

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

AARON GREENSPAN,

Plaintiff,

v.

**RANDOM HOUSE, INC.; MEZCO, INC.;
BENJAMIN MEZRICH; TONYA MEZRICH,**

Defendants.

Case No.: 1:11-cv-12000-RBC

**[SECOND PROPOSED] FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF
AND JURY DEMAND [LEAVE TO FILE GRANTED MAY 8, 2014]**

Plaintiff Aaron Greenspan, by and for his complaint against Random House, Inc., Mezco, Inc., Benjamin Mezrich, and Tonya Mezrich (collectively, “Defendants”), avers as follows:

INTRODUCTION AND SUMMARY

1. Plaintiff brings this action to halt the ongoing effects of Defendants’ unfair business practices, false advertising, libelous writing and defamatory speech. This case arises out of several actions on the part of Defendants.

2. First, this case arises from Defendants’ collective exploitation of Defendant Benjamin Mezrich’s fictitious literary work *The Accidental Billionaires: The Founding of Facebook: A Tale of Sex, Money, Genius, and Betrayal* (“The Accidental Billionaires”), which is an unauthorized derivative of Plaintiff’s non-fiction book *Authoritas: One Student’s Harvard Admissions and the Founding of the Facebook Era* (“Authoritas”). Plaintiff is the sole author of *Authoritas* and the sole owner of the copyrights therein. To date, *Authoritas* is the only published first-hand account of events that took place at Harvard University in 2003 and 2004

that collectively inspired the founding of Facebook, Inc. Aside from the plain facts, *Authoritas* also contains copyrighted expression that appears in *The Accidental Billionaires*. Defendant Benjamin Mezrich (hereinafter referred to as “Mezrich,” as opposed to Defendant Tonya Mezrich, who will be referred to by her full name) is the author of *The Accidental Billionaires*; Defendant Random House, Inc. (“Random House”) is the publisher. Upon information and belief, Defendant Mezco is a shell corporation that holds Defendant Mezrich’s copyrights and/or illegally-derived profits.

3. Defendants Mezrich, Mezco, Inc. (“Mezco”) and Random House sold derivative rights in *The Accidental Billionaires*, including motion picture rights, to Columbia Pictures Industries, Inc. (“Sony Pictures”) before *The Accidental Billionaires* was even finished being written, indicating that the true purpose of *The Accidental Billionaires* was actually to secure profits for Defendants resulting from the creation of a motion picture, regardless of the book’s contents or accuracy. The sale of these rights ultimately did result in the creation of a motion picture entitled *The Social Network* (“The Film”), released nationwide in movie theaters in October 2010, and subsequently in DVD, Blu-Ray and streaming video formats. Defendants did not at any point obtain the consent of Plaintiff to use material from *Authoritas* in The Film, nor did Defendants obtain derivative rights in *Authoritas*.

4. Defendant Mezrich had previously worked with Sony Pictures to release *21* in 2008, a motion picture based on his prior book *Bringing Down the House: The Inside Story of Six MIT Students Who Took Vegas for Millions*. Defendant Random House therefore sought to use Mezrich’s reputation and relationships in the motion picture industry to sell an easily marketable “true story” upon which a movie could be based—even if that story had to be entirely synthesized—rather than publish an actual historical account that was actually true, but authored by someone less familiar to a movie studio.

5. The first three words of Defendant Mezrich's book proposal entitled "Face Off," which became *The Accidental Billionaires*, were, "The true story."

6. Second, this case arises from the unfair business practices of Defendant Random House, whose Doubleday publishing imprint agreed to publish *The Accidental Billionaires* only a few months after refusing to publish *Authoritas*, and then used unfair business tactics to market *The Accidental Billionaires* in such a manner as to avoid paying Plaintiff for rights in *Authoritas*.

7. Less than seven months after Defendant Random House rejected Plaintiff's manuscript, on May 22, 2008, *Gawker* reported that Defendant Mezrich had already "signed a million-dollar-plus book deal for his memoir about Mark Zuckerberg and the other Facebook founders." In reality, *The Accidental Billionaires* was not a memoir, and unlike Plaintiff, Defendant Mezrich was not present for any of the events described by his book proposal, whether they took place at Harvard University or elsewhere. It was later revealed that the \$1.9 million book deal for *The Accidental Billionaires* was signed with the same Doubleday division of Defendant Random House that rejected *Authoritas*.

8. Approximately two months later, beginning July 30, 2008 as he was preparing to write *The Accidental Billionaires*, Defendant Mezrich sent a series of e-mails to Plaintiff requesting his unpaid cooperation with "a thriller in the vein of my other books, with the origins of facebook at the center." In one of these e-mails, Mezrich admitted, "I'm not really a journalist per se."

9. *The Accidental Billionaires* is built on a shaky foundation of a few well-known facts (e.g. Mark Zuckerberg being at Harvard in 2004; Eduardo Saverin working with him briefly), but its bricks and mortar are a hodgepodge of invention and libelous untruths. Defendant Mezrich fabricated enormous portions of the story, all of the dialog, and key elements of the plot in *The Accidental Billionaires* to fill in the gaping holes in his knowledge regarding the events

surrounding the creation of the Facebook social networking web site. As Defendant Mezrich admits, at no time did Facebook, Inc. CEO Mark Zuckerberg or Facebook, Inc. itself cooperate with any of the Defendants concerning the writing or publication of *The Accidental Billionaires*, and no source cooperated with Defendants for the entirety of the period during which the book was being drafted.

10. The Random House Dictionary (accessed through the web site Dictionary.com at <http://dictionary.reference.com/browse/non+fiction>) defines “non-fiction” as:

“the branch of literature comprising works of narrative prose dealing with or offering opinions or conjectures upon facts and reality, including biography, history, and the essay (opposed to fiction and distinguished from poetry and drama).”

Defendants Mezrich and Random House deliberately classified *The Accidental Billionaires* as “non-fiction” despite their active choice to *avoid* facts and reality in the interest of speed and marketability, which in turn required them to add a disclaimer to the beginning of the book to explain how their fictional account could be so labeled. The disclaimer admits to myriad “discrepancies” and the fact that “details of setting and descriptions have been changed or imagined.” Defendants further admit to using “re-created dialogue,” a synonym for fabrication.

11. *The Accidental Billionaires* couches its many fabrications with such ambiguous, conditional phrases as, “He might have” (p. 42); “Perhaps” (p. 43); “Maybe he grinned” (p. 43); “Most likely” (p. 45); “It was likely” (p. 48); “They’d probably” (p. 51); “We imagine” (p. 52); “We almost hear” (p. 54); “Mark must have” (p. 81); “Eduardo wondered” (p. 81); “Whether or not that [urban myth] was true” (p. 86); “Mark assuredly knew” (p. 103); “And maybe” (p. 136); “So maybe” (p. 136); “Eduardo guessed” (p. 149); “Somewhere in the past few weeks,” (p. 155); “Had he really just” (p. 181); “Could Mark really have” (p. 181); “Whatever the numbers were” (p. 183); “If Eduardo had” (p. 210); “picturing it in his mind” (p. 234); etc.

12. Perhaps the most outrageous series of lies in *The Accidental Billionaires* appears on page 183, where Mezrich writes that Mark Zuckerberg and Eduardo Saverin “had been invited onto the yacht of one of the original founders of Sun Microsystems” who served them “koala” meat on a “gleaming silver tray.” In a June 24, 2009 article entitled “A New Book on Facebook, Some of It Fact-Based,” *The New York Times* described this vignette, also present in Defendant Mezrich’s book proposal, as “widely debunked.”

13. Defendant Random House’s editing and so-called fact-checking process was lax to the point of apparent non-existence, such that Plaintiff was repeatedly referred to by the wrong name (“Grossman” instead of “Greenspan”) in the first edition of the book. No Defendant or representative thereof ever contacted Plaintiff to fact-check *The Accidental Billionaires* or *The Film*.

14. In making the deliberately false designations of “true,” “accurate” and “non-fiction” contradicted by the book’s own disclaimer, by failing to correct references to the book as Defendant Mezrich’s “memoir,” and by quietly attempting to secure Plaintiff’s unpaid cooperation for Defendant Mezrich’s project, Defendants attempted to and did unjustly enrich themselves at Plaintiff’s expense and avoid any need to license the necessary rights in *Authoritas* by creating the impression that Defendant Mezrich’s work was based on a thoroughly-researched account.

