

EXHIBIT 8

Case No. 08-16745
and 08-16849

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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

v.

CONNECTU, INC. et al.,
Defendants – Appellants – Cross-Appellees,

Appeal from the United States District Court Northern District of California,
Case No. CV 07-01389-JW, The Honorable James Ware

**APPELLEES' AND CROSS-APPELLANTS' INITIAL NOTICE AND
STATEMENT OF THE ISSUES PURSUANT TO LOCAL RULE 10-3 AND
OBJECTION TO CONNECTU, INC.'S INITIAL NOTICE AND
STATEMENT OF ISSUES**

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A. Designation and Counter-Designation of Transcripts.

Pursuant to Ninth Circuit Rule 10-3, Appellees and Cross-Appellants The Facebook, Inc. and Mark Zuckerberg intend to file a transcript order form designating the following transcript:

1. August 6, 2008 Hearing Before Judge Ware, Case No. CV 07-01389-JW.

This transcript, in addition to those designated by Appellant ConnectU, are relevant to the issues on appeal.¹

B. Notice of Unavailability of Transcript.

Appellees and Cross-Appellants also give notice that one of the hearings relevant to the cross-appeal, dated October 10, 2007, is not available due to courthouse equipment malfunction. Appellees and Cross-Appellants hereby give notice pursuant to Federal Rule of Appellate Procedure 10(c) that the following materials and evidence are relevant to that hearing:

1. Plaintiffs' Motion for Evidentiary and Related Sanctions, Including Sanctions Pursuant to 28 U.S.C. 1927, Against Defendants ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss, Divya Narendra and their Counsel filed by Mark Zuckerberg and The Facebook, Inc. on August 22, 2007 (Docket No. 126);
2. Declaration of I. Neel Chatterjee in Support of Plaintiffs' Motion for Sanctions filed by Mark Zuckerberg and The Facebook, Inc., with exhibits, on August 22, 2007 (Docket No. 127);

¹ Facebook also intends to submit the transcript from a hearing in a related proceeding in the District of Massachusetts. That transcript was submitted as a Exhibit to the California proceedings and will be submitted as an Exhibit in these proceedings.

3. Defendants Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's Motion to Dismiss for Lack of Personal Jurisdiction Pursuant to Fed. R. Civ. P. 12(b)(2), or in the Alternative Motion to Strike Moving Defendants Names from the Second Amended Complaint filed by Tyler Winklevoss, Divya Narendra, Cameron Winklevoss on September 5, 2007 (Docket No. 136);

4. Declaration of Scott R. Mosko in Support of Defendants Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's Motion to Dismiss for Lack of Personal Jurisdiction Pursuant to Fed. R. Civ. P. 12(b)(2), or in the Alternative Motion to Strike Moving Defendants' Names from the Second Amended Complaint filed by Tyler Winklevoss, Divya Narendra, Cameron Winklevoss, with exhibits, on September 5, 2007 (Docket No. 137);

5. Plaintiffs' Opposition to Defendants' Motion to Dismiss filed by Mark Zuckerberg and The Facebook, Inc. on September 19, 2007 (Docket No. 157);

6. Declaration of Theresa A. Sutton in Support of Plaintiff's Opposition to Defendants' Motion to Dismiss, with exhibits, on September 19, 2007 (Docket No. 158);

7. Defendants ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's Opposition to Plaintiffs' Motion for Evidentiary and Related Sanctions, Including Sanctions Pursuant to 28 U.S.C. § 1927 filed by ConnectU, LLC on September 19, 2007 (Docket No. 160);

8. Declaration of Scott R. Mosko in Support of Defendants ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's Opposition to Plaintiffs' Motion for Evidentiary and Related Sanctions, Including Sanctions Pursuant to 28 U.S.C. § 1927 filed by ConnectU, LLC, with exhibits, on September 19, 2007 (Docket No. 161);

9. Defendants Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss For

Lack of Personal Jurisdiction filed by Tyler Winklevoss, Divya Narendra, Cameron Winklevoss on September 26, 2007 (Docket No. 167);

10. Declaration of Scott R. Mosko in Support of Defendants Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss For Lack of Personal Jurisdiction filed by Tyler Winklevoss, Divya Narendra, Cameron Winklevoss, with exhibits, on September 26, 2007 (Docket No. 168);

11. Plaintiffs' Reply in Support of Motion for Evidentiary and Related Sanctions Against Defendants ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss, Divya Narendra and their Counsel re Motion for Sanctions filed by Mark Zuckerberg and The Facebook, Inc. on September 26, 2007 (Docket No. 172);

12. Declaration of Monte M.F. Cooper in Support of Plaintiffs' Reply in Support of Motion for Sanctions filed by Mark Zuckerberg and The Facebook, Inc., with exhibits, on September 26, 2007 (Docket No. 173);

13. Supplemental Declaration of Theresa A. Sutton in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss filed by Mark Zuckerberg and The Facebook, Inc., with exhibits, on October 2, 2007 (Docket No. 197);

14. Order by Judge Richard Seeborg Denying Motion for Sanctions dated November 30, 2007 (Docket No. 231);

15. Order by Judge Richard Seeborg Granting Motion to Dismiss Claims Against Defendants Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra, dated November 30, 2007 (Docket No. 232);

C. Identification of Issues for the Cross-Appeal.

The cross-appeal will concern all issues raised in the parties' briefing and exhibits identified immediately above. It will also include issues raised in connection with the June 23, 2008 hearing before Judge Ware on the Motion to

Enforce the Settlement Agreement as well as the issues raised in connection with the Motion of Cameron Winklevoss, Tyler Winklevoss, Divya Narendra to Intervene filed July 31, 2008 and the hearing on that motion on August 6, 2008, specifically, the issue of notice to Cameron Winklevoss, Tyler Winklevoss, Divya Narendra, and their agreement to submit to jurisdiction in the Northern District of California.

The issues therefore include:

1. Whether the district court properly dismissed Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra as defendants for lack of personal jurisdiction; and

2. Whether the district court properly denied Plaintiffs' Motion for Evidentiary and Related Sanctions, Including Sanctions Pursuant to 28 U.S.C. 1927, Against Defendants ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss, Divya Narendra and their Counsel.

D. Objections to the Issues Identified by ConnectU.

Appellees and Cross-Appellants object to ConnectU's statement of issues, filed August 11, 2008, because the statement of issues are far from a neutral statement of the issues that will be presented to this Court on ConnectU's appeal. Rather, they are argumentative statements unsupported by the record. Appellees and Cross-Appellants are mindful that the parties will have a full opportunity to set forth their positions. Nonetheless, Appellees and Cross-Appellants do not wish to be considered to have explicitly or implicitly agreed to ConnectU's articulation of issues as they inaccurately portray the district court's findings, the facts at issue in this case, and the issues this Court will be asked to decide.

Dated: August 21, 2008

Orrick, Herrington & Sutcliffe LLP



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Appellants

THE FACEBOOK, INC. and MARK
ZUCKERBERG

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