

1 Richard L. Seabolt (SBN 67469)
 Suzanne R. Fogarty (SBN 154319)
 2 Oliver E. Benn (SBN 244618)
DUANE MORRIS LLP
 3 Spear Tower, One Market Plaza, Suite 2200
 San Francisco, CA 94105-1127
 4 Telephone: 415.957.3000
 Facsimile: 415.957.3001
 5 E-mail: RLSeabolt@DuaneMorris.com
 SRFogarty@DuaneMorris.com
 6 OBenn@DuaneMorris.com

7 Attorneys for Defendant,
 ZYNGA GAME NETWORK INC.

8
 9 **IN THE UNITED STATES DISTRICT COURT**
 10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN FRANCISCO DIVISION**

12 NANCY WALTHER GRAF, an individual, on
 13 behalf of herself and all others similarly situated,
 14 Plaintiff,
 15 v.
 16 ZYNGA GAME NETWORK INC., a Delaware
 17 corporation,
 18 Defendant.

Case No.: CV 10-4680 JL

CLASS ACTION

**PROOF OF SERVICE OF
 ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES
 SHOULD BE RELATED, FILED IN
 RE: FACEBOOK PRIVACY
 LITIGATION BEFORE JUDGE WARE**

**ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES
 SHOULD BE RELATED;**

**DECLARATION OF RICHARD L.
 SEABOLT; AND**

**[PROPOSED] ORDER GRANTING
 ADMINISTRATIVE MOTION TO
 RELATE CASES**

ACTION FILED: 10/18/10

28

1 Richard L. Seabolt (SBN 67469)
Suzanne R. Fogarty (SBN 154319)
2 Oliver E. Benn (SBN 244618)
DUANE MORRIS LLP
3 Spear Tower, One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
4 Telephone: 415.957.3000
Facsimile: 415.957.3001
5 E-mail: RLSeabolt@DuaneMorris.com
SRFogarty@DuaneMorris.com
6 OBenn@DuaneMorris.com

7 Attorneys for Defendant,
ZYNGA GAME NETWORK INC.
8

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11
12
13 IN RE: FACEBOOK PRIVACY LITIGATION
14
15
16
17
18

Case No.: 10-cv-02389-JW

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

Action Filed: May 28, 2010

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION

Pursuant to Local Rules 3-12 and 7-11, Zynga Game Network Inc. (“Zynga”) brings this administrative motion to consider whether a series of complaints arising from closely related, and in some cases identical, events and conduct should be related.

Those matters are (from lowest to highest case number):

- *In Re: Facebook Privacy Litigation*, No. 5:10-cv-02389-JW;
- *Graf v. Zynga*, No. 3:10-cv-04680-WHA;
- *Albini v. Zynga; Facebook Inc.*, No. 3:10-cv-04723-JL;
- *Gudac v. Zynga*, No. 3:10-cv-04793-EMC;
- *Schreiber v. Zynga*, No. 3:10-cv-04794-JCS;
- *Swanson v. Zynga*, No. 5:10-cv-4902-HRL;
- *Carmel-Jessup v. Facebook; Zynga*, No. 3:10-cv-4930-MEJ; and
- *Phee v. Facebook; Zynga*, No. 3:10-cv-4935-SC..

All of the claims in these cases arise from allegations that “referrer headers” within some users’ web browsers caused user information to be leaked to third parties when users took certain actions on Facebook or within applications on Facebook’s online social networking platform. The cases involve overlapping legal claims. In addition, the cases have overlapping parties on both the plaintiff and defense sides, and overlapping legal counsel on both sides too. There will be an undue burdensome duplication of labor and expense, and conflicting results, if the cases are conducted before different Judges. L.R. 3-12(a)(2).

A copy of the motion has been served on all known parties to each of the related actions, and a Chambers copy of the motion has been lodged with the assigned Judge in each related case.

II. BACKGROUND

On May 28, 2010 and June 1, 2010, two plaintiffs filed separate class actions against Facebook arising from alleged conduct described below. On August, 20, 2010, the Court ordered those cases to be consolidated under the caption “*In re: Facebook Privacy Litigation.*” See Case No.

