

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

B.E. TECHNOLOGY, L.L.C.,

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

**Civil Action No. 2:12-cv-02769–JPM–
TMP**

Hon. Jon Phipps McCalla

JURY DEMAND

DEFENDANT’S UNOPPOSED MOTION FOR LEAVE TO FILE AMENDED ANSWER

Defendant Facebook, Inc., hereby respectfully moves for leave to file an Amended Answer. In support of this motion, Facebook states as follows:

1. This action was commenced on September 7, 2012. (Dkt. 1). Facebook timely responded to the Complaint on December 31, 2012. (Dkt. 27). On January 25, 2013, Plaintiff B.E. Technology, L.L.C. filed a motion to strike Facebook’s affirmative defenses. (Dkt. 33).

2. While Facebook does not agree with the requested relief or the assertions in B.E. Technology’s motion to strike or waive its right to oppose the motion, Facebook has offered to B.E. Technology that Facebook amend its Answer. B.E. Technology is amenable to that proposal, but reserves its right to seek to strike some or all of the affirmative defenses in the amended answer if they are inadequately plead. Accordingly, Facebook now seeks leave to file an Amended Answer, attached as Exhibit 1.

3. Because this action is in its early stages and no scheduling order has been entered, the leave will not prejudice any party.

4. A proposed order granting this motion is being submitted via electronic mail to the Court.

Dated: February 8, 2013

Respectfully submitted:

/s/ Orion Armon

Heidi Keefe (*pro hac vice*)
hkeefe@cooley.com
Mark Weinstein (*pro hac vice* motion to be filed)
mweinstein@cooley.com
COOLEY LLP
3175 Hanover Street
Palo Alto, CA 94304-1130
Telephone: (650) 843-5000
Facsimile: (650) 849-7400

Orion Armon (*pro hac vice*)
oarmon@cooley.com
Sara Radke (*pro hac vice*)
sradke@cooley.com
COOLEY LLP
380 Interlocken Crescent, Suite 900
Broomfield, CO 80021
Telephone: (720) 566-4000
Facsimile: (720) 566-4099

Heather J. Hubbard (TN # 23699)
Laura P. Merritt (TN # 26482)
WALLER LANSDEN DORTCH & DAVIS, LLP
Nashville City Center
511 Union St., Suite 2700
Nashville, TN 37219-8966
615-850-6024
Fax: 615-244-6804
heather.hubbard@wallerlaw.com
laura.merritt@wallerlaw.com

Counsel for Defendant Facebook, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served this 8th day of February, 2013, on the following counsel of record via the Court's Electronic Filing System:

Craig Robert Kaufman
Robert Edward Freitas
Qudus B. Olaniran
Hsiang Hong Lin
Daniel J. Weinberg
FREITAS TSENG & KAUFMAN, LLP
100 Marine Parkway, Suite 200
Redwood Shores, CA 94065
650-593-6300
ckaufman@ftklaw.com
rfreitas@ftklaw.com
qolaniran@ftklaw.com
jlin@ftklaw.com
dweinberg@ftklaw.com

Adam Calhoun Simpson
Richard M. Carter
MARTIN TATE MORROW & MARSTON
International Place, Tower II
6410 Poplar Avenue, Suite 1000
Memphis, TN 38119
901-522-9000
asimpson@martintate.com
rcarter@martintate.com

/s/ Orion Armon

LOCAL RULE 7.2 CERTIFICATE OF CONSULTATION

On February 7, 2013, Orion Armon, counsel for Facebook, Inc., spoke with Craig Kaufman, counsel for Plaintiff B.E. Technology, L.L.C., by phone regarding the request for leave to file an Amended Answer. Mr. Kaufman agreed to the request for leave.

/s/ Orion Armon