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 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,
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 Plaintiffs,
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 v.
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 19 CONNECTU, INC. (formerly known as
 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 THERESA A.
 SUTTON IN SUPPORT OF
 ADMINISTRATIVE REQUEST FOR
 ORDER REQUIRING DEFENDANTS
 TO PROVIDE DATES FOR
 DEPOSITION**

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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 Plaintiffs' Administrative Request for Order
5 Requiring Defendants to Provide Dates for Deposition. I make this declaration of my own
6 personal knowledge and, if called as a witness, I could and would testify competently to the truth
7 of the matters set forth herein.

8 2. On January 8, 2008, Plaintiffs Facebook, Inc. and Mark Zuckerberg served five
9 notices of deposition. The proposed depositions were to occur during the month of February, and
10 included defendants Williams and Chang, as well as ConnectU's principals Cameron Winklevoss,
11 Tyler Winklevoss, and Divya Narendra.

12 3. On January 13, 2008, counsel for Defendants, Scott Mosko, indicated that the
13 chosen dates are inconvenient to the witnesses and requested that the parties meet and confer to
14 schedule dates.

15 4. Since January 13, 2008, Plaintiffs have made no fewer than five requests for dates
16 pursuant to Local Civil Rule 30-1, including raising the issue at the January 16, 2008 Case
17 Management Conference. Specifically, we asked Mr. Mosko for dates as follows:

- 18 • On January 8, 2008, Plaintiffs served a deposition notice for each of Wayne
19 Chang, Winston Williams, Cameron Winklevoss, Tyler Winklevoss, and Divya
20 Narendra;
- 21 • On January 14, 2008, Facebook sent an email to Defendants asking for dates for
22 these witnesses, plus ConnectU and PNS 30(b)(6) witnesses;
- 23 • On January 17, 2008, Facebook sent an email to Defendants asking for dates for
24 these depositions;
- 25 • On January 23, 2008, Facebook spoke by phone to Defendants' counsel and asked
26 for dates for these depositions;
- 27 • On January 25, 2008, Facebook sent an email to Defendants asking to meet and
28 confer regarding scheduling the depositions; and
- On January 30, 2008, Facebook sent a letter reiterating the concerns it identified
on January 25, 2008.

A true and correct copy of these communications (with the exception of the phone call) are

1 attached hereto as **Exhibits A** (deposition notices), **B** (January 14, 23, and 25 email), and **C**
2 (January 30 letter).

3 5. With the exception of a non-responsive answer during the live telephone
4 conference on January 23, 2008, the only response Plaintiffs have received from Defendants was
5 an email in response to Plaintiffs' January 30 letter in which Mr. Mosko suggested it would take
6 him at least another week to provide dates. A true and correct copy of this email is attached hereto
7 as **Exhibit D**.

8 6. On January 17, 2008, Mr. Mosko sent me an email asking for availability of a
9 Facebook 30(b)(6) witness. Today I sent Mr. Mosko three dates on which the deposition can
10 occur. Since Mr. Mosko's request, I asked him to provide more specificity regarding the
11 proposed topics, as he did not serve a Notice of Deposition but instead wrote in his email that the
12 "general topics of inquiry will be the operation of Facebook's servers and internet connections
13 from the time its website launched to the present." Mr. Mosko has refused to provide the notice or
14 more specificity, contending instead that he "cannot be any more specific at this time." A true and
15 correct copy of these communications is attached hereto as **Exhibit E**.

16 I declare the foregoing is true and correct to the best of my knowledge. Executed this 30th
17 day of January 2008, at Menlo Park, California.

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19 /s/ Theresa A. Sutton /s/

20 _____
21 Theresa A. Sutton
22 Attorneys for Plaintiffs
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