15. Using pseudonyms and/or other verbiage designed to mislead potential buyers of books concerning Facebook’s origins, Defendant Mezrich, his wife, his various agents in the publishing industry, and many of his and his wife’s associates wrote, paid and/or directed others to write glowingly positive reviews of *The Accidental Billionaires* on commercial web sites designed to sell books, such as Amazon.com, without disclosing the reviewer’s sponsorship or affiliations, in order to trick potential customers into believing that the book had been well-

received and in turn affect their purchasing decisions. Many of these reviews appeared within days of publication of *The Accidental Billionaires* so as to have maximum impact and staying power, contained objectively false statements, and were directed at consumers who might have purchased *Authoritas* instead given the overlap in subject matter and the non-fiction designation that both books appeared to share. Most of these fake reviews remain posted, and affecting purchasing decisions, even today.

16. Since the publication of *The Accidental Billionaires*, Defendants Benjamin and Tonya Mezrich have been accused of posting fake positive book reviews in connection with his other literary works. After Defendant Tonya Mezrich's Amazon.com account (with user name "sweetpea") was revealed during the course of these proceedings, she deleted or caused to be deleted associated evidence, demonstrating bad faith.

17. Third, Defendants explicitly and implicitly defamed Plaintiff in *The Accidental Billionaires* and by omission, in *The Film*. As a consequence of the success of *The Accidental Billionaires* and *The Film*, several million people worldwide have been exposed to the story line as told by Defendant Mezrich, to the eternal detriment of Plaintiff. As recently as May, 2013, Defendant Mezrich publicly boasted about the role he believed *The Accidental Billionaires* played in netting Eduardo Saverin a "\$2 billion" settlement with Facebook, Inc., indicating that he is well aware of the impact of his writing, which has generally worked in the opposite direction for Plaintiff.

18. *The Accidental Billionaires* ridicules Plaintiff and insults Plaintiff's work; no references to Plaintiff in *The Accidental Billionaires* are praiseworthy, and key references to Plaintiff that one would expect in an accurate re-telling of events are omitted. *The Film* completely omits any reference to Plaintiff. Subsequent publications and internet messages have therefore referred to Plaintiff as a "fool," seriously mentally ill and in need of "psychiatric

medication,” or by the wrong name entirely, as a direct consequence of Defendants’ false and misleading portrayal of Plaintiff in The Accidental Billionaires and The Film.

19. Fourth, since publishing The Accidental Billionaires, Defendant Mezrich has granted several interviews, many of them on national television or radio programs, in which he has repeated his false claims, including claims that The Accidental Billionaires and The Film are “true,” “accurate,” and in the case of the book, “non-fiction.” In so doing, Defendant Mezrich has implied that any contrasting accounts of the same events, including Plaintiff’s account, are untrue, inaccurate, and fiction. Defendant Mezrich has further publicly attributed false motives to Plaintiff’s critiques of his work, including but not limited to jealousy, misdirected anger, and desire to attract unwarranted media attention.

20. Defendant Mezrich’s falsification of “facts” for his own personal financial gain, and his willing, eager and roundly-criticized desire to conflate the phrase “based on a true story” with the word “true” has caused substantial and irreparable harm to Plaintiff and Plaintiff’s business endeavors, including but not limited to sales of Authoritas.

21. To remedy these myriad violations of law and put an end to the ongoing harm caused by Defendants, Plaintiff Aaron Greenspan seeks injunctive relief restricting Defendants’ ability to sell or refer to The Accidental Billionaires as “true,” “accurate,” “non-fiction,” or any phrase with similar meaning. Plaintiff further seeks monetary damages from Defendants for publishing and derivative works licensing revenues wrongly withheld, and for irreparable harm done to Plaintiff’s reputation, career, earnings, and future earning potential.

JURISDICTION

22. The United States District Court for the District of Massachusetts has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1338, and has jurisdiction over

state law and common law claims pursuant to the doctrine of pendant jurisdiction. The amount in controversy exceeds seventy-five thousand dollars (\$75,000), exclusive of interest and costs.

23. This Court has authority to award the requested declaratory relief under 28 U.S.C. § 2201; the requested injunctive relief under 28 U.S.C. 1343(3); the requested damages under 28 U.S.C. 1343(3); and attorney's fees under 42 U.S.C. § 1988.

VENUE

24. Venue is proper under 28 U.S.C. § 1391 in the United States District Court for the District of Massachusetts because a substantial part of the actions or omissions giving rise to this case occurred within this District, and at least one Defendant resides within this District.

THE PARTIES

Plaintiff

25. Plaintiff Aaron Greenspan is the author of *Authoritas*, residing in Mountain View, California. Plaintiff is a private citizen who does not hold public office and is not known to the vast majority of the general public. Nonetheless, Plaintiff is known to a certain extent within certain communities, such as the computer technology industry in which Plaintiff works, the Silicon Valley community in which Plaintiff resides, and the communities of Harvard University and Stanford University affiliates.

Defendants

26. Upon information and belief, Defendant Random House, Inc. is a corporation organized and existing under the laws of the State of New York whose products are sold worldwide, including in the Commonwealth of Massachusetts; Random House is a wholly owned subsidiary of Bertelsmann Publishing Group, Inc., which is in turn owned by Bertelsmann, Inc., which is in turn owned by Bertelsmann A.G. Bertelsmann A.G. is a privately-held corporation with its primary place of business in Gütersloh, Germany, and operates, owns or

controls other Random House entities in the United States, including Knopf Doubleday Publishing Group (“Doubleday”). Random House benefited from the infringing behavior of the other Defendants and has engaged in continuous and systematic false advertising of The Accidental Billionaires as well as unfair business practices.

27. Upon information and belief, Defendant Mezco, Inc. is a corporation organized and existing under the laws of the Commonwealth of Massachusetts. Mezco, Inc. benefited from the infringing behavior of the other Defendants and is listed as an owner of the copyrights in The Accidental Billionaires. By virtue of the fact that Defendant Mezrich is the President, Treasurer, Secretary and Director of Mezco, Inc., Mezco, Inc. conducts business in this District in the Commonwealth of Massachusetts inasmuch as Mr. Mezrich does. Mezco has an office in this District in the Commonwealth of Massachusetts located at 770 Boylston Street, Apartment 26J, Boston, MA 02199.

28. Upon information and belief, Defendant Benjamin Mezrich is an individual whose primary place of residence is in the Commonwealth of Massachusetts at 770 Boylston Street, Apartment 26J, Boston, MA 02199, is a contractor or other agent of Random House, and is an owner and/or agent of Defendant Mezco, Inc. Defendant Mezrich originated the infringing behavior pertinent to this action, benefited from the infringing behavior of the other Defendants, and has engaged in continuous and systematic false advertising of The Accidental Billionaires and The Film. Defendant Mezrich at all times material hereto was conducting business in the Commonwealth of Massachusetts and this District and/or has transacted business within the Commonwealth of Massachusetts and/or contracted to supply goods or services in the Commonwealth of Massachusetts in connection with the matters giving rise to this suit. Defendant Mezrich has also committed infringing acts outside of the Commonwealth of Massachusetts causing injury to Plaintiff in the Commonwealth of Massachusetts, and Defendant

Mezrich regularly does or solicits business in the Commonwealth of Massachusetts, and/or derives substantial revenue from goods used or services rendered in the Commonwealth of Massachusetts, and/or expects or reasonably should expect their infringing conduct to have consequences in the Commonwealth of Massachusetts and derive substantial revenue from interstate commerce.

29. Upon information and belief, Defendant Tonya Mezrich is an individual whose primary place of residence is in the Commonwealth of Massachusetts at 770 Boylston Street, Apartment 26J, Boston, MA 02199. She is the spouse of Defendant Benjamin Mezrich.

30. Upon information and belief, Defendants Random House, Mezco, Benjamin Mezrich, and Tonya Mezrich are, and at all times material hereto were, the alter-egos of each other and a unity of interest and ownership among such Defendants exists such that any separateness has ceased to exist; and these Defendants, and/or each of them, used assets of the other Defendants, and/or each of them, for its and/or their separate, individual purposes, and they transferred valuable assets, property rights and/or interests to each other without adequate consideration.

31. Upon information and belief, each and all of the Defendants jointly and severally participated in the infringing activity as set forth below and each Defendant was acting within the course and scope of employment, partnership and/or agency with the other, and each of the Defendants is jointly and severally liable for the injuries to Plaintiff.

FACTUAL BACKGROUND

A. Plaintiff's Original Work: Authoritas

32. As an undergraduate at Harvard University, Plaintiff developed a web site for students, faculty and alumni he called "The Facebook" as part of a larger, original web site he had created called houseSYSTEM.

