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 21 FACEBOOK, INC.

22 UNITED STATES DISTRICT COURT  
 23 NORTHERN DISTRICT OF CALIFORNIA  
 24 SAN JOSE DIVISION

25 FACEBOOK, INC.,

26 Plaintiff,

27 v.

28 POWER VENTURES, INC. a Cayman Island  
 Corporation; STEVE VACHANI, an  
 individual; DOE 1, d/b/a POWER.COM,  
 DOES 2-25, inclusive,

Defendants.

Case No. 5:08-cv-05780 JF (RS)

**[PROPOSED] ORDER GRANTING  
 FACEBOOK INC.'S MOTION FOR  
 JUDGMENT ON THE PLEADINGS,  
 OR, IN THE ALTERNATIVE,  
 MOTION FOR SUMMARY  
 JUDGMENT OF LIABILITY UNDER  
 CALIFORNIA PENAL CODE §  
 502(C)**

Date: February 26, 2009  
 Time: 9:00 am  
 Judge: Hon. Jeremy D. Fogel  
 Courtroom: 3

1 The Motion of Facebook, Inc. (“Facebook”) for Judgment On The Pleadings  
2 Pursuant To Federal Rule of Civil Procedure 12(c) or, in the alternative, for Summary Judgment  
3 Pursuant to Federal Rule of Civil Procedure 56 against Defendants Power Ventures, Inc. and  
4 Steven Vachani (“Power”) came on for hearing on February 26, 2009, before the Honorable  
5 Jeremy D. Fogel;

6 The Court, having considered the papers filed in support of and in opposition to  
7 the motions, the arguments presented at the hearing and other matters relevant to the  
8 determination of these motions

9 Hereby finds and Orders as follows:

- 10 1. This Court has jurisdiction over the subject matter and the parties.
- 11 2. In its Amended Answer, Power has admitted facts sufficient to establish a  
12 violation of California Penal Code 502(c).
- 13 3. Facebook has alleged, and Power has admitted that:
  - 14 a. Facebook owns and operates the widely popular social networking  
15 website located at <http://www.facebook.com>.
  - 16 b. Before Facebook activates a username and permits a user access to  
17 certain features of the Facebook website, the user must agree to  
18 Facebook’s Terms of Use, which set forth the acceptable terms of  
19 use of its computer network and prohibit users from conducting  
20 certain activities.
  - 21 c. Specifically, Facebook’s Terms of Use require Facebook users to  
22 abide by certain rules of user conduct.
  - 23 d. In exchange for the free Facebook service, users agree that they will  
24 refrain from, among other things, soliciting personal information  
25 from anyone under 18 or soliciting passwords or personally  
26 identifying information for commercial or unlawful purposes; using  
27 or attempting to use another’s account, service or system without  
28 authorization from Facebook, or creating a false identity on  
Facebook, using automated scripts to collect information from or  
otherwise interact with the Facebook website, impersonating any  
person or entity, or falsely stating or otherwise misrepresenting  
oneself, uploading, posting, transmitting sharing or otherwise  
making available any unsolicited or unauthorized advertising,  
solicitations, promotional materials, junk mail, spam, chain letters,  
pyramid schemes or any other form of solicitation, harvesting or  
collecting email addresses or other contact information from other  
users from Facebook, registering for more than one User account or  
falsely stating or otherwise misrepresenting oneself, and using

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Facebook’s website for commercial use without the express permission of Facebook.

4. Power permits users to enter their account information to access the Facebook site through Power.com.
5. Power has developed computer software and other automated devices and programs to access and obtain information from the Facebook website for aggregating services.
6. Power has copied and stored all the Facebook data files necessary to display the Facebook website through the Power browser.
7. Power has at no time received permission from Facebook to represent that solicitation of Facebook usernames and passwords was authorized or endorsed by Facebook.
8. Power’s accessing and subsequent “scraping” of Facebook data from Facebook’s servers constitutes knowing and impermissible or unauthorized accessing of Facebook’s servers.
9. Power’s accessing and copying of Facebook data constitutes a “use” of that data pursuant to California Penal Code 502(c).
10. Facebook’s Terms of Use are enforceable as to registered users of the Facebook website.
11. Use of Facebook’s website in contravention of the Facebook Terms of Use constitutes “impermissible” or unauthorized access and/or use of the Facebook site within the meaning of California Penal Code 502(c).
12. Facebook is entitled to a permanent injunction pursuant to California Penal Code Section 502(e)(1).
13. Facebook has expended resources combating Power’s actions, as demonstrated by its implementation of technological blocking measures that Power has admitted to circumventing.
14. ACCORDINGLY, Facebook’s Motion for Judgment On The Pleadings is hereby GRANTED.

**IT IS THEREFORE ORDERED THAT:**

15. Defendants Power Ventures, Inc. and Steven Vachani, and all of their agents, successors, and assigns, and all other persons in active concert or participation with any of them, are hereby PERMANENTLY RESTRAINED and ENJOINED from:
  - a. soliciting and/or storing Facebook login information;
  - b. accessing or attempting to access Facebook’s website and computer systems;
  - c. displaying Facebook’s trademark anywhere on their websites;

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- d. engaging in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of Facebook’s website; and
- e. engaging in any activity that violates Facebook’s Terms of Use.

IT IS SO ORDERED.

Dated:

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Honorable Jeremy Fogel  
United States District Judge