

**EXHIBIT C**

ORIGI

1 JEFF S. WESTERMAN (SBN 94559)  
jwesterman@milberg.com  
2 DAVID E. AZAR (SBN 218319)  
dazar@milberg.com  
3 MILBERG LLP  
One California Plaza  
4 300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
5 Telephone: 213-617-1200  
Facsimile: 213-617-1975

6 Attorneys for Plaintiffs  
7 [Additional Counsel on Signature Page]  
8  
9

UCS

FILED Santa Clara Co  
05/09/11 1:46pm  
David H. Yamasaki  
Chief Executive Offic  
By: msorum DTSCIV0101  
R#201000251020  
CK \$395.00  
TL \$395.00  
Case: 1-11-CV-200467

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SANTA CLARA

12 RYAN UNG,  
13 CHI CHENG and  
ALICE ROSEN,  
14 on Behalf of Themselves and All Others  
Similarly Situated,

15 Plaintiffs,

16 v.

17 FACEBOOK, Inc.

18 Defendants

) Case No. **111CV200467**

) **CLASS ACTION COMPLAINT**

) COMPLAINT FOR:

) VIOLATION OF ARTICLE I, SECTION 1  
) OF THE CALIFORNIA CONSTITUTION  
) AND UNJUST ENRICHMENT

) **JURY TRIAL DEMANDED**

21  
22  
23  
24  
25  
26  
27  
28  
FAXED

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

	<b>Page</b>
CLASS ACTION COMPLAINT .....	1
NATURE OF THE ACTION .....	1
JURISDICTION AND VENUE .....	1
THE PARTIES.....	1
STATEMENT OF FACTS: .....	2
About Facebook, Its "Like" Button, and Facebook Connect .....	2
Facebook.....	2
The Facebook "Like" Button.....	2
Facebook Connect.....	3
Facebook Uses the "Like" button and Facebook Connect To Track Facebook Members and Non-Members .....	3
CLASS ACTION ALLEGATIONS .....	6
FIRST CAUSE OF ACTION (Violation of Article 1, Section 1 of the California Constitution)..	7
SECOND CAUSE OF ACTION (Unjust Enrichment) .....	8
PRAYER FOR RELIEF .....	9
DEMAND FOR JURY TRIAL .....	9

1 **CLASS ACTION COMPLAINT**

2 Plaintiffs allege the following, upon personal knowledge with respect to themselves, and  
3 on information and belief derived from, among other things, investigation of counsel and review  
4 of public documents, as to all other matters:

5 **NATURE OF THE ACTION**

6 1. This is an action on behalf of a class of millions of California Internet users (as  
7 defined herein) who have visited one or more websites displaying the Facebook "Like" button  
8 (as defined below). The action arises from Facebook's surreptitious use of the "Like" button and  
9 "Facebook Connect" to collect and store sensitive, private, and personally identifiable  
10 information in violation of Article I, Section 1 of the California Constitution. The information is  
11 secretly collected and stored regardless of whether the website visitor clicks the "Like" button  
12 and, in most cases, regardless of whether the Internet user is a Facebook member.

13 **JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over these proceedings because defendant Facebook is  
15 headquartered in the State of California, transacts business within this state, has committed  
16 wrongful acts within the state, and has committed wrongful acts that have caused injuries to  
17 persons within the state.

18 3. Venue lies in this court because many of those affected by defendants' wrongful  
19 conduct reside in this county, and many of the potential witnesses reside and work in this county.

20 **THE PARTIES**

21 4. Plaintiff Ryan Ung resides in San Francisco. Mr. Ung is a Facebook member who  
22 visited websites that display the Facebook "Like" button. Facebook used the "Like" button to  
23 track and collect his browsing history and link it to personally identifiable information without  
24 his consent.

25 5. Plaintiff Chi Cheng resides in San Francisco. Mr. Cheng is a non-Facebook  
26 member who visited a website in the Facebook Connect network and subsequently visited a  
27 website displaying the Facebook "Like" button. Facebook used the Like Button and Facebook  
28

1 Connect to collect his browsing history and personally identifiable information without his  
2 consent.

3 6. Plaintiff Alice Rosen resides in Sunnyvale, California. Ms. Rosen is a non-  
4 Facebook member who visited a website in the Facebook Connect network and subsequently  
5 visited a website displaying the Facebook "Like" button. Facebook used the Like Button and  
6 Facebook Connect to collect her browsing history and personally identifiable information  
7 without her consent.

8 7. Defendant Facebook ("hereinafter "Facebook") is a Delaware Corporation that  
9 maintains its headquarters in Santa Clara County, California. Facebook conducts business  
10 throughout California, the nation, and internationally.