33. One of Mr. Greenspan's classmates in a roughly ten-person independent study seminar labeled Computer Science / Applied Math 91r, who was intimately familiar with both houseSYSTEM and The Facebook, was an individual named Mark Zuckerberg, who, only after extensive use of Plaintiff's work and after soliciting the assistance of Plaintiff in both technical and business matters, incorporated many of Plaintiff's ideas into his own web site which he labeled with the same name.

11

35. Mr. Zuckerberg's web site, based in part on principles and technologies developed by Plaintiff, formed the basis for the company that is now Facebook, Inc. ("Facebook"), of which Mr. Zuckerberg is Chief Executive Officer. After its launch, Mr. Zuckerberg's version of The Facebook became phenomenally popular, and reportedly has hundreds of millions of users worldwide.

36. At least as early as 2005, Mr. Zuckerberg made repeated demonstrably false claims in public concerning the origins of his work, including statements that prior to his "Facebook," no similar web site existed at Harvard University. Despite being in touch with Plaintiff throughout late 2005, Mr. Zuckerberg systematically excluded Plaintiff from any recognition for contributions to his success and from the company Plaintiff had indirectly helped create. Mr. Zuckerberg also repeatedly ignored Plaintiff's growing concerns about glaring privacy and security problems with Mr. Zuckerberg's site.

37. To correct Mr. Zuckerberg's false claims and settle the controversy surrounding the origins of Facebook, Inc., Plaintiff wrote a memoir, backed by extensive written documentation verified as authentic by *The New York Times*, including e-mail messages, instant messages, and precisely time-stamped server logs, entitled *Authoritas: One Student's Harvard Admissions and the Founding of the Facebook Era*. Such documentation is attached hereto in chronological order as Exhibit A.

38. After *The New York Times* published an article concerning Plaintiff on September 1, 2007, attached hereto as Exhibit B, in which Mr. Zuckerberg did not deny any of Plaintiff's allegations and stated "through a spokeswoman that he was not sure how to respond," Plaintiff entered into a written contract with a respected literary agent, Mr. Jonathon Lazear, to sell the manuscript for *Authoritas* to a publisher.

39. Mr. Lazear submitted the manuscript for Authoritas to editors at a number of major publishing houses including Doubleday, an imprint of the Knopf Doubleday Publishing Group, which is a division of Defendant Random House. On October 30, 2007 at 2:30 P.M., Plaintiff and Mr. Lazear met with Mr. Charlie Conrad, an editor at Doubleday, concerning Authoritas. Despite Mr. Lazear's estimate of a \$2 million advance for the Authoritas manuscript, Mr. Conrad expressed concern that few readers would be interested in a personal story concerning Harvard University and the origins of the Facebook web site. Mr. Conrad later turned down the manuscript; a specific reason why was never conveyed to Mr. Greenspan.

40. On March 31, 2008, fearing that the public's interest in Facebook would eventually fade, and without declared interest from any major publishers, Plaintiff elected to publish his manuscript on his own through his company, Think Computer Corporation, under the "Think Press" imprint. Mr. Greenspan exercised his right to terminate his contract with his literary agent and Authoritas was published in hardcover form on June 1, 2008. The copyright was registered in Plaintiff's name with the United States Copyright Office on April 13, 2008.

41. When Google, Inc. refused to allow Plaintiff to advertise Authoritas through the Google AdWords service due to the use of the word "Facebook" in the subtitle, which Google considered a trademark, Plaintiff's company, Think Computer Corporation, petitioned the United States Patent and Trademark Office Trademark Trial and Appeal Board to cancel one, and then two, of Facebook's registered trademarks for the term FACEBOOK.

42. Mr. Zuckerberg, Facebook, Inc., Plaintiff, and Plaintiff's company, Think Computer Corporation, reached a joint confidential settlement agreement in May, 2009.

B. Publication of The Accidental Billionaires

43. On July 30, 2008, Plaintiff received an unsolicited e-mail communication from Defendant Mezrich, who sought to meet with Plaintiff in person or telephonically in order to

obtain his assistance with an undefined project. After Plaintiff inquired as to Defendant Mezrich's basis for requesting a meeting, Mr. Mezrich stated that he was working on a new book about Facebook's origins, and that he considered Plaintiff to be "a very knowledgeable source."

44. Upon receipt of Defendant Mezrich's first e-mail requesting assistance, Defendant Mezrich was already known to Plaintiff as the result of his work on *Bringing Down The House*, which had been the subject of a critical article entitled "House of Cards" in *The Boston Globe* newspaper on April 6, 2008. The article described how *Bringing Down The House*'s "runaway success transformed its Boston-based author, Ben Mezrich, into a local celebrity and a one-man publishing brand, a specialist in true tales of egghead kids pulling off acts of lucrative derring-do." The article further quoted John Chang, "an MIT graduate and one of the inspirations for the character Micky Rosa, who in the book is the team's founder and leader," as saying, "I don't even know if you want to call the things in there exaggerations, because they're so exaggerated they're basically untrue." The article further states that Defendant Mezrich's tale, sold as non-fiction, "doesn't match up with the recollections of the people who were the basis of the book."

45. Defendant Mezrich's work in *Bringing Down The House* was additionally profiled in *The New York Times* on April 8, 2008, in an article by Jennfier Schuessler entitled, "Is 'Bringing Down the House' a Fraud?" This article stated, "'It's lying,' said Sebastian Junger, whom Mezrich cites as one of his 'idols.' 'Nonfiction is reporting the world as it is, and when you combine characters and change chronology, that's not the world as it is; that's something else.'"

46. On the basis of these articles, among others, Plaintiff perceived an unwritten but nonetheless clear and present threat to his reputation embodied by Defendant Mezrich's e-mails requesting his cooperation. Plaintiff knew that if he agreed to cooperate, he would sacrifice his right to control how the public perceived him, and that based on Defendant Mezrich's past work, Defendant Mezrich's portrayal of Plaintiff would inevitably involve invented sex scenes and

possibly other misleading, invented scenarios that would reflect poorly or improperly on Plaintiff. Plaintiff further knew that if he did not cooperate, he might be improperly left out of the story entirely, despite Defendant Mezrich's empty promise to represent events in an accurate manner. For a variety of personal reasons, Plaintiff was justifiably concerned about the way that both he and his family might be portrayed by Defendant Mezrich.

47. Plaintiff was also aware that Defendant Mezrich was being highly compensated to tell effectively the same story that Plaintiff had already told in *Authoritas*, and that cooperating would effectively amount to, or explicitly involve, a waiver, allowing Defendant Mezrich to earn profits and royalties on the sales of Plaintiff's story, at Plaintiff's expense.

48. Plaintiff eventually decided to decline Defendant Mezrich's request for cooperation on what Plaintiff referred to as the "novel," but did refer Mezrich to the web site for *Authoritas*, plainly indicating a simple desire to be represented in the story fairly and accurately or not at all. Defendant Mezrich signaled that he understood Plaintiff's desire for accurate representation when he replied, "Understood. Thanks for your time, I'll do my best to do the story justice and make it as entertaining as possible."

49. Plaintiff specifically referred to Defendant's project as a "novel," indicating that Plaintiff's e-mail response was conditional upon the work being marketed as fiction. Plaintiff's communications did not construe or imply a waiver of any kind. Plaintiff did not directly hear from Defendant Mezrich again after this exchange.

50. On June 24, 2009, in an article about *The Accidental Billionaires*, *The New York Times* wrote, "Doubleday has classified the book as nonfiction." The same article went on to point out that Defendant Mezrich had "fabricated characters and situations" in his previous "nonfiction" works, casting doubt on the accuracy of Doubleday's latest classification.

51. On July 14, 2009, Defendant Random House published *The Accidental Billionaires*, which was widely disseminated throughout the United States via distribution to retail bookstores, where it was placed on non-fiction bookshelves, and to electronic book web sites on the internet, including but not limited to Amazon.com. By virtue of association with a major publishing company, and due to Defendant Mezrich's financial success with his previous works, *The Accidental Billionaires* was reviewed in major national newspapers, magazines, and radio programs. *The Accidental Billionaires* was also released internationally.

52. Reviews of *The Accidental Billionaires*, such as a review in *The New York Times* by Janet Maslin, attached hereto as Exhibit E, frequently highlighted the almost unending problems with the author's writing style, sloppy editing, and propensity to exaggerate and invent material.

53. *Authoritas* is listed as a secondary source in *The Accidental Billionaires*, although the subtitle, "One Student's Harvard Admissions and the Founding of the Facebook Era" is missing from the listing. *Authoritas* and *The Accidental Billionaires* were and are rival works.

