUPPLEMENTAL
RESPONSES TO FACEBOOK'S INTERROGATORY NOS. 4, 11-17 AND
THIRD SUPPLEMENTAL RESPONSE TO FACEBOOK'S
INTERROGATORY NO. 9**

Redacted

Redacted

INTERROGATORY NO. 9:

For each claim of the '761 Patent that LTI contends is practiced by any product(s) and/or services of LTI, identify all such product(s) and/or service(s) and provide a chart identifying specifically where each limitation of each claim is found within such product(s) and/or service(s).

THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Redacted

Leader2Leader® powered by the Digital Leaderboard® engine is the only product or service provided by Leader which embodies, either literally or under the doctrine of equivalents, any of the asserted claims of the '761 Patent. Leader2Leader® powered by the Digital Leaderboard® engine embodies the following asserted claims of the '761 Patent: 1-17, 21, 23-26, 29, and 31-34.

Redacted

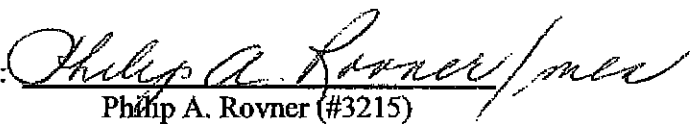
Redacted

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Dated: October 28, 2009
939709

POTTER ANDERSON & CORROON LLP

By: 
Philip A. Rovner (#3215)
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*Attorneys for Plaintiff-Counterdefendant
Leader Technologies, Inc.*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

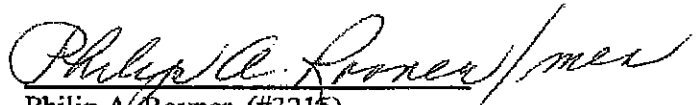
I, Philip A. Rovner, hereby certify that on October 28, 2009, true and correct copies of the within document were served on the following counsel of record, at the addresses and in the manner indicated:

BY EMAIL AND HAND DELIVERY

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Leader Technologies Inc,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civ. No. 08-862-JJF-LPS
	:	
Facebook Inc.,	:	
	:	
Defendant.	:	

ORDER

At Wilmington this **4th** day of **September, 2009**,

Presently pending before me are three discovery disputes: (i) Leader’s request to amend the scheduling order to permit fact depositions to begin prior to the completion of document production and contention interrogatories (“Scheduling Request”); (ii) Facebook’s request to compel a supplemental response to its Interrogatory No. 9 (“Interrogatory Request”); and (iii) Facebook’s request to stay this Court’s prior ruling (D.I. 78) providing Leader with access to Facebook’s source code until after Judge Farnan rules on Facebook’s objections to my prior ruling (“Stay Request”). For reasons provided during a teleconference this same date, as well as those set forth below, I GRANT IN PART AND DENY IN PART the Scheduling Request and the Interrogatory Request and DENY the Stay Request.

Scheduling Request

The Scheduling Order entered by Judge Farnan expressly provides: “Exchange and completion of contention interrogatories, identification of fact witnesses and document production [i.e., ‘paper discovery’] shall be commenced so as to be completed by November 20,

2009.” (D.I. 76 ¶ 4.a) With regard to depositions, paragraph 4.d of the Scheduling Order states: “Depositions shall not commence until the discovery required by Paragraph 4(a), (b) [regarding contention interrogatories], and (c) [regarding requests for admission] is completed.”

Nonetheless, on July 29, 2009, well before the November 20, 2009 cut-off for “paper discovery,” Leader noticed a 30(b)(6) deposition of Facebook. (D.I. 79) Facebook objects to the deposition notice as violating the Scheduling Order. However, until today, Facebook did not state its position as to when fact depositions had to be completed.

It is plain that the Scheduling Order does not permit depositions to take place until after the completion of “paper discovery,” which must be done by November 20, 2009. Leader has articulated no basis – and I perceive none – to alter this provision of the Scheduling Order.¹ Therefore, Leader’s notice of deposition is premature and Facebook is not required to provide a 30(b)(6) witness until after November 20, 2009.

It is equally clear, however, that these parties require a firm date for the completion of deposition of fact witnesses. In some cases parties are able to cooperate and complete depositions of fact witnesses in a timely and efficient manner without the necessity of a deadline. That has not, unfortunately, been the experience in this case.

Therefore, IT IS HEREBY ORDERED that the Scheduling Order is modified solely to add that depositions of fact witnesses are to be completed no later than March 1, 2010.

¹There is no merit to Leader’s suggestion that statements by Judge Farnan or counsel during the scheduling conference that preceded entry by Judge Farnan of the Scheduling Order somehow created ambiguity or inconsistency in the explicit requirement that depositions not begin prior to November 20, 2009. (D.I. 102)

Interrogatory Request

Facebook has propounded Interrogatory No. 9, which asks:

For each claim of the '761 Patent that [Leader] contends **is practiced** by any product(s) and/or service(s) of [Leader], identify all such product(s) and/or service(s) and provide a chart identifying specifically where each limitation of each claim is found within such product(s) or service(s).

Leader initially objected to this Interrogatory on the grounds, among others, that it is “overbroad, unduly burdensome, and oppressive to the extent it seeks information that is not relevant to the issues in the litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.” Thereafter, in its First Supplemental Response, Leader added, subject to its objections, “Leader2Leader® powered by the Digital Leaderboard® engine is covered by the '761 Patent [i.e., the patent-in-suit].” Leader did not provide any information disclosing which claims of the patent-in-suit **are practiced** by its product, nor any chart supporting its contention. Facebook requests that Leader be compelled to respond to Interrogatory No. 9 in full.²

I agree with Facebook that the issue of whether Leader offers products **that practice** claims of the patent-in-suit is relevant to evaluating Leader’s request for injunctive relief, and particularly the element of irreparable harm (and the related matter of whether the parties here are direct competitors). However, I agree with Leader that it is overbroad to require a patentee to disclose all of its products that practice any claim of the patent-in-suit, including those products

²The parties dispute whether Facebook satisfied its meet-and-confer obligation with respect to its request that Leader provide claim charts. Because I am not ordering Leader to provide such claim charts, I need not fully assess the adequacy of the meet-and-confer efforts. This is, nonetheless, an appropriate time to remind the parties that, by the time they contact the Court to schedule a teleconference to resolve a discovery dispute, there should be no ambiguity between the parties as to what the dispute is and as to the precise relief being sought by the complaining party.

that only practice claims that are not asserted in this litigation.³ I further agree with Leader that it would be unduly burdensome to require Leader, as the patentee, to produce detailed claim charts showing precisely how its products practice each of the asserted claims. This case is fundamentally about whether Facebook infringes Leader's patent, not about whether Leader practices its own patent. Facebook has cited no authority to support requiring a patentee to prove, through detailed claim charts, at a relatively early stage of discovery, how its own (by definition, "unaccused") products practice its own patent.

Facebook is entitled to know every Leader product or service that Leader contends practices any of the asserted claims of the patent-in-suit. Facebook is also entitled to know which claims are practiced by which of Leader's products and services. However, a proper weighing of the relative burdens on the parties, as well as the relevance of the discovery Facebook seeks, leads me to conclude that Facebook is entitled to nothing more than this in response to Interrogatory No. 9.

Accordingly, IT IS HEREBY ORDERED THAT within ten days of the date of this Order Leader shall supplement its response to Facebook's Interrogatory No. 9 to disclose any and all Leader products or services that practice any of the asserted claims of the '761 patent and to identify – product-by-product and service-by-service – which of the asserted claims are practiced by each of these products or services.

³During the teleconference today, Facebook agreed that it would not pursue a further response to Interrogatory No. 9 with respect to patent claims that are not asserted to be infringed by Facebook.

Stay Request

On July 28, 2009, I ordered that, following several preceding steps, Facebook provide Leader with access to its entire source code, subject to the procedures set forth in the Protective Order (D.I. 35), no later than August 21, 2009. (D.I. 78 and hereinafter “Source Code Order”) On August 10, 2009, Facebook objected to my Source Code Order (D.I. 82), and Facebook’s objections are pending before Judge Farnan.

On August 12, 2009, Facebook requested that I stay execution of the Source Code Order until after Judge Farnan rules on the pending objections to it. (D.I. 85) Following the submission of additional letter briefs and a teleconference with the parties, on August 20, 2009, I entered an Order staying the Source Code Order until September 4, 2009 and directing the parties to submit additional briefing on the adequacy of Leader’s interrogatories setting forth the basis for Leader’s accusation that the entirety of Facebook’s website infringes Leader’s ‘761 patent. Having reviewed the parties’ recent letters, as well as the other materials they have submitted, I conclude that Facebook’s request for a stay should be denied.

Leader alleges that the entirety of Facebook’s website, and particularly its “context component” and “tracking component,” infringes Leader’s patent. Given that Leader has, with little exception, had access only to publicly-available information, Leader has provided sufficiently detailed infringement contentions. As detailed in Leader’s recent letters, Leader has provided Facebook with: detailed infringement contentions, including a narrative explanation of how the Facebook website infringes each asserted claim of the ‘761 patent; citations to more than 100 individually-created screenshots of the Facebook website, further illustrating the narrative provided in Leader’s claim chart; citations to numerous Application Programming Interface

(“API”) calls demonstrating that Facebook’s website has functionality allegedly infringing the asserted claims; and several detailed letters further articulating Leader’s infringement theory (D.I. 98 & Ex. D; D.I. 104).

I am persuaded that Leader has sufficiently articulated its infringement contentions to demonstrate the relevance of the entirety of the source code for Facebook’s website.

Furthermore, I continue to be persuaded by Leader’s expert’s declaration explaining that “all of the source code must be made available to complete a meaningful review.” (D.I. 74 at 1 & Ex.

A) I also believe that Facebook understands Leader’s infringement theory.

I remain unpersuaded by Facebook’s contentions that it will be irreparably harmed by giving Leader access to the entirety of its source code, especially if such access must be given prior to Judge Farnan’s rulings on the objections. I rejected these contentions during the August 20, 2009 teleconference, and I adhere to this reasoning:

. . . [E]ither side, if they’re dissatisfied with the ruling from a Magistrate Judge on a discovery matter referred to him, that gives you a right to object, of course, but you don’t get an opportunity to wait until your objections are ruled on to comply with the discovery order.

The discovery order of the Magistrate Judge is an order of the court. It’s only going to be reversed if the District Judge finds it’s clearly erroneous, contrary to law, or an abuse of discretion.

And the point is it’s an order of the court, and sometimes it may happen that because discovery is moving more quickly than the objections’ process can move, that you end up having to comply with the discovery order that, otherwise, you might have found you could [have] had reversed.

Further, it needs to be understood that I am not limited at this point to follow the procedure that Judge Farnan set forth when he was handling discovery in this case.

As I understand the referral, part of what’s referred to me is to manage this process as it evolves. Nobody believed that it was going to just stand still. And so

the fact that I view something differently than Judge Farnan is not an argument that limits my discretion in terms of how I'm going to handle discovery.

I want to further say the argument that Facebook is making – and I've given you every opportunity to articulate it today – that the prejudice to Facebook will somehow be overwhelming and irreparable just by virtue of opening up the entirety of the source code to a litigant that claims the source code is infringing the litigant's patent rights, when opening up that source code is subject to very stringent protection,^[4] which have been discussed here and are an order of the court, is not an especially persuasive argument against the discovery [in] the particular circumstances of this case.

(D.I. 110 at 39-41)

This case has been effectively stalled for some time, with Leader insisting it needs access to Facebook's entire source code and Facebook countering that Leader has not done enough to articulate its infringement theory to justify such access. Both parties have given every indication that, regardless of what else happens, they will stick to these positions. Leader will always assert that it needs full access to the source code and Facebook will always say Leader's contentions are

⁴Under the terms of the Protective Order (D.I. 35), Leader will only be permitted to review Facebook's source code at a location of Facebook's choosing, at which Facebook will provide a non-networked, stand-alone, password-protected computer terminal for Leader's use. Only a single electronic copy of the source code will be made available to Leader's examiners. Leader may only designate as examiners two of its outside counsel and two of its experts, and all of these individuals are bound by the Protective Order as a whole, its accompanying Confidentiality Agreement, and the Protective Order's specific paragraph prohibiting disclosure of source code information. Leader's examiners are prohibited from copying or printing Facebook's source code; any handwritten notations they make during viewing will be designated as HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY - SOURCE CODE, and, thus, subject to the Protective Order. The Protective Order further requires that the producing party create a source code access log to track and prevent unauthorized access and designates these logs as privileged and undiscoverable. Additionally, the Protective Order controls secondary or derivative uses of source code information by: (1) requiring that any code excerpts or descriptive documents to be filed under seal, (2) limiting the use of any code-related information to the present litigation, governed by the Protective Order, and (3) demanding that, should information about the source code be elicited in depositions, all unauthorized parties remove themselves from the room.

inadequate. Something must give. For the reasons I have given here, as well as those stated in my prior orders and during the teleconferences, I have concluded that Leader must be provided access to the entirety of Facebook's source code.

Accordingly, IT IS HEREBY ORDERED THAT:

1. The stay of the Source Code Order is VACATED.
2. Facebook's request for a stay of the Source Code Order pending a ruling on Facebook's objections to that order is DENIED.
3. Facebook shall produce its entire source code, for Leader's review, subject to the procedures set forth in the Protective Order (D.I. 35), no later than **September 15, 2009**.
4. Leader shall provide Facebook with a list of the source code modules with respect to which it seeks production of technical documents no later than **September 22, 2009**.
5. Facebook shall provide Leader with all such relevant technical documents no later than **September 29, 2009**.
6. Leader shall promptly complete its review of Facebook's source code and technical documents and shall, based on such review, provide supplemental contention interrogatories to Facebook no later than **October 15, 2009**.

Delaware counsel are reminded of their obligations to inform out-of-state counsel of this Order. To avoid the imposition of sanctions, counsel shall advise the Court immediately of any problems regarding compliance with this Order.

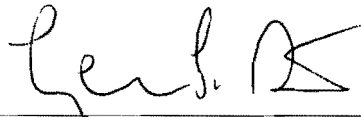

United States Magistrate Judge

EXHIBIT C

JURY INSTRUCTION NO. 4.7

ON SALE BAR

A patent claim is invalid if it can be shown by clear and convincing evidence that an embodiment that contains all the elements of that claim was, more than one year before the effective filing date, both (1) subject to commercial offer for sale in the United States; and (2) ready for patenting. Facebook contends that Claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31 and 32 of the '761 Patent are anticipated because the invention was on sale in the United States more than one year before the effective filing date.

In this case, Facebook must prove by clear and convincing evidence that a product that met all the limitations of the asserted claims was ready for patenting and was offered for sale more than a year prior to the effective filing date. Once again, your determination of the effective filing date will affect whether or not you find that a commercial offer for sale of the Leader invention occurred more than a year from the effective filing date. However, it is irrelevant whether or not the offer for sale was secret or non-secret.

An invention was "on sale" if the claimed invention was embodied in the thing commercially offered for sale. An offer for sale need not be accepted to trigger the on-sale bar. That the offer, even if accepted, might not have ultimately led to an actual sale of the invention is also not relevant. The essential question is whether or not there was an attempt to obtain commercial benefit from the invention. An offer to sell can invalidate a patent even if the offer was secret, such as under the protection of a non-disclosure agreement.

An invention is ready for patenting either when it is reduced to practice or when the inventor has enabled the invention by preparing drawings or other descriptions of the invention

sufficient to allow a person of ordinary skill in the art to make or use the invention. The claimed invention is ready for patenting when there is reason to believe it would work for its intended purpose.

EXHIBIT D

**FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 2010**

*Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Moore, Kimberly A.	2. Court or Organization Federal Circuit	3. Date of Report 05/12/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Circuit Judge	5a. Report Type (check appropriate type) <input type="checkbox"/> Nomination, Date <input type="checkbox"/> Initial <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2010 to 12/31/2010
7. Chambers or Office Address U.S.C.A. Federal Circuit 717 Madison Place NW Washington, DC 20439	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

I. POSITIONS. *(Reporting individual only; see pp. 9-13 of filing instructions.)*

NONE *(No reportable positions.)*

	<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

II. AGREEMENTS. *(Reporting individual only; see pp. 14-16 of filing instructions.)*

NONE *(No reportable agreements.)*

	<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____

FINANCIAL DISCLOSURE REPORT

Page 2 of 9

Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
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III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

A. Filer's Non-Investment Income

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2010	West-Thomson, Book Royalties	\$5,603.76
2.		
3.		
4.		

B. Spouse's Non-Investment Income - If you were married during any portion of the reporting year, complete this section.

(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2010	attorney, self-employed, partner
2.	
3.	
4.	

IV. REIMBURSEMENTS – transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Association of Corporate Patent Counsel	6/28/2010 - 6/30/2010	Philadelphia, Pennsylvania	Conference	Mileage, Meals, & Lodging
2.	Philadelphia Intellectual Property Law Assoc	11/18/2010	Philadelphia, Pennsylvania	PIPLA Dinner	Mileage, Meals, & Lodging
3.	University of San Diego School of Law	12/2/2010 - 12/5/2010	San Diego, California	Conference	Transportation, Meals, & Lodging
4.					
5.					

FINANCIAL DISCLOSURE REPORT

Page 3 of 9

Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
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V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.			
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.	National City Mortgage Co.	Mortgage on Rental Property	O
2.	Citibank	Loan	K
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT

Page 4 of 9

Name of Person Reporting

Moore, Kimberly A.

Date of Report

05/12/2011

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
1. Rental Property (2008 \$2,211,554.00)	F	Rent	P1	S						
2. Chevy Chase Bank Checking Account	A	Interest	M	T						
3. Citibank	D	Interest	J	T						
4. Northwestern Mutual Life Insurance	B	Dividend	J	T						
5. Northwestern Mutual Life Insurance	B	Dividend	J	T						
6. Berkshire Life Insurance	A	Dividend	J	T						
7.										
8. Fidelity Retirement Account										
9. -Fidelity Capital & Income	B	Dividend			Buy	04/12/10	J			
10.					Sold	05/05/10	M	E		
11. -Fidelity Contra		None			Sold	01/08/10	K	D		
12. -Fidelity Contra K	A	Dividend			Buy	01/08/10	K			
13.					Buy (add'l)	04/12/10	J			
14.					Sold	05/05/10	L	A		
15. -Fidelity Low PR STK		None			Sold	01/08/10	K	E		
16. -Fidelity Low PR STK K		None			Buy	01/08/10	K			
17.					Buy (add'l)	04/12/10	J			

1. Income Gain Codes: A = \$1,000 or less
(See Columns B1 and D4)

2. Value Codes (See Columns C1 and D3)

3. Value Method Codes (See Column C2)

A = \$1,000 or less
F = \$50,001 - \$100,000
J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000
R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000
L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000
S = Appraisal
W = Estimated

D = \$5,001 - \$15,000
H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000
T = Cash Market

E = \$15,001 - \$50,000

Exhibit D, p.4

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
---	------------------------------

VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code I (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
18.					Sold	05/05/10	L	B	
19. -Fidelity US BD Index	A	Dividend			Sold	01/08/10	M	C	
20. -Vang Tot Bd Mkt Inst	A	Dividend			Buy	01/08/10	M		
21.					Sold	03/15/10	M	B	
22.					Buy	04/12/10	J		
23.					Buy (add'l)	05/05/10	N		
24.					Sold	05/24/10	N	A	
25. -Fidelity US Gov't Res	A	Dividend			Buy	03/15/10	M		
26.					Sold	05/05/10	M	A	
27.									
28. Smith Barney Retirement Account * (See Part VIII)		None			Closed	07/06/10	M		
29.									
30. Charles Schwab Accounts A									
31. -Proshares Ultra Financial		None			Sold	02/02/10	K	D	
32. -Proshares Ultra Short		None	L	T	Buy (add'l)	05/05/10	K		
33. -Alltel Corp Notes	C	Interest	K	T					
34. -United Health Bonds	B	Interest	K	T					

- 1. Income Gain Codes: A = \$1,000 or less B = \$1,001 - \$2,500 C = \$2,501 - \$5,000 D = \$5,001 - \$15,000 E = \$15,001 - \$50,000
- (See Columns B1 and D4) F = \$50,001 - \$100,000 G = \$100,001 - \$1,000,000 H1 = \$1,000,001 - \$5,000,000 H2 = More than \$5,000,000
- 2. Value Codes J = \$15,000 or less K = \$15,001 - \$50,000 L = \$50,001 - \$100,000 M = \$100,001 - \$250,000
- (See Columns C1 and D3) N = \$250,001 - \$500,000 O = \$500,001 - \$1,000,000 P1 = \$1,000,001 - \$5,000,000 P2 = \$5,000,001 - \$25,000,000
- 3. Value Method Codes P3 = \$25,000,001 - \$50,000,000 P4 = More than \$50,000,000
- (See Column C2) Q = Appraisal R = Cost (Real Estate Only) S = Assessment T = Cash Market
- U = Book Value V = Other W = Estimated

FINANCIAL DISCLOSURE REPORT

Page 6 of 9

Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
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VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. -Anheuser Busch Bonds	B	Interest	L	T					
36. -Ingersoll-RND	C	Interest	L	T					
37. -XTO Energy Inc	B	Interest	K	T					
38. -Profunds Ultra Latin America		None			Sold	05/05/10	J	C	
39. -Vanguard GNMA	C	Dividend	L	T					
40. -Vanguard High Yield	C	Dividend	L	T	Buy (add'l)	05/06/10	J		
41.									
42. Charles Schwab Accounts B									
43. -Schwab Stable Value Select		None			Buy	04/05/10	J		
44.					Buy (add'l)	05/04/10	J		
45.					Buy (add'l)	06/03/10	J		
46.					Buy (add'l)	06/09/10	N		
47.					Buy (add'l)	07/06/10	M		
48.					Buy (add'l)	08/03/10	J		
49.					Sold	08/17/10	O	B	
50. -Schwab Stable Value Instl III		None	O	T	Buy	08/17/10	O		
51.					Buy (add'l)	09/02/10	J		

- 1. Income Gain Codes: A=\$1,000 or less B=\$1,001 - \$2,500 C=\$2,501 - \$5,000 D=\$5,001 - \$15,000 E=\$15,001 - \$50,000
(See Columns B1 and D4) F=\$50,001 - \$100,000 G=\$100,001 - \$1,000,000 H1=\$1,000,001 - \$5,000,000 H2=More than \$5,000,000
- 2. Value Codes: J=\$15,000 or less K=\$15,001 - \$50,000 L=\$50,001 - \$100,000 M=\$100,001 - \$250,000
(See Columns C1 and D3) N=\$250,001 - \$500,000 O=\$500,001 - \$1,000,000 P1=\$1,000,001 - \$5,000,000 P2=\$5,000,001 - \$25,000,000
- 3. Value Method Codes: P3=\$25,000,001 - \$50,000,000 Q=Appraisal R=Cost (Real Estate Only) S=Assessment T=Cash Market
(See Column C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
---	------------------------------

VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
52.					Buy (add'l)	10/04/10	J		
53.					Buy (add'l)	11/03/10	J		
54.					Buy (add'l)	12/02/10	J		
55.									

- 1. Income Gain Codes:
 - A = \$1,000 or less
 - F = \$50,001 - \$100,000
 - N = \$250,001 - \$500,000
 - P3 = \$25,000,001 - \$50,000,000
- 2. Value Codes
(See Columns C1 and D3)
 - J = \$15,000 or less
 - O = \$500,001 - \$1,000,000
- 3. Value Method Codes
(See Column C2)
 - Q = Appraisal
 - U = Book Value
- B = \$1,001 - \$2,500
 - G = \$100,001 - \$1,000,000
 - K = \$15,001 - \$50,000
 - R = Cost (Real Estate Only)
 - V = Other
- C = \$2,501 - \$5,000
 - H1 = \$1,000,001 - \$5,000,000
 - L = \$50,001 - \$100,000
 - P1 = \$1,000,001 - \$5,000,000
 - P4 = More than \$50,000,000
 - S = Assessment
 - W = Estimated
- D = \$5,001 - \$15,000
 - H2 = More than \$5,000,000
 - M = \$100,001 - \$250,000
 - P2 = \$5,000,001 - \$25,000,000
 - T = Cash Market
- E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

Page 8 of 9

Name of Person Reporting

Moore, Kimberly A.

Date of Report

05/12/2011

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

Part VII.

Smith Barney Retirement Account:

This is a retirement account that doesn't allow individual control of investment selections. This account was rolled over into Charles Schwab Accounts B - Schwab Stable Value Select on 7/6/2010.

FINANCIAL DISCLOSURE REPORT

Page 9 of 9

Name of Person Reporting	Date of Report
Moore, Kimberly A.	05/12/2011

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Kimberly A. Moore*

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

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EXHIBIT E



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★ Fidelity's Contrafund snaps up stakes in Facebook at \$63 billion valuation

Silicon Valley / San Jose Business Journal by Tim McLaughlin
Date: Thursday, June 2, 2011, 7:13am PDT - Last Modified: Thursday, June 2, 2011, 8:42am PDT

Fidelity's Contrafund snapped up nearly 3 million Class B shares of Facebook Inc., paying \$25 each in an investment that values the privately held, venture-backed social media company at nearly \$63 billion.

Run by [William Danoff](#), the \$80 billion Contrafund is Boston-based Fidelity's largest stock fund. The fund reported holding 2.97 million Class B Facebook shares valued at \$74.2 million at the end of March, according to a U.S. regulatory filing. That puts Palo Alto-based Facebook's value, with an estimated 2.5 billion shares outstanding, at \$62.5 billion.

A Fidelity spokesman told Bloomberg News that more than 30 Fidelity funds held Facebook shares as of April 30. No fund had more than 0.15 percent of its assets invested in Facebook, Bloomberg reported, quoting the Fidelity spokesman.

Fidelity also reported investments in San Francisco-based [Zynga Game Network Inc.](#), the creator of Facebook games such as Farmville and Mafia Wars. The Contrafund reported holding 2.93 million shares of Zynga convertible preferred stock valued at \$82.24 million. That works out to \$28.06 per share.

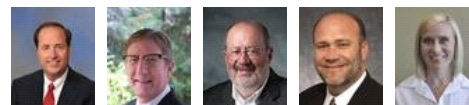
The Contrafund also owned the convertible preferred stock of a third venture-backed company, [Groupon Inc.](#), holding 2.63 million shares worth nearly \$83 million. That put Groupon's value at \$31.59 per share.

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Fidelity's Danoff Bets On Facebook, Zynga

By Miles Weiss - 2011-06-01T19:28:47Z

William Danoff, the manager of Fidelity Investment's largest stock fund, established a toehold in the social-networking industry during the first quarter by acquiring shares of Facebook Inc. and Zynga Inc.

Danoff's Fidelity Contrafund invested \$74 million in Facebook Class B common shares and \$82 million in Zynga convertible preferred stock, according to a quarterly report the fund filed yesterday with the U.S. Securities and Exchange Commission. Danoff, 50, has managed the \$80 billion Fidelity Contrafund since September 1990.

Fidelity and rivals T. Rowe Price Group Inc. and Capital Group Cos. are snapping up stakes in social-networking companies before they go public, after the mutual-fund industry avoided privately traded stocks for years. Boston-based Fidelity and Baltimore's T. Rowe Price may recognize an opportunity as a growing percentage of clients access their fund holdings through Facebook, said Geoff Bobroff, a fund consultant in East Greenwich, Rhode Island.

"We are seeing more of these fund companies embrace and adopt social media as something they are providing to their shareholders," Bobroff said today in an interview. "It's somewhat logical they would think there is value."

Vincent Loporchio, a spokesman for Fidelity, said more than 30 of its funds held Facebook shares as of April 30. No fund had more than 0.15 percent of its assets invested in Facebook, according to Loporchio, who declined to comment further.

T. Rowe, American

T. Rowe Price reported in April that 19 of its mutual funds invested at least \$191 million during the first quarter in Facebook, the Palo Alto, California-based owner of the world's most popular social-networking website. American Funds Growth Fund of America, a \$168 billion stock fund overseen by Los Angeles-based Capital Group, invested \$66.5 million on Feb. 18 in Zynga, the largest maker of games on Facebook, according to an April 29 filing.

Fidelity Contrafund (FCNTX) averaged annual gains of 7 percent over the past 10 years to beat 99 percent of its large-capitalization growth stock peers, according to Chicago-based research firm Morningstar Inc.

Danoff's fund aims to invest in stocks whose value hasn't been fully recognized by the public. At the end of last year, it had about 33 percent of net assets in information technology shares, including a \$5.3 billion stake in Apple Inc. (AAPL) and \$3.8 billion in Google Inc.

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Pending Sales of U.S. Homes Unexpectedly Fell 1.4% in June

Mr. Titanic Mistry Predicts Sinking Palm-Oil Prices: Commodities

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The fund acquired 2.97 million Facebook shares during the first quarter for about \$25 each, the same price T. Rowe Price reported paying, according to yesterday's filing. Facebook in January said it had raised \$1.5 billion from investors led by [Goldman Sachs Group Inc. \(GS\)](#), placing a \$50 billion valuation on the closely held business at the time.

Convertible Preferred Shares

Fidelity Contrafund also bought its Zynga convertible preferred stock on Feb. 18, according to yesterday's filing. Zynga held talks in February with T. Rowe Price and Fidelity about selling shares at a price that implied the company's market value was close to \$10 billion, two people familiar with the situation said at the time.

Facebook and Zynga last year laid the groundwork for initial public offerings by imposing fees on employees who sell their shares. Zynga may file for an IPO by the end of June, a person familiar with the plans said last week.

To contact the reporter on this story: Miles Weiss in Washington at mweiss@bloomberg.net

To contact the editor responsible for this story: Christian Baumgaertel at cbaumgaertel@bloomberg.net

 [Enlarge image](#)



Facebook Inc. logos are displayed on computer screens. Photographer: Daniel Acker/Bloomberg





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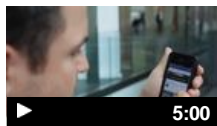
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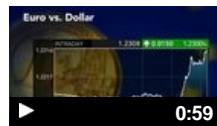
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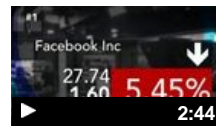
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EXHIBIT F

Citation links updated Mar. 13, 2014: On Fri. Mar. 7, 2014, the document service *Scribd* removed all documents cited herein that had been accessible from *Scribd* for two years. Some of the documents had over 10,000 reads. *Scribd* principals Trip Adler and Jared Friedman have Harvard associations with Mark Zuckerberg. The documents have been moved and the links updated herein. No content changes have been made.

Docketing irregularities: On Aug. 7, 2012, [Clerk staffer, Valerie White](#), told Marion, Ohio caller Steve Williams that the court had no record of receiving this brief on Jul. 10, 2012, and had never docketed it for public review.

When Ms. White was shown the USPS delivery receipt, she seemed puzzled and promised to investigate. The next day, her phone extension was disconnected, and she has not returned follow-up phone calls from Mr. Williams.

Nonetheless, this *amicus curiae* brief was accepted at **10:39am on Jul. 10, 2012**, never docketed, and denied under the signature of "Jan Horbaly Clerk" on **Jul. 11, 2012**, less than 24 hours later.

[CLICK HERE to see the delivery receipt and Horbaly denial attached.](#)

GREEN BRIEF

2011-1366

United States Court Of Appeals
for the
Federal Circuit

LEADER TECHNOLOGIES, INC.,

Plaintiff-Appellant,

v.

FACEBOOK, INC.,

Defendant-Appellee.

*Appeal from the United States District Court for the District of Delaware in
Case No. 08-CV-862, Judges Joseph J. Farnan and Leonard P. Stark*

**BRIEF OF AMICUS CURIAE LAKSHMI ARUNACHALAM, PH.D.
IN SUPPORT OF LEADER TECHNOLOGIES' PETITION FOR
REHEARING AND REHEARING *EN BANC***

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Lakshmi Arunachalam, Ph.D.

