

JS 44 CAND (Rev. 12-11)

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

JULIAN CARROLL, On behalf of himself and all others similarly situated

## DEFENDANTS

FACEBOOK, INC., a Delaware Corporation

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

REGINALD TERRELL, THE TERRELL LAW GROUP  
P. O. BOX 13315, PMB #148, Oakland CA 94661 510-237-9700

Attorneys (If Known)

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 USC Sections 2511, 2701 and 1030

Brief description of cause:  
Privacy violation

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

## IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

- SAN FRANCISCO/OAKLAND
- SAN JOSE
- EUREKA

DATE 01/24/2012

SIGNATURE OF ATTORNEY OF RECORD

E-filing

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FILED  
APR 2 1 2012

RICHARD W. WICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(OAKLAND)

Free Paid  
Miss.  
99

ADR

MEJ

*Counsel for the Proposed Classes*

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

C12-00370

11 JULIAN CARROLL, On behalf of himself  
12 and all others similarly situated,

Civil Action No.

13 Plaintiff,

**CLASS ACTION COMPLAINT**

14 V.

1. Violation of 18 U.S.C. Section 2511
2. Violation of 18 U.S.C. Section 2701
3. Violation of 18 U.S.C. Section 1030

15 FACEBOOK, INC., a Delaware  
16 Corporation

17 Defendant.

**DEMAND FOR JURY TRIAL**

18  
19 Plaintiff Julian Carroll ("Carroll" or "Plaintiff"), by and through her attorney, brings this  
20 action, on behalf of herself and all others similarly situated, against Defendant Facebook, Inc.  
21 ("Facebook" or "Defendant"), and, except for information based on his own personal knowledge,  
22 alleges, on information and belief based on the investigation conducted by his counsel, and the  
23 facts that are a matter of public record, as follows:

24  
25 **NATURE OF THE ACTION**

26 1. Plaintiff brings this action individually and on behalf of a proposed class ("class"), as  
27 more fully defined below, of similarly situated individuals who had active Facebook accounts  
28 from May 27, 2010 through and including September 26, 2011 and whose privacy was violated.

1           2. Facebook routinely installs small files called cookies on its users' computers.  
2 Facebook cookies store login ID's, confirm a user is logged in and track when a user is  
3 interacting with Facebook Platform applications and websites. Facebook obtained consent from  
4 its users to install these cookies but the consent required Facebook to delete these cookies upon  
5 logging out. Facebook repeatedly assured users that "When you log out of Facebook, we remove  
6 the cookies that identify your particular account."  
7

8           3. On September 26, 2011, however, Facebook publically admitted it has installed  
9 cookies on users' computers that track the internet activity of users even after they have logged  
10 off of Facebook. This admission came only after an Australian technology blogger exposed  
11 Facebook's practice of monitoring members who have logged out, although he brought the  
12 problems to defendant's attention a year ago.  
13

14           4. On September 28, 2011, U. S. Representative Edward Markey and U.S.  
15 Representative Joe Barton, Co-Chairmen of the Congressional Bi-Partisan Privacy Caucus,  
16 submitted a joint letter to the Chairman of the Federal Trade Commission stating "as co-Chairs  
17 of the Congressional Bi-Partisan Privacy Caucus, we believe that tracking user behavior without  
18 their consent or knowledge raises serious privacy concerns." The letter continues that "when  
19 users log out of Facebook, they are under the expectation that Facebook is no longer monitoring  
20 their activities. We believe this impression should be the reality. Facebook users should not be  
21 tracked without their permission."  
22

23           5. Facebook willful and knowing actions violated the Federal Wiretap Act, the Stored  
24 Electronic Communications Act and the Federal Computer Fraud and Abuse Act. Plaintiff  
25 Carroll seeks damages and injunctive relief under these statutes on behalf of the entire class for  
26 these violations.  
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## JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Facebook because Facebook is headquartered in this district.

7. This Court has subject matter jurisdiction over this action and Facebook pursuant to 28 U.S.C. Section 1331 because this action arises under federal statutes, namely the Federal Wiretap Act, 18 U.S.C. Section 2511 and the Stored Electronic Communication Act, 18 U.S.C. Section 2701 and the Computer Fraud and Abuse Act, 18 U.S.C. Section 1030 and pursuant to 28 U.S.C. Section 1332(d) because the amount in controversy exceeds \$5,000,000.

