

1 Lisa D. Olle, Bar No. 228551
 lolle@perkinscoie.com
 2 PERKINS COIE LLP
 Four Embarcadero Center, Suite 2400
 3 San Francisco, CA 94111-4131
 Telephone: 415.344.7000
 4 Facsimile: 415.344.7050

5 Attorneys for Plaintiff
 FACEBOOK, INC.

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 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **SAN JOSE DIVISION**

12 FACEBOOK, INC., a Delaware
 corporation,

13 Plaintiff,

14 v.

15 JOHN DOES 1-10, individuals; and JOHN
 16 DOES 11-20, corporations,

17 Defendants.

Case No. C-07-03404 HRL

**DECLARATION OF JAMES R.
 McCULLAGH IN SUPPORT OF MOTION
 FOR LEAVE TO TAKE DISCOVERY ON
 ACCRETIVE TECHNOLOGY GROUP,
 INC. AND FCI, INC.**

Date: August 14, 2007
 Time: 10:00 a.m.
 Dept.: 2, 5th Floor
 Before: Honorable Howard R. Lloyd

20
 21 James R. McCullagh declares:

22 1. I am a partner at the law firm of Perkins Coie LLP, and represent Facebook, Inc.
 23 ("Facebook") in this matter. I am competent to make this declaration.

24 2. On June 15, 2007, I sent a preservation request to the ISP of record for IP address
 25 216.127.50.20. A true and correct copy of the Whois record for IP address 216.127.50.20 is
 26 attached hereto as Exhibit A.

27 3. A true and correct copy of the letter I sent to Accretive Inc. on behalf of Facebook
 28 is attached hereto as Exhibit B.

**DECLARATION OF JAMES R. McCULLAGH ISO MOTION FOR
 LEAVE TO TAKE DISCOVERY ON ACCRETIVE TECHNOLOGY
 GROUP, INC. AND FCI, INC.**

CASE NO. C-07-03404 HRL

1 4. On June 25, 2007, I contacted Accretive regarding the steps they had taken to
2 comply with Facebook's preservation request. At that time I learned that representatives for
3 Accretive would not be willing to voluntarily provide Facebook with a copy of the server log
4 from the computer server handing IP Address 216.127.50.20

5 5. Accretive representatives identified the customer that controlled IP Address
6 216.127.50.20 during the period from March 15 through June 20 as "Dilyweb Limited," with
7 incomplete and circumspect addresses in either Cyprus or Ontario, Canada. Accretive provided
8 no further information regarding the identity or contact information for "Dilyweb Limited." The
9 true owner of the server has hidden his identity by providing incomplete registration information
10 for its domain registration.

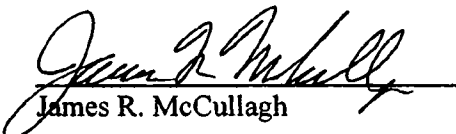
11 6. Accretive's representatives stated that the server is physically located at their
12 Seattle, Washington facility, but that they would not voluntarily provide Facebook with the
13 requested information.

14 7. I have been given no assurances that Accretive complied with, or took steps to
15 insure that the owners of the subject server complied with the requests of my letter to Accretive to
16 preserve information related to IP address 216.127.50.20. I understand that log information on a
17 server is ephemeral, and is often stored only temporarily, and may be overwritten within a short
18 period of time, sometimes as soon as thirty days after it is originally stored.

19 8. Attached hereto as Exhibit C is a true and correct copy of the proposed subpoena
20 that Facebook seeks leave of court to serve on Accretive Technology Group, Inc. and FCI, Inc.

21 I declare under penalty of perjury under the laws of the United States of America that the
22 foregoing is true and correct.

23 DATED this 3rd day of July 2007, at Seattle, Washington.

24
25 
James R. McCullagh

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