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Feb. 1, 2012, 4:51 p.m. EST

Media Say Children's Suit by Korein Tillery Against Facebook for Using Names in Advertising Could Impact Impending IPO

ST. LOUIS, Feb 01, 2012 (BUSINESS WIRE) -- Just days before Facebook plans to launch its Initial Public Offering (IPO) of stock to investors, the potential financial liability facing the company in a federal suit filed by Korein Tillery LLC of St. Louis has become an issue that could impact the IPO that analysts predict will generate billions of dollars for Facebook.

The NBC affiliate in St. Louis, KSDK-CH 5, warned in a story Tuesday night that investors should be aware of the potential financial impact on Facebook and its revenues by the suit filed by Korein Tillery last June in the U.S. District Court for the Southern District of Illinois. The suit filed by parents of children in Illinois alleges that Facebook illegally uses children's names and pictures to sell advertisements. The suit alleges that state law prohibits children from giving Facebook permission to use their names and pictures in advertisements as Facebook does in its "social ads" and "sponsored stories."

Under California law, the law Facebook seeks to apply, a contract to use a child's name or picture in advertisements is void unless a parent or judge has approved. Using a person's name or picture in advertisements without permission subjects the advertiser to a \$750 fine. Under Illinois law, a violation is subject to a \$1,000 fine.

In the story by KSDK, Steven A. Katz of Korein Tillery said public records indicate that Facebook has between 14 million and 20 million users in the United States under 18 years old. Assessing a fine for each violation involving that many children could reach into the billions of dollars, Katz said. Meanwhile, analysts are predicting that the first offering of stock to the public by Facebook could generate revenue between \$5 billion and \$10 billion, valuing the company at about \$100 billion. That would create one of the largest IPOs in recent history.

Katz said Facebook's contention that all users agree to the use of their names and pictures in advertising under its terms of use cannot be applied to minors because, as minors, they cannot legally give their consent or enter into a contract. California law specifically provides that the contract is void without a parent's consent. Katz said Facebook could correct the violation by limiting the use of names and pictures in such advertisements to users 18 and older, but has taken no such action.