8. Venue is proper in this Court pursuant to 28 U.S.C. §1391 in that Plaintiff resides in this district, many of the acts and the transactions giving rise to this action occurred in this district and because Defendant is headquartered in this District. Additionally, defendants Statement of Rights and Responsibilities, which governs the relationship between it and its users, provides for exclusive venue in state and or federal courts located in Santa Clara County, California.

## THE PARTIES

9. Plaintiff is, and at all times relevant to this action has been, a resident of Oakland, California, which is situated in this district. As such, Plaintiff is a California citizen. Carroll has had an active Facebook account during the entire Class Period.

10. Defendant Facebook is a Delaware corporation and has a principal place of business at 156 University Avenue, Palo Alto, California 94301.

## FACTUAL BACKGROUND

11. Facebook is the largest social networking website in the world with more than 800 million users globally and over 100 million users in the United States.

1           12. Though Facebook members are not required to pay a subscription fee, membership is  
2 not free. Instead, membership is conditioned upon users providing sensitive personal  
3 information to Facebook upon registration, including name, birth date, gender and email address.  
4 More importantly, use of Facebook is conditioned upon the user accepting numerous Facebook  
5 cookies on the user's computer which tracks the member's browsing history. This information,  
6 including the member's unique Facebook identifier, is then harvested by Facebook from the  
7 user's computer. Facebook uses the information to generate revenue for the company.  
8

9           13. Use of Facebook is governed by the Statement of Rights and Responsibilities and a  
10 number of other documents and policies, including a Data Use Policy and a Privacy Policy.  
11 Although the governing documents make clear that users consent to Facebook installing cookies  
12 on the user's computer, and although the users consent to these cookies tracking and transmitting  
13 to Facebook data regarding each user's web browsing such consent was limited to internet usage  
14 while the user is logged onto Facebook. Users do not consent to having records of their web  
15 browsing tracked after logging out of Facebook.  
16

17           14. On Facebook's online help center, Facebook emphasized, "When you log out of  
18 Facebook, we remove the cookies that identify your particular account."  
19

20           15. In 2010, an Australian blogger named Kik Cubrilovic ("Cubrilovic") discovered  
21 Facebook cookies were tracking user's internet usage even after logging out of Facebook,  
22 without the knowledge or consent of the user.  
23

24           16. Cubriolovic's investigation revealed five cookies retained value even after logout  
25 and a browser restart, while two additional cookies survived logout and remain as session  
26 cookies.  
27  
28

1 17. The five cookies persisted after logout and a browser restart are datr, lu, p, L and act.  
2 The two that persist after logout are a\_user and a\_xs. Cubrilovic reported that the most  
3 important of these cookies is a\_user, which is the user's identification. In short, Cubrilovic  
4 established Facebook was in fact secretly tracking its user's web browsing without their  
5 knowledge or consent even after logout.  
6

7 18. Cubrilovic repeatedly contacted Facebook to report his findings and to get them to  
8 fix the problem. They refused.  
9

10 19. On September 25, 2011 Cubrilovic went public with his findings. He reported that;  
11 "Even if you are logged out, Facebook still knows and can track every page you visit." He  
12 explained "this is not what "logout" is supposed to mean – Facebook are only altering the state  
13 of the cookies instead of removing all of them when a user logs out."  
14

15 20. Facebook's response was immediate. On September 26, 2011, its engineer Gregg  
16 Stefancik thanked Cubrilovic "for raising these important issues and admitted Facebook had not  
17 done as good a job as we could have to explain its cookie practices. Your post presents a great  
18 opportunity for us to fix that."  
19

20 21. Facebook also fixed the a\_user cookie, admitting to Cubrilovic, "There is a bug  
21 where a\_user was not cleared on logout. We will be fixing that today."  
22

23 22. On September 28, 2011, U. S. Representative Edward Markey and U.S.  
24 Representative Joe Barton, Co-Chairmen of the Congressional Bi-Partisan Privacy Caucus, wrote  
25 a letter to the Chairman of the Federal Trade Commission stating "as co-Chairs of the  
26 Congressional Bi-Partisan Privacy Caucus, we believe that tracking user behavior without their  
27 consent or knowledge raises serious privacy concerns." The letter continues that "when users  
28 log out of Facebook, they are under the expectation that Facebook is no longer monitoring their

1 activities. We believe this impression should be the reality. Facebook users should not be  
2 tracked without their permission.” The letter is attached to this complaint as Exhibit A.

