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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In Re: Facebook Privacy Litigation
_____/

Nancy Graf,
_____/

Shelly Albini,
_____/

Valerie Gudac, et al.,
_____/

Howard L. Schreiber,
_____/

John Swanson,
_____/

Carmel-Jessup,
_____/

Iris Phee, et al.,
_____/

Plaintiffs,
v.
Zynga Game Network, Inc., et al.
Defendants.
_____/

NO. C 10-02389 JW
NO. C 10-04680 WHA
NO. C 10-04723 JL
NO. C 10-04793 EMC
NO. C 10-04794 JCS
NO. C 10-04902 HRL
NO. C 10-04930 MEJ
NO. C 10-04935 SC

**ORDER GRANTING MOTION TO
RELATE CASES**

1 Presently before the Court is Defendant Zynga Game Network’s (“Zynga”) Motion to
2 Consider Whether Cases Should be Related.¹ Defendant Zynga seeks the Court’s determination as
3 to whether Graf v. Zynga, Case No. CV 10-04680-WHA, Albini v. Zynga; Facebook, Inc., Case No.
4 CV 10-04723-JL, Gudac v. Zynga, Case No. CV 10-04793-EMC, Schreiber v. Zynga, Case No. CV
5 10-04794-JCS, Swanson v. Zynga, Case No. 10-04902-HRL, Carmel-Jessup v. Facebook; Zynga,
6 Case No. 10-04930-MEJ and Phee v. Facebook; Zynga, Case No. CV 10-04935-SC, should be
7 related to In Re: Facebook Privacy Litigation, Case No. CV 10-02389-JW. Defendant Zynga
8 contends that all cases arise from substantially similar factual allegations that “referrer headers”
9 within some Facebook users’ web browsers caused user information to be leaked to third parties,
10 involve overlapping legal claims and involve overlapping parties on both sides of the litigation.
11 (Motion at 1.)

12 Civil Local Rule 3-12(a) provides:

13 An action is related to another action when:

- 14 (1) The action concerns substantially the same parties, property, transaction or event; and
15 (2) It appears likely that there will be an unduly burdensome duplication of labor and
16 expense or conflicting results if the cases are conducted before different judges.

17 Here, the Court finds that the eight actions involve substantially the same transactions,
18 events and parties.² Plaintiffs in all cases allege that via Referrer Headers sent to third parties,
19 Zynga and Facebook allegedly disclosed unique Facebook user identification numbers (“UID”),
20 allowing third parties to obtain information about users and their activities online. All cases involve

21 ¹ (See Administrative Motion to Consider Whether Cases Should be Related, hereafter,
22 “Motion,” CV 10-02389 JW, Docket Item No. 41.)


23 ² (Compare Class Action Complaint, CV 10-04680-WHA, Docket Item No. 1; Class Action
24 Complaint for (1) Violation of the Electronic Communications Privacy Act; (2) Violation of the
25 Stored Communications Act; (3) Violation of Cal. Bus. & Prof. Code § 17200; (4) Violation of
26 California’s Computer Crime Law; (5) Breach of Contract; (6) Violation of Cal. Civ. Code §§ 1572
27 & 1573; and (7) Unjust Enrichment, CV 10-04273-JL, Docket Item No. 1; Class Action Complaint,
28 CV 10-04793-EMC, Docket Item No. 1; Class Action Complaint, CV 10-04794-JCS, Docket Item
No. 1; Class Action Complaint, CV 10-04902-HRL, Docket Item No. 1; Class Action Complaint for
Violations of the Electronic Privacy Act, the Stored Communications Act, the California Consumer
Legal Remedies Act, Computer Crime Law, Breach of Contract, Fraud, Negligent Misrepresentation
and Unfair Trade Practices, CV 10-04930-MEJ, Docket Item No. 1; and Class Action Complaint,
CV 10-04935-SC, Docket Item No. 1 with Consolidated Class Action Complaint, CV 10-02389-JW,
Docket Item No. 36.)

1 overlapping causes of action and factual inquiries. The Court also finds that the two actions pose a
2 substantial risk of inconsistent judgments. In light of the substantial similarity of parties, events and
3 causes of action, the Court finds that there is a risk of “an unduly burdensome duplication of labor
4 and expense or conflicting results if the cases are conducted before different judges.” Thus, the
5 Court finds that the cases are related within the meaning of Rule 3-12(a).

6 Accordingly, the Clerk of Court shall immediately relate Graf v. Zynga, Case No. CV 10-
7 04680-WHA, Albini v. Zynga; Facebook, Inc., Case No. CV 10-04723-JL, Gudac v. Zynga, Case
8 No. CV 10-04793-EMC, Schreiber v. Zynga, Case No. CV 10-04794-JCS, Swanson v. Zynga, Case
9 No. 10-04902-HRL, Carmel-Jessup v. Facebook; Zynga, Case No. 10-04930-MEJ and Phee v.
10 Facebook; Zynga, Case No. CV 10-04935-SC, to In Re: Facebook Privacy Litigation, Case No. CV
11 10-02389-JW.

12 Defendant Zynga, in its Motion to Relate, raises the issue of whether these related actions
13 should be consolidated into a single action. The Court invites the parties to fully brief the issue. On
14 or before **November 22, 2010**, the parties shall file briefs as to whether these related actions should
15 be consolidated into the current action, In Re: Facebook Privacy Litigation or consolidated as a
16 separate action, In Re: Zynga Litigation. In their briefs, the parties shall nominate Lead Plaintiffs as
17 well as Lead Counsel. The Court will take the parties’ briefs under submission without oral
18 argument. See Civ. L.R. 7-1(b).

19
20 Dated: November 12, 2010



JAMES WARE
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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7 **Dated: November 12, 2010**

Richard W. Wieking, Clerk

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By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy