

# Exhibit 2

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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 TWITTER, INC., a Delaware corporation,  
18 Plaintiff,  
19 v.  
20 SKOOTLE, CORP., a Tennessee corporation;  
21 and JAMES KESTER, an individual  
22 Defendants.

CASE NO. 3:12-CV-1721 SI

**JAMES KESTER'S RESPONSES AND  
OBJECTIONS TO TWITTER'S  
INTERROGATORIES [SET ONE]**

Filing Date: April 5, 2012  
Trial Date: NONE SET

23 PROPOUNDING PARTY: TWITTER, INC.

24 RESPONDING PARTY: JAMES KESTER

25 SET NUMBER: ONE (1)

1 Defendant James Kester (“Mr. Kester”) hereby responds and objects to Plaintiff Twitter,  
2 Inc.’s (“Twitter”) Interrogatories, Set Number One, as follows:

3 **GENERAL OBJECTIONS**

4 Each of Mr. Kester’s responses herein, in addition to any specifically stated objections, is  
5 subject to and incorporates the following general objections:

6 1. Mr. Kester objects to each of the interrogatories and the definitions to the extent they  
7 purport to impose obligations greater or more extensive than those required by the Federal Rules of  
8 Civil Procedure, the Local Rules of the United States District Court – Northern District of California,  
9 or other applicable law.

10 2. Mr. Kester objects to each of the interrogatories and definitions to the extent they  
11 purport to impose a burden of producing documents that cannot be found in the course of a  
12 reasonable search.

13 3. Mr. Kester objects to each of the interrogatories to the extent it seeks information that  
14 is neither relevant to any claim or defense raised in this litigation, nor reasonably calculated to lead to  
15 the discovery of admissible evidence.

16 4. Mr. Kester objects to each of the interrogatories to the extent it is unreasonably  
17 cumulative or duplicative of other discovery requests, or seeks documents that are obtainable from  
18 some other source that is more convenient, less burdensome, or less expensive.

19 5. Mr. Kester objects to each of the interrogatories to the extent it is overbroad,  
20 harassing, oppressive, or unduly burdensome.

21 6. Mr. Kester objects to each of the interrogatories to the extent it seeks information for  
22 which the burden or expense of obtaining and disclosing outweighs its likely benefit in resolving the  
23 issues of this action.

24 7. Mr. Kester objects to each of the interrogatories to the extent it fails to describe with  
25 reasonable particularity the information requested.

26 8. Mr. Kester objects to each of the interrogatories to the extent it seeks information that  
27 is protected from production by the attorney-client privilege, work product immunity, and/or any  
28 other privilege, immunity, or exemption.

1 9. Mr. Kester objects to each of the interrogatories to the extent it is vague or ambiguous.

2 10. Mr. Kester objects to each of the interrogatories to the extent it seeks information that  
3 is subject to confidentiality agreements with third parties.

4 11. Mr. Kester objects to each of the interrogatories to the extent it seeks information not  
5 in Mr. Kester's possession, custody, or control.

6 12. Mr. Kester objects to each of the interrogatories on the grounds that discovery is  
7 continuing in this action and Mr. Kester has not completed his factual investigation. Accordingly,  
8 without asserting an obligation to do so, and without waiving his objections, Mr. Kester reserves the  
9 right to amend and/or supplement his responses if and when additional facts or documents are  
10 discovered. Additionally, as Mr. Kester's responses are based on facts and documents that Mr.  
11 Kester has identified to date, they do not preclude Mr. Kester from later relying on facts or  
12 documents discovered or generated pursuant to subsequent investigation or discovery.

13 13. Mr. Kester's responses are made without prejudice to his right to subsequently add to,  
14 modify, or otherwise change or amend these responses and objections. Furthermore, Mr. Kester  
15 specifically reserves the right to (i) introduce at trial other information, documents, or things that he  
16 may discover or upon which he may come to rely; (ii) revise, correct, supplement, or clarify any of  
17 his written responses at any time; and (iii) use at trial information, documents, or things that he may  
18 later determine to have been responsive to the requests.

19 **RESPONSES TO INTERROGATORIES**

20 **INTERROGATORY NO. 1:**

21 Identify each and every date on which Kester or any of his employees created a Twitter  
22 account.

23 **RESPONSE TO INTERROGATORY NO. 1:**

24 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
25 Kester objects to this request on the grounds and to the extent that it (1) seeks information outside  
26 Mr. Kester's possession, custody or control; and (2) seeks information irrelevant to the claims and  
27 defenses at issue in this action and is not reasonably calculated to lead to the discovery of admissible  
28 evidence.

1 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester,  
2 responding with respect to himself alone, responds as follows: Mr. Kester opened a Twitter account  
3 on or about March 2009.

4 **INTERROGATORY NO. 2:**

5 Identify, by user name preceded by the @ symbol, each and every Twitter account opened by,  
6 for, or on behalf of, or at the direction of Kester or any of his employees.

7 **RESPONSE TO INTERROGATORY NO. 2:**

8 In addition to the foregoing general objections, which are expressly incorporated herein,  
9 Skootle objects to this request on the grounds and to the extent that it (1) is overbroad and unduly  
10 burdensome; (2) seeks information outside Mr. Kester’s possession, custody or control; and (3) seeks  
11 information irrelevant to the claims and defenses at issue in this action and is not reasonably  
12 calculated to lead to the discovery of admissible evidence.

13 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
14 responds as follows: @kesjam.

15 **INTERROGATORY NO. 3:**

16 Identify the material terms and effective date of each and every version of the Twitter Terms  
17 of Service to which Kester contends he agreed.

