

CA Nos. 08-16745, 08-16873, 09-15021 (consolidated)  
DC No. C 07-01389 JWW

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

THE FACEBOOK, INC.; MARK ZUCKERBERG,  
*Plaintiffs-Appellees,*

DIVYA NARENDRA; CAMERON WINKLEVOSS;  
TYLER WINKLEVOSS,  
*Intervenors,*

v.

PACIFIC NORTHWEST SOFTWARE, INC.;  
WAYNE CHANG; WINSTON WILLIAMS,  
*Defendants.*

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Appeal From Judgment Of The United States District Court  
For The Northern District Of California  
(Hon. James Ware, Presiding)

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**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF APPELLANTS/INTERVENORS'  
WITHDRAWAL OF MOTION TO RECALL MANDATE**

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JEROME B. FALK, JR.  
SEAN M. SELEGUE  
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Intervenors Divya Narendra, Cameron  
Winklevoss and Tyler Winklevoss*

Appellants and Intervenors Cameron Winklevoss, Tyler Winklevoss and Divya Narendra (the “Appellants”) request that this Court take judicial notice of the following documents filed in the related case pending in the United States District Court for the Northern District of California: *The Facebook, Inc. v. ConnectU, Inc. et al.*, Case No. 07-cv-01389-JW (the “N.D. Cal. Action”).

- The Northern District Court’s May 16, 2011 notice to counsel of record of the filing of the mandate of the United States Court of Appeals for the Ninth Circuit in the N.D. Cal. Action;
- Excerpts from the official Court docket in the N.D. Cal. Action.

The Court may take judicial notice of court filings and other matters of public record. *See Burbank-Glendale-Pasadena Airport Auth. v. City of Burbank*, 136 F.3d 1360, 1364 (9th Cir. 1998). Judicial notice is appropriate to discern the procedural status of

related actions involving the same parties. *See Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006).

DATED: May 27, 2011.

Respectfully,

JEROME B. FALK, JR.  
SEAN M. SELEGUE  
SHAUDY DANAYE-ELMI  
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HOWARD RICE NEMEROVSKI CANADY  
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By           /s/ Sean M. SeLegue            
SEAN M. SELEGUE

*Attorneys For Appellants and  
Intervenors Divya Narendra, Cameron  
Winklevoss and Tyler Winklevoss*

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## **DECLARATION OF SHAUDY DANAYE-ELMI**

I, Shaudy Danaye-Elmi, declare as follows:

1. I am an attorney licensed to practice law in the State of California and a member of the bar of this Court. I am an associate at the law firm of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, counsel to Appellants and Intervenors Cameron Winklevoss, Tyler Winklevoss and Divya Narendra. I make this Declaration based upon my personal knowledge of the matters stated herein, except where otherwise indicated (thereupon testifying from information and belief). If called as a witness, I could and would testify competently to the facts stated herein.

2. Exhibit A is a true and correct copy of the Northern District Court's May 16, 2011 notice to counsel of record of the filing of the mandate of the United States Court of Appeals for the Ninth Circuit in the N.D. Cal. Action.

3. Exhibit B is a true and correct copy of relevant excerpts of the docket from the N.D. Cal. Action regarding and modifying docket entry 767.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of May, 2011, in San Francisco, California.

*/s/ Shaudy Danaye-Elmi*  
SHAUDY DANAYE-ELMI

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## **PROOF OF SERVICE**

I hereby certify that I electronically filed the foregoing **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF APPELLANTS/INTERVENORS' WITHDRAWAL OF MOTION TO RECALL MANDATE** with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 27, 2011.

Participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. On May 27, 2011, the foregoing document, described as **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF APPELLANTS/INTERVENORS' WITHDRAWAL OF MOTION TO RECALL MANDATE**, was mailed by placing the document for deposit in the United States Postal Service through the regular mail collection process at the law offices of Howard Rice Nemerovski Canady Falk & Rabkin, located at Three Embarcadero Center, Seventh Floor, San Francisco, California, to the following non-CM/ECF participants:

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*/s/ Sean M. SeLegue*

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SEAN M. SELEGUE

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