54. Upon information and belief, Defendant Random House's gross revenue for *The Accidental Billionaires* exceeds \$1,000,000.00.

55. Upon information and belief, Defendants' combined gross revenue for *The Accidental Billionaires* exceeds \$10,000,000.00.

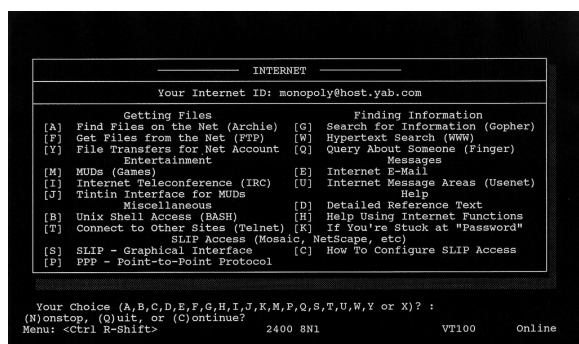
C. Defamatory Material Explicitly Concerning Plaintiff in *The Accidental Billionaires*

56. Plaintiff is introduced by name on page 80 of *The Accidental Billionaires* in a decidedly negative light and referenced flippantly again later in the book; *The Accidental Billionaires* is therefore of and concerning Plaintiff. Nonetheless, Plaintiff's original work single-handedly developing a web site called "The Facebook" at Harvard University in September, 2003 is omitted. Plaintiff's relationship with Mark Zuckerberg is omitted. Plaintiff's experience as a programmer and entrepreneur, at least comparable to (but arguably in excess of)

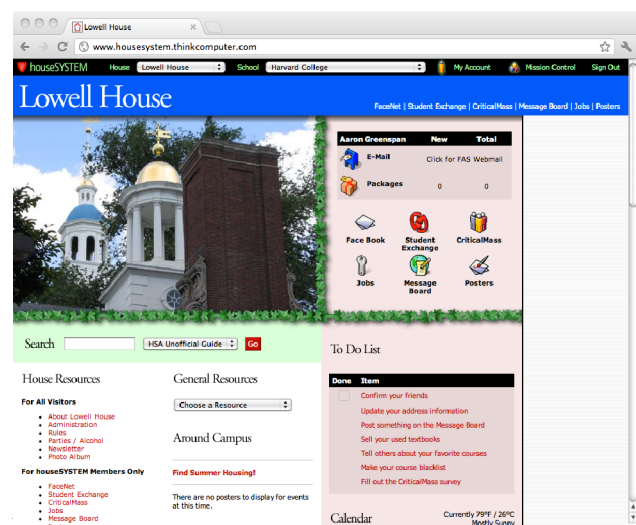
Mr. Zuckerberg's at the time, is omitted. Plaintiff's hard-fought battle with Harvard administrators to convince them to allow his opt-in Facebook on campus is omitted. Mr. Zuckerberg's presence on Plaintiff's Facebook is omitted. The respective houseSYSTEM memberships of Mr. Zuckerberg's roommates and co-founders Chris Hughes and Dustin Moskovitz are omitted. Mr. Zuckerberg's praise and wholesale copying of Plaintiff's product is omitted. The existence and contents of numerous e-mail and instant message conversations between Plaintiff and Mr. Zuckerberg are omitted. Mr. Zuckerberg's serial duplicitous and illegal actions with regard to Plaintiff and certain others are omitted. In place of all of this, Defendant Mezrich caustically wrote, "And some kid named Aaron Greenspan on campus had gotten in trouble a few months before for getting kids to join an info-sharing bbs that had used their Harvard e-mails and IDs as passwords."

57. In fact, at no point did houseSYSTEM use Harvard ID numbers or e-mail addresses as passwords, making Defendant Mezrich's description of the "trouble" that Plaintiff found himself embroiled in completely and demonstrably false and designed to scorn or ridicule.

58. Nor was houseSYSTEM was at any point an "info-sharing bbs." Bulletin Board Systems, generally known by the acronym BBS, were limited-functionality systems accessed by modem that went out of style sometime in the early 1990s. There were stark visual and functional differences between a BBS and houseSYSTEM in 2003-2004.



Left: An example BBS interface (*source* Tim Patterson, Flickr).



Right: houseSYSTEM as seen in 2004 with "Face Book" icon.

Mezrich's statement in this regard is also completely and demonstrably false, and clearly intended to ridicule Plaintiff and Plaintiff's work.

59. Defendant Mezrich's attribution of statements regarding Plaintiff and houseSYSTEM to what "Eduardo knew" or to the opinions of any other individuals represents the intention of Defendant Mezrich to shield his fabrications—presented countless times as "true," "accurate" and "non-fiction" facts—by offsetting them onto a supposedly opinionated scapegoat, such as (in this case) Eduardo Saverin. Counsel for Defendants deliberately twisted Mezrich's story so that it could be read as "opinion" whenever convenient in order to avoid legal liability, and in order to avoid paying for rights in *Authoritas*.

60. In his C-SPAN interview on November 6, 2011, Mr. Mezrich admitted that his writing endured substantial editing by lawyers. In his words, "The lawyer edit is the largest edit of my books. We sit there for hours going through every page of this to make sure it's all, you know, we have documentation for it all." Despite this statement, there is no substantive basis contained in *The Accidental Billionaires* for any assertion that derogatory statements about houseSYSTEM actually originated with Mr. Saverin, or anyone at all aside from Defendant Mezrich, and a reasonable objective reader would easily come away with the impression that such statements were intended to be factual in nature. Nor does Mr. Mezrich have any legitimate documentation for a vast array of so-called "facts" in his book, as described in Schedule K.

61. Upon information and belief, Mr. Saverin stopped working with Defendant Mezrich midway through his writing *The Accidental Billionaires*.

62. Defendant Mezrich writes, "Grossman [*sic*] had even added a Universal House Facebook into his site, which Mark had checked out; hardly anyone had paid any attention to it...And Grossman's [*sic*] site wasn't particularly slick." According to the Random House dictionary, in this particular context the word "slick" has an agreed-upon meaning of "ingenious"

or “cleverly devised.” By stating that the site “wasn’t particularly slick,” Defendant Mezrich makes a demonstrably false statement contradicted by the same newspaper he relies on elsewhere in his book: *The Harvard Crimson*. On March 15, 2004, a *Crimson* reporter wrote in an article entitled “CrimsonPartiesHookupExchange.com,” attached hereto as Exhibit C, that houseSYSTEM was “a mishmash of attractively implemented and well-intentioned services” and that “What HouseSYSTEM has going for it more than any other site is the degree to which it integrates a wide variety of features, and as more people become aware of what it offers it stands to become a powerful resource.” The same reporter further wrote, “Already, the site has more visitors than the university’s official portal ‘my.harvard.edu,’ which receives only a few hundred unique visitors daily though it draws from the university community of 26,000. HouseSYSTEM had several thousand unique hits in the month of February and its services are geared primarily towards undergraduates.” Defendant Mezrich’s statements therefore contain several errors, cast aspersions on Plaintiff’s work and character, are intended to inflict scorn, ridicule and harm, and are demonstrably false.

63. Defendant Mezrich was not aware of Plaintiff’s work in 2003 or 2004, and consequently never had the opportunity to see or use the web site described. Therefore, Defendant Mezrich had no substantive basis for referring to Plaintiff’s work in a derogatory manner, reinforcing his statements’ purpose of inflicting scorn, ridicule and harm, as opposed to some genuinely felt opinion.

64. Despite citing *Authoritas* as a source in his bibliography, and despite lifting many aspects of Plaintiff’s expression from *Authoritas*, Defendant Mezrich omitted key aspects of Plaintiff’s work on The Facebook (as part of houseSYSTEM) from *The Accidental Billionaires*. This decision on Defendant Mezrich’s part had two serious consequences: first, the omissions changed the narrative arc of the story in a manner such that other characters appeared in a far

more positive light than deserved; and second, the omissions harmed Plaintiff by completely withholding proper recognition that was instead attributed to other characters, and in particular, Mr. Zuckerberg.

65. The wide distribution granted to Defendant Mezrich's story and subsequent remarks, not just in movie theaters, but on channels with nationwide reach such as C-SPAN, known for its unedited, factual material, has given him a de facto air of legitimacy.

