

Congress of the United States

Washington, DC 20515

November 10, 2011

Mr. Mark Zuckerberg
Founder & Chief Executive Officer
Facebook
1601 S. California Avenue
Palo Alto, CA 94304

Dear Mr. Zuckerberg:

In September, an Australian blogger published findings that Facebook had been gathering information about the websites its users visited without users' knowledge and after they had logged out of Facebook. Following this publication, we wrote to the Federal Trade Commission (FTC) to inquire about whether such a practice constituted an "unfair or deceptive act or practice" under Section 5 of the Federal Trade Commission Act. In its October 7, 2011 response to us, the FTC indicated that the Commission currently is reviewing privacy and security issues associated with social networking sites.

After the publication of these findings, a Facebook spokesperson told The Hill newspaper that "Facebook does not track people across the Internet" ("FTC Chairman Shares Lawmakers' Privacy Concerns About Facebook", October 11, 2011). In light of these assertions, we were interested to learn of a patent application that Facebook filed on February 8, 2011 with the U.S. Patent and Trademark Office (Publication #20110231240). The patent describes a method "for tracking information about the activities of users of a social networking system while on another domain".

This patent application raises a number of questions about whether Facebook tracks its subscribers on websites other than Facebook, regardless of login status, or has plans to do so. Specifically, the Facebook patent describes a method for "receiving one or more communications from a third-party website having a different domain than the social network system, each message communicating an action taken by a user of the social networking system on the third-party website".

Experts who have reviewed Publication #20110231240 agree that the patent contemplates tracking users on other websites. The patent also includes sending targeted advertisements to users based on information gleaned from such tracking. This conclusion is based, at least in part, by the Facebook patent's description of a method for "logging the actions taken on the third-party website in the social networking system, each logged action including information about the action; and correlating the logged actions with one or more advertisements presented to the one or more users" and "maintaining a profile for each of one or more users of the social networking system, each profile identifying a connection to one or more other users of the social networking system and including information about the user".

We understand that there are a variety of motivations to file for a patent beyond protection of already employed or planned practices. Accordingly, it would be fruitful for Facebook to explain why it filed a patent “for tracking information about the activities of users of a social networking system” while simultaneously stating “Facebook does not track people across the Internet.”

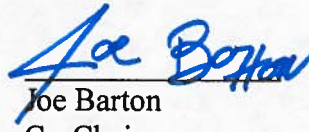
We request that Facebook clarify why it applied for this patent by answering the following questions: what is the purpose of the filed patent and how does Facebook intend to use it? Is it the intention of Facebook to track users on other websites regardless of login status? What actions is Facebook currently taking to ensure that its users are not tracked when they visit other websites? We also request information about how Facebook intends to integrate the location data of its users into its targeted advertising system.

Thank you for your attention to this important matter. Please provide responses to these questions no later than December 1, 2011. If you have any questions, please have a member of your staff contact Joseph Wender in Congressman Markey’s office (202-225-2836) or Emmanuel Guillory in Congressman Barton’s office (202-225-2002).

Sincerely,



Edward J. Markey
Co-Chairman
Congressional Bi-Partisan Privacy Caucus



Joe Barton
Co-Chairman
Congressional Bi-Partisan Privacy Caucus