

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

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

THE FACEBOOK, INC., ET AL.,
Plaintiffs/Appellees/Cross-Appellants,

v.

CONNECTU, INC.,
Defendant/Appellee,

and

CAMERON WINKLEVOSS, TYLER WINKLEVOSS
and DIVYA NARENDRA,
Defendants/Appellants/Cross-Appellees.

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

**MOTION FOR JUDICIAL NOTICE IN SUPPORT
OF APPELLANTS' REPLY BRIEF**

JEROME B. FALK, JR. (No. 39087)
SEAN M. SELEGUE (No. 155249)
SHAUDY DANAYE-ELMI (No. 242083)
NOAH S. ROSENTHAL (No. 240742)
HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
A Professional Corporation
Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4024
Telephone: 415/434-1600
Facsimile: 415/677-6262

*Attorneys for Appellants and Cross-
Appellees Cameron Winklevoss, Tyler
Winklevoss and Divya Narendra*

Pursuant to Federal Rule of Evidence 201, Appellants Cameron Winklevoss, Tyler Winklevoss and Divya Narendra (“the Founders”) hereby request that this Court, in its consideration of Appellants’ Reply Brief, take judicial notice of the documents attached hereto as Exhibits 1-4:

1. Exhibit 1 is a copy of Brief of Appellant, filed in *Petro-Ventures, Inc. v. Takessian*, No. 90-55349 (the “*Petro-Ventures Appeal*”), which was filed in the Ninth Circuit on or about May 23, 1990.

2. Exhibit 2 is a copy of Brief of Appellees Vrable, Walden and Hamersly, filed in the *Petro-Ventures Appeal* on or about June 18, 1990.

3. Exhibit 3 is a copy of Brief of Appellee Takessian, filed in the *Petro-Ventures Appeal* on or about June 19, 1990.

4. Exhibit 4 is a copy of Reply Brief of Appellant, filed in the *Petro-Ventures Appeal* on or about July 2, 1990.

The Exhibits are proper subjects of judicial notice because they are pleadings filed in the Ninth Circuit in the *Petro-Ventures Appeal*. *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (taking judicial notice of briefs, other court filings, and matters of public record submitted in other federal court proceedings in order “[t]o determine what issues were actually litigated” in those proceedings); *Scotty’s Contracting & Stone, Inc. v. United States*, 326 F.3d 785, 789 n.1 (6th Cir. 2003) (taking judicial notice of a portion of a brief submitted in a separate

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2010, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. On August 5, 2010, I caused the foregoing document described as **MOTION FOR JUDICIAL NOTICE IN SUPPORT OF APPELLANTS' REPLY BRIEF** to be dispatched to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Mark A. Byrne
Byrne & Nixon LLP
800 W. Sixth Street, Suite 430
Los Angeles, CA 90017

Jonathan M. Shaw
Boies, Schiller & Flexner, LLP
5301 Wisconsin Avenue NW
Washington, DC 20015

Steven C. Holtzman
Boies, Schiller & Flexner, LLP
1999 Harrison Street, Suite 900
Oakland, CA 94612

/s/ Jerome B. Falk, Jr.

JEROME B. FALK, JR.