3  
4 23. On September 29, 2011, the Electronic Information Privacy Information Center  
5 submitted a letter to the FT citing Cubrilovic’s post. The letter state “Facebook’s tracking of  
6 post-log-out internet activity violates both the reasonable expectations of consumers and the  
7 company’s own privacy statements” and that “Facebook has been engaging in post-log-out  
8 tracking for at least a year.” The letter was also signed by the American Civil Liberties Union,  
9 the America Library Association, the Bill of Rights Defense Committee, the Center for Digital  
10 Democracy, the Center for Media and Democracy, Consumer Action, Consumer Watchdog,  
11 Privacy Activism and Privacy Times.  
12

### 13 CLASS ACTION ALLEGATIONS

14 24. Plaintiff brings this suit as a class action, on behalf of himself and on behalf of  
15 other similarly situated, pursuant to Fed.R.Civ.P.23(a), 23(b)(2), and/or 23(b)(3). Subject to  
16 additional information obtained through further investigation and/or discovery, the foregoing  
17 definition of the class may be expanded or narrowed. The proposed class is defined as follows:  
18

19 Class: All persons in California who had active Facebook accounts  
20 and duded Facebook between May 27, 2011 and September 26,  
21 2011, both dates inclusive, and whose privacy was violated by  
22 Facebook.  
23

24 25. Excluded from the class are: (1) Defendant, Defendant's subsidiaries, affiliates,  
25 officers, directors, assigns and successors, and any entity in which Defendant has a controlling  
26 interest and; (2) the judge to whom this case is assigned and any member of the judge's  
27  
28

1 immediate family. Plaintiff reserves the right to modify the class definition as further  
2 investigation and/or discovery so warrant.

3  
4 26. This action has been brought and may properly be maintained as a class action  
5 pursuant to Fed.R.Civ.P. 23 and case law thereunder.

6 27. **Numerosity**: The class members are so numerous that joinder of all members is  
7 impracticable. Plaintiff reasonably believes that the class is comprised of tens of thousands of  
8 consumers in California.

9  
10 28. **Commonality**: Common questions of law and fact exist as to all class members.  
11 These common questions predominate over any questions affecting only individual class  
12 members. These common legal and factual questions include, but are not limited to, the  
13 following:

14 (a) whether Facebook violated Federal Wiretap Action, 18 U.S.C. Section  
15 2511;

16 (b) whether Facebook violated Federal Wiretap Action, 18 U.S.C. Section  
17 2701;

18 (c) whether Facebook violated Federal Computer Fraud & Abuse Act, 18  
19 U.S.C. Section 1030;

20 (d) whether Plaintiff and class members have sustained monetary  
21 loss and the proper measure of that loss; and

22 (e) whether Plaintiff and class members are entitled to declaratory  
23 and injunctive relief.

24  
25  
26 29. These and other questions of law or fact which are common to the members  
27  
28 of the class predominate over any questions affecting only individual members of



1 9 the class.

2 30. **Typicality:** Plaintiff's claims are typical of the claims of the members  
3 of the class, as all class members are similarly affected by Defendant's wrongful  
4 conduct. Plaintiff is advancing the same claims and legal theories on behalf of himself and all  
5 class members.  
6

7 31. **Adequacy:** Plaintiff's claims are made in a representative capacity on  
8 behalf of the other class members. Plaintiff has no interests antagonistic to the interests of the  
9 other members of the proposed class and is subject to no unique defenses.  
10

11 32. Plaintiff is similarly situated in interest to all members of the proposed class and  
12 is committed to the vigorous prosecution of this action and has retained competent counsel  
13 experienced in the prosecution of class actions. Accordingly, Plaintiff is an adequate  
14 representative of the proposed class and will fairly and adequately protect the interests of the  
15 class.  
16

17 33. This suit may be maintained as a class action under Fed.R.Civ.P. 23(b) (2)  
18 because Defendant has acted, and/or refused to act, on grounds generally applicable to the class,  
19 thereby making appropriate final injunctive relief.  
20

21 34. In addition, this suit may be maintained as a class action under  
22 Fed.R.Civ.P. 23(b) (3) because a class action is superior to all other available methods for the  
23 fair and efficient adjudication of this controversy since joinder of all members is impracticable.  
24 The injury suffered by each individual class member is relatively small in comparison to the  
25 burden and expense of individual prosecution of the complex and extensive litigation  
26 necessitated by Defendant's conduct. It would be virtually impossible for class members  
27 individually to redress effectively the wrongs done to them. Even if the class members could  
28

