

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND DIVISION

4 MATTHEW CAMPBELL, MICHAEL
5 HURLEY, and DAVID SHADPOUR,

6 Plaintiffs,

7 v.

8 FACEBOOK, INC.,

9 Defendant.

Case No. C 13-05996 PJH (MEJ)

**ATTESTATION IN SUPPORT OF JOINT
LETTER REGARDING FACEBOOK'S
RESPONSES TO PLAINTIFFS'
INTERROGATORY NO. 8 AND REQUEST
FOR PRODUCTION NO. 41**

Date: TBD
Time: TBD
Location: San Francisco Courthouse
Courtroom B – 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

12 Pursuant to the Discovery Standing Order for Magistrate Judge Maria-Elena James,
13 undersigned counsel hereby attest that they met and conferred in person in a good faith attempt to
14 resolve their disputes prior to filing the below joint letter.
15

16 Dated: September 18, 2015

Respectfully submitted,

18 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

19 By: /s/ Michael W. Sobol
MICHAEL W. SOBOL

20 *Attorneys for Plaintiffs*

22 GIBSON, DUNN & CRUTCHER LLP

23 By: /s/ Joshua A. Jessen
JOSHUA A. JESSEN

24 *Attorneys for Defendant Facebook, Inc.*

VIA ECF

The Honorable Maria-Elena James, Chief Magistrate Judge
United States District Court, Northern District of California
San Francisco Courthouse, Courtroom B - 15th Floor
450 Golden Gate Avenue, San Francisco, CA 94102

Re: *Campbell v. Facebook, Inc.*, N.D. Cal. Case No. 13-cv-05996-PJH (MEJ)

To The Hon. Maria-Elena James:

Plaintiffs and Defendant Facebook, Inc. jointly submit this letter brief pursuant to the Court's Discovery Standing Order.

I. Background

A dispute has arisen in this action over Plaintiffs' Interrogatory No. 8 and Request for Production No. 41. Interrogatory No. 8 asks Facebook to:

Identify all facts relating to the Processing of each Private Message sent or received by Plaintiffs containing a URL, including, for each Private Message:

(A) all Objects that were created during the Processing of the Private Message, including the (id) and the Object Type for each Object, as well as any Key -> Value Pair(s) contained in each Object;

(B) all Objects that were created specifically when the embedded URL was shared, including the (id) and the Object Type for each Object, as well as any Key -> Value Pair(s) contained in each Object;

(C) all Associations related to each Private Message, identified by the Source Object, Association Type, and Destination Object, as well as any Key -> Value Pair(s) contained in each Association;

(D) the database names and table names in which each Association and Object is stored;

(E) each application or feature in Facebook that uses the Objects or Associations created for each Private Message; and

(F) how each Object associated with the Private Message was used by Facebook.

(Ex. A.) Request for Production No. 41, in turn, seeks the production of "[a]ll Documents and ESI relied upon, reviewed, or referenced by [Facebook] in answering Interrogatory No. 8." (Ex. B.)

In its responses, Facebook offered to meet and confer with Plaintiffs on these requests (Exs. C & D), and the parties met and conferred several times thereafter. During that

process, Plaintiffs narrowed the requests to 19 of Plaintiffs' messages. Facebook then searched for these 19 messages, located 16 of them, and produced to Plaintiffs the objects and associations (if any) related to the URLs included in those 16 messages on September 1, 2015. (Ex. E) Plaintiffs consider this a partial production. Having conferred in person, the parties are now at an impasse and submit this joint letter pursuant to the Court's Discovery Standing Order.

II. Plaintiffs' Position

These discovery requests seek information directly related to the essential issues in this case: *what* content Facebook acquires when it intercepts private messages, *where* Facebook stores that content, and *how* Facebook uses that content. Information relating to the Objects and Associations¹ created from Plaintiffs' messages is not only critical to Plaintiffs' claims, but also to Facebook's defenses.

Facebook's principal argument is *not* that this information should not be produced—rather, it argues this brief is premature. However, the brief is the culmination of three-and-a-half month process that included four in-person meet and confers and seven letters exchanged between the parties, after which time Facebook provided only partial, inadequate responses.² The deadline for both class certification and summary judgment motions is October 14, less than one month from the date of this filing. Facebook's position that it will provide fulsome responses at an unspecified time in the future unduly prejudices Plaintiffs in their efforts to prepare for these impending, critical deadlines.³

Despite stating that it will, eventually, produce the information sought, Facebook simultaneously—and contradictorily—challenges the relevance of Plaintiffs' discovery requests, claiming that only Objects and Associations directly related to URLs should be produced. Facebook knows this position is untenable, as it already has agreed to provide “all source code related to the private message function from creation through end storage, including *any scanning or acquisition of private message content and any data structures that connect or associate users to messages or message content*, and messages to attachments or URLs.”⁴ The source code enables Plaintiffs to understand the processes Facebook employs for its messaging functionality, thereby giving Plaintiffs an overview of how and when messages are scanned. The information sought in these requests is a *corollary* to that source code; here, Plaintiffs wish to learn what *specific* data were generated by Facebook, from only nineteen of their own messages, and how that data was used and stored.