July 10, 2012

<http://www.fbcoverup.com/docs/arunachalam/2012-07-10-Brief-Of-Amicus-Curiae-Lakshmi-Arunachalam-Ph-D-In-Support-Of-Leader-Technologies-Petition-For-Rehearing-And-Rehearing-En-Banc-Filed-Jul-10-2012.pdf>

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Leader Tech v. Facebook, Case No. 2011-1366

CERTIFICATE OF INTEREST

Amicus Curiae Lakshmi Arunachalam, Ph.D. certifies the following:

1. The full names of every party or amicus represented by me is:
Lakshmi Arunachalam
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: **NONE**
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of amicus curiae represented by me are: **NONE**.
4. The names of the law firms and the partners or associates that appeared for the amicus curiae now represented by me in the trial court or agency or that are expected to appear in this Court are: **NONE**

July 10, 2012

/S/

Signature

Lakshmi Arunachalam, Ph.D.
for Amicus Curiae Lakshmi Arunachalam, Ph.D.

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[H.Hrg. Y 4.J 89/1:104/30](#) - Patents Legislation : Hearings Before the Subcommittee On Courts and Intellectual Property of the Committee On the Judiciary, House of Representatives, 104th Congress, First Session, On H.R. 359, H.R. 632, H.R. 1732, and H.R. 1733, June 8 and November 1, 1995. Washington: U.S. G.P.O. (1996). [Y 4.J 89/1:104/30](#), ISBN 0-16-052342-7, OCLC 34470448, 104 PL 308, 110 STAT 3814 (Testimony of Professor James P. Chandler, President, National Intellectual Property Law Institute, pp. III, IV, 349-354).....20

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[DTIC-94-7-18-001](#), Theodore R. Sarbin. "Computer Crime: A Peopleware Problem." Proceedings of a Conference held on October 25-26, 1993." Defense Personnel Security Research Center (1993). Doc. Nos. DTIC-94-7-18-001, [AD-A281-541](#). (citing Professor James P. Chandler, National Intellectual Property Law Institute, pp. i, 2, 3, 5, 13, 14, 33-72)21

[GAO/RCED-93-10](#) - Nuclear Security - Improving Correction of Security Deficiencies at DOE's Weapons Facilities, Report to the Chairman, [Subcommittee on Oversight and Investigations, Committee on Energy and Commerce House of Representatives, Nov. 1992](#). U.S. General Accounting Office. GAO/RCED-93-10 Nov. 1992 (citing Major General James E. Freeze, p. 18)31

Paul D. Ceglia, v. Mark Elliot Zuckerberg and Facebook, Inc., 10-cv-569-RJA (W.D.N.Y 2010)26, 28

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Ms. Lakshmi Arunachalam, Ph.D. (“Dr. Arunachalam”) submits this brief as an *amicus curiae* pursuant to [Fed. R.App. P. 29](#)(a) and Rule 29(a) of this Court. This brief is accompanied by a motion for leave to file pursuant to Fed. R.App. P. 29(b). Dr. Arunachalam supports Leader Technologies’ petition for rehearing and rehearing en banc. The consent of neither party has been sought to file this brief.

INTEREST OF *AMICUS CURIAE*

Ms. Lakshmi Arunachalam, Ph.D. (“Dr. Arunachalam”) is the inventor of a portfolio of the earliest Internet patents that give control over any real-time web transaction from any web application. These patents give her control over the internet cloud and any cloud application. Her companies, Pi-Net International, Inc. and WebXchange, Inc., are practicing entities with the earliest products implementing web applications based on her patents. At First Data Corporation her software implementations were certified as ACH-certified for credit card and other transactions. Her web applications were installed as pilot trials and beta tests at Cisco, France Telecom, Lycos, Le Saffre, BNP Paribas and La Poste. Dr. Arunachalam invests 100% of her time in research and development (R&D) and in the patenting of new internet-based products. She bootstrapped her companies with self-funding and relies on her patent portfolio of over a dozen patents to protect those investments. *See* APPENDIX for curriculum vitae.

Dr. Arunachalam is a champion of property rights and has a vested interest in the outcome of *Leader Tech v. Facebook*, Case No. 2011-1366. She believes that Leader's invention is an epoch-making event that will help re-establish America's world leadership in innovation, help America stop borrowing money from former Third World countries, and help revive America's profound constitutional values of "life, liberty and the pursuit of happiness." She believes that the wholesale theft of Leader Technologies' intellectual property dwarfs the conspiracies of Bernard Madoff's Ponzi schemes and undermines America's fundamental values. She believes that such crimes should be punished rather than showered with fame, glory, wealth and power.

Dr. Arunachalam is a champion of intellectual property rights for true inventors, especially small inventors, from whom large companies often steal, using their superior resources to quickly exploit the invention and deprive the small inventors of their rewards. She has a strong interest in seeing well-settled patent law applied fairly in this case, and in every case, at every level.

For these reasons Dr. Arunachalam believes that every champion of property rights in the United States must stand behind Michael McKibben and Leader Technologies. She believes that such activity as jury trickery and other court manipulations cannot be permitted to validate theft of property rights. She believes

that such activity will dissuade innovators from participating in the patenting process and thus deprive the public of the benefit of their innovations.

Dr. Arunachalam would like this Court to acknowledge the [fraud](#) and [trickery](#) that has transpired in this case and not be tempted by admitted hackers and counterfeiters to look the other way. She would like to remind the Court of the wisdom of Matthews 7:26: “Everyone who keeps on hearing these messages of mine and never put them into practice is like a foolish man who built his house on sand.” She believes America must rely on and support brilliant inventors and visionaries like Michael McKibben, and not on intellectual property thieves.

SUMMARY OF ARGUMENT

This Court has determined that on sale and public disclosure bars to patentability under [35 U.S.C. § 102\(b\)](#) should be evaluated against the [Uniform Commercial Code](#) (“U.C.C.”). This Court requires hard evidence to prove on sale and public disclosure bar based on the U.C.C. The patent community relies upon this prior body of case law. Surprisingly, the Court did not use its U.C.C. standard in this case. Such an abrupt shift in the Court’s well-settled precedent is unfair and inequitable to Leader Technologies, will place a significant undue burden on all patent holders going forward, and will increase litigation costs dramatically—all simply because the Court did not apply its own standards.

Compelling reasons justify the existence of the hard evidence rule founded in the U.C.C. The standard was implemented to avoid an otherwise capricious interpretation of business words like “sell” and “deal” and “offer” that can have many meanings depending upon context. It was also established to avoid mere word chases through the record for uses of brand names without assessing whether real inventions lay beneath the mere words on a page. Jurors unfamiliar with the language of research and development can become confused and easily mistake an offer to sell something once it is invented with an offer for sale. Understandably, such forward-looking language can be misconstrued by a juror unfamiliar with the dynamics of as-yet-unrealized visionary possibility.

Indeed, one of the motivations for companies to invest in research and development is to be able to benefit from the result of that effort, *if* it is successful. However, there are no sure things in research and development. In short, selling a dream of an invention is not the same thing as selling an invention that *might* result from that effort. Indeed, the road to research and development success is paved with failures. **The precedent set in this case could *destroy* the ability of individual inventors to finance their research and development.** This decision, as it stands, labels *prospective* conversations about *prospective* inventions as an offer for sale—even when these conversations occur under the protection of secrecy

agreements where the parties have agreed that their conversations will have no legal effect.

By contrast, this very Court decided over a decade ago to look to the U.C.C. to evaluate whether or not an alleged offer “rises to the level of a commercial offer for sale.” While the U.C.C. was not a “bright line,” it certainly brought clarity and objectivity to the evaluation and placed the question squarely in the mainstream of contract law. Otherwise, a patent holder’s future defenses against on sale and public disclosure bar will be left with no legal guidance. Dr. Arunachalam respectfully requests that this Court apply its U.C.C. standard in this case.

Compelling reasons also justify the existence of the “reasonable measures” test under [18 U.S.C. § 1839](#) to determine whether or not a patentee has maintained the secrecy of his or her invention under the 35 U.S.C. § 102(b) public disclosure bar. The test brought clarity to the maintenance of a trade secret prior to patenting. Otherwise, jurors would be guided only by mere personal opinion. Federal law mandates that reasonable measures involve both “words” and “deeds.” The “reasonable measures” test was not performed on the evidence by this Court. One common measure to preserve trade secrets is the use of nondisclosure agreements.

Leader Technologies exhibited uncommon zeal with regard to nondisclosure agreements and secrecy practices, yet no statutory “[deeds test](#)” was performed. The research and development community will be thrown into turmoil if nondisclosure

agreements are no longer recognized as one reasonable means to protect trade secrets from public disclosure. Dr. Arunachalam respectfully requests that this Court perform a “deeds test” on the evidence.

Finally, compelling reasons justify the existence in “The Dictionary Act” under [1 USC § 1](#) of the provision “words used in the present tense include the future as well as the present.” However, this Court did not apply the Act to its interpretation of [Interrogatory No. 9](#)’s use of “is practiced.” This case turns on this interpretation since without an interpretation of this interrogatory to the past, the Court has no legal basis for its decision. The patent community relies upon the prior body of case law on the use of tense. Such an abrupt shift in the Court’s well-settled precedent is unfair and inequitable to the Plaintiff-Appellant, will place a significant undue burden on patent holders going forward, and will increase litigation costs dramatically since patent holders will no longer be able to rely upon “plain and ordinary meaning.” Dr. Arunachalam respectfully requests that this Court apply the plain and ordinary meaning of the verb “is practiced” to mean the present tense with regard to its interpretation of Interrogatory No. 9. At that point, Facebook’s on sale and public disclosure bar verdict must be set aside as a matter of law.

For these reasons, Dr. Arunachalam strongly urges the Court to grant Leader Technologies’ petition, re-hear this case, set aside the on sale and public disclosure bar, and remand this case to the district court for further proceedings.

ARGUMENT

I. American Patent Property Rights Will Be Placed In Turmoil If This Decision Is Not Corrected.

Congress ratified the U.S. Constitution on September 15, 1787. The only property right given special attention by the framers was [Article I, § 8, cl. 8](#), granting to the Congress the power

"[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries"

The current anti-patent and anti-small-inventor trend in our courts belies the lessons of history, which prove that American innovation is fueled by the individual inventor. It is only the predator, thief, counterfeiter, infringer, copycat, interloper, plagiarizer, the unthinking, and those who aid them, who would wish to destroy these most fundamental of American incentives to inventorship.

It has been said before and bears repeating that without the spark of invention in a society, the creative pace of new ideas slow. When creativity is not rewarded, entrepreneurship and job creation fall off. Fewer jobs mean a decrease in tax revenues, which in turn takes away society's ability to provide civil infrastructure and social services. When a government is unable to care for its citizens, civil unrest and the decline of that society is just around the corner. The framers of the U.S. Constitution were students of history and knew this. This is precisely why they

embedded patent property rights into the fabric of our democracy.¹ That fabric is being torn in this case.

Patent holders and those hoping to protect their inventions rely upon the Court's precedents in determining their courses of action in securing a patent. If not overturned, **this Court's decision** against Leader Technologies regarding the on sale and public disclosure bar **will place all patents in peril.**

This one decision:

(1) leaves patentees with no ability to rely upon the plain and ordinary meaning of the English language;

(2) leaves the patent process with no reasonable certainty about how to protect trade secrets prior to filing for a patent;

(3) opens the door wide for predators to cajole courts into ignoring precedential law capriciously; and

(4) gives *carte blanche* to infringers to misdirect the course of justice into trial theater, fabrication of evidence, tricky attorney argument, motion practice and undue influence upon the process itself based upon this precedent.

¹ [BD. OF TRUST. OF LELAND STANFORD v. ROCHE SYS.](#), 131 S. Ct. 2188 (Supreme Court 2011) at 2200 (“Patents, for example, help to elicit useful inventions and research and to assure public disclosure of technological advances”).

II. The Court Erred In Applying The Substantial Evidence Standard (Quantitative) Without *First Applying The Clear And Convincing Evidence Standard (Qualitative) To Its Review.*

[Jury Instructions No. 1.11](#) specified the clear and convincing evidence standard. The Court can review the “substantial evidence” only in light of this instruction. It did not do that, because if it had it would have “exercise[d] its independent judgment on the evidence of record and weight it as a trial court” and used its precedential standards (e.g., *Group One*, *Linear*, *Allen*, *Helifix*). *Sub.*

Instead this Court sporadically dipped into the record looking for evidence to support a clearly predetermined outcome in favor of Facebook; conveniently issuing its decision within hours of the beginning of Facebook’s IPO road show. In doing so, the Court ran roughshod over its own well-settled precedent for judging the sufficiency of evidence to support on sale and public disclosure bar.

The standard is not whether there was **substantial (. . .) evidence**. The standard is whether there was **substantial (clear and convincing) evidence**. Bottom line, the Court’s opinion neglected the standard of review completely. In a *de novo* review the Court must think for itself and not simply try to justify a flawed jury conclusion—a conclusion elicited by deception and misconduct. [SSIH](#) [EQUIPMENT SA v. US Intern. Trade Com'n](#), 718 F. 2d 365 (Fed. Cir. 1983) at 281 (“The court in ‘de novo’ review must exercise its independent judgment on the evidence of record and **weight it as a trial court**”)(emphasis added).

III. The So-Called “Substantial Evidence” Is Not Convincing Grammatically, Logically or Scientifically; An Ambiguous Use Of Grammar For The Definition Of “Is Practiced” Can Never Satisfy The Clear And Convincing Evidence Standard.

Boiled down, Facebook’s so-called “substantial evidence” is solely based (according to this Court’s opinion) upon Leader’s response to Facebook’s question in 2009 about any claim of the ‘761 patent that “is practiced” by any Leader product and/or service. The Court has concluded that this is also an “inventor’s admission” of the state of the invention back in 2002, seven years earlier.

This interpretation offends the senses in multiple ways.

Firstly, the present tense English verb “is practiced” cannot be used in reference to the past. This is the law as well as good grammar and plain common sense.

Secondly, as an inventor of internet software, Dr. Arunachalam considers it a fallacious notion to assume *without serious scientific investigation* (of the kind required by this Court’s precedent) that a statement about the state of a piece of software in 2009 also applies to all times past. Any axiom that states that “the present state of a thing applies equally to all past states of the thing” is faulty. This Court must reject this faulty logic as the basis for the jury’s beliefs about Interrogatory No. 9. No such logic exists in science or philosophy. A jury decision based on faulty logic or science must be set aside as a matter of law. [*In re Bose Corp.*](#), 580 F. 3d 1240 (Federal Circuit 2009)(“there is no room for speculation, inference or surmise and, obviously, any doubt must be resolved against the

charging party"). The jury *inferred* an improper meaning to the verb “is practiced” (*present* tense) that must be resolved against Facebook since, according to the Decision, the case turned on this question alone. (The question was not was practiced; *past* tense.) *All* the other so-called “substantial evidence” was contained in this leaky bucket.

Thirdly, stating the previous point a different way, the Court’s interpretation belies the [2nd Law of Thermodynamics](#).² That law says that matter (and energy) is in a constant state of decay. Software is not exempt from this law. Software practitioners know that left unattended, software decays, breaks and stops working over time. Therefore, the notion that Leader’s answer about the state of its software in 2009 applies equally to its state in 2002 is a ludicrous lapse of logic. It infers that nothing changed. Even if Leader’s engineers never touched the software code between 2002 and 2009, entropy happened. Entropy alone changes things. Therefore, no 2009 answer about the software can, as a matter of science, imply anything about its previous 2002 state. Hard investigation is required. All Facebook presented was speculation, innuendo and surmise. Speculation is not evidence and this Court cannot overturn a validly issued US patent based upon speculation.

² The irreversible tendency over time toward the natural entropic dissolution of the system itself. Stated more popularly, “Matter is in a constant state of decay.”

Clearly Facebook will keep repeating this speculation as long as the courts continue to turn a blind eye to its preposterousness.

Facebook's mere chase through the record for references in business documents to the Leader2Leader brand name did nothing to *prove* one way or the other whether Leader's invention remained exactly the same between 2002 and 2009. Further, the fact that Facebook's own expert witness argued that the only Leader source code put into evidence by Facebook *did not* practice the invention destroys their own argument

Why is this Court arguing for Facebook on both sides of the ball? Facebook is the adjudged infringer. Leader Technologies is the proven inventor. Remarkably, on the one hand, this Court supports Facebook's contention that the only source code in evidence *did not* contain the invention. And, on the other hand this Court *also* supports Facebook's contention that the same source code, the only source code shown to the jury, *did* contain the invention, and, was offered for sale prematurely. This duplicity defies common sense and is ambiguous at best. Facebook's own expert said the source code did not practice the invention, therefore, the invention could not have been offered for sale during the time in question. Ambiguity is not "clear and convincing."

What else did Facebook do during trial? They attacked the credibility of Michael McKibben, the true inventor, in front of an unsuspecting lay jury. They

called him a liar who was desperate to save his invention and implied (without any hard proof whatsoever) that he must have slipped up and tried to sell it too soon. This Court even added to the innuendo that Leader was “struggling financially.” Decision 6. The record shows no analysis of Leader’s financial statements anywhere. This statement by the Court as fact is pure hearsay that demeans the inventor and supports the infringer. This is unconscionable.

In short, Facebook played to the naiveté of an uncritical public to believe a lie. While a jury can be forgiven for being fooled, the purpose of this Court on appeal is to prevent such injustice. This Court’s duty is to look for hard proof instead of simply relying upon the infringer’s trial fiction. Facebook filled the jury’s head full of gobbledygook.³ Dr. Arunachalam prays that this Court does not reward such ignoble conduct any longer.

Where was the adjudged infringer Mark Zuckerberg in all this? Did the jury ever get to assess his credibility as compared to Mr. McKibben’s? Remarkably no, because the district court refused to allow Leader Technologies to introduce his testimony or mention his name at trial. This makes absolutely no sense and was clearly prejudicial to Leader Technologies being able to tell the full story to the jury, and in being able to cross-examine the adjudged infringer in front of the jury.

³ Merriam-Webster Dictionary: “wordy and generally unintelligible jargon;” Language that is meaningless or is made unintelligible by excessive use of abstruse technical terms; nonsense.

The Court's interpretation of the "is practiced" question is ambiguous at best. Therefore, as a matter of law, science and logic, an ambiguous premise *cannot* be the basis for a "clear and convincing" determination. Put another way, an ambiguous item of evidence, upon which all other alleged evidence is based,⁴ cannot be the basis for overturning the presumption of validity of a patent issued in the United States of America.

By law, "is practice" cannot be applied in this case to any time prior to the time of the question, which was 2009. Therefore, Interrogatory No. 9 is not even ambiguous.

Even if one were to proceed down the path of reasoning that the fact finder might have believed the "is practiced" response applied to the past, this renders Facebook's interpretation ambiguous at best. Therefore, at best this response classifies as a mere "scintilla of evidence." *Sub.* The other so-called "substantial evidence" in support of this scintilla must, as items of logic, be considered as "sub-scintillas" of evidence, since their basis for validity relies upon the precedent scintilla and cannot themselves be elevated to a higher state of being than the scintilla parent. Then, adding up the lone scintilla with alleged "substantial" sub-

⁴ The law of bivalence was breached by Facebook's assertion. A clear and convincing conclusion cannot be based upon a statement that can either be true or false (ambiguous). In fact, in law an ambiguous assertion is generally considered a false assertion for the purposes of impeachment.

scintillas, one cannot raise the sum state of this aggregate of evidence to the level of “clear and convincing” in law, science, logic or common sense. [Anderson v. Liberty Lobby, Inc.](#), 477 US 242 (Supreme Court 1986) at 252 (“mere existence of a scintilla of evidence in support of the plaintiff’s position will be insufficient”).

An illustration of Facebook “scintilla” may help clarify the legal question. Here “S” represents a scintilla of *deficient* Facebook evidence:

$$S + S_{sub-scintilla_1} + S_{sub-scintilla_2} \dots \neq \text{Clear and Convincing}$$

Now let’s compare the legal standard of review for **substantial (clear and convincing) evidence** (Fig. 1) with Facebook’s **substantial (deficient) evidence** whose sub-scintillas must be considered “gray” evidence at best (Fig. 2). “Gray” means the evidence is suspect at best since it is derived from a questionable premise. In Fig. 1 E_N represents an item of *clear and convincing* evidence.

E_1	E_2	E_3
E_4	E_5	E_6
E_7	E_8	E_9

Fig. 1 – The Legal Standard of Review: Substantial (Clear and Convincing) Evidence



Fig. 2 – Facebook’s Substantial (Deficient) Evidence

This analysis illustrates the jury's and courts' confusion. Too much weight was given to the gobbledygook of Facebook's S(sub-scintillas) of evidence without first sorting out the S from the E(*n*) evidence. Without Interrogatory No. 9 there was no E evidence at all; *n*=null. Colloquially speaking, no attempt was made to separate the wheat from the chaff. Winnowing reveals that the evidence was *all chaff*—there was no wheat. Even a few grains of dodgy evidence is not clear and convincing.

Propriety dictates that a jury's belief about an ambiguous statement must be resolved in favor of validity (Leader Technologies, the real inventor). However, the fact is that Interrogatory No. 9 is not ambiguous as a matter of law. Therefore, Facebook fails to meet the clear and convincing burden of proof no matter how its deficient evidence is interpreted.

IV. The Court Neglected To Use Its Own Well-Settled Precedents To Test The Evidence—Precedents Upon Which The Entire Patent World Relies.

This Court is not a mere rubber stamp for district courts and juries. Its purpose is to take a critical look at what transpired in the lower courts for mistakes, prejudices and injustices, and make them right. This Court did not test *any* of Facebook's evidence against well-settled standards for assessing 35 U.S.C. 102(b) claims of on sale and public disclosure bar, including:

A. Element-by-Element Test: Did the Court perform an element-by-element prior art test against the alleged offers? **No.** [*Advanced Display Sys., Inc. v.*](#)

[Kent State Univ.](#), 212 F.3d 1272, 1282 (Fed. Cir. 2000)(“describe every element of the claimed invention”).

B. Uniform Commercial Code (“U.C.C.”) Test: Did the Court evaluate the alleged offers against the U.C.C.? **No.** Do the alleged offers “rise to the level of a commercial offer for sale” pursuant to the U.C.C.? **No.** [Group One, Ltd. v. Hallmark Cards, Inc.](#), 254 F. 3d 1041 (Fed. Cir. 2001) at 1047 (“we will look to the Uniform Commercial Code (“UCC”)”).

C. Reasonable Measures Secrecy Test: Did the Court perform the reasonable measures “deeds” test to determine if Leader had taken reasonable steps to protect its invention secrets from public disclosure? **No.** [18 U.S.C. §1839\(3\)\(A\)](#)(“reasonable measures to keep such information secret”); [US v. Lange](#), 312 F. 3d 263 (7th Circuit 2002)(“This makes it irrelevant that RAPCO does not require vendors to sign confidentiality agreements; it relies on deeds (the splitting of tasks) rather than promises to maintain confidentiality”);⁵

D. No-Reliance Contractual Terms Test: Did the Court take notice of the no-reliance agreements in place through the signing of the nondisclosure agreements (“NDA”) by alleged recipients of the offers; agreements that

⁵Leader Technologies involved leading experts in the field of intellectual property and trade secrets to help protect its secrets, namely law [Professor James P. Chandler](#) and [Maj. Gen. James E. Freeze, U.S. Army \(ret.\)](#). See p. 20; fn. 21.

contractually negated offers as a U.C.C. matter of law? **No.** U.C.C., [Restatement \(Second\) Contracts \(1981\) §21](#) (“parties . . . may intend to deny legal effect to their subsequent acts”);⁶

E. Experimental Use Test: Did the Court test the evidence to determine if the alleged offers were permitted experimental use and therefore exempt from the on sale and public disclosure bar? **No.** [Allen Eng'g Corp. v. Bartell Indus., Inc.](#), 299 F.3d 1336 (Fed. Cir. 2002)(experimental use exemption).

F. Enablement Test of Brand References: Did the Court determine whether references to the Leader2Leader brand name “enables a person of ordinary skill in the art to practice the claimed method sufficient to prove on sale and public disclosure bar by clear and convincing evidence? **No.** [Helifix Ltd. v. Blok-Lok, Ltd.](#), 208 F. 3d 1339 (Fed. Cir. 2000)(“teaser” brand name references in selling documents do not trigger on sale bar because one of ordinary skill cannot build the invention from the mere reference to a brand name).

G. The Dictionary Act Test: Did the Court test the Interrogatory No. 9 evidence against the plain and ordinary meaning of English verb tense? **No.** [Carr v. US](#), 130 S. Ct. 2229 (Supreme Court 2010) at 2234 (“the present tense form of the

⁶ [PTX-1058](#) at 5 (Wright Patterson NDA: only definitive agreements shall have any legal effect); [DTX-725](#) (LTI-153002) at 5 (Vincent J. Russo NDA); [S. Hrg. 108-100](#) (2003) (testimony places Dr. Russo at WPAFB on Apr. 2, 2001).

verb `to travel' . . . , which according to ordinary English grammar, does not refer to travel that has already occurred”).

Inventors rely upon this Court to uphold patent property rights from infringers as a fundamental tenet of our democracy. If the Court does not uphold its own precedential standards, then all patent rights are thrown into disarray.

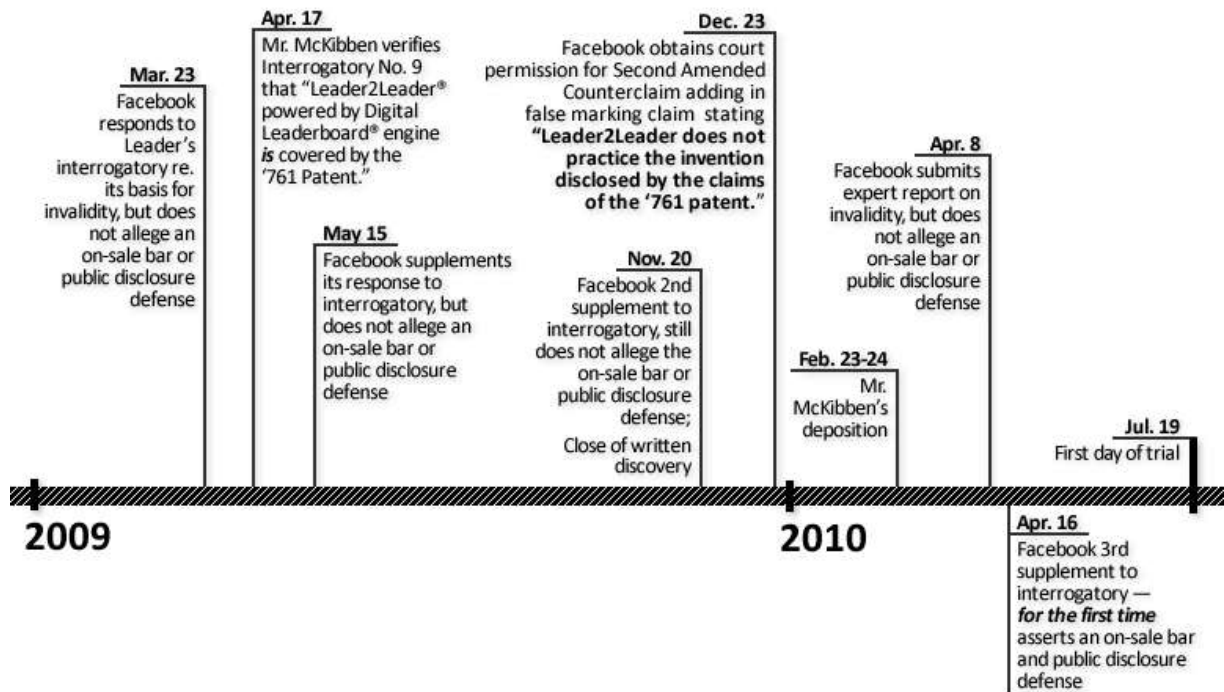
V. This Court Accepted Substantially Prejudicial Conduct In The Lower Court.

A. Prejudicially Late Claims Allowed. The district court changed judges just three months before trial. The new judge, as one of his first acts, allowed Facebook to amend its claims in an “about-face” and add on sale and public disclosure bar. Facebook should not have been permitted to claim on sale and public disclosure bar so close to trial. Besides being an illogical flip-flop in going from false marking (that no invention ever existed) to on sale and public disclosure bar (that an invention not only existed, but was offered for sale too early), this new claim was highly prejudicial since the district court did not allow any new discovery so that Leader could prepare its defenses. Such a decision crosses the line from judicial discretion to judicial prejudice.

For example, had Leader been allowed discovery, Leader would have been able to call expert witnesses including their former director law [Professor James P. Chandler](#) to testify on the subject of Leader’s “reasonable measures” taken to

protect its trade secrets. He knew these facts from personal knowledge and involvement. [Trial Tr. 10799:17-10800:22](#). The jury would have been unable to ignore Professor Chandler's authority and credibility since he was the chief author of the Federal Trade Secrets Act. His advice is relied upon by the U.S. Judiciary and Congress, among others. DTX-0179 ("Professor James Chandler, Director - President of the National Intellectual Property Law Institute and a principal security, intelligence and intellectual property advisor to over 202 jurisdictions worldwide"); [S.Hrg. 104-499](#) (Economic Espionage); [H.Hrg. Y 4.J 89/1:104/30](#) (Patents Legislation); H.Repts. [104-784](#), [788](#), [879](#), and [887](#); [White House Press Sec., Jan. 18, 2001](#) (NIAC); [DTIC-94-7-18-001](#).

Even a cursory review of Plaintiff-Appellant Leader's timeline (re-presented below) plainly shows the prejudice imposed on Leader Technologies by the late claim. [Corrected Combined Petition 6](#).



Leader was unfairly surprised and the allowance of this untimely claim confused the proceedings, creating extreme prejudice against the inventor. [Sears, Roebuck & Co. v. Mackey](#), 351 US 427 (Supreme Court 1956) at 437 (“any abuse of that [judicial] discretion remains reviewable by the Court of Appeals”); [Fed. R.Evid. 403](#) (excluding evidence for prejudice and confusion); [Fed. R.Civ. Proc. 26](#) (duty to disclose; prohibits unfair surprise).

B. Jury Binder / Interrogatory No. 9 Charade.

Facebook’s court room theater surrounding Interrogatory No. 9 was highly prejudicial and went unchecked by the district court. The court allowed Facebook to present a heavily-redacted version of Leader’s responses to Interrogatory No. 9

(over Leader's objection). Wigmore, Evidence, 3rd ed. ("Possibilities of error lie in trusting to a fragment of an utterance without knowing what the remainder was.").

To make matters worse, Facebook introduced the [doctored interrogatory](#) embedded deep inside a thick jury binder in a stunt that consumes *nine pages of trial transcript*. [Tr. 10740:7-10749:3](#). Facebook handed the jury a heavy binder that contained a raft of Leader engineering drawings dated around 2000. Facebook's heavily-redacted few pages of Interrogatory No. 9 were buried in the back of the binder, forcing the jury to fold over many pages of engineering drawings to get to it. Each of the engineering drawings contained the Leader2Leader logo graphic. The evident innuendo was that these drawings *implied* that actual software programming code *may* lie behind them.

Then, in the *piece de résistance* the next morning, Facebook claimed it made a mistake, claimed they did not intend for the engineering drawings to be given to the jury, and asked for them to be removed before Leader could cross-examine the evidence. Over Leader's vehement objections the district court allowed the removal, at one point even suggesting that he tell the jury a lie as the reason for the removal. [Tr. 10742:7-9](#) ("I've made an administrative mistake by admitting a large document when I meant to admit two pages"). Why would the judge offer to tell a fib for Facebook? Why would the judge allow such unvarnished prejudice? This conduct steps beyond judicial discretion into extreme prejudice.

By comparison, the district court in [Guy v. Crown Equipment Corp.](#), 394 F.3d 320 (5th Circuit 2004) at 2(b) excluded boxes of accident reports in a transparent attempt by the plaintiff to prejudice the defendant with innuendo by dumping boxes of documents on the jury. On appeal the judge's actions were affirmed, stating "The district court did not abuse its discretion in excluding all but the 360 accident reports for left-leg injuries incurred by operators of forklifts without doors. For starters, the court noted, and criticized, the 'theatrics' employed by Guy in offering the evidence — bringing boxes of accident reports into the courtroom, in the presence of the jury. Obviously, this was prejudicial. See [Fed. R.Civ.Proc.103\(c\)](#) (should not suggest inadmissible evidence to jury); [Fed. R.Evid. 403](#)."

