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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

THE FACEBOOK, INC. AND)	C-07-01389 JW
MARK ZUCKERBERG,)	
)	SAN JOSE, CALIFORNIA
PLAINTIFFS,)	
)	AUGUST 6, 2008
VS.)	
)	PAGES 1-73
CONNECTU, INC. (FORMERLY)	
KNOWN AS CONNECTU, LLC),)	
PACIFIC NORTHWEST)	
SOFTWARE, INC., WINSTON)	
WILLIAMS, AND WAYNE)	
CHANG,)	
)	
DEFENDANT.)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES WARE
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: ORRICK, HERRINGTON & SUTCLIFFE
 BY: I. NEEL CHATTERJEE,
 MONTE M.F. COOPER, AND
 YVONNE GREET
 1000 MARSH ROAD
 MENLO PARK, CALIFORNIA 94025

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

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APPEARANCES (CONTINUED)

FOR THE DEFENDANT: BOIES, SCHILLER & FLEXNER, LLP
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FOR INTERVENOR: O'SHEA PARTNERS, LLP
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MARK A. WEISSMAN
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NEW YORK, NEW YORK 10016

17:29:31 1 THE ENFORCEMENT MOTION, FRANKLY, YOUR HONOR, IT'S
17:29:34 2 SOMEWHAT ABSURD TO ARGUE THAT.

17:29:36 3 WE WANT THE VALUE OF WHAT WE PURCHASED,
17:29:37 4 AND STAYING THE PROCEEDINGS IS, IS, IS TANTAMOUNT
17:29:41 5 TO NOT RECOGNIZING THE SETTLEMENT AGREEMENT.

17:29:43 6 THERE'S A PUBLIC INTEREST HERE IN
17:29:45 7 RECOGNIZING THESE AGREEMENTS THAT GETS IMPLICATED.
17:29:48 8 YOUR HONOR RECITED THAT YOURSELF AT THE JUDGMENT
17:29:51 9 HEARING.

17:29:51 10 THE ONE THING -- THE ONE OTHER POINT I
17:29:53 11 WANT TO MAKE IS, CANDIDLY, WE HAVE A BIG ISSUE WITH
17:29:56 12 THEM HAVING ANY DECISION MAKING OVER CONNECTU.

17:29:59 13 AND I'M NOT TALKING ABOUT THE LAWYERS.
17:30:00 14 I'M TALKING ABOUT THE WINKLEVOSS BROTHERS AND DIVYA
17:30:03 15 NARENDRA AND HOWARD WINKLEVOSS.

17:30:05 16 THEY INITIATED THE LITIGATION WITHOUT
17:30:07 17 EVER CONSULTING ANYBODY AFTER THE JUDGMENT WAS
17:30:09 18 ENTERED. THEY DON'T LIKE OUR COMPANY.

17:30:11 19 SO IF THINGS AREN'T GOING WELL IN THE
17:30:14 20 NINTH CIRCUIT, THEY CAN DO WHATEVER THEY WANT.

17:30:16 21 THEY HAVE NOT PUT THE STOCK INTO GEORGE
17:30:18 22 FISHER'S HANDS PER YOUR HONOR'S ORDER. THAT WAS
17:30:21 23 DUE MONDAY, AND AT 2:15, GIVE OR TAKE A FEW
17:30:25 24 MINUTES, ON MONDAY, AFTER WE HAD PUT ALL OF OUR
17:30:28 25 CONSIDERATION IN, THAT SUBSTANTIAL AMOUNT OF MONEY

17:30:31 1 AND THE SUBSTANTIAL AMOUNT OF SHARES, THEY NOTIFIED
17:30:35 2 US THAT THEY WERE GOING TO MAKE THE DECISION NOT TO
17:30:37 3 SUBMIT IT TO HIM IN VIOLATION OF YOUR HONOR'S
17:30:39 4 ORDER.

