

1 G. HOPKINS GUY, III (State Bar No. 124811)
 hopguy@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
 FACEBOOK, INC. and MARK ZUCKERBERG

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

15 FACEBOOK, INC. and MARK
 ZUCKERBERG,

16 Plaintiffs,

17 v.

18 CONNECTU, INC. (formerly known as
 19 CONNECTU, LLC), CAMERON
 WINKLEVOSS, TYLER WINKLEVOSS,
 20 DIVYA NARENDRA, PACIFIC
 NORTHWEST SOFTWARE, INC.,
 21 WINSTON WILLIAMS, WAYNE CHANG,
 and DAVID GUCWA,

22 Defendants.
 23

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

**DECLARATION OF MONTE M.F.
 COOPER IN SUPPORT OF
 PLAINTIFF'S OPPOSITION TO
 PACIFIC NORTHWEST SOFTWARE
 AND WINSTON WILLIAMS'
 MOTION TO DISMISS FOR LACK
 OF PERSONAL JURISDICTION**

Date: July 11, 2007
 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
3 Plaintiffs Facebook, Inc. and Mark Zuckerberg in this action, and a member of the Bars of the
4 states of California and Colorado. I make this declaration in support of Plaintiffs' Opposition To
5 Pacific Northwest Software and Winston Williams' Motion To Dismiss For Lack of Personal
6 Jurisdiction ("Plaintiff's Opposition"). I make this declaration of my own personal knowledge
7 and, if called as a witness, I could and would testify competently to the truth of the matters set
8 forth herein.

9 2. Plaintiff's cite a substantial number of the documents in Plaintiff's Opposition.
10 Further, a significant number of the documents have been designated "Confidential" or
11 "Confidential – Attorneys' Eyes Only" by the parties and/or by third parties. Accordingly, in an
12 effort to minimize the number of documents filed individually under seal as well as the overall
13 number of Exhibits, Plaintiffs have grouped individual documents from specific productions as
14 the Exhibits attached hereto. Those Exhibits include the following: Exhibit 10 (iMarc
15 production), Exhibit 14 (ConnectU production), Exhibit 18 (David Guewa production), Exhibit
16 19 (PNS production), Exhibit 20 (Wayne Chang exemplars), and Exhibits 25-26 (ConnectU by
17 different production). References to cites in Plaintiff's Opposition to these exhibits are to the last
18 numerals of the relevant Bates-Numbers. *E.g.*, "Ex. 19, at 2096" refers to the document with the
19 bates-number PNS02096. To the extent any document from any production has materials marked
20 "Confidential" or "Confidential – Attorneys' Eyes Only," or the like, said document is being filed
21 under seal. Likewise, the information set forth from the document in Plaintiff's Opposition is
22 being redacted from the public version of the pleading.

23 3. Attached hereto as **Exhibit 1** is a true and correct copy of relevant excerpts from
24 the April 25, 2006, Deposition of Mark Zuckerberg. **[CONFIDENTIAL DOCUMENT**
25 **SUBMITTED SEPARATELY UNDER SEAL]**

26 4. Attached hereto as **Exhibit 2** is a true and correct copy of an email from Adam
27 Philip Schneider to Mark Zuckerberg, dated February 29, 2004 Bates labeled as FACE000897-99.
28 **[CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY UNDER SEAL]**

1 5. Attached hereto as **Exhibit 3** is a true and correct copy of Facebook, Inc.'s
2 Certificate of Incorporation, Bates labeled as TFB000056-57.

3 6. Attached hereto as **Exhibit 4** is a true and correct copy of the August 9, 2004,
4 contract with Equinix, Bates labeled as EQ000007-26.

5 7. Attached hereto as **Exhibit 5** is a true and correct copy of the February 24, 2005,
6 Harvard Crimson article, Bates labeled as C006186-96.

7 8. Attached hereto as **Exhibit 6** is a true and correct copy of the July 3, 2005, Wired
8 article titled "Finding Friends with Facebook".