11 **STATEMENT OF FACTS:**  
12 **About Facebook, Its "Like" Button, and Facebook Connect**

13 **Facebook**

14 8. Facebook is the world's largest social networking website with more than 500  
15 million registered users worldwide.

16 9. Facebook requires that Facebook registrants provide their actual names, rather  
17 than merely create a "screen name" or "user name" as is commonplace with other, non-social  
18 networking website registrations. Facebook then assigns each Facebook member a user ID  
19 number that uniquely identifies that member.

20 **The Facebook "Like" Button**

21 10. The Facebook "Like" button is an image displaying a thumbs-up symbol  
22 accompanied by the word "Like." According to Facebook, the "Like" button allows Facebook  
23 members to share third-party content that they find interesting, funny, or for which they have  
24 some sort of affinity with other Facebook members. When a Facebook member clicks the  
25 "Like" button on a website, an item appears on the user's Facebook profile page with a link back  
26 to the website. Anyone can implement the "Like" button on their website by adding a computer  
27 code, which is available for free and provided for by Facebook.

1 11. Facebook promotes the "Like" button to website owners as follows:

2 "[t]he Like button lets a user share your content with friends on Facebook. When  
3 the user clicks the Like button on your site, a story appears in the user's friends'  
4 News Feed with a link back to your website.

5 12. Website owners have a substantial financial incentive to include the "Like" button  
6 on their websites because it tends to increase traffic to the website and thereby increase the  
7 amount the website owner can charge for displaying advertising on the website. Indeed, more  
8 than 2.5 million websites have integrated the Facebook "Like" button. According to comScore,  
9 those 2.5 million websites include all of the top ten sports sites, nine of the top ten news sites,  
10 nine of the top ten entertainment sites, and 18 of the top 25 retails sites. Overall, 80% of the  
11 United States' comScore top websites are fully integrated. Every day, 10,000 more websites add  
12 the "Like" button. The "Like" button has become so deeply embedded in our societal  
13 consciousness that we sometimes do not even realize how much it has permeated our culture. It  
14 is an indelible part of the "online experience."

#### 14 **Facebook Connect**

15 13. Facebook Connect enables Facebook members to log onto third-party websites,  
16 applications, mobile devices, and gaming systems with their Facebook identity. While logged  
17 on, users can connect with friends via these media and post information and updates to their  
18 Facebook profile. Within a year of its launch in December 2008, Facebook Connect was on  
19 almost 1 million websites, and in March 2009 more than 40 million unique visitors of Facebook  
20 Connect implementations were counted.

#### 21 **Facebook Uses the "Like" button and Facebook Connect To Track Facebook Members 22 and Non-Members**

23 14. Unbeknownst to Internet users, Facebook uses the "Like" button to track Internet  
24 users as they browse the web and thereby collects private and, in some cases, sensitive  
25 information about them. Facebook follows Facebook members and, in some cases, non-  
26 members as they browse the Internet, linking their records of each new page visited to  
27 Facebook's records of all the "Like" button- or Facebook Connect-affiliated pages that the user  
28 has visited in the previous minutes, months, and years. It may thereby construct and update a

1 long-term profile of what particular users are doing with their web browsers. Anyone who has  
2 used the Internet to seek advice about hemorrhoids, sexually transmitted diseases, abortion, drug  
3 rehabilitation, dementia — the list goes on and on — can be reasonably certain that Facebook  
4 has tracked at least some of those visits and in many cases, identified them with a particular  
5 individual, such that the information can easily be incorporated into a personal profile for sale to  
6 marketers of all sorts, or to be put at the disposal of the United States or state government  
7 agencies. The information is collected *even if the website visitor does not click on the “Like”*  
8 *button*. This practice was brought to light by Arnold Roosendaal, whose work in progress,  
9 *Facebook Tracks and Traces Everyone: Like This!*, is available at  
10 <http://www.ssrn.com/abstract=1717563>.

11 15. The tracking mechanism differs depending on whether the Internet user is a  
12 Facebook member or not.

13 (a) **Facebook Members:** Upon registration, Facebook implants tracking  
14 cookies on the members’ computers. Each time the member visits a site displaying the Facebook  
15 “Like” button, the updated Facebook cookie information, including the member’s most recent  
16 browsing history, is sent to Facebook. Facebook can then link the cookie information with the  
17 member’s unique Facebook identifier, thereby associating the personally sensitive information  
18 with the particular user and his account information. This occurs regardless of whether the  
19 Facebook member clicks the “Like” button.

20 (b) If a Facebook member deactivates his or her account through the process  
21 Facebook provides, the entire account is nevertheless kept by Facebook, which can continue to  
22 link data to the account just as when the account was active. If the users wish to delete the  
23 account entirely, such that Facebook no longer has access to their personal data, they must make  
24 a specific request to Facebook that takes two weeks to process.

