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7 **Attorneys for Plaintiff Yahoo! Inc.**

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 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

12 YAHOO! INC., a Delaware corporation,  
 13 Plaintiff,  
 14 vs.  
 15 FACEBOOK, INC, a Delaware corporation,  
 16 Defendant.

CASE NO. CV-12-01212-JSW

**DECLARATION OF KEVIN SMITH IN  
 SUPPORT OF THE STIPULATION AND  
 [PROPOSED] ORDER TO ENLARGE  
 TIME FOR:**

**(1) YAHOO! INC.'S AMENDED REPLY  
 AND COUNTER COUNTERCLAIMS TO  
 FACEBOOK, INC.'S ANSWER AND  
 COUNTERCLAIMS AND**

**(2) BRIEFING AND HEARING ON  
 FACEBOOK INC.'S MOTION TO  
 STRIKE AND/OR DISMISS YAHOO  
 INC.'S CLAIMS AND DEFENSES OF  
 INEQUITABLE CONDUCT**

Honorable Jeffrey S. White  
 United States District Judge

1 I, Kevin Smith, declare:

2 1. I am a partner in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,  
3 counsel for Yahoo! Inc. ("Yahoo!") in this action. Unless otherwise indicated, I have personal  
4 knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and  
5 would testify as follows.

6 2. On April 27, 2012, Yahoo! filed a Reply and Counter Counterclaims to Defendant  
7 Facebook, Inc.'s Answer and Counterclaim Against Facebook, Inc. for Declaratory Judgment of  
8 Non-Infringement.

9 3. On May 16, 2012, Facebook, Inc. ("Facebook") filed a Motion to Strike and/or  
10 Dismiss Yahoo! Inc.'s Claims and Defenses of Inequitable Conduct ("the Motion to Strike and/or  
11 Dismiss"). A hearing on the Motion to Strike and/or Dismiss was scheduled for July 27, 2012.  
12 Yahoo!'s response to the Motion to Strike and/or Dismiss was due May 30, 2012. Facebook's  
13 reply in support of its Motion to Strike and/or Dismiss was due June 22, 2012.

14 4. On May 18, 2012, counsel for Yahoo! informed Facebook's counsel that Yahoo!  
15 intends to amend its Reply and Counter Counterclaims with respect to the portion addressed in  
16 Facebook's Motion to Strike and/or Dismiss. The Amended Reply and Counter Counterclaims  
17 was due June 6, 2012.

18 5. On May 30, 2012, the parties stipulated to extend the time for Yahoo! to respond to  
19 Facebook's Motion to Strike and/or Dismiss Yahoo!'s Claims and Defenses of Inequitable Conduct  
20 from May 30 to June 20, 2012, and to move the hearing on the Motion from June 22, 2012 to July  
21 27, 2012.

22 6. On June 6, 2012, the parties stipulated to extend: (a) the time for Yahoo! to file  
23 an amended Reply and Counterclaims to Facebook's Answer and Counterclaims from June 6,  
24 2012 to June 20, 2012; (b) the time for Yahoo! to respond to Facebook's Motion to Strike and/or  
25 Dismiss Yahoo!'s Claims and Defenses of Inequitable Conduct from June 20, 2012 to July 5,  
26 2012; (c) the time for Facebook to reply in support of its Motion to Strike and/or Dismiss Yahoo!'s  
27 Claims and Defenses of Inequitable Conduct from June 27, 2012 to July 12, 2012; and (d) the

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1 hearing on the Motion to Strike and/or Dismiss Yahoo!'s Claims and Defenses of Inequitable  
2 Conduct from June 27, 2012 to July 12, 2012.

3 7. The parties are currently engaged in settlement negotiations to resolve this dispute.  
4 The parties believe that a further extension will facilitate settlement. The parties therefore  
5 request and stipulate pursuant to Civil L.R. 6-2(a)(2) to the following extensions:

6 a. The time for Yahoo! to file an amended Reply and Counter Counterclaims  
7 to Facebook's Answer and Counterclaims shall be extended from June 20, 2012 to July 5,  
8 2012;

9 b. The time for Yahoo! to respond to Facebook's Motion to Strike and/or  
10 Dismiss Yahoo!'s Claims and Defenses of Inequitable Conduct shall be extended from July  
11 5, 2012 to July 19, 2012;

12 c. The time for Facebook to reply in support of its Motion to Strike and/or  
13 Dismiss Yahoo!'s Claims and Defenses of Inequitable Conduct shall be extended from  
14 July 12, 2012 to July 26, 2012.

15 d. The hearing on the Motion to Strike and/or Dismiss Yahoo!'s Claims and  
16 Defenses of Inequitable Conduct shall be rescheduled from August 10, 2012 at 9:00 am to  
17 August 24, 2012 at 9:00 am.

18 8. Counsel for Facebook does not oppose these extensions. Yahoo! and Facebook  
19 are in agreement that additional time is warranted for the parties to prepare their submissions, will  
20 not adversely affect the case schedule, and will facilitate settlement..

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22 I declare under penalty of perjury that the foregoing is true and correct. Executed in San  
23 Francisco, California on June 19, 2012.

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*/s/ Kevin A. Smith*  
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Kevin A. Smith

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