1 5:10-cv-02389-JW, Dkt No. 23.¹ On October 11, 2010, the plaintiffs filed a Consolidated Class
2 Action Complaint (“CCAC”).

3 The consolidated complaint primarily alleges that when users on facebook.com clicked on
4 third-party advertisements, certain information would in some cases be transmitted to those third
5 parties via html code called a “Referrer Header.” See, CCAC ¶¶ 28, 35. The complaint alleges that
6 the Referrer Header contained the address of the web page the user had been viewing prior to
7 clicking on the link, which in some cases allegedly contained the unique Facebook user
8 identification (“UID”) or username of the user. CCAC ¶¶ 28-29. According to the complaint, this
9 allowed third parties to obtain user information from Facebook users without their consent. See,
10 CCAC ¶¶ 29-33, 36.

11 The consolidated complaint brought causes of action under the federal Electronic
12 Communications Privacy Act (“ECPA”) and Stored Communications Act (“SCA”), California’s
13 Unfair Competition Law (“UCL”), Computer Crimes Law (“CCCL”) and Consumer Legal
14 Remedies Act (“CLRA”), in addition to fraud, breach of contract (for alleged breach of Facebook’s
15 terms of service and privacy policy), and unjust enrichment claims.

16 Zynga is the most popular application developer on Facebook, with notable games including
17 FarmVille, Café World, Mafia Wars and Treasure Isle. In the weeks following a report in the *Wall*
18 *Street Journal* that Referrer Headers were allegedly being re-transmitted through Facebook
19 developers’ applications to third parties, Zynga and Facebook were named in multiple class actions.
20 Zynga and Facebook were the two named defendants in *Albini*, No. 3:10-cv-04723-JL; *Carmel-*
21 *Jessup*, No. 3:10-cv-04930; and *Phee*, No. 3:10-cv-04935.² Zynga was identified as the only named
22 defendant in *Graf*, case no. 3:10-cv-04680-WHA, *Gudac*, case no. 3:10-cv-04793-EMC; *Schreiber*,
23 case no. 3:10-cv-04794-JCS; and, *Swanson*, Case No. 5:10-cv-04902-HRL.

24 ¹ Another very similar class action was filed at approximately the same time in the District of Rhode
25 Island. *Marfeo v. Facebook*, Case No. 1:10-cv-262. The parties recently stipulated for that case to
26 be transferred to this Court and, on November 1, 2010, the District of Rhode Island ordered the case
to be transferred. *Id.*, Dkt. No. 11.

27 ² Facebook and Zynga are also named defendants in a California state court class action, making the
28 same factual allegations, and filed by the same law firm as the *Carmel-Jessup* case. *Scherek v.*
Facebook; Zynga, San Francisco Superior Court Case No. CGC-504986.

1 The seven complaints make substantially similar, and in some instances virtually identical,
2 allegations. They claim that via Referrer Headers sent to third parties, Zynga and, where named as a
3 defendant, Facebook allegedly disclosed Facebook UIDs to those third parties. *See, e.g. Albini*
4 *Complaint*, ¶¶ 14-15, 39-41; *Gudac Complaint* ¶¶ 29-31, 34; *Schreiber Complaint* ¶¶ 18-19; *Graf*
5 *Complaint*, ¶¶ 17-18; *Swanson Complaint* ¶¶ 19-22. This allegedly allowed third parties to obtain
6 information about users and their activities online. *Id.* The *Wall Street Journal* article referenced in
7 these complaints emphasized that there was no evidence the application developers had any idea that
8 the Referrer Headers were re-transmitting the Facebook UIDs.

9 The theories of liability alleged are extremely similar to the *In re: Facebook Privacy*
10 *Litigation* case, and in fact the causes of action from that case are found in the more recently filed
11 complaints. For example, both *In re: Facebook Privacy Litigation* and *Graf* allege violations of the
12 ECPA, SCA, UCL, CCL, CLRA, and fraud statutes, and breach of the Facebook terms of service.
13 The *Albini*, *Gudac*, *Schreiber*, *Swanson*, *Phee* and *Carmel-Jessup* complaints cover very similar
14 ground.³ Most significantly, the underlying alleged conduct – allowing the information of users to
15 be divulged via Referrer Headers to third parties without user consent – is the same.

