v. Connectu, LLC et al				D	
Case 5:07-cv-01389-RS	Document 213	Filed 10/17/20	07 Page 1 of	5	
	te Bar No. 124811)				
I. NEEL CHATTERJEE (Sta	ate Bar No. 173985)	)			
	ar No. 196746)				
THERESA A. SUTTON (Sta	ate Bar No. 211857)	)			
tsutton@orrick.com					
ygreer@orrick.com ORRICK, HERRINGTON &	& SUTCLIFFE LLP				
1000 Marsh Road Menlo Park, CA 94025					
Telephone: 650-614-7400					
Attorneys for Plaintiffs		-			
FACEBOOK, INC. and MARK ZUCKERBERG					
UNITED STATES DISTRICT COURT					
NORTHERN DISTRICT OF CALIFORNIA					
SAN JOSE DIVISION					
	RK	Case No. 5:0	7-CV-01389-RS		
,				ESA A.	
		FACEBOOH	<b>K'S MOTION TO</b>		
		SOFTWARI	E AND WINSTO		
CONNECTU, LLC), CAME	RON	COMPLETI	E AND SUPPLE		
DIVYA NARENDRA, PAC	IFIC	FIRST SET	<b>OF INTERROG</b>		
WINSTON WILLIAMS, WA	AYNE CHANG,			-	
	,	Time:	9:30 A.M.		
Defendan	ts.	Judge:	Hon. Richard See	borg	
		:	SUTTON DECL. ISO MO	TION TO COMPEL 5:07-CV-01389-RS	
	G. HOPKINS GUY, III (Stathopguy@orrick.com I. NEEL CHATTERJEE (Stanchatterjee@orrick.com MONTE COOPER (State Bamcooper@orrick.com THERESA A. SUTTON (Statsutton@orrick.com YVONNE P. GREER (Stateygreer@orrick.com ORRICK, HERRINGTON & 1000 Marsh Road Menlo Park, CA 94025 Telephone: 650-614-7400 Facsimile: 650-614-7400 Facsimile: 650-614-7400 Attorneys for Plaintiffs FACEBOOK, INC. and MA ZUCKERBERG, Norther States V. CONNECTU, INC. (formerfl CONNECTU, LLC), CAME WINKLEVOSS, TYLER W DIVYA NARENDRA, PAC NORTHWEST SOFTWARI WINSTON WILLIAMS, Wa and DAVID GUCWA AND	Case 5:07-cv-01389-RS Document 213 G. HOPKINS GUY, III (State Bar No. 124811) hopguy@orrick.com I NEEL CHATTERJEE (State Bar No. 173985) nchatterjee@orrick.com MONTE COOPER (State Bar No. 196746) mcooper@orrick.com THERESA A. SUTTON (State Bar No. 211857) tsutton@orrick.com YVONNE P. GREER (State Bar No. 214072) ygreer@orrick.com ORRICK, HERRINGTON & SUTCLIFFE LLP 1000 Marsh Road Menlo Park, CA 94025 Telephone: 650-614-7400 Facsimile: 650-614-7401 Attorneys for Plaintiffs FACEBOOK, INC. and MARK ZUCKERBERC UNITED STATES NORTHERN DISTRI SAN JOSE FACEBOOK, INC. and MARK ZUCKERBERG, Plaintiffs,	Case 5:07-cv-01389-RS       Document 213       Filed 10/17/20         G. HOPKINS GUY, III (State Bar No. 124811) hoguy@orrick.com       INEEL CHATTERJEE (State Bar No. 173985) nchatterjee@orrick.com         MONTE COOPER (State Bar No. 196746) mcooper@orrick.com       Monte Cooper@orrick.com         YVONNE P. GREER (State Bar No. 214072) ygreer@orrick.com       YVONNE P. GREER (State Bar No. 214072) ygreer@orrick.com         YVONNE P. GREER (State Bar No. 214072) ygreer@orrick.com       YVONNE P. GREER (State Bar No. 214072) ygreer@orrick.com         ORRICK, HERRINGTON & SUTCLIFFE LLP 1000 Marsh Road       Menio Park, CA 94025         Telephone:       650-614-7400         Facsimile:       650-614-7400         Facsimile:       650-614-7400         Facsimile:       650-614-7400         Facsimile:       650-614-7400         FacseBOOK, INC. and MARK       UNITED STATES DISTRICT COU         NORTHERN DISTRICT OF CALIFO       NORTHERN DISTRICT OF CALIFO         NORTHERS       Plaintiffs,         v.       CONNECTU, INC. (formerly known as CONNECTU, LC), CAMERON       Case No. 5:0         DEFendants.       Defendants.	Case 5:07-cv-01389-RS       Document 213       Filed 10/17/2007       Page 1 of         G. HOPKINS GUY, III (State Bar No. 124811) hopguy@orrick.com       IN 124811)       IN 2000         I. NEEL CHATTERIEE (State Bar No. 173985) nchatterjee@orrick.com       IN 73985)       IN 2000         MONTE COOPER (State Bar No. 196746)       IN 2000       IN 2000         mcooper@orrick.com       WONNE P. GREER (State Bar No. 211857)       IN 2000         yvonne P. GREER (State Bar No. 214072)       ygreer@orrick.com       IN 2000         ORRICK, HERRINGTON & SUTCLIFFE LLP       IN 2000       IN 2000         Io000 Marsh Road       IN 2000       IN 2000         Menio Park, CA 94025       Telephone: 650-614-7400       IN 2000         Facsimile:       650-614-7401       IN 2000       IN 2000         Attorneys for Plaintiffs       FACEBOOK, INC. and MARK       IN 2000       IN 2000         V       In 2000       IN 2000       IN 2000       IN 2000         FACEBOOK, INC. and MARK       IN 2000       Case No. 5:07-CV-01389-RS       DECLARATION OF THERIS         V.       V       Nonterful, INC. (formerly known as CONNECTU, INC. (formerly known as CONNECTU, ILC.), CAMERON       Convector I ACIFIC NORTH       Software AND WINSTO WILLIAMS, WAYNE CHANG, and DAVID GUCWA AND DOES 1-25, DIVYA NARENDRA, PACIFIC       Date: November 28, 200	