C. Lack of Expert Witness Credibility.

Patent cases are often highly technical in nature, for this reason one of the solemn duties of the district court judge is to ensure the reliability of expert witnesses. It is the court's responsibility to disqualify unreliable science since the fact-finders rely on that testimony to assess the facts objectively. Without reliable expert testimony, the fact-finders cannot do their jobs, and their conclusions will be founded upon unreliable information. [Daubert v. Merrell Dow Pharmaceuticals, Inc.](#), 509 US 579 (Supreme Court 1993) at 595-597 (the trial judge must ensure the reliability of scientific testimony).

Facebook's expert witness Dr. Saul Greenberg's testimony regarding Leader's provisional patent was hopelessly flawed and unreliable. The district court had a duty to disqualify him and did not. Specifically, in a sad but somewhat humorous bit of hand waving, Dr. Greenberg first claimed that any comment he made about Leader's source code would be a "wild guess." [Tr. 10903:10](#). Firstly, it is simply not credible for a Java programming expert such as Dr. Greenberg to claim not to know the general purpose of Java "import" statements. This alone was grounds for dismissal. Then, several transcript pages later he waxed eloquent "using my knowledge of programming" to assist Facebook with an opinion about that very code he said that he could not understand. [Tr. 10904:8-10905:15](#). Such testimony is not credible. *See* also fn. 4 regarding the law of bivalence. Specifically, either he could or he could not understand the code. Both claims cannot be true. He claimed to later understand what he could not understand earlier. This ambiguous testimony should have been discarded by the district court.

Dr. Greenberg's contradictory claims discredit *all* of his testimony. Since his was the only testimony arguing against the validity of Leader's provisional patent, Facebook's on sale and public disclosure bar claim would have been moot without Greenberg's unreliable testimony. [Christophersen v. Allied-Signal Corp.](#), 939 F. 2d 1106 (5th Circuit 1991) at 1127 ("If the record establishes a critical fact contrary to the expert's testimony, or if a court may take judicial notice of a fact that fatally

contradicts the assumptions of an expert, then his or her testimony ought to be excluded").

D. Leader Was Denied The “Crucible Of Cross-Examination” Of Mark Zuckerberg, The Adjudged Infringer.

The jury was never given the opportunity to hear from Mark Zuckerberg because the district court would not allow Leader to introduce his testimony or even mention his name at the trial. Facebook attacked the credibility of the true inventor of '761, Michael McKibben, but Leader's attorneys were not given the opportunity to put the adjudged infringer Mark Zuckerberg on the stand to test his credibility by comparison. Facebook called Mr. McKibben a liar. The jury was bent toward that unproven innuendo. How might the trial have gone if Leader were given the opportunity to inquire of Mr. Zuckerberg directly about where he obtained the Leader source code? It is quite likely the texture of this trial would have changed completely and the focus would have been rightly placed on the adjudged infringer and not solely on the rightful inventor.

How can any thinking person believe that disallowing Mark Zuckerberg's testimony at this trial was not prejudicial and did not step beyond the bounds of judicial discretion? [*Davis v. Alaska*](#), 415 US 308 (Supreme Court 1974)(“We have recognized that the exposure of a witness' motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination”); See also [*Crawford v. Washington*](#), 541 US 36 (Supreme Court 2004) at 61, 74

(“testing in the crucible of cross-examination . . . cross-examination is a tool used to flesh out the truth, not an empty procedure”).

Leader’s constitutional right to test Mark Zuckerberg “in the crucible of cross-examination” was denied, leaving Facebook free to attack the true inventor’s credibility with impunity. Such a denial is beyond judicial discretion.

New evidence is emerging in other venues that casts serious doubt on Mark Zuckerberg’s veracity (veracity that the district court in this case refused to allow Leader Technologies to test). For example, Mr. Zuckerberg now claims for the first time in a sworn declaration that “I conceived of the idea for Facebook in or about December 2003.”⁷ However, a conflicting witness claims that Mr. Zuckerberg’s claim is false.⁸ This witness (who recently passed a lie detector test on this question) also says that Mark Zuckerberg sent him Leader Technologies’ White Papers in February of 2003.⁹ If this is true, then Mark Zuckerberg perjured himself in his Leader deposition since he answered “absolutely not” when asked if he had seen a

⁷ [Decl. of Mark Elliot Zuckerberg](#), *Paul D. Ceglia, v. Mark Elliot Zuckerberg and Facebook, Inc.*, 10-cv-569-RJA (W.D.N.Y. 2010), Doc. No. 46, June 1, 2011, Ex. B.

⁸ Def. Mot. to Enforce, Jun. 27, 2012, Ex. D., [Aff. of David London, No. 10\(c\)](#), *Edward B. Detwiler et al, v. Leader Technologies, et al*, 09-CV-006857 (Franklin Co. (Ohio) C.P. 2009).

⁹ [Id., No. 32](#).

copy of Leader's White Papers in 2003-2004, according to Leader attorneys.¹⁰ The district court blocked Leader's attempt to introduce this evidence at trial.

Mr. Zuckerberg also claimed in 2006 testimony to have built the entire Facebook platform in "one to two weeks" while studying for Harvard final exams in January 2004.¹¹ However, this claim is now hotly contested by at least two witnesses. One witness claims that Mr. Zuckerberg was waiting for Leader's source code to be "debugged" all through 2003. If this is true, then Mr. Zuckerberg perjured himself again, and proof of patent infringement in this case becomes a *fait accompli*.¹² Another witness states that another heretofore unidentified person named "Jeff" was helping Mr. Zuckerberg, in late 2003¹³ thus contradicting his *ConnectU* testimony where he claims to have done everything all by himself.¹⁴

¹⁰ [Tr. 1107:8, Heidi Keefe](#), Judge's Conference, Jul. 24, 2009, Doc. No. 77.

¹¹ [Zuckerberg Deposition, Tr. 41:10; 82:4](#), Apr. 25, 2006, , *ConnectU LLC v. Zuckerberg et al*, 1:04-cv-11923-DPW (D.Mass. 2004).

¹² *Detwiler* (fn. 9 above), [Aff. of David London, No. 58](#).

¹³ [Amended Complaint, No. 39, Apr. 11, 2011](#), *Ceglia v. Zuckerberg* (Zuckerberg: "if you could send another \$1000 for the facebook (sic) project it would allow me to pay my roommate or Jeff to help integrate the search code and get the site live before them").

¹⁴ [Zuckerberg Deposition, Tr. 37:15-20](#) (Q: "Were you the initial code writer of the initial code for Facebook? A. Yes. Q. Was there anybody else who assisted in writing the initial code for Facebook? A. No.").

Mr. Zuckerberg stated under oath in the *ConnectU* deposition that he had “other” sources for the first version of Facebook, but not surprisingly, he couldn’t remember what they were. Was this “Jeff” one of those “other” sources? Facebook did not produce this Nov. 22, 2003 “Jeff” Email to Leader.¹⁵

Perhaps more egregious than anything else, Facebook provided no copies of Facebook’s source code or computer hard drive information to Leader from the critical 2003-2004 timeframe during discovery. However, new information has surfaced that volumes of 2003-2004 information not only exist, but that **Facebook is currently attempting to have it destroyed**. That evidence was never produced to Leader Technologies and may include “at least five computers belonging to and used by Defendant Zuckerberg while a student at Harvard.”¹⁶ These computers contain things like “Instant Messaging logs” and source code from Mr. Zuckerberg’s activity at Harvard in 2003-2004 that was never produced to Leader.¹⁷ This

¹⁵ [Id., Tr. 36:22](#) (Zuckerberg: “I’m sure there are other things”).

¹⁶ [Temporary Restraining Order, Doc. No. 232, Nov. 25, 2011](#), *Ceglia v. Zuckerberg*, (to prevent Facebook’s destruction of evidence)(“Plaintiff has come across evidence that Defendants and defense counsel have suppressed evidence, made fraudulent arguments related to that suppressed evidence and actively sought, encouraged, urged and solicited destruction of that evidence from those whom [sic] have possession of it.”);

¹⁷ [Motion Hearing, Tr. 19:21, Doc. No. 361-19, Jun. 2, 2008](#), *ConnectU, Inc. et al v. Facebook, Inc. et al*, 1:07-cv-10593-DPW, Aug. 19, 2011 (D.Mass. 2007).; *Id.*, Doc. No. 361-6, p. 7 (“To date, TheFacebook, Inc. (the “Facebook”) has produced

withholding of evidence is unconscionable, especially with the specter that it would prove not only patent infringement, but outright theft.

Facebook's "song and dance" in *all* the litigation against them, including this one, has been that they don't understand the scope of the litigation.¹⁸ This **predatory obfuscation tactic**¹⁹ needs to be exposed by this Court for the whole world to see, understand, and no longer permit as a tactic of obstruction to prevent the rightful owners of patent properties from enjoying the fruits of their labors. Predators should be prevented from using the Rules of Civil Procedure to *hide* their theft of patent properties. **This predatory litigation technique will destroy the small American inventor by putting such disincentives in the way that they will no longer bother sharing their ideas with the public.** See *LELAND STANFORD*, fn. 1 above. As another case in point, the eventual discovery procedure of the Zuckerberg hard drives in *ConnectU* was so narrowly defined as to be able to cleverly avoid any surfacing of

three different versions of its source code, with file dates spanning from early to mid 2004 up through 2005").

¹⁸ [Tr. 1106:13, Paul Andre](#), Judge's Conference, Jul. 24, 2009, Doc. No. 77.

¹⁹ Almost one year into the *Leader v. Facebook* litigation, Facebook's Cooley Godward LLP attorney Heidi Keefe continues the obstructive hand-waving mantra "we do not still actually have a good grasp on what they are accusing of infringement." [Id. 1116:8-9](#). Similar discovery disputes in the *ConnectU* case went on for the first *two years* of the litigation.

the Leader Technologies' source code.²⁰ Leader should have been given an opportunity to study all of these hard drives for evidence of its source code and white papers that New Zealander David London testifies and verifies by reputable polygraph he received from Mr. Zuckerberg in Feb. 2003. See fn. 9.

All these discrepancies in Mr. Zuckerberg's story, the possibility that he actually stole Leader's source code, and the possible deliberate concealment of discovery information deserved to be explored by Leader, but Leader was denied that constitutional opportunity by the district court for such inquiry at trial. One of Leader's claims was willful infringement. They were prevented by Facebook's stealth in hiding behind the Rules of Civil Procedure, blocking a full confrontation of Mr. Zuckerberg on all these matters. Surely the spirit and intent of the Rules are not to *obstruct* justice as has occurred here. Such decisions by the lower court step well beyond the bounds of judicial discretion.

VI. The Efficacy of Nondisclosure Agreements Are Placed In Doubt By The Court's Decision.

Unless the Court changes its mind, its treatment of the efficacy of nondisclosure agreements throws the entire patent world into turmoil. Leader

²⁰ [Order for Discovery of Computer Memory Devices, Doc. No. 361-18, Aug. 19, 2011, p. 4 of 22, *ConnectU v. Facebook*](#) (Order restricting the search to only "PHP or HTML source code"). Leader Technologies' source code was written in Java and XML. Facebook was found guilty of infringing this Leader source code on 11 of 11 claims.

Technologies exhibited admirable diligence in protecting its secrets, even hiring eminent directors who are experts in the field of trade secrets and security. The record shows not just reasonable measures, but extraordinary measures to protect its inventions from public disclosure.²¹

If this Court continues to ignore Leader's reasonable measures deeds as well as their written nondisclosure agreements, the impact of this precedent on the patenting process will be devastating. This Court will be saying that secrecy agreements, no matter how diligently handled, are irrelevant to maintaining secrecy during the invention process. Every infringer from this day forward will attack rightful inventors over the irrelevance of their NDAs and will cite this case as precedent.

Many if not most small inventors seek financial backing to sustain their invention efforts. If secrecy agreements are rendered irrelevant by this case precedent, the small inventors will have no ability to raise research and development funds. This decision will have effectively made the invention patenting process the exclusive domain of large, well-funded companies who can

²¹ For example, another Leader Director was Maj. Gen. James E. Freeze, U.S. Army (ret.), former head of the U.S. Army Security Agency; former Asst. Deputy Dir. of the National Security Agency (NSA); author of "The Freeze Report" on national laboratory security; [H.Hrg. 106-148](#); [GAO/RCED-93-10](#); [H.Hrg. 100-T91BB192](#) (J. Tuck); [DTX-0179](#) ("Major General James Freeze, US Army (ret.), Director - former head of the US Army Security Agency; Asst. Deputy Director of NSA; author of "The Freeze Report" on Department of Energy security").

afford to fund research internally. Such a change in the tenor of patent laws requires an Act of Congress based upon the will of the Citizens of the United States. Such a change in the interpretation of the U.S. Constitution Article I, § 8, cl. 8 is outside the jurisdiction of this Court.

CONCLUSION

For the reasons stated above, Dr. Arunachalam strongly urges the Court to grant Leader Technologies' petition, re-hear this case and rule in favor of Leader Technologies in this matter of critical importance to all inventors and patent holders, present and prospective.

Respectfully Submitted,

/S/

July 10, 2012

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222 Stanford Avenue
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Tel.: (650) 854-3393
for Amicus Curiae Dr. Arunachalam

APPENDIX

CURRICULUM VITAE

Lakshmi Arunachalam, Ph.D.
Amicus Curiae

Dr. Lakshmi Arunachalam is a thought leader, inventor and pioneer in Internet multimedia web applications. She is Founder, Chairman and CEO of WebXchange, Inc, an online web applications platform for real-time exchange of multimedia information on the net, connecting users and devices with multimedia content owners and applications on the net. She holds key Internet patents on Internet Channel Control and web applications. In recent times, she has been focusing on patent licensing.

Dr. Arunachalam is also Chairman and Founder of Pi-Net International, Inc., a professional services company specializing in IT, IP, software, networking, security and Internet-related technologies. Dr. Arunachalam is also Chairman and Founder of e-pointe, Inc, Nithya Innovations, Inc. and WebXmagnet, Inc.

Prior to her current positions, Dr. Arunachalam directed network architecture at Sun Microsystems, IBM, AT&T Bell Labs, Carnegie Mellon Andrew File System and NSFNET. She held leadership positions in the IEEE802 and IEEE

POSIX X.500 standards bodies. She also worked at NASA Johnson Space Center with MITRE Corporation.

In addition to her patent and intellectual property work and entrepreneurial ventures, Dr. Arunachalam has taught at the University of Toronto and University of Madras. Her courses study the effects of the Internet and media technology on society. She has also taught courses in physics and computer networks, as well as refereed for computer journals. Dr. Arunachalam was a post-doctoral fellow at Rice University, Houston, Texas. She received her Ph.D. in Electrical Engineering from Salford University, Manchester, England, and M.S. in Physics from Simon Fraser University, British Columbia, Canada, graduate courses in Computer Science from University of Houston, and a B.S. and M.S. in Physics from University of Madras, India. She has published several books and papers in computer networking and holds patents, namely U.S. Patent Nos. [5,778,178](#); [6,212,556](#); [7,340,506](#); [5,987,500](#); [7,930,340](#); [8,037,158](#); and [8,108,492](#). She also has patents pending, namely U.S. Patent Application Nos. 12/628066; 12/628,068 (Notice of Allowance issued); 12/628,069; 12/932,758; and 13/199,077.

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. App. P. 31(b), copies of the foregoing BRIEF OF *AMICUS CURIAE* LAKSHMI ARUNACHALAM, PH.D. IN SUPPORT OF LEADER TECHNOLOGIES' PETITION FOR REHEARING AND REHEARING EN BANC in green cover pursuant to Fed. R. App. P. 28.1(d) including a CERTIFICATE OF INTEREST and ENTRY OF APPEARANCE, were served on the following recipients by overnight mail:

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Washington D.C. 20439

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A copy of the foregoing was also provided to Americans for Innovation at scribd/amer4innov for publication.

/S/

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for Amicus Curiae

Lakshmi Arunachalam, Ph.D.

July 10, 2012

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION,
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1. This BRIEF OF *AMICUS CURIAE* LAKSHMI ARUNACHALAM, PH.D. IN SUPPORT OF LEADER TECHNOLOGIES' PETITION FOR REHEARING AND REHEARING EN BANC complies with the type-volume limitations of Federal Rule of Appellate Procedure 32(a)(7)(B) or Federal Rule of Appellate Procedure 28.1(e). 2. The brief contains 6425 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) or Federal Rule of Appellate Procedure 28.1(e) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally-spaced typeface using Microsoft Word 2010 in 14 point Times New Roman.

Any noncompliance with the aforementioned Rules is purely inadvertent and will be corrected immediately upon notification.

July 10, 2012

/S/
Signature

Lakshmi Arunachalam, Ph.D.
for Amicus Curiae Lakshmi Arunachalam, Ph.D.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Leader Tech v. Facebook, Case No. 2011-1366

ENTRY OF APPEARANCE

Please enter my appearance: Pro se

I am: Amicus curiae

As amicus curiae, I support: Petitioner / Plaintiff-Appellant
Leader Technologies, Inc.

My address and telephone are: Lakshmi Arunachalam, Ph.D.
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for Amicus Curiae
Lakshmi Arunachalam, Ph.D.

Certificate of Interest: See page 2.

July 10, 2012 /S/

Signature

Lakshmi Arunachalam, Ph.D.
for Amicus Curiae Lakshmi Arunachalam, Ph.D.

cc.

Paul Andre, Esq., KRAMER LEVIN LLP, Counsel for Leader Technologies, Inc.

Heidi Keefe, Esq., COOLEY GODWARD LLP, Counsel for Facebook, Inc.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Leader Tech v. Facebook, Case No. 2011-1366

CERTIFICATE OF INTEREST

Amicus Curiae Lakshmi Arunachalam, Ph.D. certifies the following:

1. The full names of every party or amicus represented by me is:
Lakshmi Arunachalam
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: **NONE**
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of amicus curiae represented by me are: **NONE**.
4. The names of the law firms and the partners or associates that appeared for the amicus curiae now represented by me in the trial court or agency or that are expected to appear in this Court are: **NONE**

July 10, 2012

/S/

Signature

Lakshmi Arunachalam, Ph.D.
for Amicus Curiae Lakshmi Arunachalam, Ph.D.

2011-1366

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

LEADER TECHNOLOGIES, INC.,

Plaintiff-Appellant,

v.

FACEBOOK, INC.,

Defendant-Appellee.

*Appeal from the United States District Court for the District of Delaware in
Case No. 08-CV-862, Judges Joseph J. Farnan and Leonard P. Stark*

**NOTICE OF MOTION OF LAKSHMI ARUNACHALAM, PH.D.
FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE IN SUPPORT OF
LEADER TECHNOLOGIES' PETITION FOR
REHEARING AND REHEARING *EN BANC*
*Civil Appeal No. 2011-1366***

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222 Stanford Avenue
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(650) 854-3393
for Amicus Curiae
Lakshmi Arunachalam, Ph.D.

July 10, 2012

MEMORANDUM IN SUPPORT

Inventor and patent holder Lakshmi Arunachalam, Ph.D. (“Dr. Arunachalam”), as *amicus curiae*, respectfully requests leave of this Court to file a BRIEF OF AMICUS CURIAE LAKSHMI ARUNACHALAM, PH.D. IN SUPPORT OF LEADER TECHNOLOGIES’ PETITION FOR REHEARING AND REHEARING *EN BANC* dated July 10, 2012.

Dr. Arunachalam is an inventor and holder of numerous patents in the field of Internet technologies with a principal place of business in Menlo Park, California. She comments in favor of the Petitioner-Appellants’ Corrected Combined Petition For Panel Rehearing And Petition For Rehearing *En Banc* Of Plaintiff-Appellant Leader Technologies, Inc. dated June 12, 2012.

Dr. Arunachalam believes this petition raises important issues of patent law that are critical to the future of the patenting process, and most especially for those engaged in the protection of Internet software technologies. As grounds for this request, Dr. Arunachalam states that her *amicus curiae* brief would be of special assistance to the Court because this proceeding presents a number of constitutional, legal and procedures issues of critical importance to the holders of existing patents as well as to prospective patent holders.

Dr. Arunachalam offers a unique perspective as a long time inventor and patent holder who has been involved with protecting her inventions for more than a

decade against the predatory litigation tactics of large law firms which can often deceive busy courts and result in injustices against an inventor's rightful property and denial of rightful returns to their investors who support innovation.

For the foregoing reasons, Dr. Arunachalam, as *amicus curiae*, respectfully requests that this Court grant this motion. The Plaintiff-Appellant's petition is pending and this motion is being submitted in support of the Court's consideration of the petition. As such, no return date is applicable.

Dated: July 10, 2012
Menlo Park, California

Respectfully submitted

/S/

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Lakshmi Arunachalam, Ph.D.

July 10, 2012



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United States Court of Appeals for the Federal Circuit

2011-1366

LEADER TECHNOLOGIES, INC.,

Plaintiff-Appellant,

v.

FACEBOOK, INC.,

Defendant-Appellee.

Appeal from the United States District Court for the District of Delaware in case no. 08-CV-0862, Judge Leonard P. Stark.

ON MOTION

Before LOURIE, MOORE, and WALLACH, Circuit Judges.

ORDER

Lakshmi Arunachalam, Ph.D. moves for leave to file a brief as amicus curiae in support of Appellant's corrected combined petition for rehearing and rehearing en banc.

Upon consideration thereof,


IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

July 11, 2012

Date



Jan Horbaly
Clerk

cc: Paul J. Andre, Esq.
Thomas G. Hungar, Esq.
Lakshmi Arunachalam, Ph.D.

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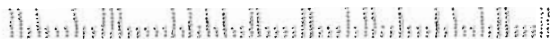
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A copy of the foregoing was also provided to Americans For Innovation for publication.

/s/

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for Amicus Curiae
Lakshmi Arunachalam, Ph.D.

July 27, 2012

Lakshmi Arunachalam, Ph.D.

222 Stanford Avenue
Menlo Park, CA 94025
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July 27, 2012

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Mr. Jan Horbaly
Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Room 401
Washington D.C. 20439

Dear Mr. Horbaly,

Re: (1) Motion for Leave to File Amicus Curiae Brief, mailed July 10, 2012 and received on July 11, 2012 at 10:52 AM and (2) BRIEF OF AMICUS CURIAE LAKSHMI ARUNACHALAM, PH.D. IN SUPPORT OF LEADER TECHNOLOGIES' PETITION FOR REHEARING AND REHEARING EN BANC mailed and received at the same time.

It has come to my attention that as of the date of this letter my motion and brief cited above have not been docketed pursuant to the Federal Rules of Appellate Procedure.

I note, however, that the Court's:

- (a) 7/11/2012 denial of the above-mentioned motion for leave to file and brief is docketed, but the motion and brief are *not available for public review*, and
- (b) 7/19/2012 denial of my motion for reconsideration is docketed, but the motion is not available for public review.

Will you kindly docket for downloading the above-mentioned motion and brief immediately pursuant to the Rules? The Clerk is not permitted to censor pleadings. See *Burns v. Ohio*, 360 US 252 (Supreme Court 1959).

Further, the docket notes that I have exceeded page limitations, despite the fact that Federal Circuit Rule 27(d)(1)(E)(2), p. 49 says the motion page limit is “not exceed 20 pages.” In addition, no notice of deficiency courtesy was provided, and I remind the Court that *pro se* filers are to be afforded liberal construction. See *Haines v. Kerner*, 404 US 519 (Supreme Court 1972). I do note that notice of deficiencies was provided to others during the pendency of this case.

Is this Court attempting to prevent a full and fair hearing of this case on the merits? It appears that way to “the ordinary person in the street.” I trust you will work to correct this perception in the interests of justice and preserving the integrity of the Court.

Respectfully,

/s/

Ms. Lakshmi Arunachalam, Ph.D.

For Amicus Curiae

Lakshmi Arunachalam, Ph.D.

cc.

Paul Andre, Esq., KRAMER LEVIN LLP, Attorney for Plaintiff-Appellant
Thomas G. Hungar, GIBSON DUNN LLP, Attorney for Defendant-Appellee



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Lakshmi Arunachalam



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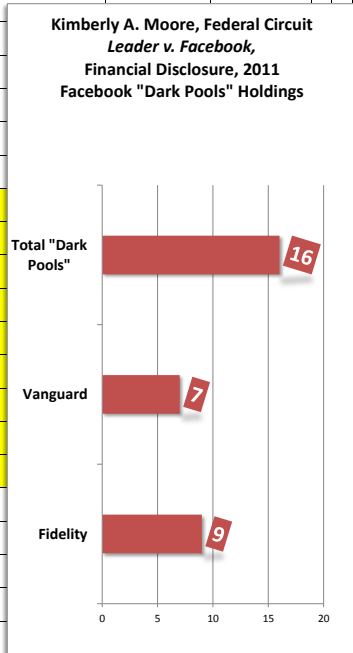
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Kimberly A. Moore, Federal Circuit, Leader v. Facebook, Financial Disclosure, 2011

No. of Fund Entries: 16
Value/Income: ≤ \$2.9 million

Alpha No.	Income and Value	Facebook "dark pools" fund												
		J-50,15,000	K-515,000-500,000	L-550,000-1,000,000	M-5100,000-250,000	N-5250,000-500,000	O-5500,000-1,000,000	P1-51,000,000-5,000,000	P2-55,000,000-25,000,000	P3-503,000,000-50,000,000	P4-501,000,000			
1	Alltel Corp Notes (IRA) (AT)		\$ 50,000										\$ 50,000	
2	Annheuser Busch Bonds (IRA) (ADR)			\$ 100,000									\$ 100,000	
3	Berkshire Life Insurance	\$ 15,000											\$ 15,000	
4	Charles Schwab Stable Value Select							\$ 1,000,000					\$ 1,000,000	
5	Charles Schwab Stable Value Select						\$ 500,000						\$ 500,000	
6	Charles Schwab Stable Value Select				\$ 250,000								\$ 250,000	
7	Charles Schwab Stable Value Select	\$ 15,000											\$ 15,000	
8	Charles Schwab Stable Value Select	\$ 15,000											\$ 15,000	
9	Charles Schwab Stable Value Select	\$ 15,000											\$ 15,000	
10	Charles Schwab Stable Value Select	\$ 15,000											\$ 15,000	
11	Charles Schwab Value Instl III							\$ 1,000,000					\$ 1,000,000	
12	Charles Schwab Value Instl III	\$ 15,000											\$ 15,000	
13	Charles Schwab Value Instl III	\$ 15,000											\$ 15,000	
14	Charles Schwab Value Instl III	\$ 15,000											\$ 15,000	
15	Charles Schwab Value Instl III	\$ 15,000											\$ 15,000	
16	Chevy Chase Bank Checking Account				\$ 250,000								\$ 250,000	
17	Citibank	\$ 15,000											\$ 15,000	
18	Fidelity Capital & Income (FAGIX) (IRA)	1			\$ 250,000								\$ 250,000	
19	Fidelity Capital & Income (FAGIX) (IRA)	1	\$ 15,000										\$ 15,000	
20	Fidelity Contrafund (FCNTX) (IRA)	1		\$ 50,000									\$ 50,000	
21	Fidelity Contrafund K (IRA) (FCNKX)	1		\$ 100,000									\$ 100,000	
22	Fidelity Low PR STK (IRA) (FLPSX)	1		\$ 50,000									\$ 50,000	
23	Fidelity Low PR STK K (IRA) (FLPKX)	1	\$ 15,000										\$ 15,000	
24	Fidelity US BD Index (IRA) (FBIDX)	1			\$ 250,000								\$ 250,000	
25	Fidelity US Gov't Res (IRA) (FGRXX)	1			\$ 250,000								\$ 250,000	
26	Fidelity US Gov't Res (IRA) (FGRXX)	1			\$ 250,000								\$ 250,000	
27	Ingersoll-RND (IRA) (IR)			\$ 100,000									\$ 100,000	
28	Northwestern Mutual Life Insurance	\$ 15,000											\$ 15,000	
29	Northwestern Mutual Life Insurance	\$ 15,000											\$ 15,000	
30	Profunds Ultra Latin America (IRA) (UBPIX)	\$ 15,000											\$ 15,000	
31	Proshares Ultra Financial (IRA) (UYG)			\$ 50,000									\$ 50,000	
32	Proshares Ultra Short (IRA) (DXD)			\$ 50,000									\$ 50,000	
33	Rental Property (2008 \$2,211,554.00)								\$ 2,211,554				\$ 2,211,554	
34	Smith Barney Retirement Account				\$ 250,000								\$ 250,000	
35	United Health Bonds (IRA) (UNH)		\$ 50,000										\$ 50,000	

e.g., Fidelity bought \$74 million Facebook Class B shares on Jun. 1, 2011 after S.E.C. exemption (Source: S-1)



Funds that do not qualify under the "safe harbor" mutual fund exemption from disclosure rule include:

- (1) most IRAs;
- (2) funds that issue regular reports where the judge knows or should know the stocks in his portfolio;
- (3) funds with notorious activity (like T.RowePrice and Fidelity pre-IPO Facebook investing);
- (4) undisclosed purchases of "dark" instruments which conceal activity subject to transparency laws;
- (5) law firm 401(k) retirement accounts;
- (6) funds where stocks are held in the judge's (or spouse) name — "even one share"; and
- (7) funds where there is an appearance of impropriety.

Guide to Judiciary Policy, Ethics & Judicial Conduct, Vol. 2B, Ch. 2, esp. see Section 106.
<http://www.uscourts.gov/uscourts/RulesAndPolicies/conduct/Vol02B-Ch02.pdf>

Note: Charles Schwab may also be a Facebook "dark pools" participant (given the investing patterns emerging from these funds,) but those Moore funds have not been counted in this analysis. This would add 12 funds to these holdings.

Kimberly A. Moore, Federal Circuit, Leader v. Facebook, Financial Disclosure, 2011

No. of Fund Entries: 16
Value/Income: ≤ \$2.9 million

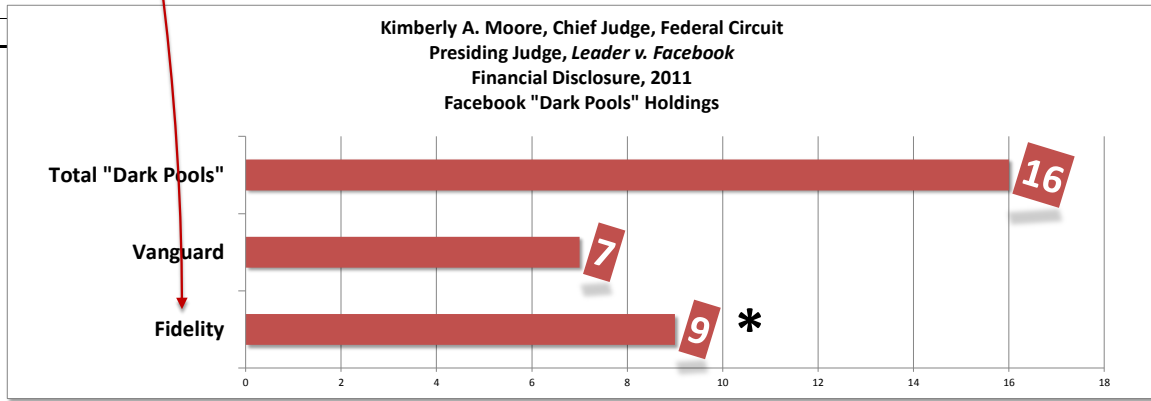
e.g., Fidelity bought \$74 million Facebook Class B shares on Jun. 1, 2011 after S.E.C. exemption (Source: S-1)

Alpha No.	Income and Value	J Facebook "Dark Pools" Fund J - \$0-15,000	K K - \$15,000-50,000	L L - \$50,000-100,000	M M - \$100,000-250,000	N N - \$250,000-500,000	O O - \$500,000-1,000,000	P1 P1 - \$1,000,000-5,000,000	P2 P2 - \$5,000,000-25,000,000	P3 P3 - \$25,000,000-50,000,000	P4 P4 - \$50,000,000+
36	Vanguard GNMA (IRA) (VFIIX)	1		\$ 100,000							\$ 100,000
37	Vanguard High Yield (IRA) (VVEHX)	1		\$ 100,000							\$ 100,000
38	Vanguard Tot Bd Mkt Inst (IRA) (VBTIX)	1				\$ 500,000					\$ 500,000
39	Vanguard Tot Bd Mkt Inst (IRA) (VBTIX)	1				\$ 500,000					\$ 500,000
40	Vanguard Tot Bd Mkt Inst (IRA) (VBTIX)	1			\$ 250,000						\$ 250,000
41	Vanguard Tot Bd Mkt Inst (IRA) (VBTIX)	1			\$ 250,000						\$ 250,000
42	Vanguard Tot Bd Mkt Inst (IRA) (VBTIX)	1	\$ 15,000								\$ 15,000
43	XTO Energy Inc. (IRA) (XTO)		\$ 50,000								\$ 50,000
Subtotal 16		\$ 240,000	\$ 350,000	\$ 500,000	\$ 2,250,000	\$ 1,500,000	\$ 2,000,000	\$ 2,211,554			\$9,051,554
Cumulative		\$ 240,000	\$ 590,000	\$ 1,090,000	\$ 3,340,000	\$ 4,840,000	\$ 6,840,000	\$ 9,051,554			

Summary of Facebook Club Basket Funds		
No.	Amt. Invested (up to)	
Fidelity	9	\$1,230,000
Vanguard	7	\$1,615,000
Total "Dark Pools"	16	\$2,845,000

*** "Fidelity's Danoff Bets on Facebook"** Bloomberg, Jun. 1, 2011

"Danoff's Fidelity Contrafund invested \$74 million in Facebook Class B common shares . . . Vincent Loporchio, a spokesman for Fidelity, said more than 30 of its funds held Facebook shares as of April 30 . . . Facebook and Zynga last year laid the groundwork for initial public offerings . . ."