16 III. DISCUSSION

17 Actions in the Northern District of California are related to one another when (1) they
18 “concern substantially the same parties, property, transaction or event”; and, (2) “It appears likely
19 that there will be an unduly burdensome duplication of labor and expense or conflicting results if the
20 cases are conducted before different Judges.” L.R. 3-12(a).

21 Here, the actions concern substantially the same transactions and events. All of the
22 complaints are based on the Referrer Headers that web browsers send when users navigate the
23 Internet and which, according to the complaints, divulged users’ information to third parties.
24 Furthermore, both the May/June lawsuits and the October lawsuits were initiated quickly after, and
25 made reference to, Wall Street Journal articles written by the same co-author. *See*, Emily Steel and
26

27 ³ For the Court’s convenience, Zynga has attached a spreadsheet identifying all of the cases and legal
28 claims being made in each case.

1 Jessica E. Vascellaro, *Facebook, MySpace Confront Privacy Loophole*, WALL ST. J., May 21, 2010;
2 Emily Steel and Geoffrey A. Fowler, *Facebook in Privacy Breach*, WALL ST. J., Oct. 18, 2010, at
3 A1.

4 The factual issues raised are closely related, as described above. In addition, the legal issues
5 are extremely similar. Specifically, it is likely that the cases will involve (1) whether the information
6 allegedly divulged to third parties constitutes “personally identifiable information”; (2) whether the
7 information allegedly divulged was public or private information; (3) whether plaintiffs’ theories can
8 proceed without harm being alleged; (4) whether users consented to any disclosure; and, (5) whether
9 the Referrer Headers can be the basis of claims under the statutes concerning electronic
10 communications and computers. And the complaints contain overlapping causes of action, as
11 described above.

12 For these reasons alone, it would be an unduly burdensome duplication of labor and expense
13 with the strong possibility of conflicting results if the cases are not related, because identical issues
14 involving the same underlying conduct will be litigated in front of two separate judges of the Court.

15 Moreover, while the parties are not identical in all the cases, there is substantial overlap.
16 Numerous courts have gone further than simply relating cases, and have actually consolidated them,
17 in situations where the parties are not identical but nonetheless the underlying factual matters were
18 essentially the same. *Aronson v. McKesson HBOC, Inc.*, 79 F.Supp.2d 1146, 1150, 1151 (N.D.Cal.
19 1999) (Whyte, J.). *See also Townsley v. Hydro Intern. LLC*, 2010 WL 3070387, *2 (C.D.Cal. 2010)
20 (consolidation granted despite different defendants who would have to be evaluated under different
21 standards of liability); *In re MicroStrategy Inc. Securities Litigation*, 110 F.Supp.2d 427, 431
22 (E.D.Va. 2000) (“[T]he existence of slight differences in class periods, parties, or damages among
23 the suits does not necessarily defeat consolidation where the essential claims and factual allegations
24 are similar”); *In re Cendant Corp. Litig.*, 182 F.R.D. 476, 479 (D.N.J. 1998) (different class periods
25 and measures of damages do not preclude consolidation); *Werner v. Satterlee, Stephens, Burke &*
26 *Burke*, 797 F.Supp. 1196, 1211 (S.D.N.Y. 1992) (consolidation of class actions appropriate even
27 where cases lacked identity of parties). Here, the proposed classes are all Facebook users or subsets
28

1 of Facebook users. Facebook is named as a defendant in four of the eight cases. Zynga is named as
2 a defendant in seven of the eight cases.

3 Moreover, plaintiff's counsel is the same in two of the cases (*Graf* and *In re: Facebook*
4 *Privacy Litigation*), and Zynga and Facebook will each be represented by the same counsel in all of
5 the cases in which those parties are involved.

6 **IV. CONCLUSION**

7 For all the foregoing reasons, Zynga respectfully requests that the eight cases should be
8 related and should proceed before the same judge of this Court. To the extent that Judge Ware has
9 additional impending responsibilities as Chief Judge that might make it difficult to preside over eight
10 related cases, Zynga observes that the assigned judge of the next lowest numbered case, *Graf*, is
11 Judge Alsup.

