

EXHIBIT D

1 Scott R. Mosko (State Bar No. 106070)
scott.mosko@finnegan.com
2 FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
3 Stanford Research Park
3300 Hillview Avenue
4 Palo Alto, California 94304
Telephone: (650) 849-6600
5 Facsimile: (650) 849-6666

6 Attorneys for Defendant
ConnectU, LLC
7
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 FACEBOOK, INC., and MARK
ZUCKERBERG,

14 Plaintiffs,
15

16 v.

17 CONNECTU LLC, (now known as
CONNECTU, INC.), CAMERON
18 WINKLEVOSS, TYLER WINKLEVOSS,
DIVYA NARENDRA, PACIFIC NORTHWEST
SOFTWARE, INC., WINSTON WILLIAMS,
19 WAYNE CHANG, DAVID GUCWA, and
DOES 1-25,
20

21 Defendants.
22
23
24
25
26
27
28

CASE NO. C 07-01389 RS

**DEFENDANT CONNECTU, LLC'S
SECOND REQUEST FOR THE
PRODUCTION OF DOCUMENTS TO
PLAINTIFF FACEBOOK, INC.**

(NOS. 27 - 38)

1 **PROPOUNDING PARTY:** Defendant CONNECTU LLC
2 **RESPONDING PARTY:** Plaintiff, FACEBOOK, INC.
3 **SET NUMBER:** TWO (2)
4

5 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

6 Pursuant to Federal Rule of Civil Procedure 34, CONNECTU LLC (“CONNECTU”) hereby
7 directs FACEBOOK, INC. (“PLAINTIFF”) to provide a sworn, written response to the following
8 requests, and to produce for inspection and copying the DOCUMENTS and things described below
9 within 30 days of the date of service of this request. The inspection shall take place in the offices of
10 Finnegan, Henderson, Farabow, Garrett, & Dunner, L.L.P., 3300 Hillview Avenue, Palo Alto, CA
11 94304.

12 This request is governed by the following Definitions and Instructions:

13 **DEFINITIONS**

14 1. “YOU” and “YOUR” mean the Plaintiff, Facebook, Inc., shall include Facebook’s
15 parent, subsidiary, affiliates, affiliates, predecessor or successor companies, if any, and its officers,
16 directors, employees, attorneys, authorized agents, sales representatives, distributors, dealers or other
17 persons acting or purporting to act on its behalf.

18 2. “DOCUMENT” and “WRITING” have the broadest meaning accorded those terms
19 by the Federal Rules of Evidence. All preliminary and final drafts of any responsive writing must be
20 produced.

21 3. “INDIVIDUAL” means a natural person.

22 4. “PERSON” and “PERSONS” mean any natural individual(s) in any capacity
23 whatsoever or any entity or organization including divisions, subsidiaries, departments, and other
24 units therein, and shall include, but not be limited to, a public or private corporation, partnership,
25 joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate,
26 governmental agency, commission, bureau or department.

27 5. “COMMUNICATION” means all written, electronic, oral, telephonic or other
28 inquiries, dialogues, discussions, conversations, interviews, correspondence, consultations,

1 negotiations, agreements, understandings, meetings, letters, notes, telegrams, advertisements,
2 computer mail, e-mail and all other DOCUMENTS evidencing any verbal or nonverbal interaction
3 between persons and entities.

4 6. The words “or” and “and” shall be read in the conjunctive and in the disjunctive
5 wherever they appear, and neither of these words shall be interpreted to limit the scope of these
6 Requests.

7 7. The use of a verb in any tense shall be construed as including the use of the verb in all
8 other tenses.

9 8. The singular form of any word shall be deemed to include the plural. The plural form
10 of any word shall be deemed to include the singular.

11 9. “RELATE TO,” “RELATES TO,” “RELATING TO,” “RELATED TO,”
12 “REFERRING TO,” and “REGARDING” mean: relate, refer, regard, constitute, reflect, discuss,
13 show, evidence, concern or be in any way logically or factually connected with the matter discussed
14 or identified.

15 10. The terms “IDENTIFY” or “IDENTITY” when used in connection with an
16 INDIVIDUAL means: state the INDIVIDUAL’S full name; his or her home and business addresses;
17 his or her present employer; his or her position, title, or job description; and, if employed by YOU,
18 the INDIVIDUAL’S dates and regular places of employment, and general duties.

19 11. The terms “IDENTIFY” or “IDENTITY” when used in connection with a company,
20 corporation, association, partnership, joint venture, or any legal entity other than a natural PERSON
21 means: state its full name and type of organization or entity; the address of its principal place of
22 business, its date and place of incorporation; and identify its officers, directors, and managing
23 agents.

24 12. The terms “IDENTIFY” or “IDENTITY” when used in connection with an oral
25 statement means: state the name of the speaker; the date of the statement; the place at which the
26 statement was made; the PERSON or PERSONS to whom the statement was addressed; if
27 practicable, and otherwise a general description of the PERSONS to whom the statement was
28 addressed; the subject matter or the statement; and if the statement was memorialized in writing or

1 mechanical or other recording, state the date and present location of said writing or mechanical or
2 other recording.

3 13. The terms "IDENTIFY" or "IDENTITY" when used in connection with a written
4 document or statement means: state the name of the author; the type of document or writing; the
5 date; the addressee; or recipient, if practicable, and otherwise a general description of the PERSONS
6 to whom the writing was distributed; the subject matter, and the present location. In lieu of such
7 identification, YOU may attach a copy of the writing containing said written statement and refer
8 thereto in YOUR answer.

9 INSTRUCTIONS

10 1. Electronic records and computerized information must be produced in an intelligible
11 format, together with a description of the system from which they were derived sufficient to permit
12 rendering the records and information intelligible.