25 (c) **Non-Facebook Members:** Facebook implants tracking cookies on the  
26 computers of non-Facebook members when the non-Facebook member visits one of the million  
27 websites in the Facebook Connect network. Thereafter, Facebook’s data profile of the non-  
28

1 member is updated each time the non-Facebook member visits a site displaying the Facebook  
2 “Like” button, even if the non-member does not click the “Like” button. The data profile is  
3 anonymous unless the non-member subsequently joins Facebook, at which point Facebook can  
4 associate the previously anonymous “file” with the member and his or her account information,  
5 which includes, at a minimum, the members’ names and addresses. Facebook thus tracks and  
6 collects extensive information about non-Facebook members — *i.e.* individuals who consciously  
7 choose not to participate in Facebook. If a user subsequently opens an account on Facebook, all  
8 of the previously compiled information can be linked to the Facebook account holder and, from  
9 that time on, all subsequent requests for Facebook content are accompanied by the Facebook  
10 identifier unique to the user.

11 16. The personal information collected by Facebook is an asset of the sort that is  
12 priced, bought, and sold in discrete units for marketing and other purposes. “Websites and stores  
13 can . . . easily buy and sell information on valued visitors with the intention of merging  
14 behavioral with demographic and geographic data in ways that will create social categories that  
15 advertisers covet and target with ads tailored to them or people like them.” Joseph Turow,  
16 Jennifer King, Chris Jay Hoofnagle, Amy Bleakley & Michael Hennessy, *Americans Reject*  
17 *Tailored Advertising and Three Activities that Enable It* (Sept. 29, 2009),  
18 [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1478214](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1478214). The more information that is  
19 known about a consumer, the more a company will pay to deliver a precisely targeted  
20 advertisement to him or her. See F.T.C., *Protecting Consumer Privacy in an Era of Rapid*  
21 *Change, Preliminary Staff Report* (Dec. 2010) (“F.T.C. Report”), at 24.

22 17. Personal data is viewed as currency. “In many instances, consumers pay for free  
23 content and services by disclosing their personal information,” according to former F.T.C.  
24 commissioner Pamela Jones Harbour. F.T.C. Roundtable Series 1 on: *Exploring Privacy* (Matter  
25 No. P095416) Dec. 7, 2009, at 148. (available at [http://www.ftc.gov/bcp/](http://www.ftc.gov/bcp/workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf)  
26 [workshops/privacyroundtables/PrivacyRoundtable\\_Dec\\_2009\\_Transcript.pdf](http://www.ftc.gov/bcp/workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf)). In *Property,*  
27 *Privacy, and Personal Data*, Professor Paul M. Schwartz wrote:  
28



1 Personal information is an important currency in the new millennium. The  
2 monetary value of personal data is large and still growing, and corporate America  
3 is moving quickly to profit from this trend. Companies view this information as a  
corporate asset and have invested heavily in software that facilitates the collection  
of consumer information.

4 Paul M. Schwartz, *Property, Privacy, and Personal Data*, 117 Harv. L. Rev. 2055, 2056-57  
5 (2004).

6 18. On February 28, 2011, the *Wall Street Journal* published an article under the  
7 headline "Web's Hot New Commodity: Privacy," in which it highlighted a company called  
8 "Allow Ltd.," one of nearly a dozen companies that offer to sell people's personal information  
9 on their behalf and give them 70% of the sale. An Allow Ltd. customer received a payment of  
10 \$8.95 for letting Allow tell a credit card company he is shopping for new plastic. *Id.*

#### 11 CLASS ACTION ALLEGATIONS

12 19. Pursuant to California Code of Civil Procedure § 382, Plaintiffs bring this action  
13 on behalf of themselves and two subclasses of Internet users: 1) all Facebook members who  
14 visited a website displaying the Facebook "Like" button from April 22, 2010 to the date of filing  
15 of this complaint; and 2) all non-Facebook members who visited a website in the Facebook  
16 Connect network and subsequently visited a website displaying the Facebook "Like" button from  
17 April 22, 2010 to the date of the filing of this complaint. Venue is proper in this Court because  
18 defendant Facebook maintains its principal place of business in this county and the defendants  
19 engaged in wrongdoing in this county.

20 20. This Court has jurisdiction over these proceedings because defendant Facebook is  
21 located in the State of California, Facebook transacts business within this state, has committed  
22 wrongful acts within the state, and has committed wrongful acts that caused injury to persons  
23 within the state.

24 21. This action is properly maintainable as a class action.

25 22. The Class is so numerous that joinder of all members is impracticable. There are  
26 tens of millions of Internet users who have been tracked via the Facebook "Like" button.