12
13 Dated: November 5, 2010

DUANE MORRIS LLP

14
15 By:



16 Richard L. Seabolt
17 Suzanne R. Fogarty
18 Oliver E. Benn
19 Attorneys for Defendant,
20 ZYNGA GAME NETWORK INC.

21
22
23
24
25
26
27
28
DM1\2392251.1

EXHIBIT A

Plaintiff Name	In re Facebook	Graf	Albini	Gudac	Schreiber	Swanson	Carmel-Jessup	Phee
Facebook defendant?	X		X				X	X
Zynga defendant?		X	X	X	X	X	X	X
Allegations based on Referrer Headers?	X	X	X	X	X	X	X	X
ECPA: Electronic Communications Privacy Act	X	X	X	X	X	X	X	X
SCA: Stored Communications Act	X	X	X	X	X	X	X	X
Breach of contract: FB Terms of Service	X	X	X		X	X	X	X
Breach of contract: Zynga privacy policy		X	X	X	X	X	X	X
UCL: Bus. Prof. Code s. 17200	X	X	X	X	X	X	X	X
CFAA: Computer Fraud&Abuse Act 18 USC 1030				X				
CCCL: Cal. Computer Crimes Law-Penal. C. 502	X	X				X	X	
False Advertising: Bus. Prof. Code s. 17500								X
CLRA: Consumer Legal Remedies Act	X	X				X	X	X
Implied Covenant of Good Faith				X			X	X
Common Law Privacy				X				
Statutory/Civil Fraud - Civ. Code. s. 1572-1573	X	X	X				X	
Criminal Fraud - Pen. Code. s. 532								
Negligent Misrepresentation							X	
Unjust Enrichment	X	X	X	X	X		X	X
Promissory Estoppel								X
Assumpsit				X				
Conversion				X				X
Court	N.D. Cal.	N.D. Cal.	N.D. Cal.	N.D. Cal.	N.D. Cal.	N.D. Cal.	N.D. Cal.	N.D. Cal.
Judge	Ware	Alsup	Larsen	Chen	Spero	Lloyd	James	Conti
Case No.	5:10-cv-02389	3:10-cv-4680	3:10-cv-4723	3:10-cv-4793	3:10-cv-4794	5:10-cv-4902	3:10-cv-4930	3:10-cv-4935
Plaintiff Counsel	Nassir/Edelison	Nassir/Edelison	Khorrami/Pogust	Wolf Haldenstein	Seeger Weiss	Keller Rohrbach	Gutride Saffar	Millberg

1 **PROOF OF SERVICE**

2 *In re Facebook Privacy Litigation*

3 USDC, Northern District of California, San Jose Division No.: 10-cv-02389-JW

4 I am a citizen of the United States, over the age of 18 years, and not a party to interested in
5 the cause. I am an employee of Duane Morris LLP and my business address is One Market, Spear
6 Tower, Suite 2200, San Francisco, California 94105. I am readily familiar with this firm's practices
7 for collecting and processing correspondence for mailing with the United States Postal Service and
8 for transmitting documents by FedEx, fax, email, messenger and other modes. On the date stated
9 below, I served the following documents:

10 **ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE
11 RELATED**

12 **X ALL PARTIES SERVED BY E-FILING ON PACER**

13 **BY U.S. MAIL:** I enclosed the documents in a sealed envelope or package
14 addressed to the person(s) set forth below, and placed the envelope for collection and
15 mailing following our ordinary business practices, which are that on the same day
16 correspondence is placed for collection and mailing, it is deposited in the ordinary
17 course of business with the United States Postal Service in San Francisco, California,
18 in a sealed envelope with postage fully prepaid. **OR**

19 I enclosed the documents in a sealed envelope or package addressed to the
20 person(s) set forth below, and deposited the sealed envelope with the United States
21 Postal Service, with the postage fully prepaid.

22 **BY MESSENGER SERVICE:** I enclosed the documents in an envelope or package
23 addressed to the person(s) set forth below and providing the package(s) to a
24 professional messenger service for same day delivery service. (*A declaration by the
25 messenger must accompany this Proof of Service*).