- a) Defendant Mezrich was interviewed on C-SPAN for one hour on May 30, 2009, as part of a program called "After Words." In this interview, by using the word "we," Defendant Mezrich referred to himself as part of the group of "geniuses" he writes about who have done "wild things, kind of in that gray area between legal and illegal... usually geniuses, who have pulled something off; some sort of scheme." Defendant's description of his characters fits his own criminal enterprise perhaps more than he intended. In this interview, Defendant Mezrich also referred to his writing as "action thrillers, but they're all true," and insisted that Facebook "basically started as a college prank."
- b) Defendant Mezrich was again interviewed on C-SPAN for one hour on July 15, 2011 while speaking at the Dallas Museum of Art. In this interview he repeated his usual false and fraudulent claims.
- c) Defendant Mezrich was again interviewed on C-SPAN for three hours on November 6, 2011. In this interview, Defendant Mezrich repeated his usual false and fraudulent claims and referred specifically to Plaintiff.
- d) Defendant Mezrich was again interviewed on C-SPAN for forty minutes on May 29, 2013. In this interview he repeated his usual false and fraudulent claims, including his view that, "Reality fits the thriller structure." Defendant

Mezrich also mentioned that, “I also worship Mark Zuckerberg,” an unusual stance for a non-fiction author to take on his subject.

66. Since the publishing of *The Accidental Billionaires*, Defendant Mezrich has repeatedly defended his work in highly publicized forums as “true,” despite the long list of errors and omissions detailed by Plaintiff and others. Each time that Defendant Mezrich has insisted on the veracity of his work, he has magnified the harm of the initial defamation, both explicit and implicit by omission. At times he has magnified and then compounded the harm by making slanderous accusations regarding his critics and their motives. Consequently, each effort by Plaintiff to reasonably counter Defendants’ false claims has caused more and more harm to Plaintiff’s reputation, instead of causing Defendant to cease and desist.

67. Defendant Mezrich’s repeated insistence in virtually every interview, written or verbal, that his work is “true,” “accurate” and “non-fiction” overrides any conceivable argument that his writing is opinion that cannot be demonstrably true or false. Any reasonable observer would be persuaded by his assertions that in fact, his writing is demonstrably true, whether or not it actually is. Defendant Mezrich has spoken or granted interviews, some of them assuredly paid appearances, regarding *The Accidental Billionaires* at a number of venues:

- a) The 2011 Netezza Conference on or about June 21, 2011;
- b) “Taking Stock” on Bloomberg Television, on or about July 14, 2009;
- c) Strand Book Store on or about July 27, 2011;
- d) The Craig Ferguson Show on or about July 29, 2011;
- e) The Inbound Marketing Summit 2011 conference on or about October 5, 2011;
- f) The Festival of Media 2011 on or about January 20, 2012.

These appearances are merely representative of the numerous venues in which Defendant Mezrich made false statements as part of commercial speech designed to sell his book(s).

D. Distribution of The Social Network

68. Upon information and belief, it was Defendants' collective intent to create a motion picture version of The Accidental Billionaires at least as early as July, 2008, before the book was even written.

69. In his July, 2008 e-mail communications Defendant Mezrich deliberately failed to inform Plaintiff of his intent to specifically license The Accidental Billionaires to a motion picture studio. Were Plaintiff represented fairly and accurately in The Accidental Billionaires, he would have been referenced in The Film.

70. Upon information and belief, at some point in, around or prior to August, 2008, Defendants entered into an agreement to create a screenplay based on The Accidental Billionaires.

71. Defendants Mezrich and Random House incorporated portions of Authoritas into The Film and with knowledge and intent, financed, developed, produced, manufactured, distributed, and exploited The Film without properly securing consent, approval of, a grant, or license from the Plaintiff.

72. The Film was released October 1, 2010.

73. The Accidental Billionaires and The Film have both been extremely successful business ventures for Defendants, yielding hundreds of millions of dollars in combined revenue. According to the Wikipedia entry for The Film, "during its opening weekend in the United States, the film debuted at #1, grossing \$22.4 million in 2,771 theaters... As of August 19, 2011, the film has grossed \$96,962,694 in the United States and \$127,957,621 elsewhere, for a worldwide total of \$224,920,315."

E. Defamation of Plaintiff by Defendant Mezrich After The Social Network

74. On November 6, 2011, C-SPAN aired a three-hour-long interview with Defendant Mezrich concerning *The Accidental Billionaires* and *The Film*, among other topics. The interview format allowed callers to directly ask questions of Defendant Mezrich, with the help of a host who facilitated the calls. Approximately three-quarters through the length of the interview, Plaintiff's father, Dr. Neil Greenspan, called C-SPAN of his own volition and was permitted to ask a question to Defendant Mezrich. Dr. Greenspan then asked Defendant Mezrich why he did not simply refer to his books as fiction.

75. At the program host's request for additional detail, Dr. Greenspan identified himself as the father of Plaintiff, who was referred to by name, and provided brief background information.

76. Defendant Mezrich's response was lengthy, defensive, rambling, erroneous, and cast unfounded aspersions on both Plaintiff and Dr. Greenspan that were defamatory in nature. First, by stating,

“[A]ll writers are jealous of each other. We're all jealous of each other. We're all filled with envy. Every time you read the newspaper about some big advance, you feel envious. Every writer does; it's like part of being a writer. It's part of our birthright. It's like, oh, that guy got a million dollars for that? I hate him. But you don't really hate him. *Schadenfreude*, is that what it is? It's that whole feel.”

Defendant Mezrich incorrectly ascribed feelings of “jealous[y],” “envy” and “hate” to Plaintiff and Dr. Greenspan. Then, Defendant Mezrich went on to falsely suggest that Plaintiff and Dr. Greenspan had an ulterior motive for questioning him, because Plaintiff and Dr. Greenspan, advocating for a designation of “fiction,” supposedly did not want the story to be told:

“The character who doesn't want this story told would benefit by it being called fiction. The character who does want it told is benefited by its being called non-fiction.”

Neither of these assertions is true.

77. In his response, Defendant Mezrich stated, “[Y]es, the way it is in the book is *correct*. My books are *non-fiction*, and I am *very accurate* about what happened in the Facemash incident” (emphasis added). Defendant Mezrich proceeded to lie about what he described as “the Facemash incident” and his portrayal thereof. Defendant Mezrich also claimed that he “stands by” both *The Accidental Billionaires* and *The Film*.

78. On the evening of November 6, 2011, Plaintiff sent Defendant Mezrich and C-SPAN an e-mail regarding the interview, published on Plaintiff’s personal web site immediately thereafter, decrying the false statements, and Defendant’s false statements about making false statements. Defendant Mezrich did not respond.

F. Effects of Defendants’ Explicit and Implicit Defamation on Plaintiff

79. Prior to the existence of *The Accidental Billionaires* or *The Film*, the typical difficulties inherent in starting any recent college graduate’s career were significantly magnified by Plaintiff’s unintended and unwanted involvement in controversy surrounding Facebook’s origins. For many years, through the crafting of *Authoritas* and by other means, Plaintiff attempted to correct the wrongs that had led to his reputation being tarnished, without allowing those wrongs to remain his exclusive focus. Plaintiff was partially successful, as evidenced by the *New York Times* article published on September 1, 2007, which highlighted the fact that Plaintiff remained a creative and motivated individual despite the many significant challenges.

80. Through the September 1, 2007 *Times* article and other appearances in the press, certain communities were exposed to Plaintiff’s role in the creation of Facebook, sometimes in detail, and sometimes generally. This early exposure to Plaintiff created a basic expectation by the members of those communities that any nominally serious treatment of the topic of Facebook’s origins should involve Plaintiff. Upon explaining his involvement in Facebook’s creation, Plaintiff was asked frequently by skeptical individuals why he was not in *The Film*.

Individuals who were first exposed to the controversy surrounding Facebook's origins via The Film formed a reasonable expectation that the controversy described in the film involved each and every major party involved in said controversy.

81. The Accidental Billionaires and The Film immediately reversed the vast majority of the progress Plaintiff had made toward setting the record straight. Whether intentional or not, news about the book proposal, the likelihood of the book becoming a movie, the book itself, and then the movie itself, all of which contained Defendant Mezrich's flawed story line, comprised a massive misinformation campaign. Even the effects of the most resourceful and active proponent of Plaintiff imaginable would have been dwarfed by the extent and volume of false information distributed by and concerning Defendants' works. At one point leading up to the release of The Film, a banner advertisement for The Film covered the entire home page of the web site of *The New York Times*, not to mention other advertisements on buses, in newspapers, on the radio, on television, and in stores.

