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 FACEBOOK, INC.

12
 13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 OAKLAND DIVISION

16 MATTHEW CAMPBELL and MICHAEL
 HURLEY, on behalf of themselves and all others
 17 similarly situated,

18 Plaintiffs,

19 v.

20 FACEBOOK, INC.,

21 Defendant.

First Filed Case: No. C 13-05996 PJH
 Related Case: No. C 14-00307 PSG

CLASS ACTION

**FACEBOOK, INC.'S ADMINISTRATIVE
 MOTION TO RELATE CASES**

The Honorable Phyllis J. Hamilton

1 Pursuant to Civil Local Rule 3-12(b), Facebook, Inc. (“Facebook”) respectfully submits this
2 Administrative Motion to give notice of the following action: *Shadpour v. Facebook, Inc.*, Case No.
3 5:14-00307-PSG (“*Shadpour*”), filed in this District on January 21, 2014. Facebook brings the
4 *Shadpour* filing to the Court’s attention because *Shadpour* is related to the above-captioned action,
5 *Campbell, et al. v. Facebook, Inc.*, Case No. 4:13-05996-PJH, under Local Rule 3-12. All parties to
6 the *Campbell* and *Shadpour* cases have executed a stipulation agreeing that the cases are related and
7 seeking a reassignment of the *Shadpour* case to this Court. That stipulation and a proposed order are
8 being filed with this Motion.

9 **I. INTRODUCTION**

10 On December 30, 2013, plaintiffs Matthew Campbell and Michael Hurley initiated this
11 putative class action against Facebook, alleging violations of federal and state law in connection with
12 the purported scanning of URLs in private messages between Facebook users.¹ The *Campbell*
13 Complaint alleges that Facebook scans users’ messages for URLs for the purpose of delivering
14 targeted advertising and building user profiles.²

15 On January 21, 2014, three weeks after the *Campbell* Complaint was filed, plaintiff David
16 Shadpour filed a separate putative class action in this District against Facebook predicated on
17 substantially similar facts and substantive allegations, and asserting the same state law claims as the
18 *Campbell* Complaint.³ Given the overlapping nature of the *Campbell* and *Shadpour* suits, an order
19 relating the cases would avoid duplicative labor, the unnecessary expenditure of private and judicial
20 resources, and the risk of inconsistent or conflicting rulings that might occur if the actions proceeded
21 separately in different courts.

22 **II. THE CAMPBELL AND SHADPOUR ACTIONS SHOULD BE RELATED**

23 Local Rule 3-12(a) provides that “[a]n action is related to another when: (1) [t]he actions
24

25 ¹ Complaint (hereinafter, “Campbell Compl.”), attached as Exhibit A.

26 ² *Id.* ¶¶ 6–7.

27 ³ Complaint, *Shadpour v. Facebook, Inc.*, Case No. 5:14-00307-PSG (hereinafter, “Shadpour
28 Compl.”), attached as Exhibit B.

1 concern substantially the same parties, property, transaction, or event; and (2) [i]t appears likely that
2 there will be an unduly burdensome duplication of labor and expense or conflicting results if the
3 cases are conducted before different Judges.” Under this standard, the *Campbell* and *Shadpour*
4 actions are related because they involve substantially the same parties and events, and relation would
5 create significant efficiencies while minimizing the likelihood of conflicting rulings.

6 **A. The Actions Involve Substantially the Same Parties and Events**

7 The *Campbell* Complaint and *Shadpour* Complaint each assert legal violations based on the
8 same alleged conduct: the alleged scanning of URLs in private messages between Facebook users for
9 the purpose of delivering targeted advertising and building user profiles. The allegations are more
10 than similar. In fact, the complaints contain dozens of identical allegations, ranging from general
11 background on data aggregation and Facebook’s business model, to the core conduct purportedly at
12 issue in the cases. For example, both complaints allege, among other things:

- 13 • “When a user composes a Facebook message and includes a link to a third party website
14 (a ‘URL’), the Company scans the content of the Facebook message, follows the enclosed
link, and searches for information to profile the message-sender’s web activity.”⁴
- 15 • “Facebook performs this task to aggregate data on its users for purposes of advertising,
16 marketing and user profiling[.]”⁵
- 17 • “All of Facebook’s activities complained of herein are [allegedly] performed without
users’ consent.”⁶

18 Similarly, in alleging lack of consent for this purported conduct, both complaints quote identical
19 excerpts from numerous Facebook web pages, including portions of the “Help Center,”⁷ “Data Use
20 Policy,”⁸ and “Statement of Rights and Responsibilities.”⁹ The two actions thus concern the same

21
22 ⁴ See *Campbell* Compl. ¶ 5; *Shadpour* Compl. ¶ 6.