17:30:39 5 WHAT CONFIDENCE COULD WE POSSIBLY HAVE
17:30:42 6 THAT THEY ARE GOING TO PROTECT THE VALUE OF THAT
17:30:44 7 ASSET? IT'S SIMPLY NOT THERE. WE HAVE ZERO
17:30:47 8 CONFIDENCE IN THEM.

17:30:48 9 THE COURT: WELL, HERE'S THE DILEMMA THAT
17:30:51 10 I SEE. I CONTINUE TO BELIEVE THAT THE JUDGMENT WAS
17:30:53 11 PROPERLY ENTERED HERE.

17:30:54 12 BUT I ALSO BELIEVE THAT ANY JUDGMENT IS
17:31:01 13 APPEALABLE TO A HIGHER COURT, ANY JUDGMENT OF THIS
17:31:04 14 COURT.

17:31:05 15 AND I'M IN A CIRCUMSTANCE WHERE IT'S NOT
17:31:10 16 A MONEY JUDGMENT WHERE A BOND WOULD BE SUFFICIENT,
17:31:16 17 SO THAT I'M TRYING TO WALK MY WAY THROUGH A PROCESS
17:31:20 18 BY WHICH, EVEN IF I'M DISPOSED TO DENY THE STAY OF
17:31:24 19 EXECUTION, I WON'T DENY THE RIGHT TO APPEAL.

17:31:31 20 SO IF I UNDERSTAND THAT THE EXECUTION
17:31:38 21 COULD AMOUNT TO THE PLAINTIFF HERE TAKING THE
17:31:44 22 UNUSUAL STEP OF SAYING, "WELL, NOW AS THE
17:31:47 23 SHAREHOLDER, I TERMINATE THE APPEAL," THE EXECUTION
17:31:51 24 WOULD BE, IN EFFECT, A PLACING OF THE RIGHT OF
17:31:55 25 APPEAL, BUT DENYING THE RIGHT TO APPEAL. IT WOULD

17:31:59 1 TERMINATE BY THE EXECUTION.

17:32:01 2 I'VE NEVER FACED THAT SITUATION BEFORE,
17:32:02 3 AND SO IT'S UNCHARTED WATER FOR ME.

17:32:05 4 AND SO THAT'S WHAT I NEED HELP WITH,
17:32:07 5 BECAUSE UNLESS YOU CONVINCED ME THAT THERE SHOULD BE
17:32:12 6 NO RIGHT TO APPEAL, I HAVE TO PUT THE OPPOSING
17:32:14 7 PARTY TO MY JUDGMENT IN A POSITION SO THEY CAN
17:32:17 8 CHALLENGE MY JUDGMENT.

17:32:19 9 MR. CHATTERJEE: SO, YOUR HONOR, I THINK
17:32:20 10 WHAT YOU'RE IDENTIFYING IS, IS THE CONFLICT THAT WE
17:32:22 11 HAVE HERE OF HARDSHIPS.

17:32:24 12 WE PURCHASED AN ASSET. WE WANT TO GET
17:32:26 13 VALUE FOR THE ASSET.

17:32:27 14 AND WE ALSO SOUGHT PEACE, AND THERE'S A
17:32:30 15 LOT OF HARDSHIP IN NOT ACKNOWLEDGING THAT PEACE.

17:32:33 16 THEIR PURPORTED HARDSHIP IS ESSENTIALLY
17:32:35 17 THE RISK OF MOOTING AN APPEAL ON BEHALF OF
17:32:39 18 CONNECTICUT.

17:32:39 19 IF YOU ALLOW INTERVENTION, YOUR HONOR,
17:32:41 20 CANDIDLY, THAT MAY BECOME A NON-ISSUE DEPENDING ON
17:32:44 21 WHATEVER RIGHTS THE INDIVIDUALS HAVE UPON
17:32:47 22 INTERVENTION, BECAUSE AS YOUR HONOR NOTICED BEFORE,
17:32:49 23 THEY ESSENTIALLY ARE ASSERTING THE SAME SORTS OF
17:32:52 24 CLAIMS OF A THIRD PARTY COMPLAINANT.

17:32:54 25 NOW, WHEN YOU HAVE THESE TWO COMPETING