

Case Nos. 08-16745, 08-16849, 08-16873

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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**THE FACEBOOK, INC., et al.  
Plaintiffs-Appellees-Cross-Appellants,**

**v.**

**CONNECTU, INC. (formerly known as CONNECTU LLC), CAMERON  
WINKLEVOSS, TYLER WINKLEVOSS, DIVYA NARENDRA,  
Defendants-Appellants-Cross-Appellees.**

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**On Appeal From The United States District Court For The  
Northern District of California, No. CV-07-01389-JW,  
The Honorable James Ware**

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**DECLARATION OF JAMES E. TOWERY IN SUPPORT OF APPELLANT  
CONNECTU, INC.'S MOTION TO DISQUALIFY COUNSEL**

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James E. Towery (BAR NO. 74058)  
Alison P. Buchanan (BAR NO. 215710)  
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*Attorneys for Appellant ConnectU, Inc.*

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I, James E. Towery, declare:

1. I am a shareholder in the law firm of Hoge, Fenton, Jones & Appel, Inc., counsel for ConnectU, Inc (“ConnectU”). I am a member of the State Bar of California and the Ninth Circuit. I make this declaration in support of Appellant-Defendant ConnectU’s Motion to Disqualify.

2. On December 15, 2008, ownership of ConnectU, Inc. transferred to Plaintiffs-Appellees The Facebook, Inc. and Mark Zuckerberg (“Facebook”).

3. Attached hereto as Exhibit A is a true and correct copy of correspondence from Hoge, Fenton, Jones & Appel, Inc. to Boies, Schiller & Flexner LLP (“BSF”), dated December 16, 2008.

4. Attached hereto as Exhibit B is a true and correct copy of correspondence from Hoge, Fenton, Jones & Appel, Inc. to Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (“Finnegan”), dated December 16, 2008.

5. Attached hereto as Exhibit C is a true and correct copy of correspondence from Hoge, Fenton, Jones & Appel, Inc. to O’Shea Partners LLP (“O’Shea”), dated December 16, 2008.

6. Attached hereto as Exhibit D is a true and correct copy of correspondence from O’Shea to Hoge, Fenton, Jones & Appel, Inc., dated December 17, 2008.

7. Attached hereto as Exhibit E is a true and correct copy of correspondence from Finnegan to Hoge, Fenton, Jones & Appel, Inc., dated December 17, 2008.

8. Attached hereto as Exhibit F is a true and correct copy of correspondence from Hoge, Fenton, Jones & Appel, Inc. to Finnegan, dated December 17, 2008.

9. Attached hereto as Exhibit G is a true and correct copy of correspondence from BSF to Hoge, Fenton, Jones & Appel, Inc., dated December 18, 2008.

10. Attached hereto as Exhibit H is a true and correct copy of correspondence from Hoge, Fenton, Jones & Appel, Inc. to BSF, dated December 18, 2008.

11. Attached hereto as Exhibit I is a true and correct copy of correspondence from Finnegan to Hoge, Fenton, Jones & Appel, Inc., dated December 18, 2008.

12. Attached hereto as Exhibit J is a true and correct copy of correspondence from Hoge, Fenton, Jones & Appel, Inc. to BSF and Finnegan, dated December 18, 2008 (the enclosures to this correspondence -- ConnectU's board resolutions -- are not included as part of this Exhibit).

13. Attached hereto as Exhibit K is a true and correct copy of correspondence from BSF to Hoge, Fenton, Jones & Appel, Inc., dated December 22, 2008.

14. Attached hereto as Exhibit L is a true and correct copy of correspondence from Finnegan to Hoge, Fenton, Jones & Appel, Inc., dated December 22, 2008.

15. Attached hereto as Exhibit M is a true and correct copy of correspondence from Zuckerman Spaeder (counsel for Finnegan) to Hoge, Fenton, Jones & Appel, Inc., dated January 7, 2008.

I declare under penalty of perjury under the laws of the United States that the above facts are within my personal knowledge; that I can testify to

the same if called to do so in a court of law; that the foregoing is true and correct; and that this declaration was executed on the 20<sup>th</sup> day of January, 2009, at San Jose, California.

/s/ James E. Towery  
JAMES E. TOWERY

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) 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 on January 20, 2009.

DATED: January 20, 2009

Respectfully submitted,

By /s/ James E. Towery  
James E. Towery