

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 THE FACEBOOK, INC.,) C-07-01389-JW
6 PLAINTIFF,)
7 V.)
8 CONNECTU, LLC, ET AL.,) PAGES 1-73
9 DEFENDANTS.)
10

COPY

11 THE PROCEEDINGS WERE HELD BEFORE
12 THE HONORABLE UNITED STATES DISTRICT
13 JUDGE JAMES WARE

14 A P P E A R A N C E S:

15 FOR THE PLAINTIFF: ORRICK, HERRINGTON & SUTCLIFFE
16 BY: I. NEEL CHATTERJEE
17 THERESA A. SUTTON
18 YVONNE GREER
1000 MARSH ROAD
MENLO PARK, CALIFORNIA 94025

19 FOR THE DEFENDANTS: BOIES, SCHILLER & FLEXNER
20 BY: DAVID A. BARRETT
21 EVAN ANDREW PARKE
22 D. MICHAEL UNDERHILL
575 LEXINGTON AVENUE
7TH FLOOR
NEW YORK, NEW YORK 10022

23 (APPEARANCES CONTINUED ON THE NEXT PAGE.)

24 OFFICIAL COURT REPORTER: IRENE RODRIGUEZ, CSR, CRR
25 CERTIFICATE NUMBER 8074

1 WE'LL GO NOW TO THE OTHER MOTION THAT IS
2 BEFORE THE COURT HAVING TO DO WITH THE ORDER TO
3 SHOW CAUSE WHY A JUDGMENT SHOULD BE ENTERED OR NOT
4 BE ENTERED AS THE CASE MAY BE.

5 AND WITH RESPECT TO THAT, I RECEIVED
6 SUBMISSIONS FROM BOTH SIDES. I PRESUME THAT THE
7 SUBMISSION BY THE DEFENDANTS CONNECTU AND OTHERS
8 ARE SUBMITTED WITHOUT WAIVING YOUR OBJECTION TO MY
9 ORDER IN THE FIRST PLACE.

10 MR. BARRETT: THAT IS CORRECT. THANK
11 YOU. WE ARE, YOUR HONOR, AS YOU SAY, ADDRESSING
12 THE FORM OF THE JUDGMENT AND WE RESERVE OUR RIGHTS
13 TO CONTEST THE ORDER AND THE JUDGMENT AS MAY BE
14 APPROPRIATE.

15 THE COURT: HERE'S WHAT I INTEND TO DO,
16 AND MAYBE THAT WOULD BE FASTER TO HAVE YOU ADDRESS
17 WHAT I INTEND TO DO AS OPPOSED TO WHAT YOU WOULD
18 WANT ME TO DO.

19 I HAVE READ YOUR SUBMISSIONS. THEY ARE
20 SUBSTANTIALLY THE SAME. AND SO THE FORM OF THE
21 JUDGMENT I THINK COULD COMPLY WITH YOUR
22 SUBMISSIONS.

23 THERE ARE A COUPLE OF ASPECTS OF IT THAT
24 I WANT TO ADDRESS.

25 FIRST, IT WILL BE NECESSARY FOR SOME

1 INTERMEDIARY TO ACT IN A CAPACITY TO COLLECT
2 INFORMATION AND MOVE THINGS AROUND AND TO DO
3 CERTAIN THINGS TO CARRY OUT THE COURT'S JUDGMENT.

4 RATHER THAN ACCEPT THE SUBMISSION BY ONE
5 OF THE PARTIES THAT A PARTY SELECT THAT PERSON AND
6 PAY FOR THAT PROCESS, MY INTENT IS TO APPOINT A
7 SPECIAL MASTER WHO WOULD BEHOLDEN TO THE COURT,
8 TAKE DIRECTIONS FROM THE COURT AND NO ONE ELSE,
9 WITH RESPECT TO A COLLECTION OF THE VARIOUS
10 DEPOSITS MANDATED BY THE JUDGMENT AND WITH RESPECT
11 TO ANY DISBURSEMENTS OR FILINGS THAT WOULD COME
12 ALONG WITH THAT AND HAVE THE PARTIES PAY THE COST
13 OF THAT PROCESS EQUALLY.

14 IT IS ALSO MY INTENT TO THEN HAVE THE
15 JUDGMENT REQUIRE THE MASTER TO COLLECT THE VARIOUS
16 CERTIFICATES OR CASH OR OTHER CONSIDERATION TO
17 COLLECT RATHER THAN DEEM THAT THERE HAS BEEN
18 RELEASES TO ACTUALLY COLLECT A SUBMISSION OF A
19 RELEASE.