Further, while Facebook is correct that Plaintiffs do not challenge the message scanning it conducts “for criminal conduct, illegal pornography, [and] viruses,” it omits the fact that Facebook, itself, intends to rely on these scanning activities in support of its

¹ Objects and Associations are metadata structures that Facebook generates to catalog its users' online activity.

² See Declaration of David T. Rudolph in Support of Plaintiffs' Motion to Enlarge Time and Extend Deadlines at ¶¶ 29-32 (Dkt. No. 109-2).

³ This delay has been typical of Facebook's response across the entire discovery spectrum, forcing Plaintiffs to file an opposed motion with Judge Hamilton seeking a 90-day extension to the October 14 deadlines. See Plaintiff's Motion to Extend Time and Enlarge Deadlines (Dkt. No. 109).

⁴ E-mail from J. Jessen, Facebook Counsel, to H. Bates, Plaintiffs Counsel (Jun. 25, 2015, 11:01 PM CST).

“ordinary course of business” affirmative defense. *See* Joint Case Management Statement at 4, 6-7 (Dkt. No. 60). Facebook cannot limit production to a narrow subset of its scanning practices, while simultaneously invoking the *remainder* of its scanning practices as defenses. Accordingly, Facebook should be compelled to promptly remedy the following deficiencies:

First, Facebook has wholly ignored Plaintiffs’ Interrogatory No. 8, providing instead an assortment of printouts from unidentified databases. These documents lack the necessary context and breadth to properly answer Plaintiffs’ Interrogatory. **Second**, these printouts only address a subset of Plaintiffs’ discovery requests; namely, Objects and Associations created from URLs present in Plaintiffs’ messages.⁵ **Third**, Plaintiffs sought the names of the databases and tables in which the Objects and Associations are stored, which Facebook has refused to provide. **Fourth**, none of the documents produced respond to Subparts (E) and (F) of Interrogatory No. 8, which asks Facebook to identify the uses to which Facebook puts these Objects and Associations. Facebook complains that identifying *all* these uses is unduly burdensome due to the “complicated and vast” nature of its architecture, which prevents creating a “readily identifiable list of this information.” This position cuts against Facebook’s argument that it does nothing with Plaintiffs’ message content, is not supported by any evidence, and is counter to its position that Facebook will, in time, produce the information. **Fifth**, Facebook’s production references *additional*, explanatory documents that were not provided. As just one example, FB000005827 explains that [REDACTED]

[REDACTED] Facebook, itself, appears to use the document [REDACTED]. Therefore, this document and any similar reference documents should be produced.⁶

These discovery requests are narrowly tailored to provide specific examples of how Facebook’s message-scanning practices work, complementing the source code already provided by Facebook. The scope of discovery has been limited further to only nineteen messages belonging to the named Plaintiffs. This information not only allows Plaintiffs to determine the extent to which their message content was acquired, stored and used, but also to measure these data points against Facebook’s defenses that all message scanning and content acquisition at issue was conducted within the ordinary course of its business. This cannot happen unless Facebook is ordered to remedy the above deficiencies in its responses.

III. Facebook’s Position

This is yet another unnecessary discovery letter brief, and Plaintiffs’ requests are the exact opposite of “narrowly tailored.” Facebook has agreed to conduct a reasonable search for relevant information in response to this interrogatory (and the accompanying Request for

⁵ Even this limited subset of information is incomplete. In multiple instances, [REDACTED]

⁶ Additionally, FB000005827 contains several [REDACTED]. If, as this document suggests, [REDACTED], Facebook must provide Plaintiffs with this data.