26 **BY PERSONAL SERVICE:** I personally delivered the documents to the persons at
27 the addresses listed below. (1) For a party represented by an attorney, delivery was
28 made to the attorney or the attorney's office by leaving the documents in an envelope
or package clearly labeled to identify the attorney being served with a receptionist or
an individual in charge of the office. (2) For a party, delivery was made to the party or
by leaving the documents at the party's residence with some person not less than 18
years of age between the hours of eight in the morning and six in the evening.

BY OVERNIGHT DELIVERY: I enclosed the documents in a sealed envelope or
package provided by FedEx and addressed to the person(s) listed below by placing the
envelope or package(s) for collection and transmittal by FedEx pursuant to my firm's
ordinary business practices, which are that on the same day a FedEx envelope or
package is placed for collection, it is deposited in the ordinary course of business with
FedEx for overnight delivery, with all charges fully prepaid.

BY FACSIMILE: Based on a court order or an agreement of the parties to accept
service by fax transmission, I faxed the documents to the person(s) at the fax
number(s) listed below. No error was reported by the fax machine that I used. A copy
of the record of the fax transmission(s), which I printed out, is attached.

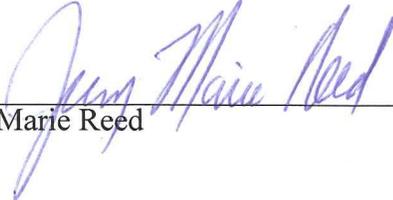
BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 5, 2010



Jean Marie Reed

1 Richard L. Seabolt (SBN 67469)
Suzanne R. Fogarty (SBN 154319)
2 Oliver E. Benn (SBN 244618)
DUANE MORRIS LLP
3 Spear Tower, One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
4 Telephone: 415.957.3000
Facsimile: 415.957.3001
5 E-mail: RLSeabolt@DuaneMorris.com
SRFogarty@DuaneMorris.com
6 OBenn@DuaneMorris.com

7 Attorneys for Defendant,
ZYNGA GAME NETWORK INC.
8

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11
12
13 IN RE: FACEBOOK PRIVACY LITIGATION

Case No.: 10-cv-02389-JW

**DECLARATION OF RICHARD L.
SEABOLT RE: ADMINISTRATIVE
MOTION TO RELATE CASES**

14
15
16
17
18 Action Filed: May 28, 2010
19

20 I, Richard L. Seabolt, declare as follows:

21 1. I am an attorney licensed to practice in the State of California and I am admitted to
22 practice before this Court. I am a partner at Duane Morris LLP, counsel for Zynga Game Network,
23 Inc. ("Zynga"). I have personal knowledge of the matters stated in this declaration and, if called as a
24 witness, I could and would testify to them competently.

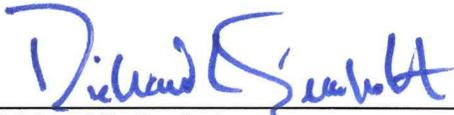
25 2. I contacted counsel of record for each party in all eight of the cases that Zynga now
26 seeks to have related before this Court, to seek a stipulation pursuant to Local Rules 3-12 and 7-
27 11(a). Counsel for Defendant Facebook, Inc., Michael Rhodes, stated he would not oppose.
28

1 Counsel for the plaintiffs in *In Re Facebook Privacy Litigation, Graf, Gudac, Carmel-Jessup*, and
2 *Phee* stated that they would not oppose the motion to relate. I have yet to obtain a response from
3 counsel for the plaintiffs in *Albini, Schreiber* and *Swanson*.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of November, 2010.


