

1 SEAN A. LINCOLN (State Bar No. 136387)
 salincoln@orrick.com
 2 I. NEEL CHATTERJEE (State Bar No. 173985)
 nchatterjee@orrick.com
 3 MONTE COOPER (State Bar No. 196746)
 mcooper@orrick.com
 4 THERESA A. SUTTON (State Bar No. 211857)
 tsutton@orrick.com
 5 YVONNE P. GREER (State Bar No. 214072)
 ygreer@orrick.com
 6 ORRICK, HERRINGTON & SUTCLIFFE LLP
 1000 Marsh Road
 7 Menlo Park, CA 94025
 Telephone: 650-614-7400
 8 Facsimile: 650-614-7401

9 Attorneys for Plaintiffs
 THE FACEBOOK, INC. and MARK ZUCKERBERG

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

15 THE FACEBOOK, INC. and MARK
 ZUCKERBERG,

16 Plaintiffs,

17 v.

18 CONNECTU, INC. (formerly known as
 19 CONNECTU, LLC), PACIFIC
 NORTHWEST SOFTWARE, INC.,
 20 WINSTON WILLIAMS, WAYNE CHANG,
 and DAVID GUCWA,

21 Defendants.

Case No. 5:07-CV-01389-RS

**DECLARATION OF MONTE M. F.
 COOPER IN SUPPORT OF
 PLAINTIFFS' MOTION TO
 COMPEL COMPLIANCE BY
 DEFENDANTS PACIFIC
 NORTHWEST SOFTWARE AND
 WINSTON WILLIAMS WITH
 ORDER GRANTING MOTION TO
 COMPEL SUPPLEMENTAL
 INTERROGATORY RESPONSES**

Date: February 27, 2008
 Time: 9:30 A.M.
 Judge: Honorable Richard Seeborg

1 I, Monte Cooper, declare as follows:

2 1. I am Of Counsel at the law firm of Orrick, Herrington & Sutcliffe, counsel for The
3 Facebook, Inc., and Mark Zuckerberg. I am an active member in good standing of the Bar of the
4 States of California and Colorado. I make this declaration in support of Plaintiffs' Motion to
5 Compel Compliance by Defendants Pacific Northwest Software and Winston Williams With
6 Order Granting Motion to Compel Supplemental Interrogatory Responses. I make this
7 declaration of my own personal knowledge and, if called as a witness, I could and would testify
8 competently to the truth of the matters set forth herein.

9 2. Attached hereto as **Exhibit 1** is a true and correct copy of documents Bates labeled
10 GUCWA 0022, GUCWA 0025, GUCWA 0032-33, GUCWA 0057-58 and GUCWA 0075-77.

11 3. Attached hereto as **Exhibit 2** is a true and correct copy of the Third Amended
12 Response of Defendant Cameron Winklevoss to Plaintiff's First Set of Special Interrogatories (1-
13 23), dated April 3, 2006.

14 4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the
15 January 29, 2007 Deposition of Pacific Northwest Software. [**CONFIDENTIAL DOCUMENT**
16 **SUBMITTED SEPARATELY UNDER SEAL**]

17 5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the June
18 12, 2007 deposition of Pacific Northwest Software. [**CONFIDENTIAL DOCUMENT**
19 **SUBMITTED SEPARATELY UNDER SEAL**]

20 6. Attached hereto as **Exhibit 5** is a true and correct copy of documents Bates labeled
21 CUCA02976-77. [**CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY UNDER**
22 **SEAL**]

23 7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the
24 January 16, 2006 deposition of ConnectU. [**CONFIDENTIAL DOCUMENT SUBMITTED**
25 **SEPARATELY UNDER SEAL**]

26 8. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from the
27 August 9, 2005, deposition of ConnectU, taken in the related action ConnectU, LLC v.
28 Zuckerberg et al, Civil Action No. 1:04-cv-11923, United States District Court, District of

1 Massachusetts.

2 9. Attached hereto as **Exhibit 8** is a true and correct copy of the Second Amended
3 Response of Defendant ConnectU LLC to Form Interrogatories, dated April 3, 2006.

4 10. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from the June
5 19, 2007 deposition of Winston Williams. [**CONFIDENTIAL DOCUMENT SUBMITTED**
6 **SEPARATELY UNDER SEAL**]

7 11. Attached hereto as **Exhibit 10** is a true and correct copy of documents Bates
8 labeled iMarc001529-31.

9 12. Attached hereto as **Exhibit 11** is a true and correct copy of a documents Bates
10 labeled PNS0320945. [**CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY**
11 **UNDER SEAL**]

12 13. Attached hereto as **Exhibit 12** is a true and correct copy of documents Bates
13 labeled PNS0002119. [**CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY**
14 **UNDER SEAL**]

15 14. Attached hereto as **Exhibit 13** is a true and correct copy of documents Bates
16 labeled PNS01766 - 77. [**CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY**
17 **UNDER SEAL**]

18 15. On January 9, 2008, Plaintiffs sent a letter to counsel for Defendants, Scott Mosko,
19 detailing the deficiencies in Mr. Williams' and Pacific Northwest Software's supplemental
20 declarations. Mr. Mosko asked that any discussion regarding the declarations occur after the
21 Case Management Conference, which was scheduled for January 16, 2008. Plaintiffs indicated
22 the urgency of this motion and asked repeatedly that Mr. Mosko make himself available earlier.
23 Mr. Mosko twice offered to call us after his other meetings to meet and confer on the following
24 Monday, January 14, 2008. We agreed to be available, but Mr. Mosko did not call. During the
25 Case Management Conference, the Court instructed counsel to meet and confer on a variety of
26 issues. During that time, I raised the issues that preceded the Motion to Compel. Mr. Mosko
27 agreed to further investigate the deficiencies in the defendants' declarations. On January 18,
28 2008, I sent Mr. Mosko an email providing summarizing the meet and confer and providing

1 further details demonstrating that the declarations do not comply with the Court’s December 12,
2 2007, Order. I asked Mr. Mosko to provide supplemental declarations by January 22, 2008.
3 Mr. Mosko responded that “once he has further information, he will be in touch.” Mr. Mosko did
4 not agree to provide supplemental declarations.

5 I declare under penalty of perjury that the foregoing is true and correct. Executed this
6 23rd day of January 2008, in Menlo Park, CA.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ Monte M. F. Cooper /s/

Monte M.F. Cooper

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

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) and paper copies will be sent to those indicated as non registered participants on January 23, 2008.

Dated: January 23, 2008.

Respectfully submitted,

/s/ Monte M.F. Cooper /s/
Monte M.F. Cooper

OHS West:260372035.1
16069-4