Production), as narrowed by Plaintiffs. **Facebook has in fact already produced the information that is relevant to Plaintiffs' claims.** Moreover, Facebook is continuing to search for additional information. However, Plaintiffs' requests are vastly overbroad and much of the information is not accessible without undue burden (if it is accessible at all). The Court should therefore deny Plaintiffs' requested relief.⁷

Plaintiffs' Complaint challenges a very specific practice—namely, the alleged “scanning” **of URLs** sent in “private messages” to increase the “like” counter on third-party websites before the end of 2012. Plaintiffs do not challenge other processes involving Facebook messages, including other forms of what Plaintiffs characterize as “scanning,” such as “scans for criminal conduct, illegal pornography, [and] viruses.” (Dkt. 45 (10/1/14 Hrg. Tr.) at 41:7-17.) Indeed, Plaintiffs' proposed class includes only “Facebook users located within the United States who have sent or received private messages **that included URLs.**” (CAC ¶ 59.) Because their claims are so limited, Plaintiffs have **redacted** all of the content in their messages except for the URLs. **Indeed, Plaintiffs have not produced any messages that did not include a URL.**⁸ In reality, Facebook did not “intercept” URLs contained in messages.

[REDACTED]

This routine commercial conduct violates no law.

After Plaintiffs narrowed their Interrogatory No. 8 to seek information about 19 specific messages, Facebook searched for and located 16 of them. [REDACTED]

[REDACTED] Facebook also produced other technical information for each message. The production totaled almost **700 pages**. Plaintiffs thus are now in possession of the “objects” and “associations” that are relevant to their claims regarding URL “scanning.”⁹

Unsatisfied, Plaintiffs also have demanded the production of **any** “objects” and “associations” related to these messages, regardless of the fact that they have no conceivable relevance to Plaintiffs' allegations of “scanning” **URLs** to increase the “like” counter. Extracting the data comprising objects and associations into producible form—which Facebook's systems were never designed to do—especially for objects that are irrelevant to Plaintiffs' claims, is overbroad and unduly burdensome. Nonetheless, in an effort to avoid more wasteful motion practice, Facebook will produce those that can be identified and

⁷ Plaintiffs improperly cite their eleventh-hour “Motion to Extend Time and Enlarge Deadlines” and supporting declaration for the proposition that Facebook has “delay[ed]” its discovery responses “across the entire discovery spectrum.” As Facebook will lay out in its soon-to-be filed opposition, nothing could be further from the truth. Plaintiffs have the information they need in this case; they just do not like what it shows.

⁸ Plaintiffs' suggestion that they need additional information to defend against Facebook's “ordinary course of business” argument is specious. Plaintiffs do not challenge Facebook's processing of messages for these other purposes, and they already have access to all of the relevant source code for these processes, in any event.

⁹ Contrary to their suggestion above, Plaintiffs also are in possession of the names of databases storing the [REDACTED], which were included in the produced documentation. Plaintiffs apparently expected “more context” about database names, but have not articulated what context they seek or its possible relevance.

extracted after a reasonable search. Plaintiffs have no need for this irrelevant information to prepare their motion for class certification or to oppose Facebook’s future motion for summary judgment.

Plaintiffs also have demanded a variety of other pieces of information, such as (i) “each application or feature in Facebook that uses the Objects or Associations,” and (ii) “how each Object associated with the Private Message was used.” But Facebook is a massive social network, and processing, routing, and storing content from billions of user actions per day requires generation of an enormous amount of data that are not accessible in the way that Plaintiffs imagine. Facebook’s technical architecture is complicated and vast, and there is no readily identifiable list of this information—nor can any list be assembled without significant undue burden (though it likely cannot be assembled at all). And again, Plaintiffs’ request is not limited to the subject matter of their claims—*URLs* contained in messages.¹⁰

Facebook already gave Plaintiffs direct access to *all the relevant source code*—the “black box” they told this Court they needed to understand Facebook’s messages product. (Dkt. 92.) To date, Plaintiffs have had *three different experts* spend almost *four weeks* analyzing that source code (which Facebook provided, reluctantly and unusually, in this *consumer class action* as a compromise, not as a concession of relevance, as Plaintiffs incorrectly suggest). Yet Plaintiffs continue to demand more. This request represents an extreme burden on Facebook, whose busy and valuable technical employees must take considerable time away from their normal job duties to search for information that is not readily accessible (if it is accessible at all), and not even remotely related to Plaintiffs’ claims. Plaintiffs are no longer seeking information relevant to their claims—*they are improperly fishing for a new basis for their meritless lawsuit*. See, e.g., *Hughes v. LaSalle Bank, N.A.*, 2004 WL 414828, at *1-2 (S.D.N.Y. Mar. 4, 2004) (affirming order limiting discovery to the putative class alleged in the complaint); *Flores v. Bank of America*, 2012 WL 6725842, at *2-4 (S.D. Cal. Dec. 27, 2012) (denying motion to compel discovery that fell outside the class definition; such discovery “constitutes a ‘fishing expedition’ which would be unduly burdensome for Defendants”). Facebook respectfully requests that the Court deny Plaintiffs’ request.