1 afford such litigation, the court system could not. Individualized litigation presents a potential for  
2 inconsistent or contradictory judgments. Individualized litigation increases the delay and expense  
3 to all parties, and to the court system, presented by the complex legal and factual issues of the  
4 case. By contrast, the class action device presents no management difficulties, and provides the  
5 benefits of single adjudication, economy of scale, and comprehensive supervision by a single  
6 court.  
7

8 35. The nature of notice to the proposed class is contemplated to be by direct mail upon  
9 certification of the class or, if such notice is not practicable, by the best notice practicable under  
10 the circumstance including, *inter alia*, publication in major newspapers and on the internet.  
11

12 **FIRST CAUSE OF ACTION**  
13 **(Violations of the Stored Electronic Communications Act**  
14 **18 U.S.C. Section 2701)**

15 36. Plaintiff realleges and incorporates by reference the allegations contained in the  
16 paragraphs above as if fully set forth herein.

17 37. The Federal Wiretap Act, as amended by the Electronic Communications Privacy  
18 Act of 1986, prohibits the willful interception of any wire, oral or electronic communication.

19 38. 18 USC Section 2520(a) provides a private right of action to any person whose wire,  
20 oral or electronic communication is intercepted.  
21

22 39. Facebook placed cookies on its user's computers that intercepted records of  
23 Facebook users' internet communications even after the user has logged out.

24 40. Neither the Plaintiffs nor members of the Class consented to nor were aware that the  
25 Defendant was violating its own privacy policy and tracking its users' internet use after logging  
26 off Facebook.  
27  
28

1 41. The data intercepted by the Defendants' cookies after the user logged off are  
2 "communications" within the meaning of the Wiretap Act.

3 42. Facebook intentionally and willfully placed the cookies on its user's computers and  
4 thus intentionally and willfully intercepted the electronic communications of its users.  
5

6 43. Plaintiffs are persons whose electronic communications were intercepted within the  
7 meaning of Section 2520.

8 44. Section 2520 provides for preliminary, equitable and declaratory relief, in addition to  
9 statutory damages of the greater of \$10,000 or \$100 a day for each day of violation, actual and  
10 punitive damages, reasonable attorneys' fees, and disgorgement of any profits earned by  
11 Defendant as a result of the above-described violations.  
12

13 **SECOND CAUSE OF ACTION**  
14 **(VIOLATION OF THE STORED ELECTRONIC COMMUNICATIONS ACT, 18 U.S.C.**  
15 **§2701)**

16 Plaintiff realleges and incorporates by reference the allegations contained in the  
17 paragraphs above as if fully set forth herein.

18 45. Plaintiffs incorporate the above allegations by reference as if set forth more fully  
19 herein.

20 46. The Stored Electronic Communications Act ("SECA") provides a cause of action  
21 against a person who intentionally access without authorization a facility through which an  
22 electronic communication service is provided, or who intentionally exceeds an authorization to  
23 access that facility, and thereby obtains, alters or prevents authorized access to a wire or  
24 electronic communication while it is in storage in such a system.  
25

26 47. "Electronic Storage" is defined in the statute to be "any temporary, immediate storage  
27 of a wire or electronic communication incidental to the electronic transmission thereof."  
28

1 48. Facebook intentionally placed cookies on its members' computers that accessed  
2 members' stored electronic communications without authorization, thus violated SECA.

3 49. Plaintiffs and other members of the Class were harmed by Defendant's violations,  
4 and are entitled to statutory, actual and compensatory damages, injunctive relief, punitive  
5 damages and reasonable attorneys' fees.  
6

7 **THIRD CAUSE OF ACTION**  
8 **(VIOLATION OF THE COMPUTERR FRAUD AND ABUSE ACT**  
9 **18 U.S.C. § 1030)**

10 50. Plaintiff realleges and incorporates by reference the allegations contained in the  
11 paragraphs above as if fully set forth herein.

12 51. Plaintiffs incorporate the above allegations by reference as if set forth more fully  
13 herein.

14 52. Defendants intentionally accessed a computer used for interstate commerce or  
15 communication, without authorization or by exceeding authorized access to such a computer, and  
16 by obtaining from such a protected computer.  
17

18 53. Defendant's knowingly causing the transmission of a program, information, code or  
19 command and as a result caused a loss to one or more persons during any one-year period of at  
20 least \$5,000 in the aggregate.  
21

22 54. Plaintiffs have also suffered a violation of the right of privacy as a result of  
23 Defendant's knowing actions.

