

EXHIBIT A

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17 *Attorneys for Plaintiffs and the Proposed Class*

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

21 MATTHEW CAMPBELL, MICHAEL
HURLEY, and DAVID SHADPOUR, on
22 behalf of themselves and all others
similarly situated,

23 Plaintiffs,

24 v.

25 FACEBOOK, INC.,

26 Defendant.
27

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Case No. C 13-5996 PJH

**PLAINTIFFS' THIRD SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT**

1 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Plaintiffs request
2 that Defendant Facebook respond to the following requests for the production of Documents
3 (each, a “Request,” collectively the “Requests”) within thirty (30) days of service.

4 **DEFINITIONS**

- 5 (a) **“Action”** means the case captioned *Matthew Campbell et al. v. Facebook, Inc.*; Case No.
6 C 13-5996 PJH (N.D. Cal.).
- 7 (b) **“Communication”** means the conveyance (in the form of facts, ideas, thoughts, opinions,
8 data, inquiries or otherwise) of information and includes, without limitation,
9 correspondence, memoranda, reports, presentations, face-to-face conversations, telephone
10 conversations, text messages, instant messages, voice messages, negotiations, agreements,
11 inquiries, understandings, meetings, letters, notes, telegrams, mail, email, and postings of
12 any type.
- 13 (c) **“Document(s)”** means all materials within the full scope of Fed. R. Civ. P. 34 including
14 but not limited to: all writings and recordings, including the originals, drafts and all non-
15 identical copies, whether different from the original by reason of any notation made on
16 such copies or otherwise (including but without limitation to, email and attachments,
17 correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes,
18 contracts, reports, studies, checks, statements, tags, labels, invoices, brochures,
19 periodicals, receipts, returns, summaries, pamphlets, books, interoffice and intra-office
20 Communications, instant messages, chats, offers, notations of any sort of conversations,
21 working papers, applications, permits, file wrappers, indices, telephone calls, meetings or
22 printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications,
23 changes and amendments of any of the foregoing), graphic or aural representations of any
24 kind (including without limitation, photographs, charts, microfiche, microfilm, videotape,
25 recordings, motion pictures, plans, drawings, surveys), and electronic, mechanical,
26 magnetic, optical or electric records or representations of any kind (including without
27 limitation, computer files and programs, tapes, cassettes, discs, recordings), including
28 Metadata.

- 1 (d) **“Electronic Media”** means any magnetic, optical, or other storage media device used to
2 record or access ESI including, without limitation, computer memory, hard disks, floppy
3 disks, flash memory devices, CDs, DVDs, Blu-ray disks, cloud storage (e.g., DropBox,
4 Box, OneDrive, and SharePoint), tablet computers (e.g., iPad, Kindle, Nook, and Samsung
5 Galaxy), cellular or smart phones (e.g., BlackBerry, iPhone, Samsung Galaxy), personal
6 digital assistants, magnetic tapes of all types or any other means for digital storage and/or
7 transmittal.
- 8 (e) **“ESI” or “Electronically Stored Information”** refers to information and Documents (as
9 defined within this section) within the full scope of Fed. R. Civ. P. 34 – with all Metadata
10 intact – created, manipulated, communicated, stored, and best utilized in digital form, and
11 requiring the use of Electronic Media to access. Such information includes emails, email
12 attachments, message boards, forums, support tickets, support articles, security alerts,
13 pop-ups, videos, discussion boards, data, charts, BETA results, error messages, bug
14 reports, source code, investigative reports, monitoring reports, comments, press releases,
15 drafts, models, templates, websites, instant messages, chats, and intercompany and intra-
16 company Communications.
- 17 (f) **“Facebook User(s)”** means Persons who have established a Facebook account.
- 18 (g) **“Identify,” with respect to Documents**, means to give, to the extent known, the (a) type
19 of Document; (b) general subject matter; (c) date of the Document; (d) author(s), (e)
20 addressee(s), and (f) recipient(s).
- 21 (h) **“Identify,” with respect to Persons**, means to give, to the extent known, the Person’s full
22 name, present or last known address, and when referring to a natural person, additionally,
23 the present or last known place of employment. Once a Person has been identified in
24 accordance with this subparagraph, only the name of that Person need be listed in
25 response to subsequent discovery requesting the identification of that Person.
- 26 (i) **“Including”** means “including but not limited to” and “including without limitation.”
- 27 (j) **“Metadata”** refers to structured information about an electronic file that is embedded in
28 the file, describing the characteristics, origins, usage and validity the electronic file.

