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

12 **DANIEL M. MILLER,**

13 Plaintiff,

14 v.

15 **FACEBOOK, INC. and YAO WEI**
16 **YEO,**

17 Defendants.

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

DECLARATION OF ANDREW P. HOLLAND IN OPPOSITION TO PLAINTIFF DANIEL M. MILLER'S MOTION FOR ENTRY OF DEFAULT

Date: June 9, 2011
Time: 2:00 p.m.
Courtroom: 9, 19th Floor
Judge: Hon. William Alsup

18 I, Andrew P. Holland, declare as follows:

19 1. I am an attorney at law, duly licensed to practice before this court and all courts of
20 the State of California, and a shareholder with the law firm of Thoits, Love, Hershberger &
21 McLean, attorneys for defendant Yao Wei Yeo ("Yeo"). I am one of the attorneys responsible
22 for this action.

23 2. Since the time that Yeo retained my law firm on April 14, 2011 and met with me
24 for the first time on April 27, 2011, attorneys at my firm have worked diligently to investigate the
25 claims against Yeo and prepare the instant opposition and motion to set aside the entry of default.

26 3. As stated in the Points and Authorities in Support of the Motion to Set Aside

1 Default, I believe that Yeo has viable defenses against plaintiff's claims for copyright
2 infringement. This belief is supported by the expert declaration of David Crane previously filed
3 in this action, which Yeo has requested that the Court take Judicial Notice of pursuant to Rule 201
4 of Federal Rules of Evidence, and the Declaration of Yao Wei Yeo filed herewith.

5 4. On April 28, 2011 I spoke with Mr. Miller's counsel, Brian Hancock, and
6 requested that Mr. Miller stipulate to set aside the entry of default against Yeo so that the parties
7 could avoid the time and expense of the instant motion. I believe that this was a reasonable
8 request given the fact that only a few weeks earlier, on April 12, 2011, Mr. Hancock had advised
9 Yeo by email that he should retain an attorney to appear in the action to both discuss settlement
10 and present evidence to defend against Mr. Miller's claim. Notwithstanding his recent invitation
11 to Yeo to participate in the lawsuit, Mr. Hancock e-mailed me on April 28, 2011 that Mr. Miller
12 would not stipulate to set aside the entry of default.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct, and that this Declaration is executed on May 19, 2011 in Palo Alto,
15 California.

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17 s/ Andrew P. Holland
18 Andrew P. Holland

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