

1 I, Brian D. Hancock, declare as follows:

2 1. My name is Brian D. Hancock. I am over eighteen years of age and am competent
3 to testify about the matters set forth herein. I have personal knowledge of the matters set forth
4 herein.
5

6 2. I am an attorney at Heninger Garrison Davis, LLC, 2224 1st Avenue North,
7 Birmingham, Alabama 35203, a law firm representing Plaintiff Daniel M. Miller in the above-
8 styled litigation.
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10 3. In addition to the actions taken by Plaintiff's counsel prior to May 26, 2010, to
11 locate and serve Defendant Yao Wei Yeo ("Yeo") with the complaint in this matter, as set forth in
12 the Declaration of Douglas L. Bridges (and the exhibits attached thereto) submitted to the Court
13 on May 27, 2010, and filed contemporaneously herewith, the Plaintiff has taken additional action,
14 including, but not limited to, the actions enumerated below, to locate and serve Defendant Yeo
15 with the Second Amended Complaint ("SAC").
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17 4. The Plaintiff served a subpoena duces tecum on Media Temple, Inc., a website
18 hosting and software application services company in Culver City, California, on June 4, 2010,
19 seeking all information in its possession pertaining to Yeo. Media Temple responded on June 8th
20 by providing information showing that Yeo is the listed account owner for the
21 "ZWIGGLERS.COM" domain name. The address listed by Media Temple for Yeo is 353 Third
22 Avenue, Suite 246, New York, NY 10010. The phone number (917) 345-3453 was also listed.
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24 5. 353 Third Avenue, Suite 246, New York, NY 10010 is the address for UPS Store
25 5865 in Manhattan. The "Suite" number is a mailbox number. On June 10, 2010, the Plaintiff
26 served a subpoena duces tecum on this UPS store to which UPS responded on June 18th by
27 providing a "Mailbox Service Agreement" and "Application for Delivery of Mail Through Agent"
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1 form attached hereto as Plaintiff's Exhibit "A". A review of Plaintiff's Exhibit "A" shows that the
2 UPS mailbox was opened by Yeo on March 21, 2010 and lists the following address and telephone
3 number for Yeo: 209 Risley Hall, Ithaca, New York 14853, (917) 345-4543.

4 6. On June 18, 2010, the Plaintiff issued the Summons and SAC via Certified Mail to
5 "Yao Wei Yeo, 353 3rd Avenue, Suite 246, New York, NY 10010". On June 28, 2010, the
6 Summons and SAC were delivered to that address and the certified mail receipt was signed by
7 "Alex", an employee of UPS Store 5865. I know that "Alex" is an employee of this store because
8 I spoke to him over the phone in late June, 2010, and he confirmed his employment. A copy of
9 the "Track & Confirm" information from the United States Postal Service's website evidencing
10 the June 28th delivery is attached hereto as Plaintiff's Exhibit "B". A copy of the certified mail
11 receipt is attached hereto as Plaintiff's Exhibit "C".
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14 7. Pursuant to Federal Rule of Civil Procedure 4(e)(1) and §415.40 of the California
15 Code of Civil Procedure, service was effected as against Defendant Yeo ten (10) days after
16 delivery of the Summons and SAC to UPS Store 5865, or July 8, 2010.
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18 8. In addition to the steps taken by the Plaintiff to serve Yeo as enumerated above, the
19 Plaintiff also took the following action:

20 - Served two subpoenas duces tecum on Apple, Inc., on June 4, 2010, seeking all
21 information in Apple's possession pertaining to Yeo and/or the registrant or owner of the
22 zwigglers.com domain name and website. On June 14th, Apple responded that "it does not have
23 any non-privileged responsive documents or information concerning the domain name
24 zwigglers.com or the zwigglers.com website." On June 18th, Apple responded that the only
25 contact information it had for Yeo were the following addresses and telephone numbers:
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1 yeoyaowei@gmail.com, 151 Dryden Road, Apt. 428, Ithaca, New York 14850, phone: (917) 345-
2 4543 and zwigglers@gmail.com, 35 Jalan Seaview, Singapore 438349, phone: 65.9.98278800.