- 1 (k) **“Passive Likes”** means any Likes that were *not* generated by Facebook Users
2 affirmatively clicking on a Like button Social PlugIn, and were instead generated as a
3 result of Facebook scanning URLs contained within Private Message (*i.e.*, generated
4 through the behavior described in the Wall Street Journal article “How Private Are Your
5 Private Facebook Messages”).
- 6 (l) **“Person”** means any natural person or any business, legal or governmental entity or
7 association.
- 8 (m) **“Plaintiff”** and **“Plaintiffs”** refer to the named plaintiffs in this Action, and any reference
9 to “Plaintiff” or “Plaintiffs” shall be construed disjunctively or conjunctively as necessary
10 in order to bring within the scope of the request all responses which otherwise might be
11 construed to be outside its scope.
- 12 (n) **“Private Message(s)”** means the portion of Facebook’s service designed to transmit
13 private messages between Facebook Users – as opposed to posts – and which process is
14 engaged by, *inter alia*, the “Message” button on Facebook Users’ profile pages or via the
15 Messenger app.
- 16 (o) **“Relate(s) to,” “Related to”** or **“Relating to”** shall be construed to mean referring to,
17 reflecting, concerning, pertaining to or in any manner being connected with the matter
18 discussed.
- 19 (p) **“Third Party”** refers to any party other than You or Plaintiffs.
- 20 (q) **“You,” “Your,”** and **“Facebook”** shall mean Facebook, Inc. and any of its directors,
21 officers, employees, partners, members, representatives, agents (including attorneys,
22 accountants, consultants, investment advisors or bankers), and any other person purporting
23 to act on its behalf. In the case of business entities, these defined terms include parents,
24 subsidiaries, affiliates, predecessor entities, successor entities, divisions, departments,
25 groups, acquired entities and/or related entities or any other entity acting or purporting to
26 act on its behalf.

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1 **RULES OF CONSTRUCTION**

2 1. The connectives “and” and “or” shall be construed either disjunctively or
3 conjunctively as necessary to bring within the scope of the discovery request all responses that
4 might otherwise be construed to be outside of its scope.

5 2. “Any,” “all,” and “each” shall be construed as any, all and each.

6 3. The singular form of a noun or pronoun includes the plural form and vice versa.

7 4. The use of any tense of any verb shall also include within its meaning all other
8 tenses of that verb.

9 5. A term or word defined herein is meant to include both the lower and upper case
10 reference to such term or word.

11 6. Any headings which appear in the section entitled Requests for Production of
12 Documents have been inserted for the purpose of convenience and ready reference. They do not
13 purport to, and are not intended to, define, limit, or extend the scope or intent of the requests to
14 which they pertain.

15 **INSTRUCTIONS**

16 1. You are requested to produce all Documents and ESI in Your possession, custody,
17 or control – as well as Documents and ESI that are in the possession of Your partners, officers,
18 employees, attorneys, accountants, representatives, or agents, or that are otherwise subject to
19 Your custody or control – that are described below.

20 2. Unless otherwise indicated, the Documents and ESI to be produced include all
21 Documents and ESI prepared, sent, dated or received, or those that otherwise came into existence
22 any time during the Relevant Time Period, as stated below.

23 3. The production by one person, party, or entity of a Document or item of ESI does
24 not relieve another person, party, or entity from the obligation to produce his, her, or its own copy
25 of that Document or ESI, even if the two are identical.

26 4. In producing Documents and ESI, You are requested to produce a copy of each
27 original Document and ESI together with a copy of all non-identical copies and drafts of such
28 Document or ESI. If the original of any Document or ESI cannot be located, a copy shall be

1 provided in lieu thereof, and shall be legible and bound or stapled in the same manner as the
2 original.

