

1 I. NEEL CHATTERJEE (STATE BAR NO. 173985)
 nchatterjee@orrick.com
 2 JULIO C. AVALOS (STATE BAR NO. 255350)
 javalos@orrick.com
 3 MORVARID METANAT (STATE BAR NO. 268228)
 mmetanat@orrick.com
 4 ORRICK, HERRINGTON & SUTCLIFFE LLP
 1000 Marsh Road
 5 Menlo Park, CA 94025
 Telephone: 650-614-7400
 6 Facsimile: 650-614-7401

7 Attorneys for Defendant
 FACEBOOK, INC.

8
 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

13 DANIEL M. MILLER,
 14 Plaintiff,
 15 v.
 16 FACEBOOK, INC. and YAO WEI YEO,
 17 Defendants.

Case No. 3:10-CV-00264 (WHA)

**DECLARATION OF JULIO C.
 AVALOS IN SUPPORT OF
 FACEBOOK'S MOTION FOR
 SUMMARY JUDGMENT RE
 CONTRIBUTORY COPYRIGHT
 INFRINGEMENT**

Date: April 7, 2011
 Time: 8:00 A.M.
 Court: Courtroom 9, 19th Floor
 Judge: Honorable William Alsup

20
 21
 22
 23
 24
 25
 26
 27
 28

1 I, Julio C. Avalos, declare as follows:

2 1. I am an associate at the law firm of Orrick, Herrington & Sutcliffe LLP, counsel to
3 Defendant Facebook, Inc. ("Facebook"). I make this Declaration in support of Facebook's
4 Motion for Summary Judgment re Contributory Infringement. I am a member of, and in good
5 standing with, the Bar of the State of California and am admitted to practice before this Court. I
6 make this declaration of my own personal knowledge unless otherwise indicated herein. If called
7 as a witness, I could and would testify competently to the truth of the matters set forth herein.

8 2. Attached hereto as **Exhibit A** are true and correct copies of excerpts of the
9 deposition transcript of Daniel M. Miller, dated February 7, 2011.

10 3. Attached hereto as **Exhibit B** is a true and correct copy of Plaintiff's Subpoena
11 *duces tecum* served on third-party RockYou, Inc., dated January 27, 2011.

12 4. Attached hereto as **Exhibit C** are true and correct copies of screenshots taken of
13 the Boomshine video game. At my direction, Orrick's Senior Paralegal Amy Dalton retrieved
14 these screenshots from www.K2xL.com/games/boomshine/ on February 2, 2011.

15 5. Attached hereto as **Exhibit D** are true and correct copies of screenshots taken of
16 the ChainRxn video game. At my direction, Orrick's Senior Paralegal Amy Dalton retrieved
17 these screenshots from <http://www.zwigglers.com> on February 2, 2011.

18 6. Attached hereto as **Exhibit E** is a true and correct copy of the expert report of
19 David Crane, dated February 28, 2011.

20 7. Attached hereto as **Exhibit F** are true and correct copies of excerpts of the
21 deposition transcript of Timothy Halbert dated February 11, 2011.

22 8. Attached hereto as **Exhibit G** are true and correct copies of excerpts of Plaintiff's
23 Response to Facebook's First Set of Interrogatories and Requests for Production, served on
24 December 17, 2010.

25 9. Attached hereto as **Exhibit H** are true and correct copies of excerpts of the
26 deposition transcript of Robert A. Madayag, dated February 10, 2011.

27

28

