

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

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Nos. 08-16745, 08-16849, 08-16873 (consolidated)

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**THE FACEBOOK, INC., *et al.*,  
Plaintiffs—Appellees,**

**v.**

**CONNECTU, INC., *et al.*,  
Defendants—Appellants.**

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**MOTION FOR EXTENSION OF TIME TO RESPOND TO  
CONNECTU, INC.'S MOTION TO DISQUALIFY COUNSEL,  
AND PARKE DECLARATION IN SUPPORT THEREOF**

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January 23, 2009

Movants request a two-week extension to respond to ConnectU, Inc.’s January 20, 2009, Motion to Disqualify Counsel (“Motion to Disqualify”).

The Motion to Disqualify seeks, *inter alia*, to disqualify three law firms from representing Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra, the founders of ConnectU (“Founders”), in this and other actions. All law firms implicated by the Motion to Disqualify have consented to the motion for an extension of time, including Boies Schiller & Flexner, LLP; O’Shea Partners LLP; and Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (the “Three Law Firms”).

On Thursday, January 22, counsel for Finnegan Henderson, on behalf of the Three Law Firms, asked counsel for ConnectU whether ConnectU would consent to this motion. Today, Friday, January 23, counsel for ConnectU responded that it would be unable to provide ConnectU’s position until Monday, January 26. *See* Exhibit A to the Declaration of Evan A. Parke.

## ARGUMENT

Good cause exists for extending the date to respond to the Motion to Disqualify. In certain regards, the issues raised by the Motion to Disqualify affect each of the Three Law Firms differently, and the additional time will assist in properly presenting to the Court for its “strict judicial scrutiny” the pertinent disqualification-related issues as they relate to the Founders and each

of the Three Law Firms. *See Optyl Eyewear Fashion Int'l Corp. v. Style Cos.*, 760 F.2d 1045, 1050 (9th Cir. 1985) (“Because of this potential for abuse, disqualification motions should be subjected to ‘particularly strict judicial scrutiny.’”). The additional time is also needed to facilitate the Founders and the Three Law Firms in filing consolidated response(s), and where several people who would be tasked with preparing the response(s) currently have limited availability. Movants are unaware of any prejudice to ConnectU that would arise from a two-week extension.

#### CONCLUSION

Movants respectfully request a two-week extension to respond to the Motion to Disqualify, which would extend the response due date to February 13.

Date: January 23, 2009

Respectfully submitted,

/s/ Evan A. Parke

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#### DECLARATION OF EVAN ANDREW PARKE

I, Evan Andrew Parke, declare as follows:

1. I am an Associate with the law firm of Boies, Schiller & Flexner LLP, counsel for Appellants Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra. I am a resident in the firm's Washington, D.C. office and am licensed to practice law in the District of Columbia. I am also admitted to various federal courts including the Courts of Appeals for the Federal Circuit. I

appeared in the case below per an order of the district court granting my application to appear pro hac vice. I have been admitted to the Bar of this Court. Unless otherwise noted, I have personal knowledge of the facts set forth in this Declaration.

2. Attached as Exhibit A to my declaration is an accurate copy of an email exchange between Scott Mosko of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, and James Towery, counsel for ConnectU, Inc., on Friday, January 23, 2009.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed: January 23, 2009

/s/ Evan A. Parke  
Evan A. Parke

**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.

DATED: January 23, 2009

Respectfully submitted,

/s/ Evan A. Parke

Evan A. Parke