Richard L. Seabolt

DMI\2392201.1

1 **PROOF OF SERVICE**

2 *In re Facebook Privacy Litigation*

3 USDC, Northern District of California, San Jose Division No.: 10-cv-02389-JW

4 I am a citizen of the United States, over the age of 18 years, and not a party to interested in
5 the cause. I am an employee of Duane Morris LLP and my business address is One Market, Spear
6 Tower, Suite 2200, San Francisco, California 94105. I am readily familiar with this firm's practices
for collecting and processing correspondence for mailing with the United States Postal Service and
for transmitting documents by FedEx, fax, email, messenger and other modes. On the date stated
below, I served the following documents:

7 **DECLARATION OF RICHARD L. SEABOLT RE: ADMINISTRATIVE MOTION TO
8 RELATE CASES**

9 **X ALL PARTIES SERVED BY E-FILING ON PACER**

10 **BY U.S. MAIL:** I enclosed the documents in a sealed envelope or package
11 addressed to the person(s) set forth below, and placed the envelope for collection and
12 mailing following our ordinary business practices, which are that on the same day
13 correspondence is placed for collection and mailing, it is deposited in the ordinary
14 course of business with the United States Postal Service in San Francisco, California,
15 in a sealed envelope with postage fully prepaid. **OR**

16 I enclosed the documents in a sealed envelope or package addressed to the
17 person(s) set forth below, and deposited the sealed envelope with the United States
18 Postal Service, with the postage fully prepaid.

19 **BY MESSENGER SERVICE:** I enclosed the documents in an envelope or package
20 addressed to the person(s) set forth below and providing the package(s) to a
21 professional messenger service for same day delivery service. (*A declaration by the
22 messenger must accompany this Proof of Service*).

23 **BY PERSONAL SERVICE:** I personally delivered the documents to the persons at
24 the addresses listed below. (1) For a party represented by an attorney, delivery was
25 made to the attorney or the attorney's office by leaving the documents in an envelope
26 or package clearly labeled to identify the attorney being served with a receptionist or
27 an individual in charge of the office. (2) For a party, delivery was made to the party or
28 by leaving the documents at the party's residence with some person not less than 18
years of age between the hours of eight in the morning and six in the evening.

BY OVERNIGHT DELIVERY: I enclosed the documents in a sealed envelope or
package provided by FedEx and addressed to the person(s) listed below by placing the
envelope or package(s) for collection and transmittal by FedEx pursuant to my firm's
ordinary business practices, which are that on the same day a FedEx envelope or
package is placed for collection, it is deposited in the ordinary course of business with
FedEx for overnight delivery, with all charges fully prepaid.

BY FACSIMILE: Based on a court order or an agreement of the parties to accept
service by fax transmission, I faxed the documents to the person(s) at the fax
number(s) listed below. No error was reported by the fax machine that I used. A copy
of the record of the fax transmission(s), which I printed out, is attached.

BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 5, 2010



Jean Marie Reed

1 Richard L. Seabolt (SBN 67469)
Suzanne R. Fogarty (SBN 154319)
2 Oliver E. Benn (SBN 244618)
DUANE MORRIS LLP
3 Spear Tower, One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
4 Telephone: 415.957.3000
Facsimile: 415.957.3001
5 E-mail: RLSeabolt@DuaneMorris.com
SRFogarty@DuaneMorris.com
6 OBenn@DuaneMorris.com

7 Attorneys for Defendant,
ZYNGA GAME NETWORK INC.
8

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11
12
13 IN RE: FACEBOOK PRIVACY LITIGATION

Case No.: 10-cv-02389-JW

**[PROPOSED] ORDER GRANTING
ADMINISTRATIVE MOTION TO
RELATE CASES**

14
15
16
17
18 Action Filed: May 28, 2010

19
20 Zynga Game Network Inc. (“Zynga”) seeks to relate eight class action complaints. Zynga is
21 a defendant in seven of these cases. Facebook, Inc., a defendant in four of these cases, does not
22 oppose the cases being related. *See* Declaration of Richard L. Seabolt, at ¶ 2. There are no other
23 named defendants. Plaintiffs in the five of the eight cases do not oppose the motion and counsel for
24 the plaintiffs in the three other cases have provided no response. *Id.*

25 Pursuant to Local Rule 3-12(a), the Court finds that these cases are related. The class action
26 complaints all make very similar allegations concerning Facebook’s and Zynga’s alleged disclosure
27 of user information to third parties. It appears likely that there will be an unduly burdensome
28

1 duplication of labor and expense or conflicting results if the cases are conducted before different
2 Judges.

