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

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

**DECLARATION OF THERESA A. SUTTON IN SUPPORT OF STIPULATED REQUEST FOR ORDER CHANGING TIME PURSUANT TO LOCAL RULE 6-2**

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1 I, Theresa A. Sutton, declare as follows:

2 1. I am an associate with Orrick, Herrington & Sutcliffe LLP, counsel of record to  
3 Facebook, Inc. I make this declaration based on my personal knowledge.

4 2. Counsel for Facebook and Miller have reached a Stipulation with regard to time  
5 modifications to the Court's current Case Management Order. Dkt. No. 55.

6 3. **Reasons for Request.** The parties have had numerous discovery related  
7 discussions and disputes and the parties are in the process of resolving those disputes. On  
8 December 17, 2010, the parties exchanged substantive discovery in response to the outstanding  
9 discovery requests by answering each other's respective pending interrogatories and producing  
10 documents responsive to the parties' respective requests for production, if any, or otherwise  
11 objecting to the requests. The parties in good faith continue to engage in exchanging substantive  
12 discovery. On December 21, 2010, the parties met and conferred regarding the current Court  
13 ordered case schedule (Dkt. No. 55) and discovery schedule and agreed that the parties require  
14 additional time to conclude discovery and prepare their respective cases. Further, the Court's  
15 Case Management Order appears to contain an error as to the scheduled date for designation of  
16 expert testimony and disclosure of full expert reports.

17 4. **Prior Modifications.** There have been no other time modifications in this case.

18 5. **Effect on Schedule.** The requested modifications are as follows:

<b>Current Schedule</b>	<b>Proposed Schedule</b>
The non-expert discovery cut-off date shall be <b>January 31, 2011.</b>	March 28, 2011
The last date for designation of expert testimony and disclosure of full expert reports under FRCP 26(a)(2) as to any issue on which a party has the burden of proof ("opening reports") shall be <b>JULY 31, 2011.</b>	*March 28, 2011 Counsel believe there is a typo in the current case management order and the date is meant to be January 31, 2011 and not July 31, 2011
Within <b>FOURTEEN CALENDAR DAYS</b> of said deadline, all other parties must disclose any expert reports on the same issue ("opposition reports").	Same
Within <b>SEVEN CALENDAR DAYS</b> thereafter, the party with the burden of proof must disclose any reply reports rebutting specific material in opposition	Same

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The cutoff for all expert discovery shall be <b>FOURTEEN CALENDAR DAYS</b> after the deadline for reply reports	Same
At least <b>28 CALENDAR DAYS</b> before the due date for opening reports, each party shall serve a list of issues on which it will offer any expert testimony in its case-in-chief (including from non-retained experts).	Same
The last date to file dispositive motions shall be <b>MARCH 3, 2011</b> . No dispositive motions shall be heard more than 35 days <i>after</i> this deadline	April 28, 2011
The <b>FINAL PRETRIAL CONFERENCE</b> shall be at <b>2:00 P.M.</b> on <b>APRIL 18, 2011</b> .	June 13, 2011
A <b>JURY TRIAL</b> shall begin on <b>APRIL 25, 2011</b> , at <b>7:30 A.M.</b> , in Courtroom 9, 19th Floor, 450 Golden Gate Avenue, San Francisco, California, 94102.	June 20, 2011

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 30th day of December 2010 at Menlo Park, California.

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*/s/ Theresa A. Sutton /s/*  
Theresa A. Sutton