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"T. Rowe Price Invests in Facebook" by Mary Pilon, The Wall Street Journal, Apr. 16, 2011
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<http://online.wsj.com/news/articles/SB10001424052748704495004576264730149910442>
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Funds that do not qualify under the "safe harbor" mutual fund exemption from disclosure rule include:

- (1) most IRAs;
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- (3) funds with notoriously public activity (e.g., [T. Rowe Price](#) and [Fidelity](#) pre-IPO Facebook investing);
- (4) undisclosed purchases of "dark" instruments which conceal activity subject to transparency laws;
- (5) law firm 401(k) retirement accounts;
- (6) funds where stocks are held in the judge's (or spouse) name — "even one share"; and
- (7) funds where there is an appearance of impropriety.

Sources:

Guide to Judiciary Policy, Ethics & Judicial Conduct, Vol. 2B, Ch. 2, see esp. Section 106, U.S. Courts, United States Department of Justice

<<http://www.uscourts.gov/uscourts/RulesAndPolicies/conduct/Vol02B-Ch02.pdf>>;

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Bloomberg

Fidelity's Danoff Bets on Facebook, Zynga

By Miles Weiss - Jun 1, 2011

William Danoff, the manager of Fidelity Investment's largest stock fund, established a toehold in the social-networking industry during the first quarter by acquiring shares of [Facebook](#) Inc. and Zynga Inc.

Danoff's Fidelity Contrafund invested \$74 million in Facebook Class B common shares and \$82 million in Zynga convertible preferred stock, according to a quarterly report the fund filed yesterday with the U.S. Securities and Exchange Commission. Danoff, 50, has managed the \$80 billion Fidelity Contrafund since September 1990.

Fidelity and rivals T. Rowe Price Group Inc. and Capital Group Cos. are snapping up stakes in social-networking companies before they go public, after the mutual-fund industry avoided privately traded stocks for years. Boston-based Fidelity and Baltimore's T. Rowe Price may recognize an opportunity as a growing percentage of clients access their fund holdings through Facebook, said [Geoff Bobroff](#), a fund consultant in [East Greenwich, Rhode Island](#).

"We are seeing more of these fund companies embrace and adopt social media as something they are providing to their shareholders," Bobroff said today in an interview. "It's somewhat logical they would think there is value."

[Vincent Loporchio](#), a spokesman for Fidelity, said more than 30 of its funds held Facebook shares as of April 30. No fund had more than 0.15 percent of its assets invested in Facebook, according to Loporchio, who declined to comment further.

T. Rowe, American

T. Rowe Price reported in April that 19 of its mutual funds invested at least \$191 million during the first quarter in Facebook, the [Palo Alto](#), California-based owner of the world's most popular social-networking website. American Funds Growth Fund of America, a \$168 billion stock fund overseen by Los Angeles-based Capital Group, invested \$66.5 million on Feb. 18 in Zynga, the largest maker of games on Facebook, according to an April 29 filing.

[Fidelity Contrafund \(FCNTX\)](#) averaged annual gains of 7 percent over the past 10 years to beat 99

percent of its large-capitalization growth stock peers, according to Chicago-based research firm Morningstar Inc.

Danoff's fund aims to invest in stocks whose value hasn't been fully recognized by the public. At the end of last year, it had about 33 percent of net assets in information technology shares, including a \$5.3 billion stake in [Apple Inc. \(AAPL\)](#) and \$3.8 billion in Google Inc.

The fund acquired 2.97 million Facebook shares during the first quarter for about \$25 each, the same price T. Rowe Price reported paying, according to yesterday's filing. Facebook in January said it had raised \$1.5 billion from investors led by [Goldman Sachs Group Inc. \(GS\)](#), placing a \$50 billion valuation on the closely held business at the time.

Convertible Preferred Shares

Fidelity Contrafund also bought its Zynga convertible preferred stock on Feb. 18, according to yesterday's filing. Zynga held talks in February with T. Rowe Price and Fidelity about selling shares at a price that implied the company's market value was close to \$10 billion, two people familiar with the situation said at the time.

Facebook and Zynga last year laid the groundwork for initial public offerings by imposing fees on employees who sell their shares. Zynga may file for an IPO by the end of June, a person familiar with the plans said last week.

To contact the reporter on this story: Miles Weiss in Washington at mweiss@bloomberg.net

To contact the editor responsible for this story: Christian Baumgaertel at cbaumgaertel@bloomberg.net

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Business

Fidelity Invests \$74 Million in Facebook & \$82 Million in Zynga

[Gregory Gomer](#) Jun 2nd 2011 at 2:31 pm

[Facebook](#), [Zynga](#), [Fidelity](#)

+1

According to the [Boston Globe this morning](#), Fidelity Investments made a few large investments in social media during the first quarter of this year. It is reported that William Danoff, the manager of Fidelity's Contrafund - it's biggest and very popular fund - has invested \$74 million in Facebook Class B common shares and \$82 million in Zynga

convertible preferred stock. Danoff has managed the \$80 billion Fidelity Contrafund since September 1990.

In the [article](#), "Vincent Loporchio, a spokesman for Fidelity, said more than 30 of its funds held Facebook shares as of April 30. No fund had more than 0.15 percent of its assets invested in Facebook, said Loporchio, who declined to comment further."

This is certainly no surprise as large funds have been dying to get their hands on the red hot shares of these social media companies, but it does mark a scary trend.

These secondary markets are not regulated at all by the SEC, and most funds have avoided these privately traded stocks for years. These markets can be extremely volatile and guess what is going to be first to crash, once this said "bubble" we are in either pops or deflates?

I certainly like this move, historically these markets have proven to be extremely valuable leading up to the company's IPO's but again can be very risky. The fund also has a \$5.3 billion stake in Apple Inc. and \$3.8 billion in Google Inc.

Having that said, being a Fidelity alum I have money in the Contrafund and dig the investment.

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THE WALL STREET JOURNAL.

TECHNOLOGY

T. Rowe Price Invests in Facebook

By MARY PILON

Updated April 16, 2011 12:01 a.m. ET

Mutual-fund company T. Rowe Price Group Inc. has invested in Facebook Inc., according to recently released filings, underscoring traditional investment vehicles' growing interest in hot technology companies.

T. Rowe invested a total of \$190.5 million in the social-networking giant, paying \$25 a share for stock it distributed across nearly 20 funds, according to the filings. It isn't immediately clear what value that puts on Facebook.

The Baltimore-based mutual-fund company also disclosed an investment of \$71.8 million in Zynga Inc. and a total stake of about \$35.4 million in Angie's List.

T. Rowe has been more aggressive than most of its mutual-fund peers in building exposure to young technology companies. The investments carry extra risk, because the shares aren't yet publicly traded and can be illiquid. Meanwhile, a rush of interest in the companies has pumped up the companies' valuations, even as they disclose little or no financial data.



T. Rowe Price has invested millions in Facebook, underscoring traditional investment vehicles' growing interest in hot technology companies. Mary Pilon joins digits to discuss.

The investments, however, are a drop in the bucket for T. Rowe, which is trying to manage that risk by keeping the investments to a small percentage of each fund's holdings. None of the funds has even a full percent of its holdings tied up in Facebook, for example. T. Rowe had \$482 billion in assets under management as of the end of 2010.

Investors have been scrambling for a stake in Facebook, which is just seven years old and doesn't publicly report its financial results. In January, Facebook was valued at \$50 billion in a deal that raised \$1.5 billion from investors such as [Goldman Sachs](#) Group Inc. and Russian investment firm

Digital Sky Technologies, as well as some of Goldman's non-U.S. clients. T. Rowe has long taken aim at new companies. Its New Horizons Fund, which doesn't currently have a stake in Facebook but has invested in companies like Twitter Inc. and Angie's List, is the third-oldest fund at the firm. Born in 1960, the fund is known for making longer-term investments in companies at their early stages, including early investments in Starbucks Corp. and Wal-Mart Stores Inc. Other T. Rowe funds were early investors in Google Inc. The fund has had a return of 34.67% in the 2010 calendar year, according to Morningstar Inc.



THE WALL STREET JOURNAL

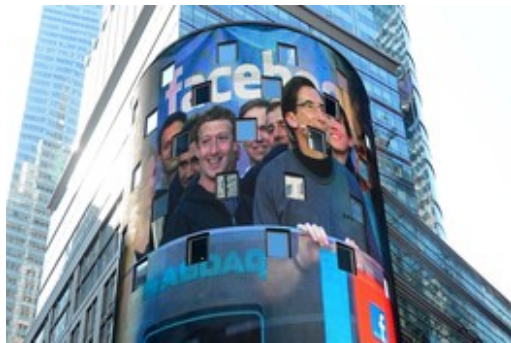
WSJ.com

August 24, 2012, 2:18 PM ET

Who Else Has a Big Bet on Facebook

By Telis Demos

We [reported this morning about the concentration](#) of Facebook stock in the portfolio of one group of investors, several mutual funds operated by Morgan Stanley Asset Management. But that is not where the concentration of Facebook stock ends.



AFP/Getty Images

According to fresh data from Ipreo, which has tallied up the public filings by all investors, a relatively large chunk of Facebook stock just three months after its \$16 billion IPO in May is held by the company's 10 largest institutional investors (that excludes insiders, like CEO Mark Zuckerberg, and the early VC investors, like Accel Partners).

The top 10 "accounts," in banker-speak, represent about 50% of Facebook's institutional ownership, according to Ipreo, the capital markets data firm. That tops the 42% concentration for the top 10 institutions for all second quarter tech IPOs three months after they went public. Across more comparable \$1 billion-plus IPOs since 2010, the concentration is even lighter: The top 10 institutional accounts held 32% of those companies' shares.

This data, keep in mind, does not tell us who bought the IPO. That's a closely guarded secret held by the lead underwriters. These figures are based on public disclosures as of June 30. They are at best a proxy for how the IPO was actually distributed.

So who are the biggest betters — by total number of shares, not necessarily by weighting within the fund — on Facebook? Morgan Stanley Asset Management is only the fifth largest holder by that measure, according to Ipreo. Above them are Goldman Sachs Asset Management, Baillie Gifford & Company, Fidelity Investments, and T. Rowe Price Group Inc. Rounding out the top 10 are BlackRock Inc., Sands Capital Management LLC, Jennison Associates LLC, The Vanguard Group Inc. and Capital Research Global Advisors Inc.

Some of those investors were big pre-IPO holders. Goldman Sachs famously marketed a fund with pre-IPO Facebook stock to international investors, which accounts for a big chunk of its holdings. T. Rowe Price and Fidelity also bought in before the IPO. The point here is that they all may still be sitting on Facebook stock gains, depending on when exactly they got into the stock.

Others, however, appear to have gotten in primarily via the IPO, or after it began trading. That includes Baillie Gifford, an Edinburgh-based fund management giant that manages assets of £76.0 billion (\$120 billion). They are a sub-advisor to some large fund management families, like Vanguard, but also manage money on behalf of giant pension funds such as the California Public Employees' Retirement System (CALPERS), the New York City Police Pension Fund and the Korea National Pension Service, according to their website. The firm did not return requests for an interview.

Some of the big investors are also there just because they have to be. BlackRock and Vanguard operate many index funds that may have bought Facebook stock solely because it likely will be a member someday of indexes such as the S&P 500 and Nasdaq 100, and is already in indexes such as the Russell 1000.

What speaks loudly are the absences of firms that are typically very big holders of recently IPO'd companies. Citadel Advisors, which bought 17 other second-quarter IPOs according to Ipreo, owned just 167,164 Facebook shares at the end of June. Wellington Management Company LLP and Lord Abbett & Company LLC, which bought 11 second quarter IPOs, both held fewer than 1m shares. For context, Baillie Gifford reported holding 19 million shares.

RANK	NAME	TOTAL AUM	FB SHARES AS OF JUNE 30
1	Goldman Sachs Asset Management, L.P. (U.S.)	82,329.1	36,634,486.0
2	Baillie Gifford & Company	60,809.1	19,380,440.0
3	Fidelity Management & Research Company	544,656.5	18,774,915.0
4	T. Rowe Price Associates, Inc.	338,744.6	18,663,997.0
5	Morgan Stanley Investment Management, Inc. (U.S.)	54,113.2	16,362,788.0
6	BlackRock Fund Advisors	768,143.8	11,690,656.0
7	Sands Capital Management, LLC	22,157.4	11,649,292.0
8	Jennison Associates, LLC	80,316.4	9,691,825.0
9	The Vanguard Group, Inc.	908,526.5	9,582,480.0
10	Capital Research Global Investors (U.S.)	366,059.2	8,273,200.0

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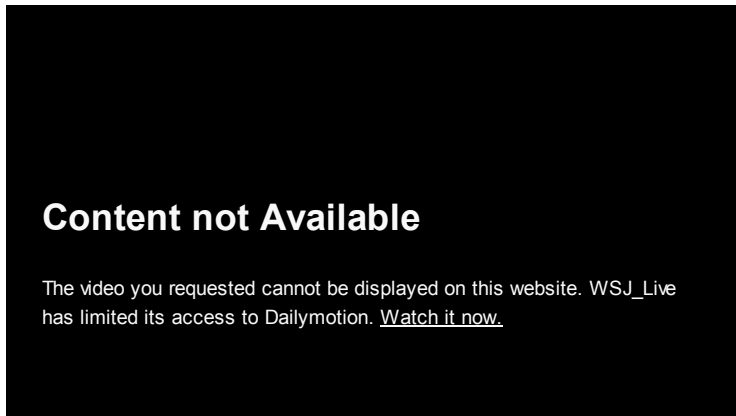
Source: [The Wall Street Journal Online](#)

MARKETS

Morgan Stanley Funds in Big Facebook Bet

By Aaron Lucchetti and Telis Demos
Updated Aug. 24, 2012 11:57 a.m. ET

U.S. mutual funds run by [Morgan Stanley](#), [MS -0.12%](#) the lead underwriter in Facebook Inc. FB \$16 billion initial public offering, have disproportionately high investments in the social-media company, leaving fund shareholders exposed to the stock's big drop since its May 18 IPO.



New data show that eight of the top nine U.S. mutual funds with Facebook shares as a percentage of total assets are run by Morgan Stanley's asset-management arm, according to fund tracker Morningstar Inc.

Morgan Stanley had a crucial role in lining up orders for Facebook as the social-media company prepared to go public. It helped advise Facebook executives to increase the size and price of the IPO, despite warnings the company was making about its profit outlook. The New York securities firm, which declined to comment, took in \$200 million in underwriting fees and trading profits,

[Morgan Stanley Bets Big on Facebook](#) by [WSJ Live](#)

according to regulatory filings and people involved in the deal.

The Morgan Stanley funds that have Facebook shares got many of them before the IPO at prices well below the \$38 offering price.

That means that fund shareholders may still have paper gains on their Facebook purchases, depending on when the fund bought their original stake. It also means the funds have been unable to sell any of their pre-IPO holdings.

The company's mutual funds have made large bets on other big-name technology companies in recent years, including bets on [Apple Inc.](#), AAPL +1.48% [Amazon.com Inc.](#) AMZN -1.06% and [LinkedIn Corp.](#) LNKD +0.14% whose values have all surged this year.

The Funds That Own Facebook

Hundreds of mutual funds have stakes in the social media company. See a list and sort by percentage of fund assets devoted to Facebook, and by absolute and relative performance.

Click here for an Excel file containing all four sections of the table below: [GoogleDocs](#) | [XLS file](#)

Q August 24, 2012

The Funds That Own Facebook

Hundreds of mutual funds have stakes in the social media company. Click column headers to sort by percentage of fund assets devoted to Facebook and by absolute relative performance.

<< first < prev 1 2 (#) 3 (#) 4 (#) next > (#) last >> (#)

Fund Name (yui-dt0-href-col 0)	Ticker (yui-dt0-href-col 1)	Total Facebook Weight (yui-dt0-href-col 2)	Total Investment as of portfolio date (yui-dt0-href-col 3)	July 2012 Return (yui-dt0-href-col 4)	July % rank against similar funds (yui-dt0-href-col 5)	Year-to-date Return (yui-dt0-href-col 6)	Year-to-date % rank against like funds (yui-dt0-href-col 7)	One-year return (yui-dt0-href-col 8)	One-year % rank against like funds (yui-dt0-href-col 9)
Morgan Stanley Inst Focus Grow th I	MSAGX	7.77%	\$28,777,414	-2.98%	98%	9.64%	90%	8.33%	99%
Morgan Stanley Focus Grow th B	AMOBX	7.72%	\$1,586,239,713	-3.08%	98%	8.63%	94%	7.06%	99%
Morgan Stanley Inst Opportunity H	MEGHX	7.39%	\$244,919,024	-3.91%	99%	6.71%	98%	10.10%	98%
Morgan Stanley Inst Advantage H	MAPHX	6.71%	\$12,159,351	-1.57%	96%	11.96%	71%	21.88%	77%
Morgan Stanley Institutional Grow th I	MSEQX	6.63%	\$847,917,689	-2.33%	97%	11.34%	78%	12.88%	97%
Transamerica Capital Grow th A	IALAX	6.58%	\$746,167,025	-2.39%	98%	10.35%	85%	11.62%	97%
Morgan Stanley Multi Cap Grow th B	CPOBX	6.42%	\$313,515,817	-2.33%	97%	7.93%	96%	8.32%	99%
Morgan Stanley Inst Global Opportunity I	MGGIX	6.42%	\$15,221,935	-3.96%	98%	4.98%	93%	3.77%	93%
Morgan Stanley Inst Gbl Advantage I	MIGIX	5.19%	\$2,513,921	-0.36%	86%	13.94%	10%	19.13%	9%
Turner Concentrated Gr Investor	TTOPX	5.00%	\$35,255,772	-4.20%	99%	9.28%	92%	14.60%	96%
Morgan Stanley Inst Gbl Discovery I	MLDIX	4.79%	\$5,032,255	-1.53%	93%	11.60%	29%	15.92%	31%
Goldman Sachs Technology Tollkeeper A	GITAX	2.85%	\$358,167,660	-2.66%	92%	17.63%	26%	28.63%	29%
Turner Global Opportunities Instl	TGLBX	2.32%	\$1,420,185	-1.11%	91%	9.89%	52%	16.77%	23%
Chesapeake Core Grow th	CHCGX	2.23%	\$31,550,392	0.20%	66%	16.83%	12%	28.85%	19%
Chesapeake Grow th Instl	CHESX	2.15%	\$10,660,814	-1.39%	70%	15.84%	2%	23.82%	46%
Saratoga Large Capitalization Grow th I	SLCGX	1.73%	\$20,539,302	0.63%	46%	12.43%	65%	26.38%	40%
Lord Abbett Grow th Leaders A	LGLAX	1.67%	\$23,284,142	-0.78%	90%	10.58%	84%	22.02%	76%
Tocqueville Opportunity	TOPPX	1.61%	\$68,606,152	-2.15%	77%	12.18%	25%	25.75%	45%
Goldman Sachs Concentrated Grow th A	GCGAX	1.60%	\$176,037,973	1.77%	7%	17.33%	9%	28.74%	20%
American Independence Large Cap Grow th I	A FLX	1.59%	\$5,723,812	-3.24%	99%	1.67%	99%	10.15%	98%
Eagle Capital Appreciation A	HRCPX	1.58%	\$312,936,069	1.75%	8%	17.64%	7%	27.76%	26%
Loomis Sayles Grow th Y	LSGRX	1.58%	\$137,102,956	1.09%	27%	13.02%	59%	26.08%	42%
Sands Capital Global Grow th Inst	SCMGX	1.55%	\$26,411,222	-0.16%	84%	12.51%	18%	18.99%	10%
Firsthand Technology Opportunities	TEFQX	1.52%	\$83,809,180	2.91%	1%	17.78%	24%	15.43%	93%
Touchstone Sands Capital Select Grow th Z	PTSGX	1.51%	\$2,650,677,414	0.34%	61%	20.80%	3%	34.98%	2%
Touchstone Sands Capital Inst Gr	CISGX	1.50%	\$1,879,329,652	0.36%	60%	21.45%	2%	35.72%	2%
Turner Large Grow th Institutional	TTMEX	1.36%	\$254,252,990	-0.57%	86%	11.79%	73%	21.25%	80%
Columbia Global Extended Alpha A	RTAAX	1.36%	\$18,990,332	1.43%	34%	8.50%	73%	13.66%	59%
Invesco Leisure Investor	FLISX	1.25%	\$362,284,050	-2.50%	83%	18.34%	12%	29.20%	79%
Invesco Technology Sector B	FOBX	1.19%	\$103,441,217	-1.45%	81%	12.59%	67%	28.04%	34%
AllianceBern Global Thematic Gr A	ALTFX	1.17%	\$830,246,855	-3.98%	99%	5.56%	91%	-0.55%	95%
Invesco Technologov	FTCHX	1.17%	\$709,896,602	-1.29%	71%	12.27%	69%	25.97%	44%

Investor	Ticker	Assets	Facebook	Facebook	Facebook	Facebook	Facebook	Facebook	Facebook
Artisan Global Opportunities Inv	ARTRX	1.15%	\$238,682,629	2.30%	12%	22.11%	1%	26.59%	1%
Baron Global Advantage Institutional	BGAIX	1.11%	\$2,313,424	-1.64%	94%	N/A	N/A	N/A	N/A
FL Large-Cap Growth P	N/A	1.08%	\$125,638,896	-0.21%	80%	16.11%	19%	27.24%	31%
Invesco Van Kampen American Franchise A	VAFAX	1.04%	\$5,607,536,462	-0.25%	81%	12.63%	62%	19.20%	89%
Invesco Constellation A	CSTGX	1.04%	\$2,462,252,859	-0.22%	80%	11.61%	75%	17.55%	93%
Invesco Van Kampen Mid Cap Gr A	VGRAX	1.04%	\$1,891,989,133	-1.72%	78%	8.66%	75%	19.77%	74%
Invesco Dynamics Inv	FIDYX	1.02%	\$821,481,822	-1.76%	80%	9.18%	70%	21.21%	68%
T. Rowe Price Global Stock	PRGSX	1.00%	\$513,696,057	0.12%	78%	9.77%	54%	11.82%	68%
JHancock US Global Leaders Gr A	USGLX	0.99%	\$570,665,220	0.38%	59%	16.58%	14%	33.99%	3%
T. Rowe Price Media & Telecommunications	PRMTX	0.97%	\$2,176,042,473	1.34%	75%	20.59%	12%	28.47%	12%
Hodges Pure Contrarian Retl	HDPCX	0.95%	\$6,538,442	-0.27%	28%	19.01%	2%	20.88%	77%
T. Rowe Price Science & Tech	PRSCX	0.93%	\$2,691,539,999	-3.08%	96%	7.42%	93%	15.44%	92%
VALIC Company I Science & Technology	VCSTX	0.93%	\$239,494,861	-0.85%	51%	13.67%	58%	21.83%	64%
Hartford Growth Opportunities B	HGOBX	0.91%	\$1,878,737,839	0.00%	74%	20.86%	3%	25.27%	48%
Oppenheimer Main Street A	MSIGX	0.90%	\$5,199,383,488	2.20%	7%	14.49%	16%	30.19%	6%
Hartford Growth Opportunities HLS IA	HAGOX	0.89%	\$1,068,479,670	0.14%	69%	21.83%	2%	26.91%	35%
MassMutual Premier	MSSAX	0.87%	\$159,288,656	2.21%	7%	14.29%	18%	29.78%	7%

Still, the Morgan Stanley funds' large stakes raise questions about whether the firm's role as lead underwriter influenced decisions.

A large investment bank that simultaneously buys and sells shares in any company "is in this conflicted position," said Frank Partnoy, a law professor at the University of San Diego who worked for Morgan Stanley in the 1990s. "This time it didn't work out."

The funds span the \$1.6 billion Focus Growth fund to the \$2.5 million Institutional Global Advantage fund.

Morgan Stanley's funds don't appear to have violated Securities and Exchange Commission rules limiting investments in offerings underwritten by an affiliate. SEC rules allow bank-affiliated mutual funds to participate in offerings in which the bank's investment bankers are advising the company, as long as the fund managers don't buy more than 25% of the deal and they buy the shares from a different bank.

The concentration of Morgan Stanley's funds stands out when compared with funds operated by other large institutional holders of Facebook stock.

Morgan Stanley Focus Growth Portfolio had 5.7% of its assets in Facebook shares as of July 31, according to Morgan Stanley's website, while Morgan Stanley Institutional Opportunity Portfolio had 5.5% and Morgan Stanley Institutional Growth Portfolio had 4.8%. Others among the eight Morgan Stanley mutual funds range between 3.6% and 4.6%. Those proportions ranged between 5% and 7.8% on June 30, according to the most recent Morningstar data that included other fund families.

"It's surprising that so many Morgan Stanley affiliated funds out of the thousands of mutual funds show up as having

extremely big weights," said Jay Ritter, a professor of finance at the University Florida.

Morgan Stanley isn't the largest institutional holder of Facebook.

Larger holders by dollar value include Fidelity Investments, [T. Rowe Price Group](#) Inc. TROW -0.79% and Goldman Sachs Asset Management, a unit of underwriter [Goldman Sachs Group](#) Inc. GS -0.24% Goldman also owned Facebook shares before its IPO

Goldman's most concentrated mutual fund position in Facebook was the Technology Tollkeeper fund, with Facebook making up 2.85% of its portfolio as of the end of June.

No mutual funds operated by Fidelity or T. Rowe Price, two other large institutional holders, publicly reported holding more than 1% of their portfolios in Facebook through June.

Many of the Morgan Stanley funds are sold to institutions only, and require a \$5 million minimum investment.

Morgan Stanley Multicap Growth Fund—one fund open to retail investors, including Morgan Stanley Smith Barney brokers—had a stake in Facebook as early as November 2010, when Facebook shares were valued at about \$13. They closed Thursday at \$19.44, down 49% since the IPO.

In June, a commentary on Morgan Stanley's fund website noted that Facebook and other technology stocks were "the leading detractor in the portfolio this quarter," attributing the decline in Facebook shares "to post-IPO volatility."

Under SEC rules, mutual fund managers also are bound by fiduciary duties to look out for their investors' interests over their own.

Read More

- [Deal Journal: Who Else Has a Big Bet on Facebook?](#)
- [Nasdaq's Facebook Plan Under Fire](#)

There's no sign that fund managers at Morgan Stanley bought Facebook shares because of the firm's underwriting relationship with Facebook, or to help curry favor with Facebook executives who chose Morgan Stanley for a key underwriting assignment in the spring IPO.

Mr. Ritter cited "psychological factors" as a possible explanation for the large investments, driven by the fact that many of the funds owned a big chunk of Facebook shares before the company sold shares to the public.

"There's a tendency to fall in love with what you've got rather than stepping back," said Mr. Ritter. Many Morgan Stanley funds added to their pre-public stakes during the month of the IPO—a sign, he said, that "they were drinking the Kool-Aid and became true believers."

Morgan Stanley has streamlined its mutual fund business under Gregory Fleming, who runs both the firm's asset management and wealth management units. Morgan Stanley's asset management at the end of June managed \$311 billion and produced \$456 million in revenues.

Morgan Stanley funds with the strongest liking for Facebook are overseen by Dennis Lynch, the firm's head of growth investing. A Morgan Stanley spokesman declined to comment on behalf of Mr. Lynch.

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Source: [The Wall Street Journal Online](#)

Recent trades on markets that allow investors to buy and sell shares in private companies have put a market value of around \$75 billion on the company.

The Facebook investment complements other tech holdings at the firm, including a 2009 stake in Twitter and an investment in Groupon Inc. made late last year. In 2007, T. Rowe made an initial investment in Ning and in 2010 invested in YouKu.com.

Among the T. Rowe funds now invested in Facebook are the Science & Technology Fund, New America Growth Fund, Media & Telecommunications Fund, as well as broader funds including the Balanced Fund, Global Stock Fund and the Blue Chip Growth Fund. T. Rowe's funds now have a total investment of \$86.8 million in Groupon, \$66.6 million in Twitter and \$114.7 million in YouKu.com, according to the filings.

T. Rowe declined to comment on how the Facebook shares were purchased. A Facebook spokesman declined to comment.

Geoffrey Fowler contributed to this article.

Corrections & Amplifications

An earlier version of this online article incorrectly said T. Rowe Price invested \$55.4 million in Facebook and \$22 million in Angie's List. The firm invested \$190.5 million and \$35.4 million, respectively, in the two companies.

Write to Mary Pilon at mary.pilon@wsj.com

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Mutual Funds and Taxes

Distributions from mutual funds occur for several different reasons and are subject to differing tax rates. Many mutual funds bundle most of their payouts into single, net distributions at the end of each year.

Whenever a mutual fund company passes earnings and other payouts to shareholders, it's known as a distribution. The major distribution for most funds comes at the end of each year, when net amounts are calculated—capital gains and other earnings minus the expenses of running the funds.

It's up to you to report mutual fund transactions on your tax return, as well as pay the appropriate taxes on each type of fund income.

Distributions and your taxes

If you hold shares in a taxable account, you are required to pay taxes on mutual fund distributions, whether the distributions are paid out in cash or reinvested in additional shares. The funds report distributions to shareholders on IRS Form 1099-DIV after the end of each calendar year.

For any time during the year you bought or sold shares in a mutual fund, you must report the transaction on your tax return and pay tax on any gains and dividends. Additionally, as an owner of the shares in the fund, you must report and potentially pay taxes on transactions conducted by the fund, that is, whenever the fund sells securities.

If you move between mutual funds at the same company, it may not feel like you received your money back and then reinvested it; however, the transactions are treated like any other sales and purchases, and so you must report them and pay taxes on any gains.

For federal tax purposes, ordinary income is generally taxed at higher rates than qualified dividends and long-term capital gains. The chart below illustrates how each type of mutual fund income is taxed.

Mutual funds in retirement and college savings accounts

Certain accounts, such as individual retirement and college savings accounts, are tax-advantaged. If you have mutual funds in these types of accounts, you pay taxes only when earnings or pre-tax contributions are withdrawn. This information will usually be reported on Form 1099-R.