23 ⁵ See *Campbell* Compl. ¶ 50; *Shadpour* Compl. ¶ 43.

24 ⁶ See *Campbell* Compl. ¶ 9; *Shadpour* Compl. ¶ 9.

25 ⁷ See *Campbell* Compl. ¶¶ 38, 43; *Shadpour* Compl. ¶¶ 31, 36.

26 ⁸ See *Campbell* Compl. ¶¶ 83–84; *Shadpour* Compl. ¶¶ 65–66.

27 ⁹ See *Campbell* Compl. ¶¶ 80–81; *Shadpour* Compl. ¶¶ 62–63.

1 alleged transactions or events.

2 Both cases also concern substantially the same parties. Facebook is the sole defendant in each
3 case, and the named plaintiffs in each case seek to represent almost identical proposed classes.¹⁰
4 Additionally, plaintiffs allege overlapping causes of action and seek substantially the same relief.
5 Both complaints allege violations of California Penal Code § 630, et seq.,¹¹ as well as unlawful,
6 unfair, and fraudulent conduct in alleged violation of California’s Unfair Competition Law, Cal. Bus.
7 & Prof. Code § 17200, et seq.¹² For these alleged violations, both complaints request declaratory
8 relief, preliminary and permanent injunctive relief, and monetary damages.¹³

9 **B. Relation Will Avoid Duplication of Labor and Prevent Conflicting Results**

10 Because these actions involve the same alleged factual events and allege overlapping claims,
11 relation will prevent “unduly burdensome duplication of labor and expense or conflicting results” that
12 could occur if the cases are “conducted before different Judges.” *See* Civ. L.R. 3-12(a)(2).
13 Conducting these two virtually identical cases before two different judges would be a tremendous
14 waste of the resources of both the parties and the Court. Relating these cases also will reduce the risk
15 of inconsistent or conflicting rulings with respect to the legal issues framed by both complaints.

16 ///

17 ///

18 ///

23 ¹⁰ *See* Campbell Compl. ¶ 91; Shadpour Compl. ¶ 69.

24 ¹¹ *See* Campbell Compl. ¶¶ 123–51; Shadpour Compl. ¶¶ 78–86.

25 ¹² *See* Campbell Compl. ¶¶ 152–58; Shadpour Compl. ¶¶ 87–93. The *Campbell* Complaint also
26 asserts an alleged violation of the Electronic Communications Privacy Act (18 U.S.C. § 2510 *et*
27 *seq.*).

28 ¹³ *See* Campbell Compl. at pp. 33–34; Shadpour Compl. at p. 24.

1 **III. CONCLUSION**

2 For the foregoing reasons, Facebook respectfully requests that this Court grant its motion and
3 sign the proposed order attached to the parties’ stipulation relating the *Shadpour* action to the
4 *Campbell* action.

5 Respectfully submitted,

6 DATED: January 29, 2014

GIBSON, DUNN & CRUTCHER LLP

8 By: _____/s/
9 JOSHUA A. JESSEN

10 Attorneys for Defendant
11 FACEBOOK, INC.

CERTIFICATE OF SERVICE

I, Jeana Bisnar Maute, declare as follows:

I am employed in the County of Santa Clara, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 1881 Page Mill Road, Palo Alto, CA 94304-1211, in said County and State. On January 29, 2014, I served the following document(s):

FACEBOOK, INC.’S ADMINISTRATIVE MOTION TO RELATE CASES

on all counsel of record in the actions stated below, by the following means of service:

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16 **VIA EMAIL AND U.S. MAIL**

15 **BY UNITED STATES MAIL:** I placed a true copy in a sealed envelope or package addressed to the persons as
16 indicated above, on the above-mentioned date, and placed the envelope for collection and mailing, following our
17 ordinary business practices. I am readily familiar with this firm's practice for collecting and processing
18 correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited
19 with the U.S. Postal Service in the ordinary course of business in a sealed envelope with postage fully prepaid. I am
20 aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is
21 more than one day after date of deposit for mailing set forth in this declaration.

22 I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the
23 mail at Palo Alto, California.

24 **BY ELECTRONIC SERVICE:** On the above-mentioned date, I caused the documents to be sent to the persons at
25 the electronic notification addresses as shown above.

26 I certify under penalty of perjury that the foregoing is true and correct, that the foregoing
27 document(s) were printed on recycled paper, and that this Certificate of Service was executed by the
28 undersigned on January 29, 2014.

/s/ Jeana Bisnar Maute

Jeana Bisnar Maute