1 23. There are questions of law and fact that are common to the Class including, *inter*  
2 *alia*, the following:

3 (a) whether Facebook engaged in conduct that invaded Plaintiffs' privacy  
4 interests;

5 (b) whether Plaintiffs had a reasonable expectation of privacy as to the  
6 interests invaded;

7 (c) whether the invasion of privacy was serious;

8 (d) whether this invasion of privacy caused Plaintiffs to suffer injury, damage,  
9 loss, or harm; and

10 (e) whether Facebook was unjustly enriched by the unauthorized acquisition  
11 of Plaintiffs' personally identifiable information.

12 24. Plaintiffs will fairly and adequately represent the Class. Plaintiffs are committed  
13 to prosecuting this action and has retained competent counsel experienced in litigation of this  
14 nature. Plaintiffs' claims are typical of the claims of other members of the Class and Plaintiffs  
15 have the same interests as the other members of the Class.

16 25. Plaintiffs anticipate no difficulty in the management of this litigation.

17 26. Defendants have acted in a manner that affects Plaintiffs and all Class members  
18 alike, thereby making appropriate injunctive, declaratory, and other relief appropriate with  
19 respect to the Class as a whole.

20 27. The prosecution of separate actions by individual members of the Class would  
21 create a risk of inconsistent or varying adjudications with respect to individual members of the  
22 Class, establish incompatible standards of conduct for defendants or adjudications with respect to  
23 individual members of the Class, and could be dispositive of the interests of other members or  
24 substantially impair or impede their ability to protect their interests.

25 **FIRST CAUSE OF ACTION**  
26 **(Violation of Article 1, Section 1 of the California Constitution)**

27 28. Plaintiffs incorporate each and every allegation as if fully set forth herein.

1           29. Article I, Section 1 of the California Constitution states that "All people are by  
2 nature free and independent and have inalienable rights. Among these are enjoying and  
3 defending life and liberty, acquiring, possessing, and protecting property, and pursuing and  
4 obtaining safety, happiness, and privacy." Cal. Const. art. I, § 1.

5           30. Plaintiffs had a legally protected interest in their personal Internet browsing  
6 history.

7  
8           31. Plaintiffs reasonably expected that their browsing history would remain  
9 anonymous.

10          32. Facebook committed a serious invasion of Plaintiffs' privacy interest by using the  
11 "Like" button and Facebook Connect to secretly track Plaintiffs' website browsing history.

12          33. By the acts, transactions and courses of conduct alleged herein, defendant violated  
13 Plaintiffs' inalienable right to privacy.

14                                   **SECOND CAUSE OF ACTION**  
15                                   **(Unjust Enrichment)**

16          34. Plaintiffs incorporate each and every allegation as if fully set forth herein

17          35. Plaintiffs and the Class have conferred a benefit on Facebook. Facebook has  
18 received and retained money belonging to Plaintiffs and the Class as a result of collecting and  
19 storing its users' personal information, which is an asset, and selling it to third parties for  
20 marketing purposes without the Internet users' knowledge.

21          36. Facebook appreciates or has knowledge of this benefit.

22          37. Under principles of equity and good conscience, Facebook should not be  
23 permitted to retain money belonging to Plaintiffs and the Class that it unjustly received as a  
24 result of its actions.

25          38. Plaintiffs and the Class have suffered loss as a direct result of Facebook's  
26 conduct.  
27  
28

1 39. Plaintiffs, on their own behalf and on behalf of the Class, seek imposition of a  
2 constructive trust on a restitution of the proceeds Facebook received as a result of its conduct  
3 described herein and attorneys fees and costs pursuant to Cal. Civ. Proc. Code § 1021.5.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiffs and members of the Class seek relief against defendant as  
6 follows:

7 A. Declaring that this action is properly maintainable as a class action and certifying  
8 Plaintiffs as the representatives of the Class.

9 B. Declaring that Facebook's actions, as described herein, violate Article I, Section 1  
10 of the California Constitution. Cal. Const. art. I, § 1.

11 C. Awarding injunctive and other equitable relief as is necessary to protect the  
12 interests of Plaintiffs and the Class including, *inter alia*, an order prohibiting Facebook from  
13 engaging in the wrongful and unlawful acts described herein.

14 D. Disgorgement of all revenue earned from selling or otherwise trading on the  
15 private information obtained from Plaintiffs and the Class via the Facebook "Like" button.

16 E. Awarding Plaintiffs and the Class their reasonable litigation expenses and  
17 attorneys fees; and

18 F. Awarding such other and further relief as equity and justice may require.  
19  
20

21 **DEMAND FOR JURY TRIAL**

22 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

23 DATED: May 6, 2011

24 **MILBERG LLP**  
25 **JEFF S. WESTERMAN**  
26 **DAVID E. AZAR**

27   
28 **DAVID E. AZAR**