Dockets.Justia.com

1	I, Theresa A. Sutton, declare as follows:					
2	1. I am an associate at the law firm of Orrick, Herrington & Sutcliffe, counsel for					
3	Plaintiffs Facebook, Inc. and Mark Zuckerberg in this action, and a member of the Bar of the state					
4	of California. I make this declaration in support of Facebook's Motion to Compel Pacific					
5	Northwest Software and Winston Williams to Provide Complete and Supplemental Responses to					
6	Facebook's First Set of Interrogatories Nos. 3 and 4. I make this declaration of my own personal					
7	knowledge and, if called as a witness, I could and would testify competently to the truth of the					
8	matters set forth herein.					
9	2. Attached hereto as <b>Exhibit A</b> is a true and correct copy of Facebook, Inc.'s First					
10	Set of Interrogatories to Defendant Pacific Northwest Software dated May 24, 2007.					
11	3. Attached hereto as <b>Exhibit B</b> is a true and correct copy of Facebook, Inc.'s First					
12	Set of Interrogatories to Defendant Winston Williams dated May 24, 2007.					
13	4. Attached hereto as <b>Exhibit</b> C is a true and correct copy of the relevant excerpts of					
14	the hearing transcript on Facebook, Inc.'s Motion for Expedited Discovery re: Personal					
15	Jurisdiction heard on May 23, 2007.					
16	5. Attached hereto as <b>Exhibit D</b> is a true and correct copy of Defendant Pacific					
17	Northwest Software's Response to Facebook, Inc.'s First Set of Interrogatories dated June 8,					
18	2007.					
19	6. Attached hereto as <b>Exhibit E</b> is a true and correct copy of Defendant Winston					
20	Williams' Response to Facebook, Inc.'s First Set of Interrogatories dated June 8, 2007.					
21	7. Attached hereto as <b>Exhibit F</b> is a true and correct copy of the relevant excerpts					
22	from the deposition of Winston Williams taken on June 19, 2007. [CONFIDENTIAL					
23	DOCUMENT SUBMITTED SEPARATELY UNDER SEALJ					
24	8. Attached hereto as <b>Exhibit G</b> is a true and correct copy of a document produced					
25	by ConnectU, identified as CUCA 02972. [CONFIDENTIAL DOCUMENT SUBMITTED					
26	SEPARATELY UNDER SEAL]					
27	9. Attached hereto as <b>Exhibit H</b> is a true and correct copy of a document produced					
28	by Pacific Northwest Software, identified as PNS01763. [CONFIDENTIAL DOCUMENT					
	1 SUTTON DECL. ISO MOTION TO COMPEL					

