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16 Attorneys for Defendant  
 17 FACEBOOK, INC.

18 UNITED STATES DISTRICT COURT  
 19 NORTHERN DISTRICT OF CALIFORNIA  
 20 SAN JOSE DIVISION

21 In re: Facebook Internet Tracking Litigation

22 Case No. 5:12-md-02314 EJD

23 **DECLARATION OF ADAM C. TRIGG IN  
 24 SUPPORT OF DEFENDANT FACEBOOK,  
 25 INC.'S OPPOSITION TO PLAINTIFFS'  
 26 MOTION TO COMPEL**

27 **DATE:** April 28, 2016  
 28 **TIME:** 9:00 a.m.  
**COURTROOM:** 4  
**JUDGE:** Edward J. Davila  
**TRIAL DATE:** None Set

29 I, Adam C. Trigg, hereby declare as follows:

30 1. I am an attorney licensed to practice law in the state of California and an associate  
 31 of the law firm of Cooley LLP ("Cooley"), counsel of record for defendant Facebook, Inc.  
 32 Except as otherwise noted, I have personal knowledge of the facts below and could and would  
 33 testify competently to them if called as a witness.

1 **Discovery to Date**

2 2. Documents were collected from Facebook’s central repositories, public-facing  
3 facebook.com pages, and three Facebook engineers that that had the most familiarity with the  
4 facts alleged in the First Amended Consolidated Class Action Complaint (“FAC”).

5 3. Every document in Facebook’s production was reviewed by an attorney to  
6 determine, among other things, if it was responsive to Plaintiffs’ document requests (subject to  
7 Facebook’s objections), privileged, confidential, and/or whether redactions were needed.

8 4. To date, Plaintiffs have produced 42 documents, totaling 505 pages. The  
9 documents consist of some publicly available documents and other documents that are not  
10 publicly available. Plaintiffs have marked every non-public document confidential that they  
11 produced after the Protective Order was entered.

12 5. Facebook produced relevant public documents within its possession to Plaintiffs in  
13 January 2013. In correspondence in February 2013, Facebook and Plaintiffs agreed that both  
14 parties would produce their confidential documents within five days of the approval of a  
15 stipulated protective order, which was submitted to the Court in August 2013. The Court  
16 approved the protective order on April 11, 2014. Five days later, Facebook produced nearly  
17 13,000 documents to Plaintiffs. The documents consisted of internal Facebook documents,  
18 including emails and attachments, internal employee “tasks,” reports and “trace logs” regarding  
19 the functioning of the Facebook website, and Facebook’s internal “wiki” pages, which are  
20 internal webpages dealing with the functioning of the Facebook website and editable by Facebook  
21 employees.

22 **Redactions for Non-Responsive Highly-Sensitive Business Information**

23 6. A very small subset of the produced documents were partially redacted to protect  
24 non-relevant business projects so highly sensitive that most Facebook employees are not even  
25 aware of them. The highly sensitive nature of these documents is described in the Declaration of  
26 Natalie Naugle, filed herewith. As with the other produced documents, each redacted document  
27 was reviewed individually by an attorney for relevance. The great majority of the redactions are  
28 less than a sentence long and none of them contain any material relevant to the issues in the case.

1 **History of the Parties' Meet-and-Confer**

2 7. The parties held meet-and-confer calls on November 3, 2014 and November 19,  
3 2014. I am informed that during these calls Plaintiffs raised some issues with Facebook's  
4 objections to Plaintiffs' document requests and to Facebook's production. Plaintiffs suggested  
5 that Facebook search additional custodians. Facebook asked Plaintiffs to identify any additional  
6 custodians they believed to be searched. Plaintiffs acknowledged that they had not yet finished  
7 their review of Facebook's document production, so the issue was tabled. During these calls,  
8 Plaintiffs did not raise any issues with respect to the confidentiality designations or redactions in  
9 Facebook's production.

10 8. Plaintiffs did not contact Facebook again regarding its objections or production  
11 until January 14, 2016 in a letter addressed to Facebook's counsel, Kyle Wong. (*See* Dkt. No.  
12 108-5.) Mr. Wong initially responded in an email on January 25, informing Plaintiffs that he had  
13 been stuck in a snowstorm in New York City, but Facebook was working on a response. On  
14 February 2, Facebook responded to Plaintiffs' January 14 letter. (*See* Dkt. No. 108-6.)

15 9. Over the next month, Facebook and Plaintiffs exchanged several letters and  
16 participated in multiple conference calls to attempt to resolve their disagreements regarding  
17 discovery. Among the issues discussed was Facebook's redactions of certain non-relevant  
18 sensitive business information from 140 documents. On one of the meet-and-confer calls,  
19 Plaintiffs agreed that Facebook could redact personal information like phone numbers or social  
20 security numbers from their production, but disagreed with the redaction of any other irrelevant  
21 information.

22 10. Plaintiffs also raised the issue of Facebook's confidentiality designations.  
23 Plaintiffs' position was that Facebook improperly designated too high a percentage of its  
24 documents under the Protective Order. The overriding concern Plaintiffs expressed was their  
25 inability to show the documents to the named Plaintiffs. Facebook indicated that it would stand  
26 by its confidentiality designations in a meet-and-confer call on February 3, 2016. Facebook  
27 explained that each document was reviewed by an attorney to determine the appropriate  
28 confidentiality designation. Facebook invited Plaintiffs to identify any documents they felt were

1 improperly designated so that Facebook could make a good faith review of the documents and  
2 evaluate whether over-designation had occurred. Facebook noted that this mechanism was  
3 explicitly required under the Protective Order. Plaintiffs rejected this proposal, claiming that it  
4 would essentially require Plaintiffs to give Facebook their “hot documents.”

5 11. On March 7, 2016, on a conference call Plaintiffs indicated that they were  
6 prepared to file a motion to compel and that they had examples of improperly designated  
7 documents they would file with the Court in support of that motion. In an email following up on  
8 the call, I again asked Plaintiffs to provide examples of the documents they claimed to be  
9 improperly designated, noting that if they intended to file such examples with the court, then they  
10 should not have an issue with providing them to Facebook first in an effort to resolve the  
11 disagreement. A true and correct copy of this email correspondence is attached as **Exhibit 1**.  
12 Plaintiffs did not respond to the email. Instead, they filed their motion to compel without  
13 providing the court any examples of documents they believe to be improperly designated.

14 12. Plaintiffs also insisted that Facebook must produce “all documents concerning the  
15 named Plaintiffs” in response to their Request No. 16. Facebook repeatedly told Plaintiffs that  
16 this request is vastly overbroad and burdensome as it would cover literally everything the named  
17 Plaintiffs had ever done on the Facebook website, including posts, Likes, Shares, comments,  
18 messages sent and received, photos, and videos. This would necessarily include information  
19 about individuals other than named Plaintiffs. Plaintiffs insisted that all of this information must  
20 be produced, and refused to discuss how the document request might be narrowed.

21 13. I declare under penalty of perjury that the foregoing is true and correct.

22 Executed on March 30, 2016 at Palo Alto, California.

23  
24 /s/ Adam C. Trigg

25 Adam C. Trigg

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**ATTESTATION**

In accordance with Northern District of California Civil Local Rule 5-1(i)(3), I hereby attest that I have obtained concurrence in the filing of this document from each of the other signatories.

*/s/ Matthew D. Brown*  
\_\_\_\_\_  
MATTHEW D. BROWN

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