18 **RESPONSE TO INTERROGATORY NO. 3:**

19 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
20 Kester objects to this request on the grounds and to the extent that it (1) assumes Mr. Kester contends  
21 he agreed to any version of the Twitter Terms of Service; (2) is vague and ambiguous as to the  
22 definition of the term “material terms” and “effective date;” and (3) calls for a legal conclusion.

23 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
24 responds as follows: Mr. Kester opened a Twitter account on or about March 2009 and agreed to any  
25 terms of service in place at that time.

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1 **INTERROGATORY NO. 4:**

2 Identify, with precision and specificity, the name, version number, and release date of each  
3 and every version of the TweetAdder software ever marketed, sold, licensed, leased, distributed,  
4 disseminated, or offered for sale, license, lease, distribution, or dissemination.

5 **RESPONSE TO INTERROGATORY NO. 4:**

6 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
7 Kester objects to this request on the grounds and to the extent that it is vague and ambiguous as to the  
8 definition of the term “precision and specificity.”

9 Subject to and without waiver of the foregoing general objections, Mr. Kester responds as  
10 follows: There are no names, version numbers, or release dates for any version of the TweetAdder  
11 software. Any changes to the TweetAdder software are made directly to the source code. Mr. Kester  
12 does not keep records of when or what changes are made to the TweetAdder software.

13 **INTERROGATORY NO. 5:**

14 Identify with precision and specificity the means by which the TweetAdder software is  
15 designed to access the Twitter service, including whether or not such means make use of Twitter’s  
16 Application Programming Interface and OAuth authentication protocol.

17 **RESPONSE TO INTERROGATORY NO. 5:**

18 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
19 Kester objects to this request on the grounds and to the extent that it (1) is vague and ambiguous as to  
20 the definition of the term “precision and specificity;” and (2) seeks information not in Mr. Kester’s  
21 possession, custody, or control.

22 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
23 responds as follows: Discovery is ongoing. Mr. Kester is without sufficient knowledge or  
24 information to respond to this interrogatory at this time. Mr. Kester reserves his right to modify or  
25 amend this response as his investigation continues.

26 **INTERROGATORY NO. 6:**

27 Identify, with precision and specificity, the first date on which James Kester visited  
28 twitter.com

1 **RESPONSE TO INTERROGATORY NO. 6:**

2 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
3 Kester objects to this request on the grounds and to the extent that it (1) is vague and ambiguous as to  
4 the definition of the term “precision and specificity;” and (2) seeks information irrelevant to the  
5 claims and defenses in this case and is not reasonably calculated to lead to the discovery of  
6 admissible evidence.

7 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
8 responds as follows: On or before March 2009.

9 **INTERROGATORY NO. 7:**

10 Identify every person who planned, programmed, contributed code to, or otherwise developed  
11 the software for any version of the TweetAdder software.

12 **RESPONSE TO INTERROGATORY NO. 7:**

13 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
14 Kester objects to this request on the grounds and to the extent that it is vague and ambiguous as to the  
15 definition of the term “planned.”

16 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
17 responds as follows: James Kester and Troy Fales.

18 **INTERROGATORY NO. 8:**

19 Identify, with precision and specificity, the date on which the “scheduled Tweets” feature of  
20 the TweetAdder software was first included in any version of the TweetAdder software.

21 **RESPONSE TO INTERROGATORY NO. 8:**

22 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
23 Kester objects to this request on the grounds and to the extent that it (1) is vague and ambiguous as to  
24 the definition of the term “precision and specificity;” and (2) seeks information irrelevant to the  
25 claims and defenses in this case and is not reasonably calculated to lead to the discovery of  
26 admissible evidence.

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1 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
2 responds as follows: The “scheduled Tweets” feature has always been a part of the TweetAdder  
3 software beginning with its release on or about May 28, 2009.

4 **INTERROGATORY NO. 9:**

5 Identify, with precision and specificity, the date on which the “automatic follow back” feature  
6 of the TweetAdder software was first included in any version of the TweetAdder software.

7 **RESPONSE TO INTERROGATORY NO. 9:**

8 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
9 Kester objects to this request on the grounds and to the extent that it (1) is vague and ambiguous as to  
10 the definition of the term “precision and specificity;” and (2) seeks information irrelevant to the  
11 claims and defenses in this case and is not reasonably calculated to lead to the discovery of  
12 admissible evidence.

13 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
14 responds as follows: The “automatic follow back” feature has always been a part of the TweetAdder  
15 software beginning with its release on or about May 28, 2009.

16 **INTERROGATORY NO. 10:**

17 Identify, with precision and specificity, the date on which the “automatic un-follow” feature  
18 of the TweetAdder software was first included in any version of the TweetAdder software.

19 **RESPONSE TO INTERROGATORY NO. 10:**

20 In addition to the foregoing general objections, which are expressly incorporated herein, Mr.  
21 Kester objects to this request on the grounds and to the extent that it (1) is vague and ambiguous as to  
22 the definition of the term “precision and specificity;” and (2) seeks information irrelevant to the  
23 claims and defenses in this case and is not reasonably calculated to lead to the discovery of  
24 admissible evidence.

25 Subject to and without waiver of the foregoing general and specific objections, Mr. Kester  
26 responds as follows: The “automatic un-follow” feature has always been a part of the TweetAdder  
27 software beginning with its release on or about May 28, 2009.

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Date: September 14, 2012

COLT / WALLERSTEIN LLP

By:  \_\_\_\_\_

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