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

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

Case No. 5:10-CV-00264 (WA)

**FACEBOOK, INC.’S MOTION FOR
 ADMINISTRATIVE RELIEF,
 PURSUANT TO CIVIL LOCAL
 RULE 7-11, FOR CONTINUANCE OF
 CASE MANAGEMENT
 CONFERENCE**

Date: May 27, 2010
 Time: 8:00 A.M.
 Court: Courtroom 9, 19th Floor
 Judge: Honorable William Alsup

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1 **I. REQUESTED RELIEF**

2 Pursuant to Civil L.R. 7-11, Facebook, Inc. respectfully requests that the Court continue
3 the May 27, 2010, Case Management Conference until a date and time convenient to the Court
4 after defendant Yeo appears and the Court resolves the currently-pending Motion for Leave to
5 Amend Complaint. Dkt. No. 44. At this point, the case is at its earliest stages, and a Case
6 Management Conference is premature.

7 **II. BACKGROUND**

8 Plaintiff filed a complaint on October 9, 2009, asserting various claims of copyright and
9 trademark infringement against Yao Wei Yeo and Facebook, Inc. Dkt. No. 1. Defendant Yeo has
10 not been served with the complaint. Facebook filed a Motion to Dismiss pursuant to Fed.R.Civ.P.
11 12(b)(6) on February 2, 2010. Dkt. No. 25. Plaintiff amended his complaint the day before
12 Facebook's Motion was to be heard. Dkt. No. 37.

13 On March 31, 2010, the Court granted Facebook's Motion to Dismiss the complaint. Dkt.
14 No. 43. In that Order, the Court offered plaintiff an opportunity to explain why an amended
15 complaint would cure the deficiencies identified in its Order. *Id.* at 8. At the hearing on
16 Facebook's Motion to Dismiss, Facebook's counsel informed the Court that defendant Yeo had
17 not yet been served, as required by Fed.R.Civ.P. 4(m). The Court then instructed plaintiff to file a
18 motion for an extension of time in which to serve defendant Yeo and explain what measures he
19 had taken to locate him. 3/18/10 Hr'g Tr. 19:13-14. **Plaintiff never filed such a motion.**

20 Nonetheless, on April 14, 2010, plaintiff filed a Motion for Leave to Amend Complaint, in
21 which he purports to cure those deficiencies. Dkt. No. 44. Facebook opposed that motion, which
22 is set for hearing on May 27, 2010. Dkt. No. 46. **Plaintiff did not file a reply to Facebook's**
23 **Opposition.**

24 On April 15, 2010, the Court issued a Notice rescheduling the Case Management
25 Conference from April 15 to May 27. Dkt. No. 45. On May 18, 2010, plaintiff's counsel
26 contacted Facebook to meet and confer pursuant to Fed.R.Civ.P. 16. Declaration of Theresa A.
27 Sutton in Support of Facebook's Motion for Administrative Relief, ¶ 2. In response, Facebook
28 suggested that the parties seek to continue the Case Management Conference until the Court