Type of distribution	Definition	Federal income tax treatment
Long-term capital gains	Net gains from the sale of shares held for more than one year; may include some distributions received from investments held by the fund	Subject to the capital gains rates, usually lower than the ordinary income tax rates
Short-term capital gains	Net gains from the sale of shares held for one year or less	May be treated as ordinary dividends, thus taxable at ordinary income tax rates
Qualified dividends	Dividends from common stock of domestic corporations and qualifying foreign corporations	Normally taxed as long-term capital gains (subject to certain holding period and hedging restrictions)
Ordinary or non-qualified dividends	Investment income earned by the fund from interest and non-qualified dividends minus expenses; often used as a blanket term that includes all taxable income except long-term capital gains.	Taxable at ordinary income tax rates
Tax-exempt interest	Some or all interest on certain bonds, usually state or local municipal bonds, designated as tax-exempt	Not taxable for federal tax purposes; may be subject to state and/or local taxes, depending on your resident state and the type of bonds purchased
Taxable interest	Interest on fixed-income securities	Taxable at ordinary income tax rates
Federal interest	Interest on federal debt instruments	Taxable at ordinary federal income tax rates, but exempt from state income tax
Required distributions	Non-investment income required to be distributed by the fund (such as foreign currency gains that are taxed as ordinary income when distributed)	Taxed as ordinary income
Return of capital	A portion of your invested principal returned to you	Not taxable

When there is no distribution

If a mutual fund does not have any capital gains, dividends, or other payouts, no distribution may occur. There may also be a non-taxable distribution. Shareholders will not be required to pay taxes if the fund

“My funds are doing great—I must owe a lot in taxes.”

Fidelity Contrafund 12-31-2012

FCNTX

Fidelity Contrafund K 12-31-2012

FCNKX

FCNTX and/or FCNKX held by **Leader v. Facebook** judges &

Obama administration officials:

1. **John G. Roberts, Jr.**, Supreme Court
2. **Kimberly A. Moore**, Federal Circuit
3. **Evan J. Wallach**, Federal Circuit
4. **Howard K. Koh**, Health & Human Services
5. **Eric H. Holder**, Attorney General
6. **John J. Sullivan**, Federal Election Commission
7. **Carmel M. Martin**, Education
8. **Ivan K. Fong**, Homeland Security
9. **Alison J. Nathan**, White House
10. **Denis R. McDonough**, White House

Other Fidelity "dark pool" funds held by judges and Obama cabinet:

1. **Leonard P. Stark**, Dist. Ct. Del.
2. **Stephen G. Breyer**, Sup. Ct.
3. **Clarence Thomas**, Sup. Ct.
4. **Rebecca M. Blank**, Com. Sec., USPTO
5. **Cameron F. Kerry**, Com. GC, USPTO
6. **Timothy Geitner**, Treas. Sec.
7. **Steven Chu**, Energ. Sec.
8. **David S. Kris**, Just.
9. **Donald M. Remy**, Army

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested (via Fid. Central Fund) in Facebook pre-IPO dark pools.

Summary of Facebook conflicts of interests.

Code of Conduct for United States Judges:

Yellow Highlight = Notorious Facebook collaborator

"Avoid even the appearance of impropriety."

No.	Conflict	Notorious Facebook collaborators in whom Fidelity Contrafund also holds shares and other rights	Shares	Value (000s)
1	Leader* patent theft	Accenture PLC Class A ^a	12,015,464	\$799,028
2	Leader patent theft	athenahealth, Inc. (a) ^b	1,371,392	100,729
3	Leader patent theft	Boston Scientific Corp. (a) ^c	956,300	5,480
4	FB Dark Pools	Charles Schwab ^d	997,500	14,324
5	Accel Partners	Dropbox, Inc. Series A (h) ^e	1,260,898	11,410
6	Accel Partners	Dropbox, Inc. (h) ^e	5,464,028	49,445
7	Microsoft	Expedia, Inc. (Microsoft) ^f	644,487	39,604
8	Patent Infringer	Facebook, Inc. Class A ^g	24,588,325	654,787
9	FB Dark Pools	Fidelity Cash Central Fund, 0.18% (b) ^h	1,072,093,617	1,072,094
10	FB Dark Pools	Fidelity National Information Services, Inc. ^h	4,527,299	157,595
11	FB Dark Pools	Fidelity Securities Lending Cash Central Fund, 0.18% (b)(c) ^h	218,692,235	218,692
12	FB Dark Pools	Goldman Sachs Group, Inc. ⁱ	347,800	44,365
13	Leader patent theft	IBM Corp. ^j	915,236	175,313
14	FB Dark Pools	JPMorgan Chase & Co. ^k	4,560,232	200,513
15	Leader patent theft	LinkedIn Corp. (a) ^l	2,244,889	257,758
16	FB Dark Pools	Morgan Stanley ^m	2,406,700	46,016
17	FB Dark Pools	State Street Corp. ⁿ	2,594,400	121,963
18	FB Dark Pools	T. Rowe Price Group, Inc. ^o	275,000	17,911
19	Leader patent theft	Tesla Motors, Inc. (a) ^p	1,968,741	66,681
20	Accel Partners	Wal-Mart Stores, Inc. ^q	13,839,600	944,276
21	FB Dark Pools	Workday, Inc. ^r	1,037,800	56,560
22	FB Dark Pools	Workday, Inc. (h) ^r	1,223,783	60,027
		TOTAL		\$5,103,105

* Leader Technologies, Inc., Columbus, Ohio, U.S. Patent No. 7,139,761.

Fidelity Contrafund 12-31-2012

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Fidelity Contrafund K 12-31-2012

FCNKX

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Common Stocks - 98.7%

	Shares	Value (000s)
CONSUMER DISCRETIONARY - 20.0%		
Automobiles - 0.2%		
Hyundai Motor Co.	397,072	\$ 82,388
Tesla Motors, Inc. (a)	1,968,741	66,681
		<u>149,069</u>
Internet & Catalog Retail - 2.8%		
Amazon.com, Inc. (a)	5,901,237	1,482,037
Expedia, Inc.	644,487	39,604
Liberty Media Corp.:		
Interactive Series A (a)	2,547,100	50,127
CVS Caremark Corp.	10,048,000	485,821
Fresh Market, Inc. (a)	1,452,437	69,848
Wal-Mart Stores, Inc.	13,839,600	944,276
Whole Foods Market, Inc.	661,350	<u>60,401</u>
Health Care Equipment & Supplies - 1.0%		
Baxter International, Inc.	2,948,000	196,514
Boston Scientific Corp. (a)	956,300	5,480
CareFusion Corp. (a)	621,900	17,774
FINANCIALS - continued		
Capital Markets - continued		
Charles Schwab Corp.	997,500	\$ 14,324
Goldman Sachs Group, Inc.	347,800	44,365
Morgan Stanley	2,406,700	46,016
State Street Corp.	2,594,400	121,963
T. Rowe Price Group, Inc.	275,000	17,911
		<u>261,849</u>
Diversified Financial Services - 0.5%		
Citigroup, Inc.	4,962,702	196,324
JPMorgan Chase & Co.	4,560,232	200,513
Kotak Mahindra Bank Ltd.	1,183,309	<u>14,141</u>
		<u>410,978</u>
Health Care Technology - 0.7%		
athenahealth, Inc. (a)	1,371,392	100,729
Cerner Corp. (a)	6,251,149	<u>485,339</u>

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Electronic Equipment & Components - 0.7%

Amphenol Corp. Class A (e) 9,418,529 609,379

Internet Software & Services - 8.3%

Akamai Technologies, Inc. (a)	876,731	35,867
Constant Contact, Inc. (a)(d)	1,038,840	14,762
Cornerstone OnDemand, Inc. (a)	1,906,002	56,284
Dropbox, Inc. (h)	5,464,028	49,445
eBay, Inc. (a)	16,805,428	857,413
Equinix, Inc. (a)	690,600	142,402
ExactTarget, Inc.	1,732,500	34,650
Facebook, Inc. Class A	24,588,325	654,787
Google, Inc. Class A (a)	6,291,877	4,463,269
LinkedIn Corp. (a)	2,244,889	257,758
MercadoLibre, Inc. (d)	479,359	37,663
Rackspace Hosting, Inc. (a)	916,400	68,061
Web.com Group, Inc. (a)	193,103	2,858
Yahoo!, Inc. (a)	17,717,200	<u>352,572</u>
		<u>7,027,791</u>

IT Services - 5.7%

Accenture PLC Class A	12,015,464	799,028
Alliance Data Systems Corp. (a)(e)	2,731,011	395,341
Cognizant Technology Solutions Corp. Class A (a)	479,600	35,514
Fidelity National Information Services, Inc.	4,527,299	157,595
Fiserv, Inc. (a)	3,073,955	242,935
FleetCor Technologies, Inc. (a)	812,251	43,577
Gartner, Inc. Class A (a)	362,200	16,668
IBM Corp.	915,236	175,313
MasterCard, Inc. Class A	2,603,058	1,278,830
Paychex, Inc.	253,100	7,882
Syntel, Inc.	28,841	1,546
Vantiv, Inc.	132,971	2,715
Visa, Inc. Class A	10,661,179	<u>1,616,022</u>

4,772,966

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Software - 3.0%

Splunk, Inc.	1,301,088	37,758
Symantec Corp. (a)	8,309,100	156,294
Trion World Network, Inc. warrants 8/10/17 (a)(h)	124,282	0*
Ultimate Software Group, Inc. (a)	614,846	58,048
VMware, Inc. Class A (a)	1,141,600	107,470
Workday, Inc.	1,037,800	56,560
Workday, Inc. (h)	1,223,783	60,027

INFORMATION TECHNOLOGY - 0.0%

Internet Software & Services - 0.0%

Dropbox, Inc. Series A (h)	1,260,898	11,410
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Other Affiliated Issuers

An affiliated company is a company in which the Fund has ownership of at least 5% of the voting securities. Fiscal year to date transactions with companies which are or were affiliates are as follows:

Affiliate

(Amounts in thousands)	Value, beginning of period	Purchases	Sales Proceeds	Dividend Income	Value, end of period
Alliance Data Systems Corp.	\$ 156,000	\$ 152,954	\$ -	\$ -	\$ 395,341
Allot Communications Ltd.	-	53,271	-	-	37,894
Amphenol Corp.					
Class A	506,556	70,663	159,917	4,031	609,379
athenahealth, Inc.	45,749	131,579	81,322	-	-
Avion Gold Corp.	59,448	-	3,525	-	-
B2Gold Corp.	83,805	15,738	-	-	112,214
B2Gold Corp. (144A)	17,807	-	-	-	20,937

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Relationship to Facebook (Conflict of Interest):

No.	Entity/Person	Description of the relationship to Facebook principals
a.	Accenture	<p>Appointed to replace CGI Federal as contractor responsible for HealthCare.gov. This appointment appears to be out of one Facebook cartel pocket (Michelle Obama (CGI Federal), Todd Y. Park, Robert Kocher, Ann H. Lamont) and into another cartel participant. The site continues to make intimate use of Facebook and Leader Technologies' social networking invention, including the false claims that the technology is "open source."</p> <p>"Accenture to Take Over Fixing HealthCare.gov Website" by Stephanie Armour, <i>The Wall Street Journal</i>, Jan. 12, 2014 http://online.wsj.com/news/articles/SB10001424052702303819704579316944287311118.</p>
b.	athenahealth Inc.	<p>Founded by Todd Y. Park, Barack Obama's current U.S. Chief Technology Officer, former chief technology officer at U.S. Health & Human Services, chief architect of HealthCare.gov. athenahealth [sic] makes claims that social networking technology is "open source" without justification.</p> <p>Robert Kocher MD, Pres. Obamacare architect and member of the National Economic Council led by Lawrence "Larry" Summers is a director of U.S. CTO Todd Y. Park's Castlight Health. Park's brother David Y. Park is chief operating officer of athenahealth. Ann H. Lamont, Meritech Management, a large Facebook investor, is also a Castlight Health director.</p> <p>Obama's Chief Tech Officer Todd Y. Park Mired in Conflicts of Interest - Park misled the House Oversight Committee about his knowledge and role in HealthCare.gov" by <i>Americans For Innovation</i>, Nov. 15, 2013 http://americans4innovation.blogspot.com/2013/11/obamas-chief-tech-</p>

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		officer-todd-y-park.html >.
c.	Boston Scientific	<p>Site of a Leader Technologies beta testing site in the fall of 2003 for its invention, now called "social networking," where companies owned by Accel Partners LLP elicited trade secrets information just a month before Mark Zuckerberg hacked into the Harvard House sites on Oct. 28, 2003. Several months later, Facebook was on the market, supported by Facebook's largest shareholder and director, Accel Partners, James W. Breyer, Managing Partner, along with Facebook director Reid Hoffman, also CEO of LinkedIn, and along with one of Facebook's largest shareholders and director, Peter Thiel.</p> <p><i>See Leader Technologies, Inc. v. Facebook, Inc.</i>, 08-cv-862-JJF-LPS (D.Del. 2008) Trial Transcripts; <i>See also Leader v. Facebook</i> FULL DOCKET Case 08-cv-862 JJF/LPS (D.Del. 2008) <http://www.scribd.com/doc/61256189/Leader-v-Facebook-FULL-DOCKET-Case-08-cv-862-JJF-LPS-D-Del-2008>.</p>
d.	Charles Schwab	<p>Given the number of funds (Fidelity, T.RowePrice, Blackrock, Goldman Sachs, Morgan Stanley, JPMorgan, etc.) in which Schwab invests co-terminously with various members of the Facebook cartel, a reasonable person will assume by inference that Schwab has inside knowledge of which funds would benefit disproportionately by the Facebook IPO et al.</p>
e.	Dropbox, Inc.	<p>This company is funded by Facebook's former director and largest shareholder James W. Breyer, Accel Partners LLP, and Goldman Sachs, among others.</p> <p>http://www.crunchbase.com/company/dropbox</p>
f.	Expedia	<p>Notoriously known to be owned by Microsoft, one of Facebook's largest shareholders. Microsoft is a "Leader" in the "Leaders Circle" at the Federal Circuit Bar Association. Microsoft was formerly represented by Thomas G. Hungar of Gibson Dunn LLP during the <i>Microsoft v. i4i</i> proceedings. Hungar also represented the Federal Circuit judges and the Federal Circuit Bar Association in a 2010 conflicts of interest matter, yet failed to disclose these conflicts of interest when the <i>Leader v. Facebook</i> matter came before the Federal Circuit.</p>

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Microsoft. The Federal Circuit Bar Association, "Leaders Circle" Webpage, Accessed Sep. 30, 2012 <<http://www.scribd.com/doc/108466240/The-Federal-Circuit-Bar-Association-Leaders-Circle-Webpage-Accessed-Sep-30-2012>>.

g. Facebook

On July 27, 2010, found guilty of infringing **Leader Technologies, Inc. U.S. Patent No. 7,139,761** on 11 of 11 claims. The verdict was split with a ruling of on-sale bar. However, Facebook presented no hard evidence and failed to perform any of the well-settled tests, e.g. *Pfaff Electronics* and *Group One v. Hallmark Cards*. The Federal Circuit affirmed the lower court after rejecting the lower court's arguments for on-sale bar and fabricating new evidence on argument for Facebook in the secrecy of chambers, without a hearing. Chief Justice **John G. Roberts** refused to take Leader Technologies' Petition for Writ of Certiorari.

Tellingly, the judges in this case hold this Fidelity Contrafund stock, namely Chief Justice John G. Roberts, Federal Circuit Judge **Kimberly A. Moore** and Federal Circuit Judge **Evan J. Wallach**.

It is notoriously known that during the pendency of the *Leader v. Facebook* trial, President Obama's political organization via **Obama for America** and **Organizing for America** exploited over 47 million "likes" on Facebook, an infringed technology, to raise money and influence voters in the 2008 and 2012 elections.

Petition for Writ of Certiorari *Leader Technologies, Inc., v. Facebook, Inc.* No. 12-617, Nov. 16, 2012 <<http://www.scribd.com/doc/113545399/Petition-for-Writ-of-Certiorari-Leader-Technologies-Inc-v-Facebook-Inc-No-12-617-U-S-Supreme-Court-Nov-16-212-clickable-citations>>.

Organizing for Action: Our Founding Members. ORGANIZING for ACTION. Apr. 12, 2013. Accessed by May 25, 2013 <<http://www.barackobama.com/founding-members>>.

Barack Obama. Facebook Fan Page. Accessed May 25, 2013 <<https://www.facebook.com/barackobama/>>; See also Apr. 16, 2013 capture online <<http://www.scribd.com/doc/144490626/Barack-Obama-Facebook>>.

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[Screen-Capture-Apr-16-2013-11-36am-AM-EDT](#)>.

Barack Obama Contributors, 2012 Federal Election Cycle, Cooley Godward Kronish LLP (Facebook attorneys; adviser to Barack Obama on the judicial appointments of Leonard P. Stark and Evan J. Wallach) donors through 12/31/2012 <<http://www.fec.gov/disclosurep/national.do>>.

h.	Fidelity	<p>Fund manager Robert C. Ketterson is a business and investing partner with Facebook's largest shareholder and former chairman, James W. Breyer, Accel Partners LLC. Breyer and Ketterson served for years as director of the National Venture Capital Association which also included Vanguard's Anne Rockhold (now CFO of Accel Partners LLP) and Ann H. Lamont, director of U.S. CTO Todd Y. Park's companies athenahealth and Castlight Health which are embroiled in current Obamacare and HealthCare.gov scandals. Lamont serves as a director of athenahealth and Castlight Health with Robert Kocher, Obamacare architect and member of the National Economic Council with Lawrence "Larry" Summers, former director of the Council where he oversaw the bailout of Facebook underwriters and large shareholders, Goldman Sachs and Morgan Stanley under the direction of JPMorgan Chase and Jamie Dimon.</p>
i.	Goldman Sachs	<p>Facebook's underwriter and large investor, notoriously known. Goldman also received a \$13+ billion 2008 stimulus grant which was overseen by Facebook collaborator Lawrence "Larry" Summers, who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks. Goldman is also notoriously known to be a Moscow, Russia business partner with Russian oligarchs Alisher Usmanov and Yuri Milner. Yuri Milner is a World Bank protégé of Summers and was teamed with Facebook COO Sheryl K. Sandberg.</p> <p>Briefing for Representative Jim Jordan (OH) - HOUSE OVERSIGHT COMMITTEE - American and Russian Opportunists Undermining U.S. Sovereignty and Corrupting U.S. Financial and Judicial Systems, Oct. 19, 2012 <http://www.scribd.com/doc/110575673/Briefing-for-Representative-Jim-Jordan-OH-HOUSE-OVERSIGHT-COMMITTEE-American-and-Russian></p>

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		Opportunists-Undermining-U-S-Sovereignty-and-Corruptin> .
j.	IBM	<p>IBM sold Facebook 750 patents during the pendency of <i>Leader v. Facebook</i>. The former Director of the U.S. Patent Office, David J. Kappos, systematically failed to disclose his bias toward Facebook’s and IBM’s interests regarding all matters related to Facebook’s intellectual property claims; neither has USPTO staff. Additionally, Facebook’s patent counsel in these IBM transactions is Fenwick & West LLP who has substantial conflicts of interest since the firm formerly represented Leader Technologies, Inc. in 2002-2003—the company whose social networking technology is being infringed by Facebook.</p> <p>Prior to leaving his post as Director of the Patent Office, David J. Kappos ordered an unprecedented third reexamination of <i>Leader Technologies’</i> U.S. Patent No. 7,139,761 using arguments identical to those that Facebook lost on at trial and in two previous reexaminations. Magically, the Examiner accepted ALL of Facebook’s arguments the fourth time around and is attempting to invalidate the entire patent, even claims that were not asserted at trial.</p> <p>In addition, former IBMer David J. Kappos established a Patent Office Facebook page for over 10,000 employees during the pendency of the <i>Leader v. Facebook</i> case.</p> <p>Petition for Writ of Certiorari <i>Leader Technologies, Inc., v. Facebook, Inc.</i> No. 12-617, Nov. 16, 2012 <http://www.scribd.com/doc/113545399/Petition-for-Writ-of-Certiorari-Leader-Technologies-Inc-v-Facebook-Inc-No-12-617-U-S-Supreme-Court-Nov-16-212-clickable-citations>; See also PATENT OFFICE REMOVES CRITICAL LEADER V. FACEBOOK DISCLOSURE ITEMS by Americans For Innovation, Aug. 15, 2013 <http://americans4innovation.blogspot.com/2013/08/uspto-conduct-parallels-foia.html>.</p> <p>“Patent Office Removes Critical <i>Leader v. Facebook</i> Disclosure Items” by <i>Americans For Innovation</i>, Aug. 15, 2013 <http://americans4innovation.blogspot.com/2013/08/uspto-conduct-parallels-foia.html>; See also Kathryn W. Siehndel, FOIA Deputy Counsel, U.S. Patent</p>

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5. **Cameron F. Kerry**, Com. GC, USPTO
6. **Timothy Geitner**, Treas. Sec.
7. **Steven Chu**, Energ. Sec.
8. **David S. Kris**, Just.
9. **Donald M. Remy**, Army

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested (via Fid. Central Fund) in Facebook pre-IPO dark pools.

		<p>Office FOIA Response re. <i>Leader v. Facebook</i>, F-13-00218, Aug. 7, 2013 <http://www.scribd.com/doc/160572991/Patent-Office-FOIA-Response-re-Leader-v-Facebook-F-13-00218-Aug-7-2013>; also available at <https://docs.google.com/file/d/0B2SfG2nEsMfqSWQ5SLJkbERjNOU/edit?usp=sharing> and <http://www.leader.com/docs/Patent-Office-FOIA-Response-re-Leader-v-Facebook-F-13-00218-Aug-7-2013.pdf>.</p> <p>U.S. PATENT OFFICE PRESS RELEASE ANNOUNCING ITS FACEBOOK PAGE, MAY 20, 2010: "US Patent Office Page on Facebook." USPTO Press Release, May 20, 2010 <http://www.scribd.com/doc/161914552/US-Patent-Office-Page-on-Facebook-USPTO-Press-Release-May-20-2010>; See also <https://docs.google.com/file/d/0B2SfG2nEsMfqa3A1YjR1OC1sM3c/edit?usp=sharing>.</p>
k.	JPMorgan Chase	<p>Notoriously known to be directing the investing activities of Morgan Stanley, T. Rowe Price, Goldman Sachs regarding all things Facebook via Chairman Jamie Dimon. Castlight Health and athenahealth Director Ann H. Lamont is married to Edward "Ned" Lamont, grandson of the founder of JPMorgan, Thomas W. Lamont. Castlight Health and athenahealth are embroiled in the Obamacare and HealthCare.gov scandal. U.S. CTO Todd Y. Park is founder of both athenahealth and Castlight Health. Park's brother, David Y. Park, is the current chief operating officer at athenahealth. Todd Y. Park has advised the Obama administration that they are clear to make the claim that HealthCare.gov technology is open source, despite the evident <i>Leader v. Facebook</i> frauds, among others. The Lamont's hold substantial amounts of Goldman Sachs, JPMorgan and Morgan Stanley holdings which benefited remarkably from Facebook transactions.</p> <p>Ann Huntress Lamont (a.k.a. Ann H. Lamont) and Edward M. ("Ned") investments in Facebook Club Funds, invested by 2006, prepared Nov. 26, 2013 <http://www.scribd.com/doc/187452662/Ann-Huntress-Lamont-a-k-a-Ann-H-Lamont-and-Edward-M-Ned-investments-in-Facebook-Club-Funds-invested-by-2006-prepared-Nov-26-2013>; See also <https://docs.google.com/file/d/0B2SfG2nEsMfqckwwdGg2Yy10NWs/edit>.</p>

Fidelity Contrafund 12-31-2012

FCNTX

Fidelity Contrafund K 12-31-2012

FCNKX

FCNTX and/or FCNKX held by **Leader v. Facebook** judges &

Obama administration officials:

1. **John G. Roberts, Jr.**, Supreme Court
2. **Kimberly A. Moore**, Federal Circuit
3. **Evan J. Wallach**, Federal Circuit
4. **Howard K. Koh**, Health & Human Services
5. **Eric H. Holder**, Attorney General
6. **John J. Sullivan**, Federal Election Commission
7. **Carmel M. Martin**, Education
8. **Ivan K. Fong**, Homeland Security
9. **Alison J. Nathan**, White House
10. **Denis R. McDonough**, White House

Other Fidelity “dark pool” funds held by judges and Obama cabinet:

1. **Leonard P. Stark**, Dist. Ct. Del.
2. **Stephen G. Breyer**, Sup. Ct.
3. **Clarence Thomas**, Sup. Ct.
4. **Rebecca M. Blank**, Com. Sec., USPTO
5. **Cameron F. Kerry**, Com. GC, USPTO
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I.	LinkedIn Corp.	Facebook director Reid Hoffman is the founder and CEO of LinkedIn. It now notoriously known that Hoffman provided business coaching and early financing to Mark Zuckerberg while he was still a student at Harvard in 2003. LinkedIn software mimics Facebook’s functionality, perhaps this is no coincidence.
m.	Morgan Stanley	Facebook’s underwriter and large investor, notoriously known. Morgan Stanley also received a \$13+ billion 2008 stimulus grant which was overseen by Facebook collaborator Lawrence “Larry” Summers , who had just recently received hundreds of thousands in speaking stipends from Morgan Stanley compatriots at Goldman Sachs earlier that year, among other perks. Summers counts Facebook COO Sheryl K. Sandberg as his protégé and former employee at the World Bank and U.S. Treasury .
n.	State Street Corporation	Fellow recipient with Goldman Sachs and Morgan Stanley of approximately \$33 billion (collectively) in 2008 stimulus funds overseen by Facebook collaborator Lawrence “Larry” Summers , who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks.
o.	T. Rowe Price	Purchased a 5.2% stake in Facebook’s private, pre-IPO “dark pools” stock, as notoriously disclosed in the Facebook S-1 Registration. Also heavily invested in U.S. CTO Todd Y. Park’s companies athenahealth and Castlight Health , two companies closely associated with Obamacare and the current administration.
p.	Tesla Motors, Inc.	Michael G. Rhodes, Cooley Godward LLP, Facebook’s litigator in <i>Leader Technologies, Inc. v. Facebook, Inc.</i> , cv-08-862-JJF-LPS (D. Del. 2008), was appointed Chief Counsel to Tesla Motors , five months before the trial. Tesla Motors received \$465 million in energy stimulus funds at the recommendation of McBee Strategic LLC and Michael Sheehy , former National Security Adviser for House Speaker Nancy Pelosi . Zusha Elinson. “Michael Rhodes (Cooley Godward LLP, Tesla Motors).” <i>The Recorder</i> , www.callaw.com, Feb. 22, 2010 < http://www.cooley.com/files/Rhodes.The%20Recorder.2.22.10.pdf >. See also< <a 479="" 516="" 947="" 963"="" data-label="Page-Footer" href="http://www.scribd.com/doc/144432049/Zusha-Elinson-%E2%80%9CMichael-</td> </tr> </table> </div> <div data-bbox="> <p>-11-</p>

Fidelity Contrafund 12-31-2012

FCNTX

Fidelity Contrafund K 12-31-2012

FCNKX

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		<p><u>Rhodes-THE-RECORDER-Feb-22-2010-Accessed-May-29-2013</u>>.</p> <p>Petition for Writ of Certiorari <i>Leader Technologies, Inc., v. Facebook, Inc.</i> No. 12-617, Nov. 16, 2012 <http://www.scribd.com/doc/113545399/Petition-for-Writ-of-Certiorari-Leader-Technologies-Inc-v-Facebook-Inc-No-12-617-U-S-Supreme-Court-Nov-16-212-clickable-citations></p>
q.	Wal-Mart	<p>Facebook's largest investor and director, James W. Breyer, Accel Partners LLP, was also a director at Wal-Mart and was responsible for a deep embedding of Facebook technology in the Wal-Mart site. Breyer resigned as a long time director of Wal-Mart after the Mexican bribery scandal was uncovered.</p> <p>“Vast Mexico Bribery Case Hushed Up by Wal-Mart After Top-Level Struggle - Confronted with evidence of widespread corruption in Mexico, top Wal-Mart executives focused more on damage control than on rooting out wrongdoing, an examination by The New York Times found” by David Barstow, <i>The New York Times</i>, Apr. 21, 2012 <http://www.nytimes.com/2012/04/22/business/at-wal-mart-in-mexico-a-bribe-inquiry-silenced.html?pagewanted=all& r=0>.</p>
r.	Workday Inc.	<p>This company is financed by principal Facebook investors and underwriters, including T. Rowe Price and Morgan Stanley.</p> <p>http://www.crunchbase.com/company/workday</p>

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FCNTX

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FCNKX

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Evidence Resources:

1. **Conflicts Analysis:** The most comprehensive archive of judicially recognizable source material and conflicts of interest analysis is accessible from the *Leader v. Facebook* investigative news reporting Google search tool at <http://americans4innovation.blogspot.com>.
2. **FCNTX Fidelity® Contrafund® Annual Report, December 31, 2012**, Posted March 01, 2013, Fidelity, accessed Jan. 17, 2014 <<https://fundresearch.fidelity.com/mutual-funds/view-all/316071109#composition>> (Select “Prospectus & Reports,” then select “Annual Report” tab).
3. **FCNKX Fidelity Contrafund Class K Annual Report, December 31, 2012**, Posted March 01, 2013 <<https://www.actionsxchangerepository.fidelity.com/ShowDocument/ComplianceEnvelope.htm?fax=-18%2342%23-61%23-110%23114%2378%23117%2320%23-1%2396%2339%23-62%23-21%2386%23-100%2337%2316%2335%23-68%2391%23-66%2354%23103%23-16%2369%23-30%2358%23-20%2376%23-84%23-11%23-87%230%23-50%23-20%23-92%23-98%23-116%23-28%2358%23-87%23104%2321%23-22%2311%23113%2329%2375%23-58%23126%2369%2339%23-94%2329%2339%23-65%2339%23-45%23-127%23-71%23101%23-100%23-56%23-33%2371%23107%23-82%23-3%23-86%23-27%23-57%23-125%2349%23-121%23-72%23-85%23-43%23-13%23-120%2388%23-41%23-122%2320%2389%2392%239%2377%23101%2359%236%23106%2330%2335%2358%23-105%23-42%2357%2363%2334%233%23102%2339%23-57%23107%23>>; See also <<http://quote.morningstar.com/fund-filing/Annual-Report/2012/12/31/t.aspx?t=FCNKX&ft=N-CSR&d=5e15bb3e4140606d3b05b7aa21813c71>>
4. **FCNTX Fidelity Contrafund, FCNKX Fidelity Contrafund Class K, U.S. Securities & Exchange Commission, EDGAR**, accessed Jan. 17, 2014 <<http://www.sec.gov/Archives/edgar/data/24238/000079542212000136/0000795422-12-000136-index.htm> CIK [0000024238](http://www.sec.gov/Archives/edgar/data/24238/000079542212000136/0000795422-12-000136-index.htm) | Series [S000006037](http://www.sec.gov/Archives/edgar/data/24238/000079542212000136/0000795422-12-000136-index.htm) Fidelity Contrafund | Class/Contract [C000016601](http://www.sec.gov/Archives/edgar/data/24238/000079542212000136/0000795422-12-000136-index.htm) FCNTX | Class K Class/Contract [C000064233](http://www.sec.gov/Archives/edgar/data/24238/000079542212000136/0000795422-12-000136-index.htm) FCNKX.

Fidelity Spartan US Bond Index Investor

2-28-2013

FBIDX

FBIDX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit Court of Appeals (FBIDX)

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

Yellow Highlight = Notorious Facebook collaborator

Summary of Facebook conflicts of interests.
Code of Conduct for United States Judges:

“Avoid even the appearance of impropriety.”