3 - On June 23, 2010, a process server with MLQ Attorney Services hired by undersigned
4 counsel attempted service of the summons and SAC by hand delivery at the 151 Dryden Road
5 address in Ithaca, New York. An individual by the name of Moshe Kornfeld was residing at that
6 address and informed the process server that Yeo does not reside there, and that he does not know
7 Yeo.
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9 - Served a subpoena duces tecum on Verizon's Legal Compliance Department on June 4,
10 2010, seeking all information in its possession regarding Yeo. On June 7, Verizon responded by
11 returning the subpoena as insufficient and requesting more identifying information other than just
12 the subscriber's name, such as a city and state of residence. On June 8, 2010, the Plaintiff served a
13 second subpoena duces tecum on Verizon's Legal Compliance Department seeking all information
14 in its possession concerning Yeo and listing Ithaca, New York and Toronto, Ontario, Canada as
15 former or present places of residence. On June 9th, Verizon responded that a "reasonably diligent
16 search of our files revealed no documents, records or other materials responsive to the legal
17 request based upon the information provided." Verizon also stated that if the request was for a
18 Verizon Wireless customer, the Plaintiff should contact another office seeing as Verizon Legal
19 Compliance only handles landline information. Accordingly, on that same day, June 9, 2010, the
20 Plaintiff served a subpoena duces tecum on CELLCO Partnership d/b/a Verizon Wireless seeking
21 all information in its possession about Yeo, Zwigglers.com, and Toronto and Ithaca. After
22 receiving no response within the required ten (10) days, Plaintiff's counsel repeatedly followed up
23 with calls and written correspondence and finally received a response from CELLCO on July 16,
24 2010. CELLCO provided six telephone numbers all containing a 607 area code which is the area
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1 code for Ithaca, New York. There was no listing of the (917) 345-4543 number that was provided
2 by Apple, UPS, and Media Temple in response to the Plaintiff's subpoenas and is apparently the
3 number Yeo is currently using based on a voicemail left by Craig Clark, Facebook's in-house
4 counsel, to undersigned counsel on July 2nd.¹ CELLCO also provided the same address for Yeo
5 as did UPS on June 18th: 209 Risley Hall, Ithaca, New York 14853.
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7 - Even though the Plaintiff legally perfected service against Yeo on July 8, 2010, as set
8 forth above in Paragraphs 1-7, and it was undersigned counsel's understanding that Yeo was no
9 longer a student at Cornell University and was not residing in Ithaca, undersigned counsel felt it
10 prudent to confirm his belief that Yeo was not presently residing at the Risley Hall. To that end, a
11 process server with MLQ Attorney Services attempted to serve Yeo at the 209 Risley Hall address
12 on July 22nd. The process server reported to undersigned counsel that this is a student dormitory at
13 Cornell University that was locked. After convincing a maintenance person to let him in, he
14 located the dormitory supervisor who was on-site. The supervisor unlocked Room 209 for the
15 process server. It was empty as were all of the other dormitory rooms. The supervisor also told
16 the process server that she did not recognize Yeo's name, believed the address for Yeo to be an
17 old one, and after checking the Cornell student directory, informed the process server that Yeo's
18 name was not listed therein.
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21 - Submitted a document request to the New York Department of Motor Vehicles ("DMV")
22 on June 23, 2010, for Yeo's driving record and vehicle registration record. On July 2nd, the New
23 York DMV responded that it had no vehicle registration record for Yeo, but it did provide an
24 abstract of Yeo's driving record. The address listed therein is 209 Risley Hall in Ithaca. It also
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27 ¹ Craig Clark, in-house counsel for Facebook who attended the Court-ordered Settlement Conference in this matter on
28 June 22, 2010, left a voicemail for me on July 2nd that is transcribed in its entirety as follows: "Hey Brian, it's Craig
Clark over at Facebook. I wanted to give you a heads-up that Yeo actually called us today. We spoke to him and gave
him a brief status on the case and told him that we would be passing on the number we got from his phone call to you,
so that number is 917-345-4543; 917-345-4543. Ok thanks." DECLARATION OF BRIAN D. HANCOCK SUPPLEMENTING

1 provided his date of birth (12/15/1984) and other basic information such as height, eye color, and
2 gender.

3 - On June 30, 2010, undersigned counsel hired MLQ Attorney Services to perform a “skip
4 trace” on Yeo. On July 2nd, MLQ Attorney Services reported that it was unable to find any
5 information regarding Yeo’s present whereabouts.

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7 - On July 6, 2010, undersigned counsel performed a reverse phone search on the (917)
8 345-4543 number. The number is a New York City cell phone number, and the phone carrier was
9 identified as Omnipoint Communications, Inc. in New York. No address for the customer using
10 that number was listed. T-Mobile had previously acquired Omnipoint Communications, and on
11 that same day, July 6th, the Plaintiff served a subpoena duces tecum on T-Mobile f/k/a Omnipoint
12 Communications, Inc.’s Wireless Records division seeking all information in its possession
13 regarding the (917) 345-4543 number and/or Yeo. No response was received within the required
14 ten (10) day period, and in a follow-up communication with T-Mobile’s compliance officer on
15 August 4th, undersigned counsel broadened the request to also include all information T-Mobile
16 had concerning zwigglers.com or Zwigglers Apps. On August 11th, T-Mobile stated that it was
17 unable to respond to the subpoena because (917) 345-4543 “is not associated with the Defendant
18 or either name indicated.” On August 23rd, T-Mobile further responded that this number is active
19 and in the name of “Sean McCabe” whose date of birth is October 10, 1980. The “McCabe”
20 account was established on August 6, 2009. No address was listed.
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24 I declare under penalty of perjury that the foregoing is true and correct.

25
26 August 26, 2010

27 Date

/s/ Brian D. Hancock

Brian D. Hancock