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6 Attorneys for Defendant
7 FACEBOOK, INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

12 MEKIKI CO., LTD and MEKIKI CREATES
CO., LTD.,
13
14 Plaintiffs and
Counter-Defendants,
15 v.
16 FACEBOOK, INC.,
17 Defendant and
18 Counterclaimant.

Case No. 5:10-cv-2721-LHK (HRL)

**DECLARATION OF ELIZABETH L.
STAMESHKIN IN SUPPORT OF FACEBOOK,
INC.'S MOTION TO STAY, OR IN THE
ALTERNATIVE, TO BIFURCATE**

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**DECLARATION OF ELIZABETH STAMESHKIN
IN SUPPORT OF FACEBOOK, INC.'S MOTION TO STAY,
OR IN THE ALTERNATIVE, TO BIFURCATE**

I, Elizabeth Stameshkin, declare as follows:

1. I am an attorney with Cooley LLP, of counsel in this action for Defendant Facebook, Inc. I make this declaration in support of Defendant's Motion to Stay, or in the Alternative, to Bifurcate. I have personal knowledge of the facts contained within this declaration, and if called as a witness, could testify competently to the matters contained herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Request for *Inter Partes* Reexamination of U.S. Patent No. 7,493,342, filed with the United States Patent and Trademark Office on February 7, 2011.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Request for *Inter Partes* Reexamination of U.S. Patent No. 7,496,603, filed with the United States Patent and Trademark Office on February 3, 2011.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Request for *Inter Partes* Reexamination of U.S. Patent No. 6,879,985, filed with the United States Patent and Trademark Office on February 3, 2011.

5. Attached hereto as Exhibit 4 is a true and correct copy of "Reexaminations – FY 2011," published by the United States Patent and Trademark Office and available at http://www.uspto.gov/patents/stats/Reexamination_operational_statistic_through_FY2011Q1.pdf.

6. Attached hereto as Exhibit 5 is a true and correct copy of R. Sterne, et al., "Reexamination Practice with Concurrent District Court or USITC Patent Litigation" (2008).

7. Attached hereto as Exhibit 6 is a true and correct copy of Sections 2609, 2636, and 2641 of the Manual of Patent Examining Procedure.

1 8. Attached hereto as Exhibit 7 is a true and correct copy of “*Inter Partes*
2 Reexamination Filing Data – December 31, 2010,” published by the U.S. Patent and Trademark
3 Office and available at http://www.uspto.gov/patents/stats/IP_quarterly_report_Dec_2010.pdf.

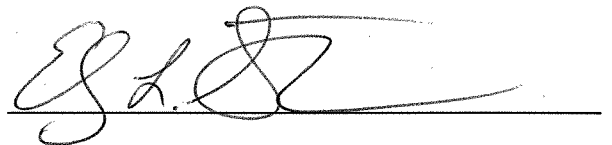
4 9. Attached hereto as Exhibit 8 is a true and correct copy of a Covenant Not to Sue,
5 dated November 1, 2010 and signed by Dr. Hikaru Deguchi, President of Mekiki Co., Ltd. and
6 Mekiki Creates Co., Ltd.

7 10. Attached hereto as Exhibit 9 is a true and correct copy of Mekiki’s Requests for
8 Production of Documents served on Facebook on October 6, 2010.

9 11. Attached hereto as Exhibit 10 is a true and correct copy of “Affirmance and
10 Reversal Rates for District Court Patent Infringement Appeals,” published by the United States
11 Court of Appeals for the Federal Circuit and available at
12 [http://www.cafc.uscourts.gov/images/stories/the-court/statistics/](http://www.cafc.uscourts.gov/images/stories/the-court/statistics/Caseload_Patent_Infringement_Affirmance_and_Reversal_Rates_2001-2010.pdf)
13 [Caseload_Patent_Infringement_Affirmance_and_Reversal_Rates_2001-2010.pdf](http://www.cafc.uscourts.gov/images/stories/the-court/statistics/Caseload_Patent_Infringement_Affirmance_and_Reversal_Rates_2001-2010.pdf).

14 12. Attached hereto as Exhibit 11 is a true and correct copy of *Network Gateway*
15 *Solutions, LLC v. Adtran, Inc.*, No. 09-667, Dkt. No. 81, Rule 16 Scheduling Order at 11, ¶ 18 (D.
16 Del. Jan. 19, 2010).

17 I declare under penalty of perjury under that the foregoing is true and correct. Executed
18 on February 8, 2011 in Palo Alto, California.

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Elizabeth L. Stameshkin