

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 RANDOLPH  
 MOON IN SUPPORT OF MOTION  
 FOR SUMMARY JUDGMENT OF  
 NONINFRINGEMENT**

18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Randolph Moon, declare as follows:

1. I am a former employee of Facebook, Inc. (“Facebook”). I make this declaration in support of Facebook’s Motion for Summary Judgment of Noninfringement. Except as otherwise noted, I have personal knowledge of the facts stated herein and if called as a witness, could and would competently testify thereto.

2. I was a Facebook employee from April 2007 through October 2011. During my employment with Facebook, I was a member of the User Operations Group. Specifically, I was a member of the Intellectual Property team within the User Operations Group. My job duties included responding to complaints of intellectual property infringement sent to Facebook. I reported directly to Allison Grabler, the User Operations Team Leader at the time. I operated under the alias “Kieran” while at Facebook.

3. Facebook processes user complaints through a ticket processing system (“TPS”). Each new complaint is referred to as a “ticket.” These tickets are automatically routed to teams based on the type of complaint lodged. Tickets are assigned to particular User Operations team members who then handle the ticket through its resolution.

4. On May 20, 2009, I received a TPS ticket from an individual named Robert Madayag. The TPS ticket stated that Mr. Madayag had sent a letter to Facebook on May 7, 2009 for which he had not received a response. He attached a letter dated May 7, 2009. The letter was apparently sent to [domain@facebook.com](mailto:domain@facebook.com), which is not an e-mail address used for processing complaints. The correct address is [ip@facebook.com](mailto:ip@facebook.com), the e-mail address to which the May 20, 2009 communication had been sent. Mr. Madayag’s letter apparently related to a Facebook profile page for a third party application named ChainRxn. Profile pages do not display any application content. Application content is available through separate pages called canvas pages. Other than this May 20, 2009 communication, there were no prior reports, logs, or tickets in the TPS system from Mr. Madayag relating to ChainRxn.

5. On May 22, 2009, I responded to Mr. Madayag’s communication via e-mail and informed him that his complaint referred to a third party application that “was created and is

1  
2 operated by a third party developer” and “Facebook does not have the ability to control the  
3 content made available through the application.” Facebook does not host third party applications  
4 on its servers or systems. However, in order to facilitate a resolution of this dispute between third  
5 party developers, I further informed Mr. Madayag that I would forward a copy of his  
6 communication to the application’s developer to resolve his concerns.

7         6.       That same day, after responding to Mr. Madayag’s communication, I forwarded a  
8 copy of Mr. Madayag’s communication to an individual named “Yeowei” at [yy244@cornell.edu](mailto:yy244@cornell.edu),  
9 the name and email address associated with the ChainRxn application. I also informed “Yeowei”  
10 that that he must remove or disable the ChainRxn application to the extent that it was infringing.

11         7.       On May 23, 2009, “Yeowei” responded to my email and stated that he had  
12 received a similar letter and was seeking legal advice.

13         8.       I did not hear back from either party for three weeks and considered the matter  
14 resolved.

15         9.       Then, on June 15, 2009, I received a second communication from Mr. Madayag  
16 through Facebook’s TPS regarding the ChainRxn application profile page. This letter also  
17 complained of the ChainRxn game.

18         9.       On June 22, 2009, I responded to Mr. Madayag’s June 15, 2009 communication  
19 and inquired whether Mr. Madayag had been in contact with the developers of ChainRxn. I also  
20 requested that Mr. Madayag let me know if the developers of ChainRxn had not contacted him  
21 within 48 hours.

22         10.       That same day, after responding to Mr. Madayag’s communication, I emailed  
23 “Yeowei” regarding Mr. Madayag’s June 15, 2009 communication. I requested that “Yeowei”  
24 “address this matter with all due urgency.”

25         11.       “Yeowei” responded to my email later that same day indicating that he had already  
26 contacted Mr. Madayag, but would do so again.

27         12.       Mr. Madayag never replied to my June 22, 2009 email. I had no further  
28 communication with him.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

13. “Yaowei” did not contact me further regarding this matter.

14. Because I did not hear back from either Mr. Madayag or “Yaowei,” I assumed that the matter had been resolved. As a result, I took no further action in this matter.

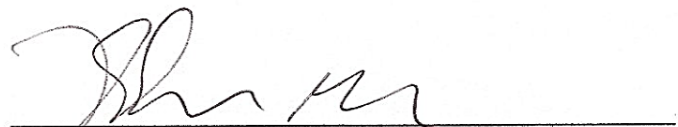
15. Attached hereto as **Exhibit A**, is a true and correct copy of an email chain reflecting the above-referenced communications between me and Mr. Madayag.

16. Attached hereto as **Exhibit B**, is a true and correct copy of the letter attached to Mr. Madayag’s May 20, 2009 communication to Facebook.

17. Attached hereto as **Exhibit C**, is a true and correct copy of an email chain reflecting the above-referenced communications between me and “Yaowei.”

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3 day of March, at Palo Alto, California.

  
\_\_\_\_\_  
Randolph Moon