9 9. Attached hereto as **Exhibit 7** is a true and correct copy of ConnectU's response to
10 Interrogatory No. 7, served in the ConnectU, LLC v. Zuckerberg et al, Civil Action No. 1:04-cv-
11 11923, United States District Court, District of Massachusetts matter on August 22, 2005.

12 **[CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY UNDER SEAL]**

13 10. Attached hereto as **Exhibit 8** is a true and correct copy of Defendants Motion to
14 Quash Service of Complaint and Summons for Lack of Personal Jurisdiction, filed on October 25,
15 2005, in the Superior Court of the State of California, County of Santa Clara.

16 11. Attached hereto as **Exhibit 9** is a true and correct copy of relevant excerpts from
17 the January 16, 2006, Deposition of ConnectU. **[CONFIDENTIAL DOCUMENT**
18 **SUBMITTED SEPARATELY UNDER SEAL]**

19 12. Attached hereto as **Exhibit 10** is a true and correct copy of relevant documents
20 produced by iMarc in the ConnectU, LLC v. Zuckerberg et al, Civil Action No. 1:04-cv-11923,
21 United States District Court, District of Massachusetts matter on September 26, 2006.
22 [iMarc000012, iMarc000622-24, iMarc000659, iMarc000798]

23 13. Attached hereto as **Exhibit 11** is a true and correct copy of relevant excerpts from
24 the January 16, 2006, Deposition of Cameron Winklevoss. **[CONFIDENTIAL DOCUMENT**
25 **SUBMITTED SEPARATELY UNDER SEAL]**

26 14. Attached hereto as **Exhibit 12** is a true and correct copy of relevant excerpts from
27 the January 16, 2006, Deposition of Tyler Winklevoss. **[CONFIDENTIAL DOCUMENT**
28 **SUBMITTED SEPARATELY UNDER SEAL]**

1 15. Attached hereto as **Exhibit 13** is a true and correct copy of relevant excerpts from
2 the January 16, 2006, Deposition of Divya Narendra. [**CONFIDENTIAL DOCUMENT**
3 **SUBMITTED SEPARATELY UNDER SEAL**]

4 16. Attached hereto as **Exhibit 14** is a true and correct copy of relevant documents
5 produced by ConnectU in the ConnectU, LLC v. Zuckerberg et al, Civil Action No. 1:04-cv-
6 11923, United States District Court, District of Massachusetts matter. [C003865-69, C004243,
7 C004299-300, C006535-36, C006537, C007512-7517, C008392, C008657, C008658, C008662,
8 C008674, C009768-69, C009887-96, C010359, C011039-40, C011073-82.]. [**CONFIDENTIAL**
9 **DOCUMENT SUBMITTED SEPARATELY UNDER SEAL**]

10 17. Attached hereto as **Exhibit 15** is a true and correct copy of relevant excerpts from
11 the August 9, 2005, Deposition of ConnectU in the ConnectU, LLC v. Zuckerberg et al, Civil
12 Action No. 1:04-cv-11923, United States District Court, District of Massachusetts matter.

13 18. Attached hereto as **Exhibit 16** is a true and correct copy of relevant excerpts from
14 the June 19, 2007, Deposition of Winston Williams. [**CONFIDENTIAL DOCUMENT**
15 **SUBMITTED SEPARATELY UNDER SEAL**]

16 19. Attached hereto as **Exhibit 17** is a true and correct copy of relevant excerpts from
17 the January 29, 2007, Deposition of Pacific Northwest Software. [**CONFIDENTIAL**
18 **DOCUMENT SUBMITTED SEPARATELY UNDER SEAL**]

19 20. Attached hereto as **Exhibit 18** is a true and correct copy of relevant documents
20 produced by David Guewa on March 12, 2007. [GUCWA 0018-26; 0048, 0056-63, 0075-115,
21 117, 124, 0134].