3 5. Documents and ESI shall be produced as they are kept in the usual course of
4 business. All Documents and ESI shall be produced with a copy of the file folder, envelope, or
5 other container in which the Documents and ESI are kept or maintained. All Documents and ESI
6 shall be produced intact in their original files, without disturbing the organization of Documents
7 and ESI employed during the conduct of the ordinary course of business and during the
8 subsequent maintenance of the Documents and ESI.

9 6. Documents and ESI not otherwise responsive to this discovery request shall be
10 produced if such Documents and ESI mention, discuss, refer to, or explain the Documents and
11 ESI which are called for by this discovery request, or if such Documents and ESI are attached to
12 Documents and ESI called for by this discovery request and constitute routing slips, transmittal
13 memoranda, or letters, comments, evaluations or similar materials.

14 7. Each Document and item of ESI requested herein is requested to be produced in its
15 entirety and without deletion or excisions, regardless of whether You consider the entire
16 Document or item of ESI to be relevant or responsive to this request. If You have redacted any
17 portion of a Document or item of ESI, stamp the word "redacted" on each page of the Document
18 or item of ESI that You have redacted.

19 8. If any Document or item of ESI called for by these requests is not produced in full
20 or is redacted on the ground that it is privileged or otherwise claimed to be protected against
21 production, You are requested to provide the following information with respect to each such
22 Document or item of ESI or redaction:

- 23 (a) its date;
- 24 (b) its author(s), its signatory(s) and each and every other person who prepared
25 or participated in its preparation;
- 26 (c) the type of Document or item of ESI it is (e.g., letter, chart, memorandum,
27 etc.);
- 28 (d) a description of its subject matter and length;

1 (e) a list of those persons and entities to whom said Document(s) or item of
2 ESI was disseminated, together with their last known addresses and the date or approximate date
3 on which each such person or entity received it;

4 (f) a list of all other persons to whom the contents of the Document or item of
5 ESI have been disclosed, the date such disclosure took place, the means of such disclosure, and
6 the present location of the Document or item of ESI and all copies thereof;

7 (g) each and every person having custody or control of the Document or item
8 of ESI and all copies thereof; and

9 (h) the nature of the privilege or other rule of law relied upon and any facts
10 supporting Your position in withholding production of each such Document or item of ESI.

11 9. If You assert an objection to any request, You must nonetheless respond and
12 produce any responsive Documents and ESI that are not subject to the stated objection. If You
13 object to part of a request or category, You must specify the portion of the request to which You
14 object, and must produce Documents and ESI responsive to the remaining parts of the request.

15 10. Notwithstanding a claim that a Document or item of ESI is protected from
16 disclosure, any Document or item of ESI so withheld must be produced with the portion claimed
17 to be protected redacted.

18 11. If any Document or ESI is known to have existed but no longer exists, has been
19 destroyed, or is otherwise available, You must identify the Document or ESI, the reason for its
20 loss, destruction or unavailability, the name of each person known or reasonably believed by You
21 to have present possession, custody, or control of the original and any copy thereof (if
22 applicable), and a description of the disposition of each copy of the Document or ESI.

23 12. Every Request for Production herein shall be deemed a continuing discovery
24 request, and You are to supplement information which adds to or is in any way inconsistent with
25 Your initial answers to these Requests.

26 13. Plaintiffs reserve the right to propound additional discovery requests.

27 **RELEVANT TIME PERIOD**

28 The relevant time period for each Document Request is for September 26, 2006 through

1 the present (the “Relevant Time Period”), unless otherwise specifically indicated, and shall
2 include all Documents, ESI, and any other information that relate to such period, even though
3 prepared or published outside of the relevant time period. If a Document or item of ESI prepared
4 before this period is necessary for a correct or complete understanding of any Document or item
5 of ESI covered by a request, You must produce the earlier or subsequent Document or item of
6 ESI as well. If any Document or item of ESI is undated and the date of its preparation cannot be
7 determined, the Document or item of ESI shall be produced if otherwise responsive to the
8 production request.

