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9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION
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13 DANIEL M. MILLER,
 14 Plaintiff,
 15 v.
 16 FACEBOOK, INC. and YAO WEI YEO,
 17 Defendants.

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

**DECLARATION OF JULIO C.
 AVALOS IN SUPPORT OF
 FACEBOOK INC.'S REPLY BRIEF
 IN SUPPORT OF IT MOTION TO
 DISMISS PLAINTIFF'S SECOND
 AMENDED COMPLAINT**

Date: August 5, 2010
 Time: 8:00 A.M.
 Court: Courtroom 9, 19th Floor
 Judge: Honorable William Alsup

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

2 1. I am a member of, and in good standing with, the Bar of the State of California and
3 am admitted to practice before this Court. I am an associate at the law firm of Orrick, Herrington
4 & Sutcliffe LLP, counsel to Plaintiff Facebook, Inc. (“Facebook”). I make this declaration of my
5 own personal knowledge unless otherwise indicated herein. If called as a witness, I could and
6 would testify competently to the truth of the matters set forth herein.

7 2. Records of registered books, music, art, periodicals, and other works are available
8 for public search on the United States Copyright Office website, located at
9 <http://www.copyright.gov/records/>. Upon arriving at that website, I clicked on a hyperlink
10 entitled, “Search the Catalog.” This link brought me to a page entitled “Public Catalog” that
11 contained a search bar. I searched for the word “Boomshine” and then clicked on “Begin
12 Search.” The result of this search is the copyright registration page for the *Boomshine* computer
13 file. According to the registration, *Boomshine* has been registered as a “Computer File” with the
14 registration number TX000708955, with a registration date of May 5, 2009. The copyright
15 claimant is listed as Plaintiff in this matter, “Daniel Menachem Miller, 2079 Kinsmon Dr.,
16 Marietta, GA, 30062.” Using my web browser, I personally saved this page as an Adobe PDF
17 file.

18 3. On June 16, 2010, I instructed a senior paralegal at my law firm to formally
19 request from the Copyright Office the registration deposit that Plaintiff had included with his
20 copyright registration application for the *Boomshine* computer file, which the paralegal did on
21 that same day. The Copyright Office subsequently delivered to us copies of Plaintiff’s deposit.
22 The deposit did not include any printouts, photographs or drawings of the *Boomshine* game or of
23 the *Boomshine* game’s screen display. The deposit did contain the *Boomshine* computer file
24 along with other source code files. For instance, the deposit contained a file entitled “Cell.as
25 source file.as.” On information and belief, it is my understanding that the “.as” extension stands
26 for “action script” source code. When viewed through a software program entitled Quick View
27 Plus, the “Cell.as source file.as” was readable as computer software source code. In personal
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1 view of me, the senior paralegal assisting me in this matter “printed out” the source code as an
2 Adobe PDF file. The PDF file accurately portrayed the “Cell.as source file.as” source code as it
3 appeared when viewed through the “Quick View Plus” software viewer.

4 4. Attached hereto as **Exhibit A** is a true and correct copy of the printout of the
5 *Boomshine* computer file copyright registration page followed by true and correct copies of the
6 “Cell.as source file.as” source code file.

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8 I declare under penalty of perjury under the laws of the United States that the foregoing is
9 true and correct and that this declaration was hereby executed at Menlo Park, California on
10 July 22, 2010.

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13 /s/ Julio C. Avalos
14 JULIO C. AVALOS

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