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9 Attorneys for Defendant
CONNECTU, INC.

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

13 THE FACEBOOK, INC. and MARK
14 ZUCKERBERG,

15 Plaintiffs,

16 v.

17 CONNECTU, INC. (formerly known as
CONNECTU, LLC), PACIFIC NORTHWEST
18 SOFTWARE, INC., WINSTON WILLIAMS,
and WAYNE CHANG,

19 Defendants.
20

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

**CONNECTU, INC.'S MOTION
PURSUANT TO CIVIL L.R. 6-3 TO
SHORTEN TIME FOR MOTION TO
STAY EXECUTION OF JUDGMENT
PENDING APPEAL**

1 July 2, 2008, to show cause as to why judgment should not be entered. *See* Docket No.
2 461. After that hearing, the Court entered the Judgment (Docket No. 476) and entered a
3 Notice appointing attorney George Fisher as Special Master. *See* Docket No. 475. The
4 Notice provided that the Special Master would, *inter alia*, accept and maintain
5 documents, money, and other things deposited by the parties, subject to disbursement
6 upon further Order of the Court. *Id.* The Judgment required the parties to provide
7 dismissals of all cases and deposit the cash and stock required to be exchanged under the
8 provisions of the Term Sheet & Settlement Agreement with the Special Master by August
9 4, 2008. Docket No. 476 at 1-4.

10 Prior to the July 2 hearing, Facebook agreed with ConnectU’s position that the
11 date for exchanging the cash and stock consideration set forth in the Term Sheet, as well
12 as the “effective date” of the releases, would be five days after all appeals from the
13 judgment enforcing the Term Sheet became final. (Docket No. 469-2 at 3-4, 10
14 (Facebook’s proposed form of judgment)). But Facebook now takes the aggressive
15 stance that it would seek to gain control of the ConnectU shares as soon as they are
16 deposited with the Special Master and would take additional steps to advance its own best
17 interests. *See, supra*, 1.

18 It is apparent that Facebook is highly likely to view its interests as justifying
19 withdrawal of ConnectU’s appeal seeking reversal of the Judgment. And whether out of
20 vindictiveness or a desire to pressure ConnectU’s shareholders, it is entirely plausible that
21 Facebook would either release ConnectU’s malpractice claim against Quinn Emanuel or
22 threaten to do so, which would harm third-party Howard Winklevoss, who guaranteed
23 payment of Quinn’s fees if ConnectU does not pay them, and would substantially impair
24 ConnectU’s value if the Ninth Circuit reverses the Judgment. By filing the underlying
25 motion to stay, ConnectU seeks to avoid these situations, as well as the unfortunate
26 alternative that ConnectU risk contempt through noncompliance with the Judgment in

1 order to ensure protection of its appeal rights and to avoid related harm. Given these
2 serious considerations, Facebook's unequivocal statements of its positions, and the
3 current deadlines, a shortened time is warranted.

4 **CONNECTU'S EFFORTS TO RESOLVE THE SCHEDULING DISPUTE**

5 Through a voicemail and several emails counsel for ConnectU asked whether
6 Facebook would join a stipulation whereby the date for the hearing on the motion to stay
7 would be set for Thursday, August 14, with Facebook's opposition due Friday, August 8,
8 and ConnectU's reply due Monday, August 11. Facebook has not agreed to this
9 proposal. *See* Parke Decl. at ¶ 5, Ex. B.

10 **CONCLUSION**

11 ConnectU respectfully requests that the Court shorten time on ConnectU's
12 Motion to Stay Execution of Judgment Pending Appeal, and order that the hearing be set
13 for August 14; that Facebook file and serve (including by email) any opposition by
14 Friday, August 8; and that ConnectU's file and serve (including by email) any reply by
15 Monday, August 11. ConnectU also notes that the Court has set a hearing on the Motion
16 to Intervene by Cameron Winklevoss, Tyler Winklevoss and Divya Narendra, for August
17 6, 2008 (Docket No. 576). In addition, if the Court were, in its discretion, to decide to set
18 the hearing on ConnectU's motion to stay for August 6 as well, ConnectU would have no
19 objection.

20
21 Dated: July 31, 2008

Respectfully submitted,

22 **BOIES, SCHILLER & FLEXNER LLP**

23
24 /s/ Evan A. Parke

25 Steven C. Holtzman
26 D. Michael Underhill
27 Evan A. Parke

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