82. Attempts to politely correct misapprehensions regarding Facebook's founding have been routinely met with suspicion or enormous scorn because of Defendants. In one such instance, Plaintiff attended an October 4, 2011 speech given at Stanford University by Richard Fairbank, CEO of the Capital One family of companies, including Capital One N.A. and Capital One Bank (USA), N.A. The speech was of particular interest to Plaintiff because of Plaintiff's role in developing a mobile payment system that the Capital One family of companies might have been interested in licensing. In his speech, Mr. Fairbank explicitly cited The Film, which he stated he could not get "out of [his] head." Mr. Fairbank proceeded to refer to Mr. Zuckerberg as a role model for students interested in business, citing his determination and drive. When Mr. Fairbank called on Plaintiff during the subsequent question and answer period, Plaintiff politely and briefly noted that The Film was not a reliable or factual source, and that

Plaintiff was present at Harvard during the time period depicted in the film. Plaintiff then proceeded to ask an unrelated question regarding Capital One's plans for mobile payments. Mr. Fairbank expressed his lack of desire to discuss the movie immediately in public and then answered Plaintiff's question. After the speech, Plaintiff attempted to bring up The Film in brief conversation with Mr. Fairbank, and was rebuffed. An e-mail to Mr. Fairbank that same night regarding Plaintiff's question, as well as mobile payments generally, went unanswered. Plaintiff's attempt to further his business interests was therefore stymied by the false portrayal of events in The Film, at potentially enormous cost to Plaintiff.

83. In another example, Plaintiff was interviewed regarding mobile payments by Elise Craig, a reporter for Xconomy, a technology news web site. Ms. Craig did not ask Plaintiff any questions about Facebook, nor did Plaintiff volunteer any information about his involvement with Facebook. When the article about Plaintiff's mobile payment system was finally published on February 2, 2012, the article referred to Plaintiff as a "a longtime programmer who claims to have created a precursor to Facebook at Harvard." Only after Plaintiff contacted Ms. Craig post-publication, citing statements by Mark Zuckerberg regarding Plaintiff's work, and a Facebook, Inc. press release regarding Plaintiff's settlement, was the phrase "claims to have" removed.

84. In another example, Plaintiff attempted to have a conversation with Brian Perkins, a staffperson for Congresswoman Jackie Speier at the Consumer Financial Protection Bureau Project Catalyst event at the Computer History Museum in Mountain View, California on November 14, 2012. The staffperson asked about Plaintiff's background, which Plaintiff mentioned included early work on Facebook. "Who played you in the movie?" was the staffperson's first question. A follow-up e-mail and phone call were never returned.

85. Other characters in The Accidental Billionaires and/or The Film have enjoyed considerable financial success, aside from their direct involvement with Facebook, Inc., thanks to

Defendants. Adam D'Angelo, a minor character in The Film, raised \$141 million in venture capital for his company, Quora. Andrew McCollum, another minor character in The Film, was given an Entrepreneur In Residence position at Flybridge Capital Partners and at New Enterprise Associates. Plaintiff's attempts to raise venture capital from 2009 on were routinely rebuffed.

86. Due to his portrayal in The Accidental Billionaires and absence from The Film, the media routinely and consistently regards Plaintiff as an unknown figure making unverifiable and dubious claims. The default tendency to refer to Plaintiff with words and phrases that cast doubt and with so-called scare quotes (quotation marks used to convey doubt), even in contexts having absolutely nothing to do with Facebook, has gravely injured Plaintiff's ability to earn income.

87. Plaintiff has been unfairly criticized on respected web sites frequented by individuals in the professional communities in which Plaintiff works due to The Accidental Billionaires. The technology publication *Mashable* referred to Plaintiff as one of "Facebook's Fools: 15 That Missed Out on the Big Payday," and incorrectly stated that "Greenspan, another Harvard classmate of Zuckerberg's, was never involved in Facebook, but was onto a very similar idea," because, "According to *The Accidental Billionaires: The Founding of Facebook: A Tale of Sex, Money, Genius and Betrayal* by Ben Mezrich, Zuckerberg had checked out Greenspan's site, but 'hardly anyone had paid any attention to it.'"

88. An unidentified Twitter user calling himself or herself "@AaronGreenspan" wrote scathing messages about Plaintiff, publicly quoted Plaintiff's [First Proposed] First Amended Complaint in this case, and attempted to communicate with Defendant Mezrich and other Silicon Valley entrepreneurs while impersonating Plaintiff, indicating a highly unusual degree of familiarity with these proceedings. At one point, this individual wrote publicly, "Make sure to check out Authoritas on Amazon! [Hyperlink] Remember, 10 cents of every dollar goes toward my psychiatric medications." Plaintiff has never been prescribed or taken psychiatric

medications, nor diagnosed with any psychiatric disorder. The unidentified Twitter user may have been an affiliate of Defendants, or Defendants themselves.

89. Sora J. Kim wrote a book review of *The Accidental Billionaires* for *The Suffolk University Law School Journal of High Technology Law* published in February, 2010. It compounded Defendants' mangling of Plaintiff's name by citing "Victor Grossman" as having "created Universal House Facebook, which was a social network that lacked pictures and profiles that theFacebook.com had." Even if Ms. Kim had used Plaintiff's name properly, the statement she was attempting to attribute to Plaintiff, derived solely from *The Accidental Billionaires*, is false.

90. These merely representative occurrences are defamatory, have transpired through no fault of Plaintiff, and have seriously damaged Plaintiff's reputation and career prospects.

G. Defendants' Fraudulent Practices, Unfair Competition, and Unjust Enrichment

91. Upon information and belief, Defendants Benjamin Mezrich, Tonya Mezrich and Random House encouraged their partners, employees, contractors and/or affiliates to post positive "five-star" reviews of *The Accidental Billionaires* on popular web sites such as Amazon.com, designed to mislead consumers into purchasing *The Accidental Billionaires*. Amazon.com's rating system averages the star rating of each individual review into a single star rating for the product in question, such that five-star fraudulent reviews raise the overall rating for a product, which consumers use to guide their purchasing decisions.

92. Multiple academic research studies have concluded that on-line consumer reviews, including reviews involving star systems, affect consumer purchasing decisions. Studies have also found that on-line review fraud is not uncommon, though it can be extremely difficult for consumers to detect. A study entitled "Manipulation of online reviews: An analysis of ratings, readability, and sentiments" by Nan Hu, *et al* in *Decision Support Systems* 52 (2012)

674-684 begins with, “Consumers are increasingly relying on opinions posted on the e-commerce websites to make a variety of decisions ranging from what movies to watch to what stocks to invest in.” In addition, a 2006 article entitled “The Effect of Word of Mouth on Sales: Online Book Reviews” published by the American Marketing Association, by Judith A. Chevalier and Dina Mayzlin, states, “Online user reviews have become an important source of information to consumers, substituting and complementing other forms of business-to-consumer and offline word-of-mouth communication about product quality.”

93. Reviews written with undisclosed sponsors or by close affiliates of the material being reviewed constitute “advertisements in the guise of objective editorials written by consumers—that violate Federal Trade Commission (“FTC”) advertising guidelines. Plaintiff has identified at least seven unlawful advertisements on Amazon.com connected to Defendants, but there are likely many more:

- a) A five-star review of *The Accidental Billionaires* by “sweetpea” of Boston, MA, dated July, 19, 2009 [since deleted during these proceedings in bad faith], entitled “If you are a Facebook user, or want to learn more about geeks creating empires from their dorm rooms, this is the book for you.” This review contained the demonstrably false statement, “When I first picked up the book, i [*sic*] really only knew about Mark Zuckerberg,” designed to convey the [false] impression of the reviewer’s objectivity;
- b) A five-star review of *The Accidental Billionaires* by “T. Dowd” of Boston, MA, dated July 20, 2009, entitled “LOVED Accidental Billionaires. Mezrich does NOT disappoint!” This review contains the demonstrably false statement, “I’m just a huge fan of Ben Mezrich’s books,” designed to convey the [false] impression of the reviewer’s objectivity;

