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 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 CRAIG W.
 CLARK IN SUPPORT OF
 FACEBOOK, INC.'S REPLY IN
 SUPPORT OF MOTION TO DISMISS
 PURSUANT TO FED.R.CIV.P. 41(B)**

Date: September 16, 2010
 Time: 8:00 A.M.
 Court: Courtroom 9, 19th Floor
 Judge: Honorable William Alsup

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1 I, Craig W. Clark, declare as follows:

2 1. I am in-house counsel for Facebook, Inc. I submit this declaration in support of
3 Facebook's Motion to Dismiss this action pursuant to Federal Rule of Civil Procedure 41(b).
4 This declaration is based on my own personal knowledge, unless otherwise stated below. I can
5 and will testify competently to the facts stated herein if called to do so.

6 2. In his Declaration (Dkt. No. 72), Mr. Bridges makes inaccurate statements about
7 conversations he had with me in or about November 2009. In those conversations, I did not
8 suggest that Facebook would refuse to provide what contact information it had for Mr. Yeo unless
9 it was voluntarily dismissed. Instead, I told Mr. Bridges that Facebook believed it was not a
10 proper party to this case and that Mr. Miller should voluntarily dismiss Facebook. I also
11 explained to Mr. Bridges that Facebook could provide what contact information it had for Mr.
12 Yeo pursuant to a non-party subpoena authorized under 17 U.S.C. 512(h), but that party
13 discovery was not yet open. Finally, I told Mr. Bridges that he already possessed the same
14 contact information for Mr. Yeo that Facebook possessed, namely an email address Mr. Miller
15 used to contact Mr. Yeo and a website presumably related to Mr. Yeo.

16 3. Notwithstanding that earlier conversation, Facebook produced to Miller contact
17 information, including emails, in its possession related to Yeo as directed by the Court. Facebook
18 has no contact information for Mr. Yeo beyond that which it has already provided to Miller.

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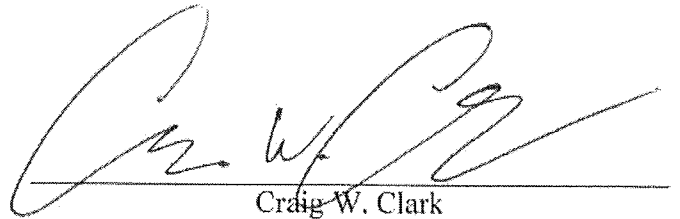
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1 4. On July 2, 2010, someone purporting to be Mr. Yeo contacted counsel for
2 Facebook. I and another member of Facebook's legal department returned Mr. Yeo's call and
3 participated in a short telephone call with this person. We explained that we could not offer legal
4 advice and that we would be providing his telephone number to Mr. Miller's counsel. Shortly
5 after the telephone conversation, I called Miller's counsel and left him a voicemail informing him
6 of the call with Mr. Yeo and providing him with the telephone number. At no point did Mr.
7 Miller's counsel inquire further about the call with Mr. Yeo. Other than this short call, Facebook
8 has had no communications with Mr. Yeo since this case was filed.

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10 I declare under penalty of perjury that the foregoing is true and correct to the best of my
11 knowledge. Executed this 2nd day of September 2010, at Palo Alto, California.

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Craig W. Clark