No.	Conflict	Notorious Facebook collaborators in whom T. Rowe Price also holds shares and other rights.	Principle Amts.(000s)	Values
1	FB Dark Pools	Blackrock, Inc. (i)	See attached	\$ 10,354,000
2	FB Dark Pools	Goldman Sachs (GS) Mortgage Securities Trust (ii)	See attached	279,000
3	FB Dark Pools	Goldman Sachs Group, Inc. (ii)	See attached	12,407,000
4	Leader* patent theft	IBM Corp. (iii)	See attached	30,150,000
5	FB Dark Pools	JPMorgan Chase & Co. (iv)	See attached	4,082,00
6	FB Dark Pools	JPMorgan Chase Bank (iv)	See attached	8,377,000
7	FB Dark Pools	JPMorgan Chase Comm. Mort. Sec. Trust (vii)	See attached	32,776,000
8	Leader* patent theft	Microsoft Corp. (v)	See attached	8,313,000
9	FB Dark Pools	Morgan Stanley (vi)	See attached	88,998,000
10	FB Dark Pools	Morgan Stanley Capital I Trust (vi)	See attached	11,656,000
11	FB Dark Pools	State Street Corp. (vii)	See attached	3,562,000
12	FB Dark Pools	UBS AG Stamford Branch (viii)	See attached	5,427,000
13	Leader* patent theft	Wal-Mart Stores, Inc. (ix)	See attached	37,114
		TOTAL	N/A	\$ 212,336,114

* Leader Technologies, Inc. U.S. Patent No. 7,139,761 for social networking.

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Nonconvertible Bonds - continued			
	Principal Amount (000s)		Value (000s)
CONSUMER STAPLES - continued			
Food & Staples Retailing - continued			
Safeway, Inc. 5% 8/15/19	\$ 1,000		\$ 1,092
Wal-Mart Stores, Inc.:			
2.8% 4/15/16	6,700		7,133
3.2% 5/15/14	10,000		10,342
5.625% 4/1/40	2,000		2,513
5.625% 4/15/41	4,600		5,813
6.5% 8/15/37	8,275		11,313
Walgreen Co.:			

FINANCIALS - 8.8%			
Capital Markets - 1.2%			
Bear Stearns Companies, Inc. 5 3% 10/30/15		1,159	1,284
BlackRock, Inc.:			
1.375% 6/1/15		3,000	3,052
4.25% 5/24/21		6,500	7,302
Franklin Resources, Inc. 1.375% 9/15/17		1,900	1,911
Goldman Sachs Group, Inc.:			
2.375% 1/22/18		9,950	10,081
3.3% 5/3/15		2,225	2,326
3.625% 2/7/16	\$ 5,000		\$ 5,317
3.625% 1/22/23	4,000		4,040
5.25% 7/27/21	4,500		5,123
5.625% 1/15/17	7,000		7,872
5.75% 1/24/22	4,300		5,046
5.95% 1/18/18	3,000		3,509
6% 6/15/20	1,650		1,969
6.15% 4/1/18	7,451		8,805
6.75% 10/1/37	14,860		16,853
JPMorgan Chase & Co. 1.875% 3/20/15	4,000		4,082
Lazard Group LLC:			

Morgan Stanley:			
2.875% 1/24/14		5,000	5,093
2.875% 7/28/14		1,000	1,025
4.2% 11/20/14		7,250	7,598

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4.75% 4/1/14		4,287	4,435
5.45% 1/9/17		236	264
5.5% 7/28/21		3,400	3,903
5.625% 9/23/19		2,000	2,314
5.75% 1/25/21		5,000	5,798
5.95% 12/28/17		5,745	6,653
6% 5/13/14		3,242	3,425
6% 4/28/15		5,666	6,185
6.375% 7/24/42		2,900	3,544
6.625% 4/1/18		5,055	6,016
7.25% 4/1/32		1,000	1,288
7.3% 5/13/19		3,000	3,722
Royal Bank of Scotland PLC 6.125% 1/11/21		3,700	4,479
State Street Corp. 2.875% 3/7/16		3,340	3,562
The Bank of New York Mellon Corp.:			

FINANCIALS - continued

Capital Markets - continued

UBS AG Stamford Branch:			
2.25% 1/28/14		\$ 756	\$ 767
3.875% 1/15/15		1,163	1,237
5.75% 4/25/18		830	987
5.875% 12/20/17		2,034	2,436
			200,475

International Bank for Reconstruction & Development:			
0.875% 4/17/17		8,050	8,118
1% 9/15/16		9,000	9,132
2.375% 5/26/15		12,300	12,852
JPMorgan Chase Bank 6% 10/1/17		7,075	8,377
KeyBank NA 5.8% 7/1/14		1,109	1,183
KeyCorp. 3.75% 8/13/15		7,000	7,482

JPMorgan Chase & Co.:			
1.8% 1/25/18		16,250	16,342
2% 8/15/17		7,000	7,147
3.15% 7/5/16		1,500	1,588
3.25% 9/23/22		4,000	4,038
3.4% 6/24/15		10,710	11,317
3.7% 1/20/15		5,000	5,266
4.35% 8/15/21		2,000	2,206
4.5% 1/24/22		13,000	14,474
4.625% 5/10/21		1,500	1,695

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5.5% 10/15/40		5,700	6,782
5.6% 7/15/41		1,500	1,810
6.3% 4/23/19		10,000	12,251
KfW:			
0 5% 4/19/16		8,000	7,994
1% 1/12/15		38,700	39,137
2 125% 1/17/23		12,000	11,896
4% 1/27/20		3,000	3,476

IT Services - 0.2%			
IBM Corp.:			
1.25% 2/6/17		11,250	11,363
1.95% 7/22/16		\$ 1,500	\$ 1,558
7.625% 10/15/18		13,000	17,229
			30,150
Office Electronics - 0.1%			
Xerox Corp.:			
4.25% 2/15/15		1,000	1,052
4.5% 5/15/21		4,000	4,229
5.625% 12/15/19		1,000	1,134
8.25% 5/15/14		3,902	4,228
			10,643
Software - 0.1%			
Microsoft Corp.:			
2.5% 2/8/16		2,000	2,104
2.95% 6/1/14		2,000	2,066
4.2% 6/1/19		2,000	2,301
5.3% 2/8/41		1,500	1,842
Oracle Corp.:			

GS Mortgage Securities Trust sequential payer Series 2007-GG10 Class A2, 5.778% 8/10/45		275	279
JPMorgan Chase Commercial Mortgage Securities Trust:			
sequential payer:			
Series 2006-CB14 Class A3B, 5.4965% 12/12/44 (e)		1,977	2,013
Series 2006-LDP8 Class A4, 5.399% 5/15/45		808	916
Series 2006-LDP9:			
Class A2, 5.134% 5/15/47 (e)		354	371
Class A3, 5.336% 5/15/47		529	597
Series 2007-CB19 Class A4, 5.7259% 2/12/49 (e)		17,057	19,613
Series 2007-LD11 Class A2, 5.7974% 6/15/49 (e)		1,916	1,977
Series 2007-LDPX Class A3, 5.42% 1/15/49		5,440	6,210
Series 2007-CB18 Class A3, 5.447% 6/12/47 (e)		862	887
Series 2007-CB19:			

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Class B, 5.7259% 2/12/49 (e)	108	39
Class C, 5.7259% 2/12/49 (e)	283	78
Class D, 5.7259% 2/12/49 (e)	298	50
Series 2007-LDP10 Class ES, 5.562% 1/15/49 (b)(e)	656	25
LB Commercial Conduit Mortgage Trust sequential payer Series 2007-C3 Class A4, 5.8939% 7/15/44 (e)	3,327	3,871
LB-UBS Commercial Mortgage Trust:		

Morgan Stanley Capital I Trust:		
floaters Series 2007-XLFA Class C, 0.362% 10/15/20 (b)(e)	728	687
sequential payer:		
Series 2005-IQ9 Class A3, 4.54% 7/15/56	1,092	1,099
Series 2007-HQ11 Class A31, 5.439% 2/12/44 (e)	642	665
Series 2007-IQ13 Class A4, 5.364% 3/15/44	5,000	5,710
Series 2006-IQ11:		
Class A3, 5.657% 10/15/42 (e)	218	220
Class A4, 5.693% 10/15/42 (e)	380	423
Series 2006-T23 Class A3, 5.815% 8/12/41 (e)	647	671
Series 2007-IQ14 Class A4, 5.692% 4/15/49 (e)	1,902	2,181
Salomon Brothers Mortgage Securities VII, Inc. Series 2006-C2 Class H, 6.308% 7/18/33 (b)	179	65
Wachovia Bank Commercial Mortgage Trust:		
floaters Series 2006-WL7A Class E, 0.4812% 9/15/21 (b)(e)	252	236
sequential payer:		
Series 2003-C7 Class A1, 4.241% 10/15/35 (b)	4	4

Relationship to Facebook (Conflict of Interest):

i.	Blackrock	<p>Now notoriously known to be a Facebook pre-IPO dark pools underwriter who forced Facebook staff to sell their shares in order to create the dark pool marketplace, according to Mark Zuckerberg's former speech writer, Katherine Losse.</p> <p>http://www.scribd.com/doc/114662183/Morally-Bankrupt-American-and-Russian-Adults-and-Their-Hacker-Boy-Kings-Construct-a-Nouveau-Totalitarianism-Full-Of-Dark-Profiles-Group-think</p>
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101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

ii.	Goldman Sachs	<p>Facebook's underwriter and large investor, notoriously known. Goldman also received a \$13+ billion 2008 stimulus grant which was overseen by Facebook collaborator Lawrence "Larry" Summers, who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks. Goldman is also notoriously known to be a Moscow, Russia business partner with Russian oligarchs Alisher Usmanov and Yuri Milner. Yuri Milner is a World Bank protégé of Summers and was teamed with Facebook COO Sheryl K. Sandberg.</p> <p>Briefing for Representative Jim Jordan (OH) - HOUSE OVERSIGHT COMMITTEE - American and Russian Opportunists Undermining U.S. Sovereignty and Corrupting U.S. Financial and Judicial Systems, Oct. 19, 2012 http://www.scribd.com/doc/110575673/Briefing-for-Representative-Jim-Jordan-OH-HOUSE-OVERSIGHT-COMMITTEE-American-and-Russian-Opportunists-Undermining-U-S-Sovereignty-and-Corruptin</p>
iii.	IBM	<p>IBM sold Facebook 750 patents during the pendency of <i>Leader v. Facebook</i>. The former Director of the U.S. Patent Office, David J. Kappos, systematically failed to disclose his bias toward Facebook's and IBM's interests regarding all matters related to Facebook's intellectual property claims; neither has USPTO staff. Additionally, Facebook's patent counsel in these IBM transactions is Fenwick & West LLP who has substantial conflicts of interest since the firm formerly represented Leader Technologies, Inc. in 2002-2003—the company whose social networking technology is being infringed by Facebook.</p> <p>Prior to leaving his post as Director of the Patent Office, David J. Kappos ordered an unprecedented third reexamination of <i>Leader Technologies'</i> U.S. Patent No. 7,139,761 using arguments identical to those that Facebook lost on at trial and in two previous reexaminations. Magically, the Examiner accepted ALL of Facebook's arguments the fourth time around and is attempting to invalidate the entire patent, even claims that were not asserted at trial.</p> <p>In addition, former IBMer David J. Kappos established a Patent Office Facebook page for over 10,000 employees during the pendency of the <i>Leader v. Facebook</i> case.</p> <p>Petition for Writ of Certiorari <i>Leader Technologies, Inc., v. Facebook, Inc.</i> No. 12-617, Nov. 16, 2012 <http://www.scribd.com/doc/113545399/Petition-for-</p>

Fidelity Spartan US Bond Index Investor FBIDX

2-28-2013

FBIDX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit Court of Appeals (FBIDX)

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

		<p>Writ-of-Certiorari-Leader-Technologies-Inc-v-Facebook-Inc-No-12-617-U-S-Supreme-Court-Nov-16-212-clickable-citations>; See also PATENT OFFICE REMOVES CRITICAL LEADER V. FACEBOOK DISCLOSURE ITEMS by Americans For Innovation, Aug. 15, 2013 <http://americans4innovation.blogspot.com/2013/08/uspto-conduct-parallels-foia.html>.</p> <p>“Patent Office Removes Critical <i>Leader v. Facebook</i> Disclosure Items” by <i>Americans For Innovation</i>, Aug. 15, 2013 <http://americans4innovation.blogspot.com/2013/08/uspto-conduct-parallels-foia.html>; See also Kathryn W. Siehndel, FOIA Deputy Counsel, U.S. Patent Office FOIA Response re. <i>Leader v. Facebook</i>, F-13-00218, Aug. 7, 2013 <http://www.scribd.com/doc/160572991/Patent-Office-FOIA-Response-re-Leader-v-Facebook-F-13-00218-Aug-7-2013>; also available at <https://docs.google.com/file/d/0B2SfG2nEsMfqSWQ5SlJkBERjNOU/edit?usp=sharing> and <http://www.leader.com/docs/Patent-Office-FOIA-Response-re-Leader-v-Facebook-F-13-00218-Aug-7-2013.pdf>.</p> <p>U.S. PATENT OFFICE PRESS RELEASE ANNOUNCING ITS FACEBOOK PAGE, MAY 20, 2010: "US Patent Office Page on Facebook." USPTO Press Release, May 20, 2010 <http://www.scribd.com/doc/161914552/US-Patent-Office-Page-on-Facebook-USPTO-Press-Release-May-20-2010>; See also <https://docs.google.com/file/d/0B2SfG2nEsMfqa3A1YjR1OC1sM3c/edit?usp=sharing>.</p>
iv.	JPMorgan Chase	<p>Notoriously known to be directing the investing activities of Morgan Stanley, T. Rowe Price, Goldman Sachs regarding all things Facebook via Chairman Jamie Dimon. Castlight Health and athenahealth Director Ann H. Lamont is married to Edward "Ned" Lamont, grandson of the founder of JPMorgan, Thomas W. Lamont. Castlight Health and athenahealth are embroiled in the Obamacare and HealthCare.gov scandal. U.S. CTO Todd Y. Park is founder of both athenahealth and Castlight Health. Park's brother, David Y. Park, is the current chief operating officer at athenahealth. Todd Y. Park has advised the Obama administration that they are clear to make the claim that HealthCare.gov technology is open source, despite the evident <i>Leader v. Facebook</i> frauds, among others. The Lamont's hold substantial amounts of Goldman Sachs, JPMorgan and Morgan Stanley holdings which benefited remarkably from Facebook transactions.</p>

Fidelity Spartan US Bond Index Investor FBIDX

2-28-2013

FBIDX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit Court of Appeals (FBIDX)

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

		<p>Ann Huntress Lamont (a.k.a. Ann H. Lamont) and Edward M. ("Ned") investments in Facebook Club Funds, invested by 2006, prepared Nov. 26, 2013 <http://www.scribd.com/doc/187452662/Ann-Huntress-Lamont-a-k-a-Ann-H-Lamont-and-Edward-M-Ned-investments-in-Facebook-Club-Funds-invested-by-2006-prepared-Nov-26-2013>; See also <https://docs.google.com/file/d/0B2SfG2nEsMfqckwwdGg2Yy10NWs/edit>.</p>
<p>v.</p>	<p>Microsoft</p>	<p>Microsoft is one of Facebook's largest shareholders. This fact is notoriously known. In addition, Microsoft is a director in the "Leaders Circle" of the Federal Circuit Bar Association (FCBA), which made an appearance in the <i>Leader v. Facebook</i> appeal. Microsoft's counsel in the Microsoft v. i4i case in 2011 was Facebook's appeals attorney in Leader v. Facebook—Thomas G. Hungar, Gibson Dunn LLP. Chief Justice John G. Roberts, Jr. recused himself from that matter due to his relationship to Hungar and Microsoft. In fact, Thomas G. Hungar, Gibson Dunn LLP, was "counsel of record" for Microsoft. Also representing Microsoft in i4i was Weil Gotshal LLP, who also made an appearance for the FCBA in <i>Leader v. Facebook</i>. Despite Justice Roberts' recusal in Microsoft v. i4i, he failed to recuse himself in this matter where his conflicts were markedly more obvious, including his holdings in such Facebook "dark pool" funds as Fidelity Contrafund K which held stock in Facebook and numerous notoriously known Facebook cartel members, including athenahealth, Microsoft, Goldman Sachs, Dropbox, IBM, JPMorgan, LinkedIn, Morgan Stanley, State Street Corp, Tesla Motors, Baidu (China), and Mail.ru (Russia).</p> <p>Response to Request of Federal Circuit Bar Association's Request for Reissue Re. Leader v. Facebook, Case No. 2011-1366 (Fed. Cir.) by Lakshmi Arunachalam, Ph.D., Sep. 17, 2012 <http://www.scribd.com/doc/106156081/Response-to-Request-of-Federal-Circuit-Bar-Association-s-Request-for-Reissue-Re-Leader-v-Facebook-Case-No-2011-1366-Fed-Cir-by-Lakshmi-Arunach>.</p> <p>Federal Circuit Bar Online Community, Leaders Circle 2013, accessed Dec. 10, 2013 <http://www.scribd.com/doc/190739193/Federal-Circuit-Bar-Online-Community-Leaders-Circle-2013-accessed-Dec-10-2013>.</p> <p><i>Microsoft Corp. v. i4i Ltd. Partnership</i>, 131 S. Ct. 2238 - Supreme Court 2011.</p>

Fidelity Spartan US Bond Index Investor

2-28-2013

FBIDX

FBIDX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit Court of Appeals (FBIDX)

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

vi.	Morgan Stanley	Facebook's underwriter and large investor, notoriously known. Morgan Stanley also received a \$13+ billion 2008 stimulus grant which was overseen by Facebook collaborator Lawrence "Larry" Summers , who had just recently received hundreds of thousands in speaking stipends from Morgan Stanley compatriots at Goldman Sachs earlier that year, among other perks. Summers counts Facebook COO Sheryl K. Sandberg as his protégé and former employee at the World Bank and U.S. Treasury .
vii.	State Street Corporation	Fellow recipient with Goldman Sachs and Morgan Stanley of approximately \$33 billion (collectively) in 2008 stimulus funds overseen by Facebook collaborator Lawrence "Larry" Summers , who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks.
viii.	UBS	A Facebook IPO underwriter along with Goldman Sachs and Morgan Stanley , notoriously known.
ix.	Wal-Mart	Facebook's largest investor and director, James W. Breyer, Accel Partners LLP , was also a director at Wal-Mart and was responsible for a deep embedding of Facebook technology in the Wal-Mart site. Breyer resigned as a long time director of Wal-Mart after the Mexican bribery scandal was uncovered. "Vast Mexico Bribery Case Hushed Up by Wal-Mart After Top-Level Struggle - Confronted with evidence of widespread corruption in Mexico, top Wal-Mart executives focused more on damage control than on rooting out wrongdoing, an examination by The New York Times found" by David Barstow, <i>The New York Times</i> , Apr. 21, 2012 < http://www.nytimes.com/2012/04/22/business/at-wal-mart-in-mexico-a-bribe-inquiry-silenced.html?pagewanted=all&_r=0 >.

Fidelity Spartan US Bond Index Investor FBIDX

2-28-2013

FBIDX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit Court of Appeals (FBIDX)

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

Evidence Resources:

1. **Conflicts Analysis:** The most comprehensive archive of judicially recognizable source material and conflicts of interest analysis is accessible from the *Leader v. Facebook* investigative news reporting Google search tool at <http://americans4innovation.blogspot.com>.
2. **FBIDX Spartan® U.S. Bond Index Fund - Investor Class**, Fidelity, February 28, 2013, accessed Jan. 18, 2014 <<https://fundresearch.fidelity.com/mutual-funds/view-all/316071109#composition>> (Select "Prospectus & Reports," then select "Annual Report" tab).
3. **FBIDX Spartan® U.S. Bond Index Fund - Investor Class**, Fidelity, February 28, 2013, accessed Jan. 18, 2014 <<https://www.actionsxchangerepository.fidelity.com/ShowDocument/ComplianceEnvelope.htm?fax=-18%2342%23-61%23-110%23114%2378%23117%2320%23-1%2396%2339%23-62%23-21%2386%23-100%2337%2316%2335%23-68%2391%23-66%2354%23103%23-16%2369%23-30%2358%23-20%2376%23-84%23-11%23-87%230%23-50%23-20%23-92%23-98%23-116%23-28%2358%23-38%23-43%23-39%23-42%23-96%23-88%2388%23-45%2376%2393%23-8%2327%238%23-21%23-84%23-28%23-74%235%23-89%23-105%23-67%23126%2377%23-126%23100%2345%23-44%23-73%23-15%238%23-21%23-37%23-17%23-14%23-98%23123%23-18%2345%23-59%23-82%2367%2383%23112%2317%2370%23-78%2378%23-50%2336%23-86%23-90%2381%23-21%23-119%23-30%23120%2349%2328%23-98%2333%2351%23-78%23-119%23-16%2350%23-58%2350%23102%2348%23-17%2352%23-99%23>>
4. **FBIDX Spartan® U.S. Bond Index Fund - Investor Class, EDGAR**, February 28, 2013, accessed Jan. 18, 2014 <<http://www.sec.gov/Archives/edgar/data/35315/0000878467-12-000229-index.htm> | CIK [0000035315](#) | Series [S000017676](#) | Spartan U.S. Bond Index Fund | Class/Contract [C000048843](#) | Investor Class | FBIDX

Fidelity Low-Priced Stock 1-31-2013 FLPSX FLPKX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **John G. Roberts**, Chief Justice, Supreme Court
- **Kimberly A. Moore**, Federal Circuit
- **Donald M. Remy**, Army
- **Cameron F. Kerry**, Commerce

101 Obama Cabinet Members & 11 Federal Judges involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

Yellow Highlight = Notorious Facebook collaborator

Summary of Facebook conflicts of interests.
Code of Conduct for United States Judges:

“Avoid even the appearance of impropriety.”

No.	Conflict	Notorious Facebook collaborators in whom T. Rowe Price also holds shares and other rights.	Shares	Value (000s)
1	Leader patent theft	Fidelity Cash Central Fund, 0.16% (b) (a)	2,902,217,213	\$ 2,902,217,000
2	Leader patent theft	Microsoft (b)	33,233,500	912,924,000
3	FB Dark Pools	State Street Corp (c)	460,000	25,599,000
4	Leader patent theft	Xerox Corp (d)	10,000,000	80,100,000
TOTAL				\$3,920,840,000

“...the Fund, as a shareholder in the underlying Fidelity Central Funds, will indirectly bear its pro-rata share of the fees and expenses incurred by the underlying Fidelity Central Funds.”

Money Market Funds - 9.6%		
	Shares	Value (000s)
Fidelity Cash Central Fund, 0.16% (b)	2,902,217,213	\$ 2,902,217
Fidelity Securities Lending Cash Central Fund, 0.15% (b)(c)	636,776,886	636,777
TOTAL MONEY MARKET FUNDS		
(Cost \$3,538,994)		3,538,994

Fidelity

Low-Priced Stock

1-31-2013

FLPSX

FLPKX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **John G. Roberts**, Chief Justice, Supreme Court
- **Kimberly A. Moore**, Federal Circuit
- **Donald M. Remy**, Army
- **Cameron F. Kerry**, Commerce

101 Obama Cabinet Members & **11 Federal Judges** involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

Top Ten Stocks as of January 31, 2013		
	% of fund's net assets	% of fund's net assets 6 months ago
UnitedHealth Group, Inc.	3.5	3.6
Next PLC	2.9	2.6
Seagate Technology	2.8	2.9
Microsoft Corp.	2.5	3.0
Metro, Inc. Class A (sub. vtg.)	1.8	1.8
Coventry Health Care, Inc.	1.7	1.4
Ross Stores, Inc.	1.6	2.0
ENI SpA	1.4	1.3
Oracle Corp.	1.3	1.2
Bed Bath & Beyond, Inc.	1.1	1.2
	<u>20.6</u>	

FINANCIALS - 9.5%		
Capital Markets - 0.2%		
AllianceBernstein Holding LP	510,000	10,384
Federated Investors, Inc. Class B (non-vtg.) (d)	610,000	14,433
GFI Group, Inc.	500,000	1,700
Kyokuto Securities Co. Ltd.	10,000	125
State Street Corp.	460,000	25,599

Office Electronics - 0.2%		
Xerox Corp.	10,000,000	80,100

INFORMATION TECHNOLOGY - continued		
Software - continued		
MICROS Systems, Inc. (a)	25,000	\$ 1,151
Microsoft Corp.	33,233,500	912,924
Net 1 UEPS Technologies, Inc. (a)	725,000	4,154

Fidelity Low-Priced Stock 1-31-2013 FLPSX FLPKX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

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- **Kimberly A. Moore**, Federal Circuit
- **Donald M. Remy**, Army
- **Cameron F. Kerry**, Commerce

101 Obama Cabinet Members & **11 Federal Judges** involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

Relationship to Facebook (Conflict of Interest):

a.	Fidelity	<p>Annual Report, 1-31-2013: "...the Fund, as a shareholder in the underlying Fidelity Central Funds, will indirectly bear its pro-rata share of the fees and expenses incurred by the underlying Fidelity Central Funds."</p> <p>Therefore, this fund benefits from the movement of Facebook stock held by Fidelity Central Funds that purchased pre-IPO Facebook private insider stock and distributed those shares to over 30 Fidelity Funds. When one fund benefits, all benefit, including FLPSX.</p> <p>"Fidelity's Danoff Bets on Facebook, Zynga" by Miles Weiss, <i>Bloomberg</i>, Jun. 1, 2011 <http://www.bloomberg.com/news/2011-06-01/fidelity-s-danoff-bets-on-facebook-zynga.html>.</p>
b.	Microsoft	<p>Microsoft is one of Facebook's largest shareholders. This fact is notoriously known. In addition, Microsoft is a director in the "Leaders Circle" of the Federal Circuit Bar Association (FCBA), which made an appearance in the <i>Leader v. Facebook</i> appeal. Microsoft's counsel in the <i>Microsoft v. i4i</i> case in 2011 was Facebook's appeals attorney in <i>Leader v. Facebook</i>—Thomas G. Hungar, Gibson Dunn LLP. Chief Justice John G. Roberts, Jr. recused himself from that matter due to his relationship to Hungar and Microsoft. In fact, Thomas G. Hungar, Gibson Dunn LLP, was "counsel of record" for Microsoft. Also representing Microsoft in <i>i4i</i> was Weil Gotshal LLP, who also made an appearance for the FCBA in <i>Leader v. Facebook</i>. Despite Justice Roberts' recusal in <i>Microsoft v. i4i</i>, he failed to recuse himself in this matter where his conflicts were markedly more obvious, including his holdings in such Facebook "dark pool" funds as Fidelity Contrafund K which held stock in Facebook and numerous notoriously known Facebook cartel members, including athenahealth, Microsoft, Goldman Sachs, Dropbox, IBM, JPMorgan, LinkedIn, Morgan Stanley, State Street Corp, Tesla Motors, Baidu (China), and Mail.ru (Russia).</p>

Fidelity Low-Priced Stock 1-31-2013 FLPSX FLPKX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **John G. Roberts**, Chief Justice, Supreme Court
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- **Cameron F. Kerry**, Commerce

101 Obama Cabinet Members & **11 Federal Judges** involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

		<p>Response to Request of Federal Circuit Bar Association's Request for Reissue Re. <i>Leader v. Facebook</i>, Case No. 2011-1366 (Fed. Cir.) by Lakshmi Arunachalam, Ph.D., Sep. 17, 2012 <http://www.scribd.com/doc/106156081/Response-to-Request-of-Federal-Circuit-Bar-Association-s-Request-for-Reissue-Re-Leader-v-Facebook-Case-No-2011-1366-Fed-Cir-by-Lakshmi-Arunach>.</p> <p>Federal Circuit Bar Online Community, Leaders Circle 2013, accessed Dec. 10, 2013 <http://www.scribd.com/doc/190739193/Federal-Circuit-Bar-Online-Community-Leaders-Circle-2013-accessed-Dec-10-2013>.</p> <p><i>Microsoft Corp. v. i4i Ltd. Partnership</i>, 131 S. Ct. 2238 - Supreme Court 2011.</p>
c.	State Street Corporation	<p>Fellow recipient with Goldman Sachs and Morgan Stanley of approximately \$33 billion (collectively) in 2008 stimulus funds overseen by Facebook collaborator Lawrence "Larry" Summers, who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks.</p>
d.	Xerox Corp.	<p>Facebook's expert witness, Dr. Saul Greenberg, is closely associated and was formerly employed by Xerox Corp. and asserted a number of Xerox patents as alleged prior art at the <i>Leader v. Facebook</i> trial. Despite losing his arguments at trial, and in two patent reexaminations, Facebook continues to press these Xerox patents. Facebook somehow got Patent Office Director, David J. Kappos, to order an unprecedented third patent reexam of Leader's U.S. Patent No. 7,139,761. The patent examiner, Deandra Hughes has dramatically reversed her longstanding opinions on these Xerox assertions. As troubling, Kappos assigned judge Stephen C. Siu as chief patent judge in this matter, despite the fact that no one disclosed that Judge Siu was formerly employed by Microsoft.</p> <p>David J. Kappos holds substantial Facebook "dark pool" stock acquired within weeks after being appointed director of the Patent Office by President Obama.</p> <p>"Expert witness practiced 'dark arts'" by Origins of Facebook's Technology, Aug. 23, 2011 <http://facebook-technology-origins.blogspot.com/2011/08/lesson-in-expert-witness-dark-arts.html>.</p> <p>Testimony of Dr. Saul Greenberg, Expert Witness, Facebook, <i>Leader v.</i></p>

Fidelity Low-Priced Stock 1-31-2013 FLPSX FLPKX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **John G. Roberts**, Chief Justice, Supreme Court
- **Kimberly A. Moore**, Federal Circuit
- **Donald M. Remy**, Army
- **Cameron F. Kerry**, Commerce

101 Obama Cabinet Members & **11 Federal Judges** involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

		<p>Facebook - Trial Transcript, Fri. Jul. 23, 2010 <http://www.scribd.com/doc/87481961/Leader-v-Facebook-Trial-Transcript-Fri-Jul-23-2010>.</p> <p>US Patent Office FOIA APPEAL, F-13-00218 in Leader v. Facebook, Aug. 21, 2013 <http://www.scribd.com/doc/165490215/US-Patent-Office-FOIA-APPEAL-F-13-00218-in-Leader-v-Facebook-Aug-21-2013>.</p> <p>Kappos, David J. Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT, U.S. Office of Gov't Ethics, May 16, 2009 <http://www.scribd.com/doc/182725282/Kappos-David-J-Executive-Branch-Personnel-PUBLIC-FINANCIAL-DISCLOSURE-REPORT-U-S-Office-of-Gov-t-Ethics-May-16-2009>.</p>
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Evidence Resources:

1. **Conflicts Analysis:** The most comprehensive archive of judicially recognizable source material and conflicts of interest analysis is accessible from the *Leader v. Facebook* investigative news reporting Google search tool at <http://americans4innovation.blogspot.com>.
2. **FLPSX Spartan® U.S. Bond Index Fund - Investor Class**, Fidelity, January 31, 2013, accessed Jan. 18, 2014 <<http://quote.morningstar.com/fund-filing/Semi-Annual-Report/2013/1/31/t.aspx?t=FLPSX&ft=N-CSRS&d=23c864ffdbfd8713c54f3104d203e0ad>>.
3. **FLPSX Spartan® U.S. Bond Index Fund - Investor Class**, Fidelity, January 31, 2013, accessed Jan. 18, 2014
<<https://www.actionsxchangerepository.fidelity.com/ShowDocument/ComplianceEnvelope.htm?fax=-18%2342%23-61%23-110%23114%2378%23117%2320%23-1%2396%2339%23-62%23-21%2386%23-100%2337%2316%2335%23-68%2391%23-66%2354%23103%23-16%2369%23-30%2358%23-20%2376%23-84%23-11%23-87%230%23-50%23-20%23-92%23-98%23-116%23-28%2358%23-38%23-43%23-39%23-42%23-96%23-88%2388%23-45%23-28%23-82%2318%2398%23-55%23-36%23-18%23-102%23-74%2335%23-89%23-105%23-67%23126%2377%23-126%23100%2345%23-44%23-73%23-15%2338%23-21%23-37%23-17%23-14%23-98%23123%23-18%2345%23-59%23-82%2367%2383%23112%2317%2370%23-78%2378%23-50%2336%23-86%23-90%2381%23-21%23-119%23-30%23120%2349%2328%23-98%2333%2351%23-78%23-119%23-16%2350%23-58%2350%23102%2348%23-17%2352%23-99%23>>.