24 55. Defendant has thus violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030.

25 56. Defendant's unlawful access to Plaintiff's computers and communications has  
26 caused irreparable injury. Unless restrained and enjoined, Defendant may continue to commit  
27  
28

1 such acts. Plaintiff's remedies at law are not adequate to compensate for these inflicted and  
2 threatened injuries, entitling Plaintiff and the class to remedies including injunctive relief as  
3 provided by 18 U.S.C. Section 1030(g).  
4

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, on behalf of himself and all class members defined herein,  
7 prays for judgment as follows:

8 Certification of the class under Federal Rule of Civil Procedure 23 and appointment of  
9 Plaintiff as representative of the class and her counsel as class counsel;  
10

11 Permanently restrain defendant, and its officers, agents, servants, employees and  
12 attorneys, from installing coolies on its users' computers that could track the users' computer  
13 usage after logging out of Facebook or otherwise violating its polices with users  
14

15 Compensatory and other damages for economic and non-economic damages identified  
16 herein;

17 Statutory pre-judgment and post-judgment interest on any amounts;

18 Reasonable attorneys' fees as may be allowable under applicable law;

19 Costs of this suit; and

20 Such other relief as the Court may deem just and proper.  
21

22 **JURY DEMAND**

23 Plaintiff demands a trial by jury on all causes of action so triable.

24 Respectfully submitted,

25 Dated: January 24, 2012

26 THE TERRELL LAW GROUP

27   
28 REGINALD TERRELL, ESQ.

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# Exhibit A

# Congress of the United States

## House of Representatives

Washington, DC 20515-2107

September 28, 2011

DISTRICT OFFICES:

5 HIGH STREET, SUITE 101  
MEDFORD, MA 02155  
(781) 396-2900

188 CONCORD STREET, SUITE 102  
FRAMINGHAM, MA 01702  
(508) 875-2900

<http://markey.house.gov>

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20001

Dear Chairman Leibowitz:

According to findings recently published by an Australian technology blogger, Facebook had been gathering information about the websites its users visited even after users logged out of Facebook. While Facebook now claims that it has stopped this practice, we remain concerned about the privacy implications for Facebook's 800 million subscribers.

As you know, websites, including Facebook, routinely install small files called "cookies" on users' computers to relieve users from enduring extra authentication steps every time they visit the website. Cookies also allow websites to track their users' activities while online. However, in this instance, Facebook has admitted to collecting information about its users *even after its users had logged out of Facebook*. Facebook was able to obtain this information when users visited websites that connect with Facebook, including websites with "Like" buttons. There are an estimated 905,000 sites that contain the "Like" button.

As co-Chairs of the Congressional Bi-Partisan Privacy Caucus, we believe that tracking user behavior without their consent or knowledge raises serious privacy concerns. When users log out of Facebook, they are under the expectation that Facebook is no longer monitoring their activities. We believe this impression should be the reality. Facebook users should not be tracked without their permission.

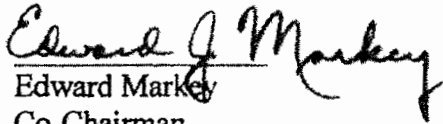
We also are concerned about how quickly Facebook plans to correct this problem. According to the Wall Street Journal ("Facebook Defends Getting Data From Logged-Out Users", September 26, 2011), Arturo Bejar, Facebook Director of Engineering, is quoted as saying that fully correcting this problem "will take a while." Facebook should consider this problem a top priority and should allocate the resources necessary to safeguard consumers in an expedited fashion.

In an effort to protect consumers, we would like to know about any actions the Federal Trade Commission (FTC) has taken or plans to take to investigate this practice by Facebook. We believe that an investigation of Facebook tracking its users even after they log out falls within the FTC's mandate as stipulated in Section 5 of the Federal Trade Commission Act with respect to protecting Americans from "unfair and deceptive acts or practices."



Thank you for your attention to this important matter. If you have any questions, please have a member of your staff contact Joseph Wender in Congressman Markey's office (202-225-2836) or Emmanuel Guillory in Congressman Barton's office (202-225-2002).

Sincerely,



Edward Markey  
Co-Chairman  
Congressional Bi-Partisan Privacy Caucus



Joe Barton  
Co-Chairman  
Congressional Bi-Partisan Privacy Caucus