3 Those matters to be related before this Court are:

- 4 • *In Re: Facebook Privacy Litigation*, No. 5:10-cv-02389-JW;
- 5 • *Graf v. Zynga*, No. 3:10-cv-04680-WHA;
- 6 • *Albini v. Zynga; Facebook Inc.*, No. 3:10-cv-04723-JL;
- 7 • *Gudac v. Zynga*, No. 3:10-cv-04793-EMC;
- 8 • *Schreiber v. Zynga*, No. 3:10-cv-04794-JCS;
- 9 • *Swanson v. Zynga*, No. 5:10-cv-4902-HRL;
- 10 • *Phee v. Facebook; Zynga*, No. 3:10-cv-4935-SC; and,
- 11 • *Carmel-Jessup v. Facebook; Zynga*, No. 3:10-cv-4930-MEJ.

12 IT IS SO ORDERED.

13 Dated: _____

JAMES WARE
United States District Judge

14
15 DM1\2391743.1

1 **PROOF OF SERVICE**

2 *In re Facebook Privacy Litigation*

3 USDC, Northern District of California, San Jose Division No.: 10-cv-02389-JW

4 I am a citizen of the United States, over the age of 18 years, and not a party to interested in
5 the cause. I am an employee of Duane Morris LLP and my business address is One Market, Spear
6 Tower, Suite 2200, San Francisco, California 94105. I am readily familiar with this firm's practices
7 for collecting and processing correspondence for mailing with the United States Postal Service and
8 for transmitting documents by FedEx, fax, email, messenger and other modes. On the date stated
9 below, I served the following documents:

10 **[PROPOSED] ORDER GRANTING ADMINISTRATIVE MOTION TO RELATE CASES**

11 **X ALL PARTIES SERVED BY E-FILING ON PACER**

12 **BY U.S. MAIL:** I enclosed the documents in a sealed envelope or package
13 addressed to the person(s) set forth below, and placed the envelope for collection and
14 mailing following our ordinary business practices, which are that on the same day
15 correspondence is placed for collection and mailing, it is deposited in the ordinary
16 course of business with the United States Postal Service in San Francisco, California,
17 in a sealed envelope with postage fully prepaid. **OR**

18 I enclosed the documents in a sealed envelope or package addressed to the
19 person(s) set forth below, and deposited the sealed envelope with the United States
20 Postal Service, with the postage fully prepaid.

21 **BY MESSENGER SERVICE:** I enclosed the documents in an envelope or package
22 addressed to the person(s) set forth below and providing the package(s) to a
23 professional messenger service for same day delivery service. (*A declaration by the
24 messenger must accompany this Proof of Service*).

25 **BY PERSONAL SERVICE:** I personally delivered the documents to the persons at
26 the addresses listed below. (1) For a party represented by an attorney, delivery was
27 made to the attorney or the attorney's office by leaving the documents in an envelope
28 or package clearly labeled to identify the attorney being served with a receptionist or
an individual in charge of the office. (2) For a party, delivery was made to the party or
by leaving the documents at the party's residence with some person not less than 18
years of age between the hours of eight in the morning and six in the evening.

BY OVERNIGHT DELIVERY: I enclosed the documents in a sealed envelope or
package provided by FedEx and addressed to the person(s) listed below by placing the
envelope or package(s) for collection and transmittal by FedEx pursuant to my firm's
ordinary business practices, which are that on the same day a FedEx envelope or
package is placed for collection, it is deposited in the ordinary course of business with
FedEx for overnight delivery, with all charges fully prepaid.

BY FACSIMILE: Based on a court order or an agreement of the parties to accept
service by fax transmission, I faxed the documents to the person(s) at the fax
number(s) listed below. No error was reported by the fax machine that I used. A copy
of the record of the fax transmission(s), which I printed out, is attached.

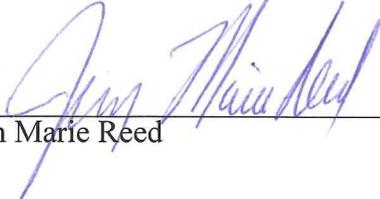
BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties
to accept service by e-mail or electronic transmission, I caused the documents to be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 5, 2010



Jean Marie Reed