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11 Attorneys for Plaintiff
 12 FACEBOOK, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 FACEBOOK, INC., a Delaware
 18 corporation,

19 Plaintiff,

20 v.

21 JEREMI FISHER; PHILIP POREMBSKI;
 RYAN SHIMEALL; and JOHN DOES 1-
 22 25, individuals; and CHOKO SYSTEMS
 LLC; HARM, INC.; PP WEB SERVICES
 23 LLC, iMEDIA ONLINE SERVICES LLC,
 and JOHN DOES 26-50, corporations,

24 Defendants.
 25

Case No. C 09-05842 JF

**NOTICE OF MOTION AND MOTION
 FOR ADMINISTRATIVE RELIEF FOR
 LEAVE TO FILE UNDER SEAL CERTAIN
 PORTIONS OF DOCUMENTS FILED IN
 CONNECTION WITH PLAINTIFF
 FACEBOOK, INC.'S MOTION FOR
 ENTRY OF DEFAULT JUDGMENT
 AGAINST DEFENDANTS PHILIP
 POREMBSKI AND PP WEB SERVICES,
 LLC AND TO CLOSE THE COURTROOM
 DURING THE DEFAULT HEARING**

1 **NOTICE OF MOTION AND MOTION FOR ADMINISTRATIVE RELIEF**

2 TO: DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE THAT pursuant to Local Rules 7-11 and 79-5(c), Plaintiff
4 Facebook, Inc. (“Facebook”) respectfully requests that the Court order the Clerk of the Court to
5 file under seal certain portions of the following confidential documents Facebook is lodging with
6 the Court on August 27, 2010:

- 7 1. Plaintiff Facebook, Inc.’s Application for, and Memorandum of Points and
8 Authorities in Support of, Default Judgment Against Defendants Philip Porembski
9 and PP Web Services, LLC;
- 10 2. Declaration of Joseph P. Cutler in Support of Plaintiff’s Application for Default
11 Judgment Against Defendants Philip Porembski and PP Web Services, LLC; and
- 12 3. Declaration of Facebook Employee in Support of Plaintiff’s Application for
13 Default Judgment Against Defendants Philip Porembski and PP Web Services,
14 LLC.

15 Facebook also respectfully requests that any hearing on Facebook’s Motion for Entry of
16 Default Judgment be closed to the public.

17 Facebook seeks this motion for administrative relief on the grounds that the above-
18 mentioned documents contain information relating to Facebook’s confidential and proprietary
19 network structure, defensive safety measures, methods for investigating a security breach, and the
20 identity of Facebook personnel responsible for maintaining the security of the network and
21 identifying perpetrators and other information that constitute Facebook’s trade secrets. Facebook
22 treats all such information as confidential and would be irreparably harmed if such trade secret
23 and/or confidential information is made available to the public. Also, public release of this
24 information could place the safety of Facebook’s employees in jeopardy. Pursuant to Local Rule
25 79-5(c), Facebook will lodge with the Clerk of the Court: (1) two copies of the unredacted
26 documents, with the sealable portions highlighted in yellow, one of which is to be delivered to
27 Chambers, and (2) a redacted version of the documents that the Clerk may file in the public
28 record.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rules 7-11 and 79-5(c),
4 Plaintiff Facebook, Inc. (“Facebook”) respectfully makes this Administrative Request for an
5 Order allowing Facebook to file under seal, certain portions of the following confidential
6 documents, Facebook is lodging with the Court on August 27, 2010:

- 7 1. Plaintiff Facebook, Inc.’s Application for, and Memorandum of Points and
8 Authorities in Support of, Default Judgment Against Defendants Philip Porembski
9 and PP Web Services, LLC;
10 2. Declaration of Joseph P. Cutler in Support of Plaintiff’s Application for Default
11 Judgment Against Defendants Philip Porembski and PP Web Services, LLC; and
12 3. Declaration of Facebook Employee in Support of Plaintiff’s Application for
13 Default Judgment Against Defendants Philip Porembski and PP Web Services,
14 LLC.

15 Facebook also respectfully requests that any hearing on Facebook’s Motion for Entry of
16 Default Judgment be closed to the public.

17 Good cause exists justifying the filing of portions of the above documents under seal
18 because the requested relief is necessary and narrowly tailored to protect the confidentiality of not
19 only Facebook’s trade secrets and/or confidential competitive and business information, but also
20 to protect the security of the Facebook network and Facebook’s employees. Accordingly,
21 Facebook would be irreparably harmed if the identified information was made available to the
22 public. Pursuant to Local Rule 79-5, this request is supported by the declaration of Joseph P.
23 Cutler and is accompanied by a proposed order. *See* Declaration of Joseph P. Cutler in Support of
24 Notice of Motion and Motion for Administrative Relief for Leave to File Under Seal Certain
25 Portions of Documents Filed in Connection With Plaintiff Facebook, Inc.’s Motion for Entry of
26 Default Judgment Against Defendants Philip Porembski and PP Web Services, LLC and to Close
27 the Courtroom During the Default Hearing.
28

1 Furthermore, in order to hold a hearing that includes open and frank discussion of the
2 issues presented in Facebook’s Motion for Entry of Default Judgment, the courtroom should be
3 closed to the public. The parties will inevitably discuss and recount facts and text contained
4 within the sealed portions of the redacted documents, which would defeat the purpose of sealing
5 them from public inspection in the first place. This case has attracted the attention of the public
6 media, who will likely attempt to attend the hearing and publish content from the proceedings
7 therein.

8 **II. ARGUMENT**

9 Upon a showing of good cause, a court may make any order that justice requires to protect
10 a party, including an order “that a trade secret or other confidential research, development, or
11 commercial information not be revealed or be revealed only in a designated way.” Fed. R. Civ.
12 P. 26(c)(7). In particular, a court may deny access to the public where documents could “become
13 a vehicle for improper purposes.” *Hagestad v. Tragesser*, 49 F.3d 1430, 1433-34 (9th Cir. 1995).

14 Good cause exists to protect Facebook’s security, trade secret and/or confidential business
15 and competitive information. Facebook’s request for relief is narrowly tailored and the
16 confidential information contained in these documents is highly susceptible to use for an
17 improper purpose. Facebook seeks only to seal the portions of these documents that would reveal
18 Facebook’s confidential trade secrets regarding the structure of the Facebook network,
19 Facebook’s defensive safety measures, its methods for investigating a security breach, and the
20 identity of Facebook personnel responsible for maintaining the security of the network and
21 identifying perpetrators. The highly confidential information contained in the documents will
22 also likely be discussed during any hearing on Facebook’s Application for Default Judgment.

23 If this information is made public, it may be abused by malicious hackers and other
24 copycat spam-artists seeking to breach Facebook’s security, or even by Facebook’s competitors,
25 thus causing irreparable harm to Facebook and the integrity of its network. Additionally,
26 Facebook is concerned about the safety of its employees and wishes to protect the identity of its
27 personnel in charge of security.

