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16
 17 **UNITED STATES DISTRICT COURT**
 18 **NORTHERN DISTRICT OF CALIFORNIA**
 19 **SAN JOSE DIVISION**

20 FACEBOOK, INC., a Delaware
 21 corporation,
 22
 23 Plaintiff,
 24 v.
 25
 26 MAXBOUNTY, INC., a Canadian
 27 corporation,
 28 Defendant.

Case No. 5:10-cv-4712-JF (HRL)

**DECLARATION OF JOHN S. LeROY IN
 SUPPORT OF JOINT STIPULATION TO
 CONTINUE RULE 16(b) SCHEDULING
 CONFERENCE**

1 I, JOHN S. LeROY, declare as follows:

2 1. I am counsel for Defendant MaxBounty, Inc.'s ("MaxBounty") in the above-
3 captioned matter. I am making this declaration in support of the concurrently filed Joint
4 Stipulation to Continue Rule 16(b) Scheduling Conference.

5
6 2. I make this declaration of my own knowledge except where indicated. I am
7 competent to testify to the following facts and, if called upon to testify, I could and would testify
8 thereto.

9
10 3. On December 9, 2010, the Court set a Case Management Conference for January
11 14, 2011 at 10:30 AM (Dkt. #20.).

12
13 4. On November 30, 2010, MaxBounty filed its Motion to Dismiss Counts I, II and
14 III of Facebook's Complaint Pursuant to Fed.R.Civ.P. 12(b)(6) ("Motion to Dismiss") (Dkt.
15 #11.). The Motion to Dismiss is set for hearing on February 11, 2011.

16
17 5. MaxBounty believes that the identity and scope of the claims asserted in the
18 litigation will dramatically influence the scope of discovery and any Rule 26(f) conference.
19 Thus, were the Court to grant the Motion to Dismiss, the claims encompassed by Counts I, II and
20 III of Facebook's Complaint would be off limits for discovery. MaxBounty, therefore, contends
21 that waiting until after the Court rules on the Motion to Dismiss will facilitate greater efficiency
22 by allowing the parties and the Court to set a case schedule based on the claims actually at issue
23 in the case.

24
25 6. Facebook previously provided MaxBounty with a 20 day extension of time to
26 answer the Complaint in this action.

