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23 Attorneys for Plaintiff,  
 24 DANIEL M. MILLER

25 **UNITED STATES DISTRICT COURT**  
 26 **NORTHERN DISTRICT OF CALIFORNIA**  
 27 **SAN FRANCISCO DIVISION**

28 DANIEL M. MILLER,  
 Plaintiff,  
 vs.  
 FACEBOOK, INC. and YAO WEI YEO,  
 Defendants.

)  
 ) **CASE NO.: CV-10-264 (WHA)**  
 )  
 ) **PLAINTIFF DANIEL M. MILLER'S**  
 ) **MOTION FOR SEALING ORDER**  
 ) **PURSUANT TO CIVIL LOCAL RULES 7-11**  
 ) **AND 79-5**  
 )  
 ) Judge: Honorable William Alsup, Courtroom 9  
 )  
 )  
 )  
 )

1 COMES NOW Plaintiff Daniel M. Miller (“Plaintiff”), pursuant to Civil Local Rules 7-11  
2 and 79-5(d), and moves this Honorable Court for a Sealing Order to allow for the documents  
3 enumerated below to be filed with the Court under seal. The documents numbered 1 and 2 that are  
4 listed below have been designated “Highly Confidential-Attorney’s Eyes Only” and  
5 “Confidential”, respectively, by Facebook, Inc. (“Facebook”) pursuant to the Protective Order  
6 (Dkt. No. 92) governing this matter. These documents are referenced, and attached, as exhibits to  
7 the Plaintiff’s Memorandum of Points and Authorities in Support of His Motion for Summary  
8 Judgment (“Plaintiff’s Memorandum”) which is listed below as Number 3. Plaintiff’s counsel has  
9 requested that Facebook withdraw these confidentiality designations so that these materials might  
10 be filed publicly, but Facebook has refused. Facebook has also requested that the Plaintiff’s  
11 Memorandum be filed under seal so as to prevent disclosure of the contents of the aforementioned  
12 confidentially designated materials. Accordingly, the Plaintiff respectfully requests that the Court  
13 issuing a Sealing Order permitting the following documents to be filed under seal in prosecution  
14 of this action:  
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- 18 1. Exhibit “L”- Expert Report of Krista F. Holt dated February 14, 2011 in its  
19 entirety;
- 20 2. Exhibit “J”- Facebook internal document Bates labeled “FBMI000381” in its  
21 entirety;
- 22 3. Those portions of Plaintiff’s Memorandum of Points and Authorities in Support of  
23 His Motion for Summary Judgment redacted so as to publicly exclude content contained in  
24 the Expert Report of Krista Holt dated February 14, 2011.

25  
26 The Plaintiff’s Motion for Summary Judgment, and the following Exhibits to Plaintiff’s  
27 Motion for Summary Judgment, will publicly be filed contemporaneously herewith:  
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- 1           4.       Plaintiff's Exhibit "A"- Declaration of Tina Doshi dated December 2, 2009;
- 2           5.       Plaintiff's Exhibit "B"- Facebook, Inc.'s Terms of Use as of February 12, 2006;
- 3           6.       Plaintiff's Exhibit "C"- Facebook, Inc.'s Statements of Rights and Responsibilities
- 4           as of August 28, 2009;
- 5           7.       Plaintiff's Exhibit "D"- Facebook Fact Sheet;
- 6           8.       Plaintiff's Exhibit "E"- Facebook, Inc. Press Release entitled "Facebook Unveils
- 7           Platform for Developers of Social Applications" dated May 24, 2007;
- 8           9.       Plaintiff's Exhibit "F"- Deposition of Julie Tung dated February 3, 2011, pp. 11,
- 9           16-18, 22-26;
- 10          10.       Plaintiff's Exhibit "G"- Facebook Inc.'s Developer Principles and Policies as of
- 11          October 27, 2009;
- 12          11.       Plaintiff's Exhibit "H"- Deposition of Daniel Miller dated February 7, 2011, pp.
- 13          60-62, 270-71, 274, 291-294;
- 14          12.       Plaintiff's Exhibit "I"- Deposition of Timothy Halbert dated February 11, 2011, pp.
- 15          98-100;
- 16          13.       Plaintiff's Exhibit "K"- Deposition of Allison Grabler dated February 4, 2011, pp.
- 17          19, 90-93, 131-133;
- 18          14.       Plaintiff's Exhibit "M"- Declaration of D. Gill Sperlein dated March 3, 2011;
- 19          15.       Plaintiff's Exhibit "N"- Facebook, Inc. Press Release entitled "Facebook Expands
- 20          Power of Platform Across the Web and Around the World" dated July 23, 2008.
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Dated: March 3, 2010

Respectfully submitted,

s/ Brian D. Hancock  
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