9 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

10 **REQUEST FOR PRODUCTION NO. 53:**

11 All Documents and ESI relating to Your efforts, or efforts by Third Parties on Your
12 behalf—whether undertaken or contemplated but not undertaken—to assign a monetary value to
13 Facebook Users, or to determine the monetary value of data received or content collected by You
14 from Facebook Users (and/or any additional information derived therefrom), or to determine the
15 revenue or profits made from data received or content collected by You from Facebook Users
16 (and/or any additional information derived therefrom).

17 **REQUEST FOR PRODUCTION NO. 54:**

18 All Documents and ESI relating to Your efforts, or efforts by Third Parties on Your
19 behalf—whether undertaken or contemplated but not undertaken—to assign a monetary value to
20 the data contained within, or data received or content collected from, Private Messages, and/or
21 any additional information derived therefrom.

22 **REQUEST FOR PRODUCTION NO. 55:**

23 All Documents and ESI sufficient to identify the number of web pages with “Like” Social
24 Plugins embedded, by month, during the Relevant Time Period.

25 **REQUEST FOR PRODUCTION NO. 56:**

26 All Documents and ESI sufficient to identify the number “Likes” generated, by month,
27 during the Relevant Time Period.

28 **REQUEST FOR PRODUCTION NO. 57:**

1 All Documents and ESI sufficient to identify the number of Passive Likes generated, by
2 month, during the Relevant Time Period.

3 **REQUEST FOR PRODUCTION NO. 58:**

4 All Documents and ESI related to any analysis—for internal or external use—correlating
5 the acquisition of “Likes” by Third Parties and the advertising spend of those Third Parties on
6 Facebook ad buys.

7 **REQUEST FOR PRODUCTION NO. 59:**

8 All Documents and ESI relating to Your efforts, or efforts by Third Parties on Your
9 behalf—whether undertaken or contemplated but not undertaken—to assign a monetary value to
10 the presence of a “Like” Social Plugin on a Third-Party website, or to determine the value of data
11 received or content collected from the presence of a “Like” Social Plugin on a Third-Party
12 website (and/or any additional information derived therefrom), or to determine the revenue or
13 profits made from the presence of a “Like” Social Plugin on a Third-Party website (and/or any
14 additional information derived therefrom).

15 **REQUEST FOR PRODUCTION NO. 60:**

16 All Documents and ESI relating to Your efforts, or efforts by Third Parties on Your
17 behalf—whether undertaken or contemplated but not undertaken—to increase and/or maximize
18 the presence of the Like Social Plugin on Third Party websites.

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1 Dated: June 29, 2015

Respectfully submitted,

2 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

3
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18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

21 MATTHEW CAMPBELL, MICHAEL
HURLEY, and DAVID SHADPOUR, on
22 behalf of themselves and all others
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23 Plaintiffs,

24 v.

25 FACEBOOK, INC.,

26 Defendant.
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Case No. C 13-5996 PJH

PROOF OF SERVICE BY EMAIL

1 I am a citizen of the United States and employed in San Francisco County, California. I
2 am over the age of eighteen years and not a party to the within-entitled action. My business
3 address is 275 Battery Street, 29th Floor, San Francisco, California 94111-3339.

4 I am readily familiar with Lieff, Cabraser, Heimann & Bernstein, LLP's practice for
5 collection and processing of documents for service via email, and that practice is that the
6 documents are attached to an email and sent to the recipient's email account.

7
8 On June 29, 2015, I caused to be served copies of the following documents:

- 9 **1. PLAINTIFFS' SECOND SET OF REQUESTS FOR**
10 **PRODUCTION OF DOCUMENTS TO DEFENDANT; and**
11 **this**
- 12 **2. PROOF OF SERVICE BY EMAIL**

13 on Defendant in this action through their counsel:

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26
27 Executed on June 29, 2015, at San Francisco, California.

28 */s/ Melissa A. Gardner*

Melissa A. Gardner