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## SUBMITTED SEPARATELY UNDER SEAL]

10. I certify pursuant to Fed. R. Civ. P. 37(a)(2)(B) and N.D. Cal. Civ. L.R. 37-1(a)
that counsel for Plaintiffs have engaged in multiple efforts to meet and confer beginning June 29,
2007 with counsel for PNS and Winston Williams concerning Facebook's position that PNS and
Mr. Williams respond completely to Interrogatories Nos. 3 and 4 set forth in Facebook's First Set
of Interrogatories to Defendants PNS and Winston Williams. However, despite Plaintiffs' efforts
to meet and confer on the subject, they were unable to resolve the issues raised by the present
motion.

9 11. On July 16, 2007, counsel for the parties discussed ongoing discovery issues.
10 Scott Mosko represents both Defendants PNS and Winston Williams. During that conference, I
11 pointed out that Winston Williams' deposition testimony indicated that it was possible to
12 determine the number of emails sent by ConnectU to students at California schools, as well as the
13 number of imports and invitations sent. See Ex. F at 156:17-158:15; 202:22-206:20.

14 12. I indicated that the information regarding the number of emails sent by ConnectU
15 to students at California schools and the number of imports and invitations sent is available from
16 the log files of the database maintained by PNS/ConnectU and should be produced. I also
17 indicated that PNS should produce evidence of the number of emails it sent via Social
18 Butterfly/importer.

- 19 13. For PNS, Mr. Mosko responded to me that PNS reviewed all of the locations it
  20 would have expected to find electronic files, and produced everything to Plaintiffs.
- 21 14. On September 12, 2007, I sought confirmation from PNS and Mr. Williams'
  22 counsel that they would supplement their interrogatory responses, based on Mr. Williams'
  23 deposition testimony.

24 15. On September 14, 2007, Mr. Mosko indicated that Mr. Williams could provide no
additional information because he no longer had access to the PNS servers. Mr. Mosko offered a
declaration from Mr. Williams saying he could provide no additional information. Mr. Mosko
also indicated that PNS had performed a "detailed search" and he would investigate further with
PNS regarding Mr. Williams' testimony.

1	16. On September 25, 2007, I inquired into the status of PNS' promised investigation.					
2						
	I also asked when Plaintiffs could expect an answer as to whether PNS and Mr. Williams would					
3	supplement their interrogatory responses. Counsel for PNS and Mr. Williams did not respond to					
4	this inquiry.					
5	17. October 4, 2007, Mr. Mosko sent me an email indicating that PNS located					
6	additional files that may concern ConnectU. He indicated that PNS was in the process of					
7	investigating these files and would produce non-privileged documents responsive to Plaintiffs'					
8	document requests, if PNS finds any.					
9	18. One week later, I sought confirmation from PNS on when it thought it might					
10	complete its investigation of the additional files and whether PNS and Mr. Williams would					
11	supplement their interrogatory responses. As of the date of this filing, no response has been					
12	made.					
13	I declare under penalty of perjury that the foregoing is true and correct to the best of my					
14	knowledge. Executed this 17th day of October, 2007, at Boston, Massachusetts.					
15						
15 16	/s/ Theresa A. Sutton /s/					
	/s/ Theresa A. Sutton /s/ Theresa A. Sutton					
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	Case 5:07-cv-01389-RS	Document 213	Filed 10/17/200	7 Page 5 of 5				
1		CEDTIFICAT	TE OF SEDVICE					
1 2	CERTIFICATE OF SERVICE							
2	I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF)							
4	and paper copies will be sent to those indicated as non registered participants on October 17 2007.							
4 5	Dated: October 17, 2007	R	espectfully submitt	ed,				
6			/s/ Theresa A. Sutton /s/ Theresa A. Sutton					
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