- c) A five-star review of *The Accidental Billionaires* by “E. Johnson” of Boston, MA, dated July 22, 2009, entitled “PHENOMENAL READ-ONE OF THOSE BOOKS YOU CAN'T PUT DOWN!” This review fails to disclose that the review was sponsored or written by an associate of Defendants;
 - d) A five-star review of *The Accidental Billionaires* by “O.C.” of New York, NY, dated July 22, 2009, entitled “Illustrates how the behemoth of silicon valley really just started as a college prank.” This review fails to disclose that the review was sponsored or written by an associate of Defendants;
 - e) A five-star review of *The Accidental Billionaires* by Barry Rosenberg of New York, NY, dated July 22, 2009, entitled “Movie ready, just add water.” This review fails to disclose that the review was sponsored;
 - f) A five-star review of *The Accidental Billionaires* by “A.J. Wolfson” of New York, NY, dated July 27, 2009, entitled “Great look behind the scenes of a revolution.” This review fails to disclose that the review was sponsored or written by an associate of Defendants;
 - g) A five-star review of *The Accidental Billionaires* by “E. McDonagh,” dated August 10, 2009, entitled “Don't miss this glimpse of The American Dream.” This review fails to disclose that the review was sponsored or written by an associate of Defendants.
94. These advertorial reviews share the following characteristics:
- a) Each rating is five stars, the maximum possible, signifying high approval;
 - b) The authors, with the exception of Mr. Rosenberg, do not use their full names;
 - c) The authors are located either in Boston, MA (where Defendant Mezrich is located) or in New York, NY (where Defendant Random House is located);

- d) The authors tend to have reviewed only one product: a Ben Mezrich book;
- e) The reviews were written as early as five days after the stated initial date of publication (as stated on Amazon.com for the first hardcover edition) of July 14, 2009, and no later than one month after the initial date of publication;
- f) The reviews contain an unusually high level of descriptive detail for an average consumer review, e.g. referring to the Winklevoss twins as “chiseled”;
- g) The reviews contain references in many cases to marketing catchphrases used by Defendants, and by Defendant Mezrich in particular:
 - 1) “a good summer read”;
 - 2) “started as a college prank”;
 - 3) “You won't regret it!”;
 - 4) “genius”;
 - 5) “It [*sic*] you want to stock up on dry factoids, pick up an Encyclopedia Brittanica”.
- h) The authors do not identify themselves as partners, employees, contractors and/or affiliates of any of Defendants, and in some cases, such as the review by “sweetpea,” deliberately attempt to appear objective by making false statements suggesting lack of knowledge.

95. The author of one of the advertorial five-star reviews, “sweetpea”, is actually Defendant Tonya Mezrich, Defendant Mezrich’s spouse, as evidenced by the photographs of herself that she voluntarily uploaded to her Amazon.com account. These photographs of Defendant Tonya Mezrich with her pug are further verified by a September 29, 2011 article about Tonya Mezrich, in which Mrs. Mezrich describes her dog, a pug, as it relates to her

profession in the fashion industry. Defendant Tonya Mezrich stands to benefit financially from any fraudulent action in support of her spouse, Defendant Benjamin Mezrich.

96. The author of another advertorial five-star review, Barry Rosenberg, is in fact Defendant Benjamin Mezrich's (presumably paid) public relations agent, and a non-party co-conspirator in the Defendants' criminal enterprise.

97. The author of a third five-star review, "T. Dowd," is actually Tiffany Dowd, a close friend and business associate of Defendant Tonya Mezrich and Defendant Benjamin Mezrich who has been photographed with Defendant Tonya Mezrich at social functions.

98. Upon information and belief, Defendant Mezrich has given a number of paid speeches since the publication of *The Accidental Billionaires* based on his credentials as the author of the book, or the author of the book upon which *The Film* was based. Were it not for *The Accidental Billionaires*, *Authoritas* would be more widely-known and Plaintiff would have earned income from honoraria from these specific or other speaking opportunities.

99. Defendants' actions combine to create a dangerous precedent for blurring fact and fiction that cannot stand. Applied broadly, it would have disastrous long-term consequences not only for authors of books, but for journalists, readers, the political system, and the Court especially. To the extent it has been allowed to persist thus far, Defendant Mezrich's unique "genre" has been supported only by the prestige of the wealthy individuals and business partners that he strives so hard to associate himself with.

100. Several individuals, both familiar and unfamiliar with Plaintiff, have encouraged Plaintiff to "move on" beyond the Facebook controversy, but practically speaking, the magnitude of funding and media interest associated with Facebook now and for the foreseeable future, combined with the aforementioned prevalence of deeply flawed misinformation distributed

broadly by Defendants that has tarnished Plaintiff, makes this incredibly difficult from a practical standpoint.

CLAIMS FOR RELIEF

FIRST CLAIM

Federal Unfair Competition and False Advertising (15 U.S.C. § 1125(a)) Against Defendants Random House, Mezco, Benjamin Mezrich, and Tonya Mezrich

101. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint and incorporates them by reference.

102. Defendants' actions described above in commerce to advertise, market, and sell The Accidental Billionaires throughout the United States, including within the Commonwealth of Massachusetts; their use of "word[s], term[s], name[s]...or any combination thereof" and "false or misleading description of fact[s]" (such as the book being "true," "accurate," "non-fiction," "memoir" and/or "biography," as well as those false and misleading descriptions and facts listed in Schedule K); their misrepresentations concerning Defendant Mezrich's research habits and sources suggesting the "origin" of The Accidental Billionaires to be facts and not Defendant Mezrich's imagination; their use of partners, paid employees, paid contractors, affiliates and/or employees to misrepresent and influence public opinion regarding the book through planted positive reviews designed to influence consumer purchasing decisions; their scheme to create synthetic "non-fiction" books based on those of non-compensated authors to attract a larger purchaser demographic; and Defendants' knowledge, participation, and inducement thereof, constitute unfair competition in violation of 15 U.S.C. § 1125(a)(1)(A) .

103. Defendants' actions described above in commerce to advertise, market, and sell The Accidental Billionaires throughout the United States, including within the Commonwealth of Massachusetts; their use of "word[s], term[s], name[s]...or any combination thereof" that "in commercial advertising or promotion, misrepresent[] the nature, characteristics, [and] qualities"

of *The Accidental Billionaires* (such as the book being “true,” “accurate,” “non-fiction,” “memoir” and/or “biography,” as well as those false and misleading descriptions and facts listed in Schedule K); their misrepresentations concerning Defendant Mezrich’s research habits and sources suggesting the “origin” of *The Accidental Billionaires* to be facts and not Defendant Mezrich’s imagination; their use of partners, paid employees, paid contractors, affiliates and/or employees to misrepresent and influence public opinion regarding the book through planted positive reviews designed to influence consumer purchasing decisions; and Defendants’ knowledge, participation, and inducement thereof, constitute false advertising in violation of 15 U.S.C. § 1125(a)(1)(B).

104. Plaintiff’s book *Authoritas* and Defendants’ book *The Accidental Billionaires* are rival works that contain overlapping subject matter, are both labeled non-fiction, have both been made available for sale through the same channels of trade in interstate commerce (e.g. Amazon.com, BarnesAndNoble.com, various brick-and-mortar retailers via book distributors such as Baker & Taylor, etc.), and both retail at roughly the same price while being targeted at the same consumer demographic.

105. In its very first pages, *Authoritas* begins by discussing houseSYSTEM, The Facebook, and the reactions thereto of Harvard administrators. The entire latter third of *Authoritas*, from page 214 to page 333, is devoted to an in-depth and thoroughly documented discussion of the origins of houseSYSTEM and The Facebook. Prior to that discussion, *Authoritas* also extrapolates on the relevance of Harvard University’s decentralized structure to the need for The Facebook in general. “The Facebook” also appears in the subtitle of *Authoritas*.

106. Amazon.com is the largest on-line retailer in the world. As of the date of this Complaint, a search of all products on Amazon.com for “Founding of Facebook” returns 94 results. The first and most visible search result is a pairing of the Kindle (electronic) and

paperback editions of *The Accidental Billionaires*. A pairing of the Kindle and hardcover editions of *Authoritas* does not appear until the eleventh result, well below the “fold” on a typical 1280x800 pixel resolution laptop screen. The 2008 hardcover edition of *The Accidental Billionaires* is also the twelfth result, and various editions of *The Accidental Billionaires* appear as the seventeenth and twenty-seventh, forty-second, forty-third, forty-fourth, and forty-fifth results. Books related to *The Film* make up the last few pages of results. As a result of the false advertising and unfair business methods used to promote *The Accidental Billionaires*, potential purchasers of *Authoritas* are far more likely to be exposed to and/or purchase *The Accidental Billionaires* well before they even discover that *Authoritas* exists.