22 21. Attached hereto as **Exhibit 19** is a true and correct copy of relevant documents
23 produced by Pacific Northwest Software. [PNS000015-16, PNS000226, PNS000386-90,
24 PNS000398-400, PNS000441, PNS000768-70, PNS000842-43, PNS001144-49, PNS001215-16,
25 PNS001238-39, PNS001759-65, PNS01766-77, PNS01844-56, PNS01848, PNS02096,
26 PNS0281469-73., PNS0310177-79, PNS0310185-86, PNS0310455, PNS0571134-49.].
27 [**CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY UNDER SEAL**]

28 22. Attached hereto as **Exhibit 20** is a true and correct copy of Wayne Chang's profile

1 on www.linkedin.com indicating that he joined Pacific Northwest Software in 2002; emails
2 authored in 2003 by Chang on behalf of Pacific Northwest Software, and printouts from Pacific
3 Northwest Software's website from 2004 through the present showing Chang was employed by
4 Pacific Northwest Software during this period.

5 23. Attached hereto as **Exhibit 21** is a true and correct copy of relevant excerpts from
6 the June 12, 2007, Deposition of Pacific Northwest Software. **[CONFIDENTIAL**

7 **DOCUMENT SUBMITTED SEPARATELY UNDER SEAL]**

8 24. Attached hereto as **Exhibit 22** is a true and correct copy of Pacific Northwest
9 Software's Responses to Facebook's First Set of Interrogatories, served on June 8, 2007.

10 25. Attached hereto as **Exhibit 23** is a true and correct copy of ConnectU's Second
11 Amended Responses to Form Interrogatories, served on April 3, 2006.

12 26. Attached hereto as **Exhibit 24** is a true and correct copy of the "contact us" page at
13 www.webquarry.com, indicating it is a California company.

14 27. Attached hereto as **Exhibit 25** is a true and correct copy of relevant documents
15 produced by ConnectU Bates labeled as CUCA001380-83.

16 28. Attached hereto as **Exhibit 26** is a true and correct copy of relevant documents
17 produced by ConnectU Bates labeled as CUCA000172 and CUCA02972. **[CONFIDENTIAL**

18 **DOCUMENT SUBMITTED SEPARATELY UNDER SEAL]**

19 29. Attached hereto as **Exhibit 27** is a true and correct copy of Pacific Northwest
20 Software's home page, available at www.pnwsoft.com (last accessed on June 21, 2007).

21 30. Attached hereto as **Exhibit 28** is a true and correct copy of the "Our People" page
22 available at www.recordsportal.com/content/people.html.

23 31. Attached hereto as **Exhibit 29** is a true and correct copy of a printout from
24 www.000domains.com showing that Pacific Northwest Software is the administrative and
25 technical contact for the Records Portal domain, available at
26 <https://secure.reisterapi.com/services/whois.php>.

27 32. Attached hereto as **Exhibit 30** is a true and correct copy of a press release from
28 Pacific Northwest Software's website announcing its development deal with Chula Vista

1 Elementary School District, dated July 26, 2005 and available at
2 www.pnwsoft.com/?page=pr/072605.

3 33. Attached hereto as **Exhibit 31** is a true and correct copy of a press release from
4 Pacific Northwest Software's website announcing its development deal with Examcrackers, dated
5 January 1, 2006 and available at www.pnwsoft.com/?page=pr/010606.

6 34. Attached hereto as **Exhibit 32** is a true and correct copy of a press release from
7 Pacific Northwest Software's website announcing its development deal with Know the Course,
8 dated March 14, 2006 and available at www.pnwsoft.com/?page=pr/031406.

9 35. Attached hereto as **Exhibit 33** is a true and correct copy of a press release from
10 Pacific Northwest Software's website announcing its development deal with City Ticket
11 Exchange dated August 10, 2006 and available www.pnwsoft.com/?page=pr/081006.

12 36. Attached hereto as **Exhibit 34** is a true and correct copy of the Google Inc.
13 Advertising Program Terms dated August 22, 2006 and available at
14 <https://adwords.google.com.select/TCUbilling0806.html>

15 37. Attached hereto as **Exhibit 35** is a true and correct copy of Craigslist Terms of Use
16 page available at www.craigslist.org/about/terms.of.use.html (last accessed June 20, 2007).

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 June 25, 2007.

Dated: June 25, 2007.

Respectfully submitted,

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