20 I DO INTEND TO PROVIDE THAT THAT RELEASE
21 HAS TO BE SUBMITTED TO THE COURT FOR ITS APPROVAL
22 AND THEN IT WOULD BE DEPOSITED WITH THE MASTER SO
23 THAT WOULD LEAVE TO THE COURT AND NO ONE ELSE THE
24 DETERMINATION AS TO WHETHER OR NOT THE RELEASE IS
25 CONSISTENT WITH THE LANGUAGE OF THE SETTLEMENT

1 AGREEMENT WHICH PROVIDES AS BROAD AS POSSIBLE. I
2 CAN'T RECALL THE EXACT WORDS.

3 I WOULD ALSO HAVE THE PARTIES SUBMIT A
4 LEGALLY SUFFICIENT DISMISSAL OF ALL CASES AND THEN
5 I WOULD MAKE SUBSEQUENT ORDERS WITH RESPECT TO THEN
6 WHAT THE MASTER DOES WITH RESPECT TO THE EXCHANGE
7 OF THOSE DOCUMENTS.

8 THERE IS A LEGEND WHICH WAS SUGGESTED BY
9 ONE OF THE PARTIES WHICH WOULD BE PLACED ON STOCK
10 CERTIFICATES AND SO I NEED TO HEAR FROM THE PARTIES
11 WITH RESPECT TO WHETHER YOU HAVE ANY OBJECTION TO
12 THE JUDGMENT AND INCORPORATING THAT LEGEND.

13 THERE IS A REQUEST IN THE VARIOUS
14 SUBMISSIONS THAT THE COURT SPEAK TO VARIOUS ASSETS,
15 PARTICULARLY WEB SITES AND THOSE TYPES OF THINGS.
16 THERE WAS NOTHING ABOUT THAT IN THE SETTLEMENT
17 AGREEMENT ITSELF, AND SO THE COURT IS DISPOSED TO
18 LEAVE THAT TO MATTERS OF ORDINARY BUSINESS
19 TRANSACTIONS THAT FOLLOW THE ENFORCEMENT OF THE
20 SETTLEMENT AND THE EXCHANGES THAT ARE REQUIRED IN
21 THE SETTLEMENT.

22 I AM CONCERNED THAT IN ORDER TO BE
23 EFFECTIVE IN ITS ENFORCEMENT, THE COURT SHOULD
24 IMPOSE ON THE PARTIES A REQUIREMENT THAT THEY NOT
25 TAKE ANY ACTION WHICH WOULD INTERFERE WITH THE

1 ABILITY TO FULFILL THE TERMS OF THE AGREEMENT AND I
2 DIDN'T KNOW HOW FAR TO GO WITH RESPECT TO THAT.

3 AND THEN THE COURT DOES INTEND TO RETAIN
4 JURISDICTION TO ENFORCE THE JUDGMENT, AND I THINK
5 THAT IS ALSO INHERENT IN THE AGREEMENT ITSELF TO
6 RETAIN JURISDICTION GIVEN TO IT BY THE PARTIES TO
7 ENFORCE THE TERMS OF THE AGREEMENT ITSELF.

8 ALL RIGHT. SO WITH THAT LET ME PAUSE AND
9 SEE IF THE PARTIES WISH TO SPEAK FURTHER.

10 MR. CHATTERJEE: YOUR HONOR, IF I MAY.
11 NEEL CHATTERJEE FOR FACEBOOK AND MARK ZUCKERBERG.
12 WE ALSO DIDN'T DO APPEARANCES FOR THIS MOTION.

13 I SAW YOU MIGHT HAVE LOOKED COMPLEX AT
14 THE GENTLEMAN STANDING RIGHT NEXT TO ME AND I
15 THOUGHT IT MIGHT BE GOOD TO HAVE APPEARANCES.

16 MR. VAN DALSEM: BRUCE VAN DALSEM FROM
17 QUINN EMANUEL. WE'RE LIEN CLAIMANT IN THE CASE.

18 THE COURT: I APPRECIATE THAT YOU ARE NOW
19 IDENTIFYING YOURSELF. I DID NOT INTEND TO IN MY
20 STATEMENT SAY ANYTHING ABOUT THE LIEN CLAIMANT THAT
21 HAS COME TO MY ATTENTION.

22 SO FAR AS THE COURT IS KNOWLEDGEABLE,
23 THERE HAS BEEN A NOTICE OF A LIEN THAT I HAVE SEEN,
24 BUT I DON'T KNOW THE BONA FIDES OF IT. IT DOES
25 SEEM TO ME THAT ANY EFFECT THAT THAT WOULD HAVE ON