Fidelity Low-Priced Stock 1-31-2013 FLPSX FLPKX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **John G. Roberts**, Chief Justice, Supreme Court
- **Kimberly A. Moore**, Federal Circuit
- **Donald M. Remy**, Army
- **Cameron F. Kerry**, Commerce

101 Obama Cabinet Members & **11 Federal Judges** involved with *Leader v. Facebook* hold one or more Fidelity Funds. 30+ Fidelity Funds invested in Facebook pre-IPO dark pools.

4. **FBIDX Spartan® U.S. Bond Index Fund - Investor Class, EDGAR**, January 31, 2013, accessed Jan. 18, 2014 <<http://www.sec.gov/Archives/edgar/data/81205/0000081205-12-000066-index.htm>> | CIK [0000081205](#) | Series [S000007152](#) | Fidelity Low-Priced Stock Fund | Class/Contract [C000019556](#) | Fidelity Low-Priced Stock Fund FLPSX | Class/Contract [C000064275](#) | Class K FLPKX

Vanguard Total Bond Market Index

12-31-2012

VBTIX
VBMFX

FLPSX, FLPKX and Fidelity funds held by **Leader v. Facebook** judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit
- **Elena Kagan**, Assoc. Justice, Supreme Court
- **Mary L. Schapiro**, S.E.C.
- **Priscilla E. Guthrie**, National Intelligence
- **Ivan K. Fong**, Homeland Security
- **Sean D. Kennedy**, White House
- **Demetrios Marantis**, White House
- **Susan S. Sher**, White House

84 Obama Cabinet Members & 7 Federal Judges involved with *Leader v. Facebook* hold one or more Vanguard Funds invested in Facebook pre-IPO dark pools.

Summary of Facebook conflicts of interests.
Code of Conduct for United States Judges:

“Avoid even the appearance of impropriety.”

No.	Conflict	Notorious Facebook collaborators in whom T. Rowe Price also holds shares and other rights.	Value (000s)
1	Leader* patent theft	Baidu Inc. (China) (a)	\$ 427,000
2	FB Dark Pools	Blackrock Inc. (b)	39,222,000
3	FB Dark Pools	Goldman Sachs Group Inc. (c)	553,046,000
4	FB Dark Pools	Goldman Sachs GS Mortgage Securities (c)	73,784,000
5	Leader* patent theft	IBM (d)	154,724,000
6	FB Dark Pools	JP Morgan Chase Commercial Mortgage Securities Corp. (e)	234,156,000
7	FB Dark Pools	JPMorgan / Bear Stearns Commercial Mortgage Securities (e)	208,017,000
8	FB Dark Pools	JPMorgan / Bear Stearns Cos. LLC (e)	102,164,000
9	FB Dark Pools	JPMorgan Chase & Co. (e)	536,916,000
10	Leader* patent theft	Microsoft Corp. (f)	82,600,000
11	FB Dark Pools	Morgan Stanley (g)	446,073,000
12	FB Dark Pools	Morgan Stanley Capital (g)	353,312,000
13	FB Dark Pools	State Street Corp. (h)	31,155,000
14	FB Dark Pools	UBS AG (i)	113,188,000
15	FB Dark Pools	UBS LB-UBS Commercial Mortgage Trust (i)	227,153,000
16	Leader* patent theft	Wal-Mart Stores Inc. (j)	287,886,000
17	Leader* patent theft	Xerox Corp. (k)	65,372,000
TOTAL			\$ 3,509,195,000

* Leader Technologies, Inc. U.S. Patent No. 7,139,761 for social networking.

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FLPSX, FLPKX and Fidelity funds held by **Leader v.**

Facebook judges & Obama administration officials:

- **Kimberly A. Moore**, Federal Circuit
- **Elena Kagan**, Assoc. Justice, Supreme Court
- **Mary L. Schapiro**, S.E.C.
- **Priscilla E. Guthrie**, National Intelligence
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84 Obama Cabinet Members & **7 Federal Judges** involved with *Leader v. Facebook* hold one or more Vanguard Funds invested in Facebook pre-IPO dark pools.

	Coupon	Maturity Date	Face Amount (\$000)	Market Value (\$000)
Asset-Backed/Commercial Mortgage-Backed Securities (2.4%)				
3 JPMorgan / Bear Stearns Commercial Mortgage Securities	5.663%	6/11/40	10,368	10,595
3 JPMorgan / Bear Stearns Commercial Mortgage Securities	5.613%	6/11/50	3,753	3,820
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2002-TOP8	4.830%	8/15/38	899	899
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2003-TOP10	4.740%	3/13/40	4,695	4,713
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2003-TOP12	4.680%	8/13/39	12,775	13,026
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2004-PWR6	4.825%	11/11/41	495	523
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2004-PWR6	4.868%	11/11/41	2,300	2,420
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2004-TOP14	5.200%	1/12/41	2,830	2,920
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2005-PWR10	5.405%	12/11/40	4,239	4,808
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2005-PWR8	4.750%	6/11/41	4,175	4,295
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2005-TOP18	4.933%	2/13/42	2,500	2,735
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2005-TOP20	5.149%	10/12/42	3,215	3,623
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2006-PWR11	5.452%	3/11/39	24,500	27,949
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2006-PWR12	5.712%	9/11/38	260	299
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				

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2006-PWR12	5.751%	9/11/38	5,500	6,247
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2006-PWR13	5.582%	9/11/41	1,625	1,842
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2006-TOP22	5.573%	4/12/38	4,525	5,000
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2006-TOP22	5.573%	4/12/38	21,037	23,774
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2006-TOP24	5.568%	10/12/41	8,375	9,422
3 JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2007-PWR16	5.715%	6/11/40	6,275	7,066
JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2007-PWR17	5.694%	6/11/50	21,900	26,001
JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2007-PWR17	5.890%	6/11/50	6,853	7,718
JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2007-PWR18	5.700%	6/11/50	10,400	12,552
JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2007-TOP26	5.513%	1/12/45	6,280	6,858
JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
2007-TOP28	5.742%	9/11/42	15,900	18,912
JPMorgan / Bear Stearns Commercial Mortgage Securities Trust				
		SUB TOTAL		\$208,017,000
3 GS Mortgage Securities Corp. II	5.506%	4/10/38	5,514	5,694
3 GS Mortgage Securities Trust 2004-GG2	5.396%	8/10/38	14,850	15,622
3 GS Mortgage Securities Trust 2006-GG6	5.553%	4/10/38	13,650	15,437
3 GS Mortgage Securities Trust 2006-GG6	5.622%	4/10/38	4,750	5,235
3 GS Mortgage Securities Trust 2007-GG10	5.789%	8/10/45	1,105	1,265
3 GS Mortgage Securities Trust 2011-GC5	3.707%	8/10/44	3,220	3,600
3 GS Mortgage Securities Trust 2012-GC6	3.482%	1/10/45	12,500	13,309
3 GS Mortgage Securities Trust 2012-GCJ7	3.377%	5/10/45	7,475	8,039
3 GS Mortgage Securities Trust 2012-GCJ9	2.773%	11/10/45	5,530	5,583

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SUB TOTAL \$73,784,000

3 JP Morgan Chase Commercial Mortgage Securities Corp.	2.829%	10/15/45	6,675	6,820
3 JP Morgan Chase Commercial Mortgage Securities Corp.	2.840%	12/15/47	3,750	3,831
3 JP Morgan Chase Commercial Mortgage Securities Trust 2003-C1	4.985%	1/12/37	1,416	1,421
3 JP Morgan Chase Commercial Mortgage Securities Trust 2003-CIBC6	5.255%	7/12/37	1,276	1,291
3 JP Morgan Chase Commercial Mortgage Securities Trust 2003-CIBC7	4.879%	1/12/38	20,922	21,445
3 JP Morgan Chase Commercial Mortgage Securities Trust 2004-CIBC10	4.654%	1/12/37	2,621	2,629
3 JP Morgan Chase Commercial Mortgage Securities Trust 2004-CIBC10	4.899%	1/12/37	540	571
3 JP Morgan Chase Commercial Mortgage Securities Trust 2004-CIBC8	4.404%	1/12/39	11,465	11,795
3 JP Morgan Chase Commercial Mortgage Securities Trust 2004-CIBC9	5.584%	6/12/41	19,325	20,468
3 JP Morgan Chase Commercial Mortgage Securities Trust 2005-CIBC11	5.197%	8/12/37	301	307
3 JP Morgan Chase Commercial Mortgage Securities Trust 2005-CIBC11	5.363%	8/12/37	2,000	2,131
3 JP Morgan Chase Commercial Mortgage Securities Trust 2005-CIBC13	5.333%	1/12/43	1,750	1,822
3 JP Morgan Chase Commercial Mortgage Securities Trust 2005-LDP2	4.738%	7/15/42	940	1,023
3 JP Morgan Chase Commercial Mortgage Securities Trust 2005-LDP2	4.780%	7/15/42	2,375	2,627
3 JP Morgan Chase Commercial Mortgage Securities Trust 2005-LDP4	4.918%	10/15/42	420	461

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Trust 2005-LDP5	5.200%	12/15/44	275	312
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2005-LDP5	5.242%	12/15/44	4,250	4,722
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2005-LDP5	5.321%	12/15/44	1,375	1,463
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-CIBC14	5.452%	12/12/44	3,300	3,638
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-CIBC16	5.593%	5/12/45	7,121	7,929
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-LDP6	5.475%	4/15/43	3,657	4,164
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-LDP7	5.871%	4/15/45	17,525	20,170
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-LDP7	5.871%	4/15/45	3,300	3,772
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-LDP7	5.871%	4/15/45	3,310	3,211
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-LDP8	5.440%	5/15/45	4,525	5,141
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2006-LDP8	5.447%	5/15/45	8,000	8,297
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2007-CIBC18	5.440%	6/12/47	10,650	12,230
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2007-CIBC20	5.794%	2/12/51	28,300	33,650
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2007-CIBC20	5.880%	2/12/51	3,350	3,872
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2007-LDP11	5.812%	6/15/49	7,970	9,380
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2007-LDP12	5.882%	2/15/51	13,170	15,473
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2012-C6	3.507%	5/15/45	9,250	10,046
3 JP Morgan Chase Commercial Mortgage Securities				
Trust 2012-CIBX	3.483%	6/15/45	7,490	8,044

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SUB TOTAL \$234,156,000

3 LB Commercial Mortgage Trust 2007-C3	5.886%	7/15/44	660	779
3 LB-UBS Commercial Mortgage Trust	5.347%	11/15/38	968	1,111
3 LB-UBS Commercial Mortgage Trust	6.157%	4/15/41	22,025	26,806
3 LB-UBS Commercial Mortgage Trust 2003-C3	4.166%	5/15/32	14,566	14,642
3 LB-UBS Commercial Mortgage Trust 2003-C7	4.931%	9/15/35	21,100	21,383
3 LB-UBS Commercial Mortgage Trust 2003-C8	5.124%	11/15/32	9,550	9,747
3 LB-UBS Commercial Mortgage Trust 2004-C7	4.786%	10/15/29	17,575	18,432
3 LB-UBS Commercial Mortgage Trust 2005-C1	4.742%	2/15/30	9,140	9,746
3 LB-UBS Commercial Mortgage Trust 2005-C2	5.150%	4/15/30	4,395	4,807
3 LB-UBS Commercial Mortgage Trust 2005-C5	5.057%	9/15/40	1,625	1,698
3 LB-UBS Commercial Mortgage Trust 2005-C7	5.197%	11/15/30	17,600	19,729
3 LB-UBS Commercial Mortgage Trust 2006-C1	5.217%	2/15/31	2,535	2,831
3 LB-UBS Commercial Mortgage Trust 2006-C3	5.661%	3/15/39	29,730	34,026
3 LB-UBS Commercial Mortgage Trust 2006-C4	5.865%	6/15/38	6,500	7,554
3 LB-UBS Commercial Mortgage Trust 2006-C6	5.372%	9/15/39	3,000	3,460
3 LB-UBS Commercial Mortgage Trust 2006-C6	5.413%	9/15/39	1,175	1,325
3 LB-UBS Commercial Mortgage Trust 2006-C7	5.378%	11/15/38	3,125	3,413
3 LB-UBS Commercial Mortgage Trust 2007-C1	5.424%	2/15/40	5,650	6,629
3 LB-UBS Commercial Mortgage Trust 2007-C2	5.430%	2/15/40	12,585	14,430
3 LB-UBS Commercial Mortgage Trust 2007-C7	5.866%	9/15/45	17,600	21,131
3 LB-UBS Commercial Mortgage Trust 2008-C1	6.157%	4/15/41	3,020	3,474

SUB TOTAL \$227,153,000

3 Morgan Stanley Bank of America Merrill Lynch Trust	3.176%	8/15/45	3,025	3,199
3 Morgan Stanley Bank of America Merrill Lynch Trust	2.858%	11/15/45	3,000	3,097
3 Morgan Stanley Capital I Trust 2003-IQ6	4.970%	12/15/41	9,585	9,827
3 Morgan Stanley Capital I Trust 2004-HQ3	4.800%	1/13/41	823	847
3 Morgan Stanley Capital I Trust 2004-HQ4	4.970%	4/14/40	5,675	5,921
3 Morgan Stanley Capital I Trust 2004-IQ8	5.110%	6/15/40	14,679	15,369
3 Morgan Stanley Capital I Trust 2004-TOP13	4.660%	9/13/45	3,985	4,080
3 Morgan Stanley Capital I Trust 2004-TOP15	5.030%	6/13/41	1,504	1,522
3 Morgan Stanley Capital I Trust 2004-TOP15	5.270%	6/13/41	4,525	4,711
3 Morgan Stanley Capital I Trust 2005-HQ5	5.168%	1/14/42	3,950	4,264
3 Morgan Stanley Capital I Trust 2005-HQ6	4.989%	8/13/42	26,760	29,784
3 Morgan Stanley Capital I Trust 2005-HQ6	5.073%	8/13/42	3,730	3,863
3 Morgan Stanley Capital I Trust 2005-HQ7	5.208%	11/14/42	14,450	16,045
3 Morgan Stanley Capital I Trust 2005-IQ10	5.230%	9/15/42	23,225	25,558
3 Morgan Stanley Capital I Trust 2005-IQ9	4.770%	7/15/56	3,295	3,405
3 Morgan Stanley Capital I Trust 2005-TOP17	4.780%	12/13/41	11,300	12,146
3 Morgan Stanley Capital I Trust 2005-TOP17	4.840%	12/13/41	1,350	1,402
3 Morgan Stanley Capital I Trust 2005-TOP19	4.985%	6/12/47	3,115	3,293
3 Morgan Stanley Capital I Trust 2006-HQ10	5.328%	11/12/41	6,460	7,452

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3 Morgan Stanley Capital I Trust 2006-HQ10	5.360%	11/12/41	7,400	8,233
3 Morgan Stanley Capital I Trust 2006-HQ8	5.420%	3/12/44	20,466	23,230
3 Morgan Stanley Capital I Trust 2006-HQ8	5.469%	3/12/44	4,875	5,452
3 Morgan Stanley Capital I Trust 2006-HQ9	5.773%	7/12/44	4,596	5,166
3 Morgan Stanley Capital I Trust 2006-HQ9	5.793%	7/12/44	4,100	4,467
3 Morgan Stanley Capital I Trust 2006-IQ11	5.691%	10/15/42	8,175	9,356
3 Morgan Stanley Capital I Trust 2006-IQ11	5.695%	10/15/42	700	797
3 Morgan Stanley Capital I Trust 2006-IQ11	5.695%	10/15/42	4,325	4,641
3 Morgan Stanley Capital I Trust 2006-IQ12	5.332%	12/15/43	11,450	13,185
3 Morgan Stanley Capital I Trust 2006-TOP21	5.090%	10/12/52	149	149
3 Morgan Stanley Capital I Trust 2006-TOP21	5.204%	10/12/52	6,200	6,821
3 Morgan Stanley Capital I Trust 2006-TOP23	5.749%	8/12/41	100	101
3 Morgan Stanley Capital I Trust 2006-TOP23	5.818%	8/12/41	2,175	2,531
3 Morgan Stanley Capital I Trust 2007-IQ14	5.654%	4/15/49	1,665	1,793
3 Morgan Stanley Capital I Trust 2007-IQ14	5.692%	4/15/49	14,295	16,689
3 Morgan Stanley Capital I Trust 2007-IQ16	5.809%	12/12/49	12,950	15,327
3 Morgan Stanley Capital I Trust 2007-IQ16	6.103%	12/12/49	4,675	5,458
3 Morgan Stanley Capital I Trust 2007-TOP25	5.514%	11/12/49	1,295	1,500
3 Morgan Stanley Capital I Trust 2007-TOP25	5.544%	11/12/49	4,525	4,931
3 Morgan Stanley Capital I Trust 2007-TOP27	5.651%	6/11/42	20,780	24,564
3 Morgan Stanley Capital I Trust 2007-TOP27	5.651%	6/11/42	5,075	5,719
3 Morgan Stanley Capital I Trust 2008-TOP29	6.275%	1/11/43	24,385	29,997
3 Morgan Stanley Capital I Trust 2012-C4	3.244%	3/15/45	7,000	7,333
3 Morgan Stanley Dean Witter Capital I Trust 2001-TOP3	6.390%	7/15/33	87	87

SUB TOTAL **\$353,312,000**

JPMorgan / Bear Stearns Cos. LLC	5.700%	11/15/14	15,590	16,918
JPMorgan / Bear Stearns Cos. LLC	5.300%	10/30/15	6,415	7,126
JPMorgan / Bear Stearns Cos. LLC	5.550%	1/22/17	21,150	23,843
JPMorgan / Bear Stearns Cos. LLC	6.400%	10/2/17	17,730	21,321
JPMorgan / Bear Stearns Cos. LLC	7.250%	2/1/18	24,788	31,089
JPMorgan / Bear Stearns Cos. LLC	4.650%	7/2/18	1,650	1,867

SUB TOTAL **\$102,164,000**

Goldman Sachs Capital I	6.345%	2/15/34	16,825	17,603
Goldman Sachs Group Inc.	5.150%	1/15/14	17,395	18,120
Goldman Sachs Group Inc.	6.000%	5/1/14	19,725	20,979
Goldman Sachs Group Inc.	5.000%	10/1/14	36,012	38,382
Goldman Sachs Group Inc.	5.125%	1/15/15	17,910	19,242
Goldman Sachs Group Inc.	3.700%	8/1/15	17,100	17,995
Goldman Sachs Group Inc.	5.350%	1/15/16	23,500	25,933
Goldman Sachs Group Inc.	3.625%	2/7/16	26,165	27,689
Goldman Sachs Group Inc.	5.750%	10/1/16	5,725	6,492

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Goldman Sachs Group Inc.	5.625%	1/15/17	19,930	21,836
Goldman Sachs Group Inc.	6.250%	9/1/17	27,565	32,318
Goldman Sachs Group Inc.	5.950%	1/18/18	37,425	43,690
Goldman Sachs Group Inc.	6.150%	4/1/18	13,460	15,835
Goldman Sachs Group Inc.	7.500%	2/15/19	5,990	7,520
Goldman Sachs Group Inc.	5.375%	3/15/20	32,175	36,796
Goldman Sachs Group Inc.	6.000%	6/15/20	17,220	20,417
Goldman Sachs Group Inc.	5.250%	7/27/21	6,500	7,402
Goldman Sachs Group Inc.	5.750%	1/24/22	32,800	38,540
Goldman Sachs Group Inc.	5.950%	1/15/27	22,685	24,576
Goldman Sachs Group Inc.	6.125%	2/15/33	18,851	21,934
Goldman Sachs Group Inc.	6.450%	5/1/36	5,535	6,034
Goldman Sachs Group Inc.	6.750%	10/1/37	56,741	64,151
Goldman Sachs Group Inc.	6.250%	2/1/41	16,151	19,562

SUB TOTAL \$553,046,000

JPMorgan Chase & Co.	2.050%	1/24/14	6,195	6,288
JPMorgan Chase & Co.	4.875%	3/15/14	18,100	18,888
JPMorgan Chase & Co.	4.650%	6/1/14	40,991	43,149
JPMorgan Chase & Co.	5.125%	9/15/14	22,423	23,826
JPMorgan Chase & Co.	3.700%	1/20/15	19,375	20,392
JPMorgan Chase & Co.	4.750%	3/1/15	18,150	19,560
JPMorgan Chase & Co.	1.875%	3/20/15	3,525	3,585
JPMorgan Chase & Co.	5.250%	5/1/15	5,575	6,049
JPMorgan Chase & Co.	3.400%	6/24/15	31,975	33,678
JPMorgan Chase & Co.	5.150%	10/1/15	5,190	5,705
JPMorgan Chase & Co.	1.100%	10/15/15	17,150	17,128
JPMorgan Chase & Co.	2.600%	1/15/16	15,375	15,957
JPMorgan Chase & Co.	3.450%	3/1/16	3,425	3,644
JPMorgan Chase & Co.	3.150%	7/5/16	42,950	45,416
JPMorgan Chase & Co.	6.125%	6/27/17	19,875	23,137
JPMorgan Chase & Co.	2.000%	8/15/17	22,500	22,926
JPMorgan Chase & Co.	6.000%	1/15/18	19,610	23,478
JPMorgan Chase & Co.	6.300%	4/23/19	21,025	25,877
JPMorgan Chase & Co.	4.400%	7/22/20	3,275	3,693
JPMorgan Chase & Co.	4.250%	10/15/20	2,640	2,923
JPMorgan Chase & Co.	4.625%	5/10/21	475	540
JPMorgan Chase & Co.	4.350%	8/15/21	7,575	8,462
JPMorgan Chase & Co.	4.500%	1/24/22	3,000	3,400
JPMorgan Chase & Co.	3.250%	9/23/22	6,350	6,532
JPMorgan Chase & Co.	6.400%	5/15/38	59,269	79,234
JPMorgan Chase & Co.	5.500%	10/15/40	32,200	39,248
JPMorgan Chase & Co.	5.600%	7/15/41	11,100	13,792
JPMorgan Chase & Co.	5.400%	1/6/42	7,550	9,071
JPMorgan Chase Bank NA	5.875%	6/13/16	4,346	4,923
JPMorgan Chase Bank NA	6.000%	7/5/17	825	967
JPMorgan Chase Bank NA	6.000%	10/1/17	4,615	5,448

SUB TOTAL \$536,916,000

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Morgan Stanley	2.875%	1/24/14	11,925	12,126
Morgan Stanley	4.750%	4/1/14	26,117	27,009
Morgan Stanley	6.000%	5/13/14	21,485	22,744
Morgan Stanley	2.875%	7/28/14	3,825	3,913
Morgan Stanley	4.200%	11/20/14	15,675	16,366
Morgan Stanley	4.100%	1/26/15	13,425	13,995
Morgan Stanley	6.000%	4/28/15	24,360	26,464
Morgan Stanley	4.000%	7/24/15	3,750	3,924
Morgan Stanley	5.375%	10/15/15	6,400	6,951
Morgan Stanley	3.450%	11/2/15	9,325	9,714
Morgan Stanley	3.800%	4/29/16	875	917
Morgan Stanley	5.750%	10/18/16	17,175	19,047
Morgan Stanley	5.450%	1/9/17	14,785	16,362
Morgan Stanley	4.750%	3/22/17	19,048	20,726
Morgan Stanley	5.550%	4/27/17	10,000	11,074
Morgan Stanley	6.250%	8/28/17	2,010	2,310
Morgan Stanley	5.950%	12/28/17	17,475	19,756
Morgan Stanley	6.625%	4/1/18	35,085	41,241
Morgan Stanley	7.300%	5/13/19	12,510	15,151
Morgan Stanley	5.625%	9/23/19	47,150	53,131
Morgan Stanley	5.500%	7/24/20	745	836
Morgan Stanley	5.750%	1/25/21	14,375	16,241
Morgan Stanley	5.500%	7/28/21	10,600	11,965
Morgan Stanley	4.875%	11/1/22	14,850	15,287
Morgan Stanley	6.250%	8/9/26	15,625	18,209
Morgan Stanley	7.250%	4/1/32	17,527	21,879
Morgan Stanley	6.375%	7/24/42	16,025	18,735

SUB TOTAL \$446,073,000

State Street Bank & Trust Co.	5.300%	1/15/16	2,800	3,122
State Street Corp.	4.300%	5/30/14	2,645	2,786
State Street Corp.	2.875%	3/7/16	19,100	20,400
State Street Corp.	4.956%	3/15/18	3,875	4,386
State Street Corp.	4.375%	3/7/21	400	461

SUB TOTAL \$31,155,000

UBS AG	2.250%	1/28/14	150	152
UBS AG	3.875%	1/15/15	1,490	1,571
UBS AG	7.000%	10/15/15	2,500	2,796
UBS AG	5.875%	7/15/16	6,025	6,746
UBS AG	7.375%	6/15/17	12,924	14,991
UBS AG	5.875%	12/20/17	34,924	41,425
UBS AG	5.750%	4/25/18	11,042	13,067
UBS AG	4.875%	8/4/20	28,035	32,440

SUB TOTAL \$113,188,000

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BlackRock Inc.	3.500%	12/10/14	4,275	4,515
BlackRock Inc.	1.375%	6/1/15	2,100	2,130
BlackRock Inc.	6.250%	9/15/17	3,375	4,126
BlackRock Inc.	5.000%	12/10/19	8,098	9,658
BlackRock Inc.	4.250%	5/24/21	6,515	7,336
BlackRock Inc.	3.375%	6/1/22	10,800	11,457

SUB TOTAL \$39,222,000

Wal-Mart Stores Inc.	1.625%	4/15/14	1,175	1,195
Wal-Mart Stores Inc.	3.200%	5/15/14	20,700	21,513
Wal-Mart Stores Inc.	4.500%	7/1/15	2,450	2,686
Wal-Mart Stores Inc.	2.250%	7/8/15	3,850	4,023
Wal-Mart Stores Inc.	1.500%	10/25/15	21,960	22,600
Wal-Mart Stores Inc.	2.800%	4/15/16	300	320
Wal-Mart Stores Inc.	5.375%	4/5/17	1,650	1,953
Wal-Mart Stores Inc.	5.800%	2/15/18	13,400	16,402
Wal-Mart Stores Inc.	3.625%	7/8/20	38,550	42,923
Wal-Mart Stores Inc.	3.250%	10/25/20	26,525	28,807
Wal-Mart Stores Inc.	4.250%	4/15/21	14,600	17,057
Wal-Mart Stores Inc.	5.875%	4/5/27	18,775	25,305
Wal-Mart Stores Inc.	7.550%	2/15/30	13,345	19,679
Wal-Mart Stores Inc.	5.250%	9/1/35	6,675	8,110
Wal-Mart Stores Inc.	6.500%	8/15/37	21,186	29,755
Wal-Mart Stores Inc.	6.200%	4/15/38	5,781	7,834
Wal-Mart Stores Inc.	5.625%	4/1/40	4,250	5,471
Wal-Mart Stores Inc.	4.875%	7/8/40	1,950	2,297
Wal-Mart Stores Inc.	5.000%	10/25/40	1,305	1,567
Wal-Mart Stores Inc.	5.625%	4/15/41	21,950	28,389

SUB TOTAL \$287,886,000

Baidu Inc. (China)	3.500%	11/28/22	425	427
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SUB TOTAL \$427,000

International Business Machines Corp.	6.500%	10/15/13	2,796	2,927
International Business Machines Corp.	1.250%	5/12/14	300	304
International Business Machines Corp.	0.875%	10/31/14	200	202
International Business Machines Corp.	0.550%	2/6/15	8,000	7,991
International Business Machines Corp.	2.000%	1/5/16	2,525	2,616
International Business Machines Corp.	1.950%	7/22/16	36,575	37,963
International Business Machines Corp.	1.250%	2/6/17	6,300	6,368
International Business Machines Corp.	5.700%	9/14/17	37,151	44,812
International Business Machines Corp.	7.625%	10/15/18	6,475	8,654
International Business Machines Corp.	1.875%	5/15/19	1,025	1,039
International Business Machines Corp.	1.875%	8/1/22	3,700	3,559
International Business Machines Corp.	7.000%	10/30/25	965	1,391
International Business Machines Corp.	6.220%	8/1/27	9,850	13,346
International Business Machines Corp.	6.500%	1/15/28	600	815

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International Business Machines Corp.	5.875%	11/29/32	875	1,162
International Business Machines Corp.	5.600%	11/30/39	8,989	11,534
International Business Machines Corp.	4.000%	6/20/42	9,502	10,041
			SUB TOTAL \$154,724,000	

Microsoft Corp.	2.950%	6/1/14	7,900	8,193
Microsoft Corp.	1.625%	9/25/15	20,545	21,184
Microsoft Corp.	4.200%	6/1/19	7,425	8,552
Microsoft Corp.	3.000%	10/1/20	13,020	14,055
Microsoft Corp.	2.125%	11/15/22	2,000	1,976
Microsoft Corp.	5.200%	6/1/39	4,825	5,905
Microsoft Corp.	4.500%	10/1/40	5,543	6,181
Microsoft Corp.	5.300%	2/8/41	5,190	6,493
Microsoft Corp.	3.500%	11/15/42	10,480	10,061
			SUB TOTAL \$82,600,000	

Xerox Corp.	8.250%	5/15/14	7,523	8,195
Xerox Corp.	4.250%	2/15/15	19,875	20,898
Xerox Corp.	6.400%	3/15/16	8,045	9,082
Xerox Corp.	6.750%	2/1/17	3,050	3,550
Xerox Corp.	2.950%	3/15/17	650	665
Xerox Corp.	6.350%	5/15/18	11,850	13,713
Xerox Corp.	5.625%	12/15/19	7,575	8,461
Xerox Corp.	6.750%	12/15/39	675	808
			SUB TOTAL \$65,372,000	

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Relationship to Facebook (Conflict of Interest):

a.	Baidu Inc. (China)	<p>Facebook is a business partner.</p> <p>ZUCKERBERG'S TAKING FACEBOOK INTO CHINA, BUT IT'LL BE A BAIDU BEAST by Kit Eaton, Fast Company, Apr. 11, 2011 http://www.fastcompany.com/1746392/zuckerbergs-taking-facebook-china-itll-be-baidu-beast.</p>
b.	Blackrock	<p>Now notoriously known to be a Facebook pre-IPO dark pools underwriter who forced Facebook staff to sell their shares in order to create the dark pool marketplace, according to Mark Zuckerberg's former speech writer, Katherine Losse.</p> <p>http://www.scribd.com/doc/114662183/Morally-Bankrupt-American-and-Russian-Adults-and-Their-Hacker-Boy-Kings-Construct-a-Nouveau-Totalitarianism-Full-Of-Dark-Profiles-Group-think</p>
c.	Goldman Sachs	<p>Facebook's underwriter and large investor, notoriously known. Goldman also received a \$13+ billion 2008 stimulus grant which was overseen by Facebook collaborator Lawrence "Larry" Summers, who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks. Goldman is also notoriously known to be a Moscow, Russia business partner with Russian oligarchs Alisher Usmanov and Yuri Milner. Yuri Milner is a World Bank protégé of Summers and was teamed with Facebook COO Sheryl K. Sandberg.</p> <p>Briefing for Representative Jim Jordan (OH) - HOUSE OVERSIGHT COMMITTEE - American and Russian Opportunists Undermining U.S. Sovereignty and Corrupting U.S. Financial and Judicial Systems, Oct. 19, 2012 http://www.scribd.com/doc/110575673/Briefing-for-Representative-Jim-Jordan-OH-HOUSE-OVERSIGHT-COMMITTEE-American-and-Russian-Opportunists-Undermining-U-S-Sovereignty-and-Corruptin</p>
d.	IBM	<p>IBM sold Facebook 750 patents during the pendency of <i>Leader v. Facebook</i>.</p>