13 2. Selection of DOCUMENTS from the files and other sources and the numbering of
14 such DOCUMENTS shall be performed in such a manner as to insure that the source of each
15 DOCUMENT may be determined, if necessary.

16 3. File folders with tabs or labels or directories of files identifying DOCUMENTS called
17 for by these requests must be produced intact with such DOCUMENTS.

18 4. DOCUMENTS attached to each other shall not be separated.

19 5. Should YOU seek to withhold any DOCUMENT based on some limitation of
20 discovery (including, but not limited to, a claim of privilege), supply a list of the DOCUMENTS for
21 which limitation of discovery is claimed, indicating:

22 a. The identity of each DOCUMENT'S author, writer, sender, or initiator.

23 b. The identity of each DOCUMENT'S recipient, addressee, or PERSON for
24 whom it was intended.

25 c. The date of creation or transmittal indicated on each DOCUMENT or an
26 estimate of that date, indicated as such, if not date appears on the DOCUMENT.

27 d. The general subject matter as described on each DOCUMENT, or, if no such
28 description appears, then some other description sufficient to identify the DOCUMENT; and

1 e. The claimed grounds for limitation of discovery (e.g., “attorney-client
2 privilege”).

3 6. If YOUR response to a particular demand is a statement that YOU lack the ability to
4 comply with that demand, YOU must specify whether the inability to comply is because the
5 particular item or category never existed, has been destroyed, has been lost, misplaced, or stolen, or
6 has never been, or is no longer, in YOUR possession, custody, or control, in which case the name
7 and address of any PERSON known or believed by YOU to have possession, custody, or control of
8 that DOCUMENT or category of DOCUMENT must be identified.

9 **DOCUMENTS TO BE PRODUCED**

10 **REQUEST NO. 27:**

11 All documents and writings of any kind including those maintained in an electronic form
12 regarding the names and locations of all servers owned and/or leased by the Facebook, Inc.
13 (“Facebook”), Mark Zuckerberg (“Zuckerberg”) (collectively “Plaintiffs”), and/or any of the
14 Plaintiffs’ predecessors, during all time periods relevant to this action.

15 **REQUEST NO. 28:**

16 All documents and writings of any kind including those maintained in an electronic form
17 regarding the operators/hosts of all servers owned and/or leased by the Plaintiffs and/or any of the
18 Plaintiffs’ predecessors during all time periods relevant to this action.

19 **REQUEST NO. 29:**

20 All documents and writings of any kind including those maintained in an electronic form
21 regarding the Plaintiffs’ physical control over any of its servers, whether owned or leased, including
22 but not limited to, documents demonstrating the Plaintiffs’ ability to maintain or configure any of its
23 servers, during all time periods relevant to this action.

24 **REQUEST NO. 30:**

25 All documents and writings of any kind including those maintained in an electronic form
26 regarding the Plaintiffs’ ability to access its servers, whether owned or leased, and method of
27 accessing its servers during all time periods relevant to this action.

1 **REQUEST NO. 31:**

2 All documents and writings of any kind including those maintained in an electronic form
3 regarding the Plaintiffs' service agreements with hosts of servers or Internet service providers during
4 all time periods relevant to this action.

5 **REQUEST NO. 32:**

6 All documents and writings of any kind including those maintained in an electronic form
7 regarding all email accounts provided by the Plaintiffs or by its servers/hosts, including documents
8 evidencing the number of email accounts provided by the Plaintiffs or by its servers/hosts, during all
9 time periods relevant to this action.

10 **REQUEST NO. 33:**

11 All documents and writings of any kind including those maintained in an electronic form
12 regarding the bandwidth and/or data-transfer space available on all of Plaintiffs' servers, whether
13 owned or leased, during all time periods relevant to this action.

14 **REQUEST NO. 34:**

15 All documents and writings of any kind including those maintained in an electronic form
16 regarding the damages/harm suffered by the Plaintiffs as a result of the Defendants' alleged conduct,
17 including, but limited to, damages/harm suffered as a result of any loss of network functionality,
18 increased bandwidth usage, increased demand for personnel, and/or new equipment needs, during all
19 time periods relevant to this action.

20 **REQUEST NO. 35:**

21 All documents and writings of any kind including those maintained in an electronic form
22 demonstrating any financial hardship and/or expense suffered by the Plaintiffs due to the unsolicited
23 emails allegedly sent by the Defendants.

24 **REQUEST NO. 36:**

25 All documents and writings of any kind including those maintained in an electronic form
26 demonstrating the damages/harm suffered by the Plaintiffs as a result of the unsolicited emails
27 allegedly sent by the Defendants, including, but not limited to, damages/harm related to bandwidth,
28

1 hardware, Internet connectivity, network integrity, overhead costs, fees, staffing, and/or equipment
2 costs, during all time periods relevant to this action.

3 **REQUEST NO. 37:**

4 All documents and writings of any kind including those maintained in an electronic form
5 regarding the existence of Plaintiffs' spam filters, or other technologies utilized to prevent spam
6 and/or reduce the costs associated with spam, during all time periods relevant to this action.

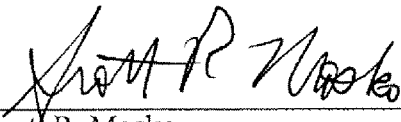
7 **REQUEST NO. 38:**

8 All documents and writings of any kind including those maintained in an electronic form
9 demonstrating how the Plaintiffs have been "adversely affected" by the Defendants' alleged conduct
10 as that term is used in 15 U.S.C. § 7706(g)(1).

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 24, 2007

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 

Scott R. Mosko
Attorneys for Defendant
ConnectU LLC