107. Amazon.com search result rankings are not purely informed by consumer reviews of a book. As of the date of this Complaint, *Authoritas* has been rated seven times with an average of 4 stars. *The Accidental Billionaires* has been rated 188 times (including the false and misleading ratings discussed herein) with an average of 3.5 stars. Even though *Authoritas* is considered on average to be a “better” book, it is ranked lower in Amazon.com’s search results, likely because *The Accidental Billionaires* has sold more copies. *The Accidental Billionaires*’s sales rank for Kindle is “#62,464,” for hardcover is “#508,742” and for paperback is “#90,140.” *Authoritas*’s sales rank for Kindle is “#1,115,795” and for hardcover (there is no paperback edition) is “#2,248,992.” Although these rankings are frequently updated and may fluctuate, they generally demonstrate that *The Accidental Billionaires* has sold many more copies than *Authoritas* despite its lower perceived quality.

108. Defendants’ actions as described above with regard to *The Accidental Billionaires* are likely to be mislead and deceive consumers, have misled and deceived consumers, and will continue to be mislead and deceive consumers, in a manner that was likely to divert sales of

Authoritas, has diverted sales of Authoritas, and will continue to divert sales of Authoritas, impacting Plaintiff's earnings.

109. Readers of The Accidental Billionaires are likely to believe that they "know" the story behind Facebook having read it, rendering them unlikely to purchase another book on the same topic.

110. Upon information and belief, consumers are likely to be misled and deceived by bulk purchases of The Accidental Billionaires by Defendants that were designed to propel the book to the top of best-seller lists even though such purchases did not represent actual consumer interest.

111. Defendants knew or should have known that their statements and actions were false or likely to mislead.

112. Plaintiff's interests in Think Computer Corporation, the parent of Think Press, the publisher of Authoritas and a competitor of Defendant Random House in the same channels of trade involving book publishing, have been damaged by Defendants' false advertising and unfair competition. Plaintiff himself is a direct competitor of Defendants Mezrich and Mezco in that they secured and held copyrights on similar content, and then attempted to win publishing deals from the same divisions of the same publishers.

113. As an actual and proximate result of Defendants' willful and intentional actions, Plaintiff has suffered damages in an amount to be determined at trial, and unless Defendants are enjoined, Plaintiff will continue to suffer irreparable harm and damage to its business, reputation, and goodwill.

114. Pursuant to 15 U.S.C. § 1117, Plaintiff is entitled to damages for Defendants' Lanham Act violations, an accounting for profits made by Defendants on sales of The Accidental Billionaires, as well as recovery of the costs of this action. Furthermore, Plaintiff is informed

and believes, and on that basis alleges, that Defendants' conduct was undertaken willfully and with the intention of causing confusion, mistake or deception, making this an exceptional case entitling Plaintiff to recover additional damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

115. Plaintiff has no adequate remedy at law.

SECOND CLAIM

Defamation of Aaron Greenspan Against Defendants Benjamin Mezrich, Mezco and Random House

116. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint and incorporates them by reference.

117. Defendant Benjamin Mezrich's written and frequently erroneous statements that Aaron Greenspan's work was irrelevant and of poor quality are false and untrue, and have defamed Aaron Greenspan.

118. Defendant Benjamin Mezrich's use of pejorative terms, phrases that become pejorative when used in specific manners, and incorrect names to describe Aaron Greenspan, in conjunction with his other writing, have defamed Aaron Greenspan. A reasonable reader of Defendant Mezrich's writing would interpret the carelessness with which Defendant Mezrich refers to Plaintiff as indicative of contempt.

119. Defendant Benjamin Mezrich's selective and deliberate (but not complete) omission of Aaron Greenspan's true role in his written and verbal narrative concerning Facebook's origins has both explicitly and implicitly defamed Aaron Greenspan.

120. Defendant Benjamin Mezrich's continuous insistence that his work is "true," "accurate," "non-fiction" and generally trustworthy has by implication defamed Aaron Greenspan, who has publicly argued that it is full of falsehoods and invention, inaccurate, and fiction.

121. Defendant Benjamin Mezrich's attribution of false motives to critics of his work, including false motives explicitly attributed to Aaron Greenspan and Aaron Greenspan's father, Dr. Neil Greenspan, have defamed Aaron Greenspan and his family. Specifically, Defendant Mezrich's misleading and nationally-televised description of Plaintiff and Plaintiff's father as hateful, jealous and envious has exposed Plaintiff to scorn, ridicule and contempt in the public eye.

122. By making false statements in print in a best-selling book published by a major publisher, in the context of a blockbuster movie seen by millions, and then repeatedly on national television, Defendants published and/or distributed defamatory statements to a wide range of persons in the public.

123. Defendants negligently published and/or spoke the false and defamatory statements about Aaron Greenspan and his family, causing him to suffer damages, including numerous lost business opportunities, and injury to his reputation.

124. Defendants published the false and defamatory statements with the knowledge that the statements were false, or with reckless disregard as to the falsity of the statements. Such reckless disregard is evidenced by Defendant Mezrich's November 6, 2011 verbal statement on C-SPAN, that, "This is how I write...don't read it if you don't like it! You know? You know what you're getting into," as well as written statements from entertainment industry executive Aaron Ray, who recounts an anonymous individual in the employ of Sony Pictures calling *The Accidental Billionaires* as "not very" accurate, and noting, "a simple 'So sue me' usually irons over differences."

125. Defendants published the false and defamatory statements hoping to exploit them for financial gain, as evidenced by Defendant Mezrich's November 6, 2011 verbal statement on C-SPAN, that, "The controversy is good. It's good for me."

THIRD CLAIM

Unjust Enrichment Against All Defendants

126. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint and incorporates them by reference.

127. Defendants have been unjustly enriched by their respective unauthorized, unlawful and unjust earnings stemming from the fraudulent synthesis of a so-called “true story” to form the basis for a motion picture in lieu of Plaintiff’s actually true story.

128. Defendants Benjamin and Tonya Mezrich have been unjustly enriched by fraudulent five-star pseudonymous reviews of Defendant Benjamin Mezrich’s work, including *The Accidental Billionaires*, authored by Defendant Tonya Mezrich and her associates, including but not limited to Tiffany Dowd. Such false reviews for years have misled the consuming public into having a more favorable impression of Defendant Mezrich’s work than is actually warranted, at Plaintiff’s expense.

129. Defendant Benjamin Mezrich has been unjustly enriched by earning honoraria and/or other compensation for public appearances or additional written works as a result of his work and unjust financial success stemming from *The Accidental Billionaires* and its false advertising. Plaintiff is actually an expert on the topic that Defendant Mezrich merely claims to know about, and one of the only people in the world not contractually bound to refrain from discussion thereof.

130. Defendants Benjamin Mezrich and Tonya Mezrich have been unjustly enriched by earning income stemming from film rights in *The Accidental Billionaires*, at Plaintiff’s expense. Plaintiff’s 2007 query letter to book agents and publishers specifically hypothesized that *Authoritas* and the story of Facebook would make for an entertaining motion picture.

131. Were Plaintiff's involvement accurately reflected in The Accidental Billionaires, Plaintiff would have enjoyed higher earnings through additional book sales, honoraria, other compensation for public appearances or additional written works, and/or other business opportunities.

RELIEF REQUESTED

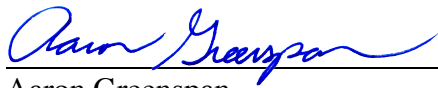
WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A permanent injunction enjoining all Defendants, their officers, agents, employees, licensees and assigns, distributors, sub-distributors, and all persons acting in concert with them, from engaging in or authorizing the production, copying, distribution and/or further exploitation of The Accidental Billionaires and The Film;
- B. A permanent injunction banning all Defendants from posting reviews of any product produced, created, designed by or written by any of Defendants, on any web site, under any name, real or fake;
- C. Preliminarily and permanently enjoin Defendants from publishing further defamatory statements about Aaron Greenspan and/or his supporters, whether explicit or by implication;
- D. Enter judgment against Defendants on all counts of the Complaint;
- E. Award Plaintiff damages in an amount to be determined at trial;
- F. Plaintiff's reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988 and other applicable law;
- G. Such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury in this action of all issues so triable.

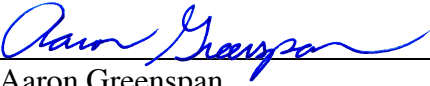
Respectfully submitted this 21st day of April, 2014.



Aaron Greenspan
1132 Boranda Avenue
Mountain View, CA 94040-3145
Phone: +1 415 670 9350
Fax: +1 415 373 3959
E-Mail: greenspan@post.harvard.edu

[PROPOSED] CERTIFICATE OF MAILING AND SERVICE

I, Aaron Greenspan, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

By 

Aaron Greenspan
1132 Boranda Avenue
Mountain View, CA 94040-3145
greenspan@post.harvard.edu