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	<p>The former Director of the U.S. Patent Office, David J. Kappos, systematically failed to disclose his bias toward Facebook’s and IBM’s interests regarding all matters related to Facebook’s intellectual property claims; neither has USPTO staff. Additionally, Facebook’s patent counsel in these IBM transactions is Fenwick & West LLP who has substantial conflicts of interest since the firm formerly represented Leader Technologies, Inc. in 2002-2003—the company whose social networking technology is being infringed by Facebook.</p> <p>Prior to leaving his post as Director of the Patent Office, David J. Kappos ordered an unprecedented third reexamination of Leader Technologies’ U.S. Patent No. 7,139,761 using arguments identical to those that Facebook lost on at trial and in two previous reexaminations. Magically, the Examiner accepted ALL of Facebook’s arguments the fourth time around and is attempting to invalidate the entire patent, even claims that were not asserted at trial.</p> <p>In addition, former IBMer David J. Kappos established a Patent Office Facebook page for over 10,000 employees during the pendency of the <i>Leader v. Facebook</i> case.</p> <p>Petition for Writ of Certiorari <i>Leader Technologies, Inc., v. Facebook, Inc.</i> No. 12-617, Nov. 16, 2012 <http://www.scribd.com/doc/113545399/Petition-for-Writ-of-Certiorari-Leader-Technologies-Inc-v-Facebook-Inc-No-12-617-U-S-Supreme-Court-Nov-16-2012-clickable-citations>; See also PATENT OFFICE REMOVES CRITICAL LEADER V. FACEBOOK DISCLOSURE ITEMS by Americans For Innovation, Aug. 15, 2013 <http://americans4innovation.blogspot.com/2013/08/uspto-conduct-parallels-foia.html>.</p> <p>“Patent Office Removes Critical <i>Leader v. Facebook</i> Disclosure Items” by <i>Americans For Innovation</i>, Aug. 15, 2013 <http://americans4innovation.blogspot.com/2013/08/uspto-conduct-parallels-foia.html>; See also Kathryn W. Siehndel, FOIA Deputy Counsel, U.S. Patent Office FOIA Response re. <i>Leader v. Facebook</i>, F-13-00218, Aug. 7, 2013 <http://www.scribd.com/doc/160572991/Patent-Office-FOIA-Response-re-Leader-v-Facebook-F-13-00218-Aug-7-2013>; also available at <https://docs.google.com/file/d/0B2SfG2nEsmfqSWQ5SlJkbERjNOU/edit?usp=sharing> and <http://www.leader.com/docs/Patent-Office-FOIA-Response-re></p>
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		<p>Leader-v-Facebook-F-13-00218-Aug-7-2013.pdf>.</p> <p>U.S. PATENT OFFICE PRESS RELEASE ANNOUNCING ITS FACEBOOK PAGE, MAY 20, 2010: "US Patent Office Page on Facebook." USPTO Press Release, May 20, 2010 <http://www.scribd.com/doc/161914552/US-Patent-Office-Page-on-Facebook-USPTO-Press-Release-May-20-2010>; See also <https://docs.google.com/file/d/0B2SfG2nEsMfga3A1YjR1OC1sM3c/edit?usp=sharing>.</p>
e.	JPMorgan Chase	<p>Notoriously known to be directing the investing activities of Morgan Stanley, T. Rowe Price, Goldman Sachs regarding all things Facebook via Chairman Jamie Dimon. Castlight Health and athenahealth Director Ann H. Lamont is married to Edward "Ned" Lamont, grandson of the founder of JPMorgan, Thomas W. Lamont. Castlight Health and athenahealth are embroiled in the Obamacare and HealthCare.gov scandal. U.S. CTO Todd Y. Park is founder of both athenahealth and Castlight Health. Park's brother, David Y. Park, is the current chief operating officer at athenahealth. Todd Y. Park has advised the Obama administration that they are clear to make the claim that HealthCare.gov technology is open source, despite the evident <i>Leader v. Facebook</i> frauds, among others. The Lamont's hold substantial amounts of Goldman Sachs, JPMorgan and Morgan Stanley holdings which benefited remarkably from Facebook transactions.</p> <p>Ann Huntress Lamont (a.k.a. Ann H. Lamont) and Edward M. ("Ned") investments in Facebook Club Funds, invested by 2006, prepared Nov. 26, 2013 <http://www.scribd.com/doc/187452662/Ann-Huntress-Lamont-a-k-a-Ann-H-Lamont-and-Edward-M-Ned-investments-in-Facebook-Club-Funds-invested-by-2006-prepared-Nov-26-2013>; See also <https://docs.google.com/file/d/0B2SfG2nEsMfgckwwdGg2Yy10NWs/edit>.</p>

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<p>f.</p>	<p>Microsoft</p>	<p>Microsoft is one of Facebook's largest shareholders. This fact is notoriously known. In addition, Microsoft is a director in the "Leaders Circle" of the Federal Circuit Bar Association (FCBA), which made an appearance in the <i>Leader v. Facebook</i> appeal. Microsoft's counsel in the Microsoft v. i4i case in 2011 was Facebook's appeals attorney in Leader v. Facebook—Thomas G. Hungar, Gibson Dunn LLP. Chief Justice John G. Roberts, Jr. recused himself from that matter due to his relationship to Hungar and Microsoft. In fact, Thomas G. Hungar, Gibson Dunn LLP, was "counsel of record" for Microsoft. Also representing Microsoft in i4i was Weil Gotshal LLP, who also made an appearance for the FCBA in <i>Leader v. Facebook</i>. Despite Justice Roberts' recusal in Microsoft v. i4i, he failed to recuse himself in this matter where his conflicts were markedly more obvious, including his holdings in such Facebook "dark pool" funds as Fidelity Contrafund K which held stock in Facebook and numerous notoriously known Facebook cartel members, including athenahealth, Microsoft, Goldman Sachs, Dropbox, IBM, JPMorgan, LinkedIn, Morgan Stanley, State Street Corp, Tesla Motors, Baidu (China), and Mail.ru (Russia).</p> <p>Response to Request of Federal Circuit Bar Association's Request for Reissue Re. <i>Leader v. Facebook</i>, Case No. 2011-1366 (Fed. Cir.) by Lakshmi Arunachalam, Ph.D., Sep. 17, 2012 <http://www.scribd.com/doc/106156081/Response-to-Request-of-Federal-Circuit-Bar-Association-s-Request-for-Reissue-Re-Leader-v-Facebook-Case-No-2011-1366-Fed-Cir-by-Lakshmi-Arunach>.</p> <p>Federal Circuit Bar Online Community, Leaders Circle 2013, accessed Dec. 10, 2013 <http://www.scribd.com/doc/190739193/Federal-Circuit-Bar-Online-Community-Leaders-Circle-2013-accessed-Dec-10-2013>.</p> <p>Microsoft Corp. v. i4i Ltd. Partnership, 131 S. Ct. 2238 - Supreme Court 2011.</p>
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g.	Morgan Stanley	Facebook's underwriter and large investor, notoriously known. Morgan Stanley also received a \$13+ billion 2008 stimulus grant which was overseen by Facebook collaborator Lawrence "Larry" Summers , who had just recently received hundreds of thousands in speaking stipends from Morgan Stanley compatriots at Goldman Sachs earlier that year, among other perks. Summers counts Facebook COO Sheryl K. Sandberg as his protégé and former employee at the World Bank and U.S. Treasury .
h.	State Street Corporation	Fellow recipient with Goldman Sachs and Morgan Stanley of approximately \$33 billion (collectively) in 2008 stimulus funds overseen by Facebook collaborator Lawrence "Larry" Summers , who had just recently received hundreds of thousands in speaking stipends from Goldman earlier that year, among other perks.
i.	UBS	A Facebook IPO underwriter along with Goldman Sachs and Morgan Stanley , notoriously known.
ix.	Wal-Mart	Facebook's largest investor and director, James W. Breyer, Accel Partners LLP , was also a director at Wal-Mart and was responsible for a deep embedding of Facebook technology in the Wal-Mart site. Breyer resigned as a long time director of Wal-Mart after the Mexican bribery scandal was uncovered. "Vast Mexico Bribery Case Hushed Up by Wal-Mart After Top-Level Struggle - Confronted with evidence of widespread corruption in Mexico, top Wal-Mart executives focused more on damage control than on rooting out wrongdoing, an examination by The New York Times found" by David Barstow, <i>The New York Times</i> , Apr. 21, 2012 < http://www.nytimes.com/2012/04/22/business/at-wal-mart-in-mexico-a-bribe-inquiry-silenced.html?pagewanted=all&_r=0 >.

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d.	Xerox Corp.	<p>Facebook's expert witness, Dr. Saul Greenberg, is closely associated and was formerly employed by Xerox Corp. and asserted a number of Xerox patents as alleged prior art at the <i>Leader v. Facebook</i> trial. Despite losing his arguments at trial, and in two patent reexaminations, Facebook continues to press these Xerox patents. Facebook somehow got Patent Office Director, David J. Kappos, to order an unprecedented third patent reexam of Leader's U.S. Patent No. 7,139,761. The patent examiner, Deandra Hughes has dramatically reversed her longstanding opinions on these Xerox assertions. As troubling, Kappos assigned judge Stephen C. Siu as chief patent judge in this matter, despite the fact that no one disclosed that Judge Siu was formerly employed by Microsoft.</p> <p>David J. Kappos holds substantial Facebook "dark pool" stock acquired within weeks after being appointed director of the Patent Office by President Obama.</p> <p>"Expert witness practiced 'dark arts'" by Origins of Facebook's Technology, Aug. 23, 2011 <http://facebook-technology-origins.blogspot.com/2011/08/lesson-in-expert-witness-dark-arts.html>.</p> <p>Testimony of Dr. Saul Greenberg, Expert Witness, Facebook, <i>Leader v. Facebook</i> - Trial Transcript, Fri. Jul. 23, 2010 <http://www.scribd.com/doc/87481961/Leader-v-Facebook-Trial-Transcript-Fri-Jul-23-2010>.</p> <p>US Patent Office FOIA APPEAL, F-13-00218 in <i>Leader v. Facebook</i>, Aug. 21, 2013 <http://www.scribd.com/doc/165490215/US-Patent-Office-FOIA-APPEAL-F-13-00218-in-Leader-v-Facebook-Aug-21-2013>.</p> <p>Kappos, David J. Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT, U.S. Office of Gov't Ethics, May 16, 2009 <http://www.scribd.com/doc/182725282/Kappos-David-J-Executive-Branch-Personnel-PUBLIC-FINANCIAL-DISCLOSURE-REPORT-U-S-Office-of-Gov-t-Ethics-May-16-2009>.</p>
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Evidence Resources:

1. **Conflicts Analysis:** The most comprehensive archive of judicially recognizable source material and conflicts of interest analysis is accessible from the *Leader v. Facebook* investigative news reporting Google search tool at <http://americans4innovation.blogspot.com>.
2. **VBTIX, VBMFX Vanguard Total Bond Market Index I Annual Report**, Vanguard/Morningstar, December 31, 2012, accessed Jan. 19, 2014 <<http://quote.morningstar.com/fund-filing/Annual-Report/2012/12/31/t.aspx?t=VBTIX&ft=N-CSR/A&d=861df3c7d55aae52a424cdd1e0f4aa82>>.
3. **VBTIX, VBMFX Vanguard Total Bond Market Index I Annual Report**, Vanguard/Morningstar, December 31, 2012, accessed Jan. 19, 2014 <<https://www.actionsxchangerepository.fidelity.com/ShowDocument/ComplianceEnvelope.htm?fax=-18%2342%23-61%23-110%23114%2378%23117%2320%23-1%2396%2339%23-62%23-21%2386%23-100%2337%2316%2335%23-68%2391%23-66%2354%23103%23-16%2369%23-30%2358%23-20%2376%23-84%23-11%23-87%230%23-50%23-20%23-92%23-98%23-116%23-28%2358%23-38%23-43%23-39%23-42%23-96%23-88%2388%23-45%23-28%23-82%2318%2398%23-55%23-36%23-18%23-102%23-74%235%23-89%23-105%23-67%23126%2377%23-126%23100%2345%23-44%23-73%23-15%238%23-21%23-37%23-17%23-14%23-98%23123%23-18%2345%23-59%23-82%2367%2383%23112%2317%2370%23-78%2378%23-50%2336%23-86%23-90%2381%23-21%23-119%23-30%23120%2349%2328%23-98%2333%2351%23-78%23-119%23-16%2350%23-58%2350%23102%2348%23-17%2352%23-99%23>>.
4. **VBTIX , VBMFX Vanguard Total Bond Market Index, EDGAR**, Dec. 31, 2012, accessed Jan. 19, 2014 <<http://www.sec.gov/Archives/edgar/data/794105/000093247113008064/0000932471-13-008064-index.htm>> | CIK [0000794105](http://www.sec.gov/Archives/edgar/data/794105/000093247113008064/0000932471-13-008064-index.htm) | Series [S000002564](http://www.sec.gov/Archives/edgar/data/794105/000093247113008064/0000932471-13-008064-index.htm) | Vanguard Total Bond Market Index Fund | Class/Contract [C000007064](http://www.sec.gov/Archives/edgar/data/794105/000093247113008064/0000932471-13-008064-index.htm) | Institutional Shares VBTIX.


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DECEMBER 2006

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Transparency Takes Shape

The Judicial Conference adopted new policies on ethics and accountability in September 2006. Now policy is being put into practice with the use of automated conflict checking and the posting on the web of educational seminar sponsors.

Educational Seminars Sources

Beginning January 1, 2007, nongovernmental organizations inviting a federal judge to attend an educational program—a significant purpose of which is the education of federal or state judges—and that pay for or reimburse that judge over a certain dollar amount, will be required to disclose financial and program information on the Judiciary's website. The policy applies if the judge is invited as a speaker, panelist, or attendee. An automated system, which will be available at www.uscourts.gov, is being developed for program providers to report their information.

"The Judiciary recognizes that judges' attendance at some educational seminars had posed concerns for some," said Judge D. Brock Hornby, chair of the Judicial Conference Committee on the Judicial Branch. "Our objective in making this policy was to give greater transparency and accountability, while allowing judges to continue their education. The Committee believes that judges' access to knowledge should be neither limited nor censored."

The Judicial Conference excludes certain organizations from the disclosure policy, including state and local bar associations; national, state and local subject-matter bar associations; judicial associations; the National Judicial College; and the Judicial Division of the American Bar Association. The reporting requirement is triggered when any payment or reimbursement is above the threshold at which judges must report gifts and reimbursements on their annual financial disclosure reports—currently \$305.

Under the new Judicial Conference policy, educational program providers are required to disclose the name of the program's sponsors; the name or title of the program; dates and location of the program; various presentation topics and the expected speakers; and all the program provider's sources of support, financial or otherwise. Judges are barred from accepting reimbursements unless they first determine that the program providers have made the required disclosures. In addition, judges who accept invitations from such program providers must, within 30 days of the end of the program, file a report with their court's clerk, disclosing the dates of attendance, the name of the program providers, and the title of the education program.

Mandatory Conflict Screening Policy

Judicial circuit councils are in the process of drawing up plans to implement mandatory conflict screening.

The new conflict screening policy, approved by the Judicial Conference in September 2006, requires courts and judges to use automated screening software to help identify cases in which they may have a financial conflict of interest and should disqualify themselves. The screening can also be used to check for nonfinancial conflicts. The software has been deployed by the Administrative Office as part of the Case Management/Electronic Case Files (CM/ECF) system used by nearly all district and bankruptcy courts. As appeals courts begin implementing the CM/ECF system over the next year, they'll also begin using the accompanying conflict checking software.

THE THIRD BRANCH NEWS

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December 2006

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As new matters are docketed in CM/ECF, the conflict checking software compares names of parties and attorneys to the names on a judge's recusal list.

However, the software cannot catch every conflict. And that's due in part to the ever-changing nature of big business.

"Keeping track of conflicts can be extremely complicated," said Judge Gordon J. Quist, chair of the Judicial Conference Committee on Codes of Conduct. "Especially when mergers and acquisitions lead to continual changes in investment portfolios. The parties are responsible for providing notice of corporate changes, and the courts need to make sure this happens. And judges should always perform a manual check for conflicts, in addition to the automated screening."

The AO, with the Judicial Conference Committee on Codes of Conduct and with input from judges, circuit executives and clerks of court, has prepared a model plan for conflict screening that addresses key issues and offers sample language spelling out the obligations of courts and judges. The model plan also offers a number of options for possible adoption by circuit councils or courts. For example, one option is to determine how frequently screening software will run. Circuit councils will report to the Judicial Conference on their preliminary plans by January 31, 2007.



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The purpose of this site is to provide information from and about the Judicial Branch of the U.S. Government.



JUDICIAL COUNCIL OF THE DISTRICT OF COLUMBIA CIRCUIT

MANDATORY CONFLICT SCREENING PLAN

Preface: On September 19, 2006, the Judicial Conference of the United States adopted a mandatory conflict screening policy requiring courts and judges to implement automated screening to identify financial conflicts of interest. Although automated screening (like manual screening) is not foolproof, it is a valuable tool for detecting possible financial and other conflicts of interest. The Judicial Conference policy is to be administered and directed by the circuit councils or by those individual courts not subject to the authority of a circuit council.

Authority: The Judicial Council of the District of Columbia Circuit adopts this plan under the authority set forth in 28 U.S.C. § 332(d)(1) and in accordance with the mandatory financial conflict screening policy adopted on September 19, 2006, by the Judicial Conference.

§ 1. Scope. This plan applies to the court of appeals, district court, and bankruptcy court within the District of Columbia Circuit as defined by law, and to each judge of those courts in regular active service, retired under 28 U.S.C. §§ 371(b) or 372(a) and performing duties pursuant to a designation under 28 U.S.C. §§ 291 to 294, or recalled to judicial service. This plan does not apply to judges retired under 28 U.S.C. §§ 371(b) or 372(a) but not performing duties or retired judges eligible for recall but not serving on recall.

§ 2. Definitions. For purposes of this plan:

- (a) "Conflict of interest" refers to an interest that disqualifies a judge as provided in Canon 3C(1) of the Code of Conduct for United States Judges. See also 28 U.S.C. § 455(a), (b).
- (b) "Financial conflict" or "financial conflict of interest" refers to a financial interest that disqualifies a judge as provided in Canon 3C(1)(c) of the Code of Conduct for United States Judges. See also 28 U.S.C. § 455(b)(4).
- (c) "Financial interest" has the meaning set forth in Canon 3C(3)(c) of the Code of Conduct for United States Judges. See also 28 U.S.C. § 455(d)(4).
- (d) "Judge" refers to circuit, district, bankruptcy, and magistrate judges and any other judicial officers subject to the Code of Conduct for United States Judges.

§ 3. Court Obligations. Each court shall implement automated screening to identify possible financial conflicts of interest for each judge appointed, designated and assigned, transferred, temporarily assigned, or recalled to serve the court. Each court shall use the screening component of the Case Management/Electronic Case Files (CM/ECF) system or the screening component of the Appellate Information Management System (AIMS). Additionally, pursuant to § 6 of this plan the circuit council approves the use by the court of appeals of its automated calendaring program ("CABS") to further aid in the implementation of this policy. In implementing the screening, each court shall:

- (a) enter the following information into the database used for automated screening or (when feasible) arrange for the parties to do so: the parties, attorneys, law firms, and corporate parents disclosed by the parties;
- (b) at the request of a judge, enter the judge's conflicts list into the database used for automated screening or assist the judge or chambers staff to do so;
- (c) take reasonable steps to ensure that parties and/or attorneys provide information needed for conflict screening, including corporate parent statements as required by Fed. R. App. P. 26.1, Fed. R. Bankr. P. 1007(a)(1) and 7007.1, Fed R. Civ. P. 7.1, Fed. R. Crim. P. 12.4, and local court rules that supplement the relevant Federal Rules.
- (d) conduct automated screening on a regular schedule, including screening new matters as they are assigned or to be assigned to a judge or panel and screening all existing matters periodically or after each new entry of relevant information into the database used for automated screening;
- (e) notify the judge (or designee), when a possible conflict is identified;
- (f) provide periodic notices to judges reminding them to review and update their conflicts lists and to review and update the designee who will receive notice when a possible conflict is identified; and
- (g) provide information, training, and assistance to judges and staff to facilitate their participation in automated screening.

§ 4. Obligations of Judges. Each judge has the ultimate responsibility for identifying and avoiding conflicts of interest and should ensure that assigned matters are reviewed for conflicts before action is taken in the matter. To assist in discharging this obligation, each judge shall use automated screening to identify financial conflicts of interest by using the screening system implemented by each court to which the judge is appointed, designated and assigned, transferred, temporarily assigned, or recalled to serve. Each judge may also use the court's automated screening to identify conflicts of interest other than financial conflicts. While the United States Judicial Conference mandates the use of automated screening for conflicts, nothing in this policy precludes judges from supplementing automated screening resources by utilizing additional methods such as manual screening to identify conflicts. Each judge also shall:

- (a) keep informed about personal and fiduciary financial interests, and make a reasonable effort to keep informed about the personal financial interests of the spouse and minor children residing in the household, as required by Canon 3C(2) of the Code of Conduct for United States Judges; see also 28 U.S.C. § 455(c);
- (b) develop a "conflicts list," identifying financial conflicts, for use in automated screening;

- (c) review the conflicts list at regular intervals and update the conflicts list as financial interests change;
- (d) employ the conflicts list in the court's automated screening by entering the interests listed into the database used for automated screening; the information may be entered personally, by chambers staff, or with the assistance of court staff; and
- (e) when notice is provided to the judge (or designee) that a possible conflict has been identified, determine or cause to be determined whether a conflict exists and then arrange for appropriate action to resolve the conflict (i.e., nonassignment, recusal, divestiture of the interest).

§ 5. Exceptions.

(a) Upon application, the circuit council shall except a court from § 3 of this plan, and shall except the judges of that court from § 4 of this plan, where automated screening through CM/ECF, AIMS, or any other automated screening system is not available. The circuit council shall limit the duration of the exception to the time period necessary to allow the court to implement automated screening as provided in this plan.

(b) Upon application, the circuit council may except a judge from § 4 of this plan where the circumstances indicate that the judge's participation in automated screening is unnecessary to identify financial conflicts of interest or is otherwise infeasible, including in the following circumstances:

(1) the judge has no case currently assigned and is not receiving new assignments (e.g., due to serious illness); or

(2) the judge files a written certification stating that he or she knows of no financial interest attributable to the judge requiring disqualification as a financial conflict of interest and does not expect to acquire such an interest in the foreseeable future.

The circuit council shall specify the duration of the exception (i.e., a specified time period or permanent), provided, however, that an exception under § 5(b)(2) of this plan shall not exceed one year.

§ 6. Approval of Alternative Screening. A court may request that the circuit council approve an alternative automated screening system other than CM/ECF or AIMS (such alternative system may not receive automation support from the Administrative Office). The circuit council shall approve an alternative system only if its functionality is comparable to the automated screening in CM/ECF or AIMS in all major respects, including the ability to:

- (a) create and store electronically a judge's conflicts list;
- (b) compare entries on a judge's conflicts list to parties, attorneys, law firms, and corporate parents in the court's docket;
- (c) allow for screening on a regularly scheduled basis and on an ad hoc basis; and

(d) provide notice to a judge when a possible conflict is identified.

§ 7. Reporting Obligations.

(a) Each chief judge shall make such reports as are requested by the circuit council.

(b) The circuit council shall make such reports as are requested by the Judicial Conference.

§ 8. Confidentiality of Conflicts Lists. Nothing in this plan requires a court or judge to disclose the interests listed on a conflicts list to anyone except to the limited extent necessary in the court's implementation of its automated screening.

§ 9. Enforcement. Under the authority of 28 U.S.C. § 332(d)(1), courts and judges subject to this plan must comply with its requirements. A judge who violates this plan may be subject to discipline in accordance with 28 U.S.C. §§ 332(d)(2) and 351-364. A judge appointed by a court who violates this plan may be subject to discipline by the appointing court in accordance with existing customary practices.

§ 10. Effective Date. This plan takes effect on January 1, 2008.

Adopted by the Judicial Council of the District of Columbia Circuit on December 20, 2007.



CODE OF CONDUCT FOR UNITED STATES JUDGES

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- [CANON 2: A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES](#)
- [CANON 3: A JUDGE SHOULD PERFORM THE DUTIES OF THE OFFICE FAIRLY, IMPARTIALLY AND DILIGENTLY](#)
- [CANON 4: A JUDGE MAY ENGAGE IN EXTRAJUDICIAL ACTIVITIES THAT ARE CONSISTENT WITH THE OBLIGATIONS OF JUDICIAL OFFICE](#)
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Last substantive revision (Transmittal GR-2) June 30, 2009

Last revised (minor technical changes) June 2, 2011

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**FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 2010**

1. Person Reporting (last name, first, middle initial) Moore, Kimberly A.	2. Court or Organization Federal Circuit	3. Date of Report 05/12/2011
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time) Circuit Judge	5a. Report Type (check appropriate type) <input type="checkbox"/> Nomination. Date <input type="checkbox"/> Initial <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2010 to 12/31/2010
7. Chambers or Office Address U.S.C.A. Federal Circuit 717 Madison Place NW Washington, DC 20439	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1. _____	_____
2. _____	_____
3. _____	_____

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting	Date of Report
Moore, Kimberly A.	05/12/2011

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

A. Filer's Non-Investment Income

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2010	West-Thomson, Book Royalties	\$5,603.76
2.		
3.		
4.		

B. Spouse's Non-Investment Income - If you were married during any portion of the reporting year, complete this section.

(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2010	attorney, self-employed, partner
2.	
3.	
4.	

IV. REIMBURSEMENTS - transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Association of Corporate Patent Counsel	6/28/2010 - 6/30/2010	Philadelphia, Pennsylvania	Conference	Mileage, Meals, & Lodging
2.	Philadelphia Intellectual Property Law Assoc	11/18/2010	Philadelphia, Pennsylvania	PIPLA Dinner	Mileage, Meals, & Lodging
3.	University of San Diego School of Law	12/2/2010 - 12/5/2010	San Diego, California	Conference	Transportation, Meals, & Lodging
4.					
5.					

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Moore, Kimberly A.

Date of Report

05/12/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.			
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.	National City Mortgage Co.	Mortgage on Rental Property	O
2.	Citibank	Loan	K
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Moore, Kimberly A.

Date of Report

05/12/2011

VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

1.	A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
		Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
1.	Rental Property (2008 \$2,211,554.00)	F	Rent	PI	S					
2.	Chevy Chase Bank Checking Account	A	Interest	M	T					
3.	Citibank	D	Interest	J	T					
4.	Northwestern Mutual Life Insurance	B	Dividend	J	T					
5.	Northwestern Mutual Life Insurance	B	Dividend	J	T					
6.	Berkshire Life Insurance	A	Dividend	J	T					
7.										
8.	Fidelity Retirement Account									
9.	-Fidelity Capital & Income	B	Dividend			Buy	04/12/10	J		
10.						Sold	05/05/10	M	E	
11.	-Fidelity Contra		None			Sold	01/08/10	K	D	
12.	-Fidelity Contra K	A	Dividend			Buy	01/08/10	K		
13.						Buy (add'l)	04/12/10	J		
14.						Sold	05/05/10	L	A	
15.	-Fidelity Low PR STK		None			Sold	01/08/10	K	E	
16.	-Fidelity Low PR STK K		None			Buy	01/08/10	K		
17.						Buy (add'l)	04/12/10	J		

1. Income Gain Codes:

(See Columns B1 and D4)

A = \$1,000 or less

F = \$50,001 - \$100,000

B = \$1,001 - \$2,500

G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000

H = \$5,000,001 - \$5,000,000

D = \$5,001 - \$15,000

I12 = More than \$5,000,000

E = \$15,001 - \$50,000

2. Value Codes

(See Columns C1 and D3)

J = \$15,000 or less

N = \$750,001 - \$500,000

K = \$15,001 - \$50,000

O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000

P1 = \$1,000,001 - \$5,000,000

M = \$100,001 - \$250,000

P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes

(See Column C2)

P3 = \$25,000,001 - \$50,000,000

Q = Appraisal

U = Book Value

R = Cost (Real Estate Only)

V = Other

P4 = More than \$50,000,000

S = Acquisition

W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
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VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
18.					Sold	05/05/10	L	R	
19. -Fidelity US BD Index	A	Dividend			Sold	01/08/10	M	C	
20. -Vang Tot Bd Mkt Inst	A	Dividend			Buy	01/08/10	M		
21.					Sold	03/15/10	M	B	
22.					Buy	04/12/10	J		
23.					Buy (add'l)	05/05/10	N		
24.					Sold	05/24/10	N	A	
25. -Fidelity US Gov't Res	A	Dividend			Buy	03/15/10	M		
26.					Sold	05/05/10	M	A	
27.									
28. Smith Barney Retirement Account # (See Part VIII)		None			Closed	07/06/10	M		
29.									
30. Charles Schwab Accounts A									
31. -Proshares Ultra Financial		None			Sold	02/02/10	K	D	
32. -Proshares Ultra Short		None	L	T	Buy (add'l)	05/05/10	K		
33. -Alltel Corp Notes	C	Interest	K	T					
34. -United Health Bonds	B	Interest	K	T					

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H = \$1,000,001 - \$5,000,000; I = \$5,000,001 - \$10,000,000; J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000; N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P = \$1,000,001 - \$5,000,000; Q = \$5,000,001 - \$25,000,000; R = Cost (Real Estate Only); S = Assessment; T = Cash Market; U = Book Value; V = Other; W = Estimated

2. Value Codes (See Columns C1 and D3)

3. Value Method Codes (See Column C7)

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting Moore, Kimberly A.	Date of Report 05/12/2011
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VII. INVESTMENTS and TRUSTS - Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code I (A-H)	Type (c.g., div, rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (c.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. -Anheuser Busch Bonds	B	Interest	L	T					
36. -Ingersoll-RND	C	Interest	L	T					
37. -XTO Energy Inc	B	Interest	K	T					
38. -Profunds Ultra Latin America		None			Sold	05/05/10	J	C	
39. -Vanguard GNMA	C	Dividend	L	T					
40. -Vanguard High Yield	C	Dividend	L	T	Buy (add'l)	05/06/10	J		
41.									
42. Charles Schwab Accounts B									
43. -Schwab Stable Value Select		None			Buy	04/05/10	J		
44.					Buy (add'l)	05/04/10	J		
45.					Buy (add'l)	06/03/10	J		
46.					Buy (add'l)	06/09/10	N		
47.					Buy (add'l)	07/06/10	M		
48.					Buy (add'l)	08/03/10	J		
49.					Sold	08/17/10	O	B	
50. -Schwab Stable Value Instl III		None	O	T	Buy	08/17/10	O		
51.					Buy (add'l)	09/02/10	J		

- 1. Income Gain Codes (See Columns B1 and D4)
 - 2. Value Codes (See Columns C1 and D3)
 - 3. Value Method Codes (See Column C7)
- | | | | | |
|---|--|---|---|---|
| <ul style="list-style-type: none"> A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000 Q = Appraisal U = Book Value | <ul style="list-style-type: none"> B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000 R = Cost (Real Estate Only) V = Other | <ul style="list-style-type: none"> C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000 S = Assessment W = Estimated | <ul style="list-style-type: none"> D = \$5,001 - \$15,000 F2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000 T = Cash Market | <ul style="list-style-type: none"> E = \$15,001 - \$50,000 |
|---|--|---|---|---|

FINANCIAL DISCLOSURE REPORT

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VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
52.					Buy (add'l)	10/04/10	J			
53.					Buy (add'l)	11/03/10	J			
54.					Buy (add'l)	12/02/10	J			
55.										

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

D = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000
H2 = More than \$5,000,000

E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Reca Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

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Name of Person Reporting

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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

Part VII.

Smith Barney Retirement Account:

This is a retirement account that doesn't allow individual control of investment selections. This account was rolled over into Charles Schwab Accounts B - Schwab Stable Value Select on 7/6/2010.

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IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: s/ **Kimberly A. Moore**

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
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Washington, D.C. 20544