

1 I. NEEL CHATTERJEE (STATE BAR NO. 173985)
 nchatterjee@orrick.com
 2 JULIO C. AVALOS (STATE BAR NO. 255350)
 javalos@orrick.com
 3 ORRICK, HERRINGTON & SUTCLIFFE LLP
 1000 Marsh Road
 4 Menlo Park, CA 94025
 Telephone: +1-650-614-7400
 5 Facsimile: +1-650-614-7401

6 THOMAS J. GRAY (STATE BAR NO. 191411)
 tgray@orrick.com
 7 ORRICK, HERRINGTON & SUTCLIFFE LLP
 4 Park Plaza, Suite 1600
 8 Irvine, CA 92614-2558
 Telephone: +1-949-567-6700
 9 Facsimile: 949-567 6710

10 Attorneys for Defendant
 FACEBOOK, INC.

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

15 DANIEL M. MILLER,

16 Plaintiff,

17 v.

18 FACEBOOK, INC. and YAO WEI YEO,

19 Defendants.
 20

Case No. CV-10-00264 (WHA)

**DEFENDANT FACEBOOK, INC.'S
 CONSENT TO ENTRY OF
 PROTECTIVE ORDER**

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1 Defendant Facebook, Inc. (“Facebook”) does not object to the entry of the protective order
2 attached as Exhibit A to Plaintiff’s Motion for Entry of same. As Plaintiff recognizes, Facebook
3 has actively negotiated the provisions of that order with Plaintiff’s counsel, Brian Hancock.
4 Facebook does object, however, to Plaintiff’s inappropriate and premature use of motion practice.
5 This Court’s local rules—as well as basic norms of professional courtesy—required counsel to at
6 least telephone, e-mail or in some way correspond with opposing counsel prior to filing this
7 motion.

8 The last correspondence between counsel took place on November 11, 2010, when the
9 parties exchanged substantive comments on a provision of the joint protective order related to
10 source code inspection logs. Declaration of Julio Avalos (“Avalos Decl.”) ¶¶ 9-10. Following
11 those communications, Plaintiff’s counsel did not call, e-mail, or communicate with defense
12 counsel in any way prior to filing his November 18, 2010 motion for court intervention. *Id.* ¶ 10.
13 At no time did Plaintiff’s counsel request a meet and confer of any kind, let alone hint that he was
14 planning on involving the court in this process.¹ ¶¶ 4-10. The Court’s intervention could and
15 should have been avoided. *Id.*

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18 Dated: November 23, 2010

ORRICK, HERRINGTON & SUTCLIFFE LLP

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20 /s/ Julio C. Avalos

Julio C. Avalos
Attorneys for Defendant,
FACEBOOK, INC.

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24 ¹ Plaintiff similarly jumped the gun on his concurrently-filed letter brief moving to compel further
25 discovery responses. The parties have long understood that the entry of an appropriate protective
26 order was a prerequisite for the production of sensitive information. Facebook has represented
27 that it would supplement its discovery responses following the entry of such an order, subject to
28 Facebook’s substantive objections to Plaintiff’s discovery requests. Since the onset of the parties’
protective order negotiations in early October, Plaintiff has never so much as requested a meet
and confer on Facebook’s substantive objections to his discovery requests and no such meet and
confer has been held. Avalos Decl. ¶ 10.