UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

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| FACEBOOK, INC., | Case No.: C 09-05842 JF (PVT) |
| Plaintiff, | **ORDER GRANTING PLAINTIFF FACEBOOK'S ADMINISTRATIVE REQUEST FOR LEAVE TO CONDUCT DISCOVERY PRIOR TO RULE 26 CONFERENCE** |
| v. | |
| JEREMI FISHER, ET AL., | |
| Defendants. | |
| _____ | **[Docket No. 53]** |

Pursuant to Local Rule 7-11, plaintiff Facebook, Inc. moves for leave to conduct discovery prior to the Rule 26 conference. ("plaintiff" or "Facebook"). Specifically, plaintiff Facebook moves to authorize issuance of a subpoena to take possession of an abandoned computer laptop previously owned by defendants Porembski and PP Web Services as well as police reports and witness statements related to the recovery of the computer laptop.

Defendants had previously stipulated to injunctive relief. *See*, *e.g.,* Stipulated Order and Preliminary Injunction entered on January 6, 2010 (by plaintiff and defendants Jeremi Fisher and Choko Systems LLC) (Docket No. 29); Stipulated Order and Preliminary Injunction entered on January 6, 2010 (by plaintiff and defendants Ryan Shimeall and iMedia Online Services LLC) (Docket No. 30); and Stipulated Order and Preliminary Injunction entered on January 8, 2010 (by plaintiff and defendants Philip Porembski and PP Web Services LLC) (Docket No. 33). However, defendants failed to answer, or otherwise respond to, the operative complaint and plaintiff Facebook

ORDER, *page 1*

1   later obtained default against the defendants.  Clerk's Notice of Entry of Default dated April 26,

2   2010 (as to all defendants) (Docket No. 51).  In addition, defendants have not opposed, or otherwise

3   responded to, this motion.

4          Having reviewed the papers and considered the arguments of counsel,

5          IT IS HEREBY ORDERED that plaintiff Facebook's motion for leave to conduct discovery

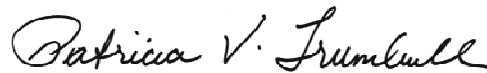6   prior to the Rule 26 conference is granted.

7          Here, plaintiff Facebook has shown good cause to conduct discovery prior to the Rule 26

8   conference.  The need for the expedited discovery outweighs any prejudice to defendants.  As an

9   initial matter, the clerk entered default against all the defendants in the above-captioned action after

10  they failed to answer, or otherwise respond to, the operative complaint.  And the laptop computer

11  was allegedly abandoned by defendants Porembski and PP Web Services LLC.  Finally, plaintiff

12  Facebook served this motion on all defendants and no response has been filed whatsoever.

13         Pursuant to Rules 34 and 45, plaintiff Facebook may engage an independent third party to

14  make a mirror image of the hard drive of the laptop computer (either on-site at the Sacramento

15  Sheriff's Department or at the offices the independent third party) and promptly return the original

16  laptop computer to the custody of the Sacramento Sheriff's Department.  Fed. R. Civ. P. 34 (request

17  to inspect or copy electronically stored information).  The independent third party may then provide

18  the mirror image of the hard drive of the laptop computer to plaintiff Facebook.

19         Plaintiff Facebook may also conduct other third-party discovery, including issuing a

20  subpoena for police reports and witness statements related to the recovery of the aforementioned

21  laptop computer and conducting a deposition of the witness who located the abandoned laptop

22  computer.

23         IT IS SO ORDERED.

24  Dated:  June 14, 2010

25  _____

    PATRICIA V. TRUMBULL
26  United States Magistrate Judge

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