¹⁰ Plaintiffs’ suggestion that Facebook is obligated to either answer an overbroad and unduly burdensome interrogatory, or undertake an overbroad and unduly burdensome collection and production in order to satisfy its discovery obligations, is contrary to Rule 33. See, e.g., *Kaufman v. Am. Family Mutual Ins. Co.*, 2007 WL 1430105, at *1 (D. Colo. May 11, 2007) (“[I]nterrogatories that require a party to make extensive investigations, research, or compilation or evaluation of data for the opposing party are in many circumstances improper.”); *Iridex Corp. v. Synergetics, Inc.*, 2007 WL 781254, at *4 (E.D. Mo. Mar. 12, 2007) (finding that party’s production of business records containing some, but not all, of the information requested was sufficient where providing such additional information would be unduly burdensome).

EXHIBIT E
(Redacted)

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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 OAKLAND DIVISION

18 MATTHEW CAMPBELL, MICHAEL
19 HURLEY, and DAVID SHADPOUR,

20 Plaintiffs,

21 v.

22 FACEBOOK, INC.,

23 Defendant.

Case No. C 13-05996 PJH (MEJ)

PUTATIVE CLASS ACTION

**DEFENDANT FACEBOOK, INC.'S
SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO PLAINTIFFS'
NARROWED SECOND SET OF
INTERROGATORIES**

1 Defendant Facebook, Inc. (“Defendant” or “Facebook”), by and through its attorneys, and
2 pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, the Local Civil Rules of the U.S.
3 District Court for the Northern District of California, the Court orders in this action, and the parties’
4 agreements, provides the following supplemental responses and objections to Plaintiffs’ Narrowed
5 Second Set of Interrogatories (the “Interrogatories”).

6 **PRELIMINARY STATEMENT**

7 1. Facebook’s responses to the Interrogatories are made to the best of Facebook’s current
8 knowledge, information, and belief. Facebook reserves the right to supplement or amend any of its
9 responses should future investigation indicate that such supplementation or amendment is necessary.

10 2. Facebook’s responses to the Interrogatories are made solely for the purpose of and in
11 relation to this action. Each response is given subject to all appropriate objections (including, but not
12 limited to, objections concerning privilege, competency, relevancy, materiality, propriety, and
13 admissibility). All objections are reserved and may be interposed at any time.

14 3. Facebook’s responses are premised on its understanding that Plaintiffs seek only that
15 information that is within Facebook’s possession, custody, and control.

16 4. Facebook incorporates by reference each and every general objection set forth below
17 into each and every specific response. From time to time, a specific response may repeat a general
18 objection for emphasis or some other reason. The failure to include any general objection in any
19 specific response shall not be interpreted as a waiver of any general objection to that response.

20 5. Nothing contained in these Responses and Objections or provided in response to the
21 Interrogatories consists of, or should be construed as, an admission relating to the accuracy,
22 relevance, existence, or nonexistence of any alleged facts or information referenced in any
23 Interrogatory.

24 **GENERAL OBJECTIONS**

25 1. Facebook objects to each Interrogatory, including the Definitions and Instructions, to
26 the extent that it purports to impose obligations beyond those imposed by the Federal Rules of Civil
27 Procedure, the Federal Rules of Evidence, the Local Civil Rules of the U.S. District Court for the
28 Northern District of California, and any agreements between the parties.

1 2. Facebook objects to each Interrogatory to the extent that it is not limited to the
2 relevant time period, thus making the Interrogatory overly broad, unduly burdensome, and not
3 relevant to the claims or defenses in this action. Unless otherwise specified in its responses, and
4 pursuant to the agreement of the parties, Facebook's responses will be limited to information
5 generated between April 1, 2010 and December 30, 2013.

6 3. Facebook objects to each Interrogatory to the extent that it seeks information unrelated
7 and irrelevant to the claims or defenses in this litigation and not reasonably calculated to lead to the
8 discovery of admissible evidence.

9 4. Facebook objects to each Interrogatory as overly broad and unduly burdensome,
10 particularly in view of Facebook's disproportionate cost necessary to investigate as weighed against
11 Plaintiffs' need for the information. The Interrogatories seek broad and vaguely defined categories of
12 materials that are not reasonably tailored to the subject matter of this action.

13 5. Facebook objects to each Interrogatory to the extent that it purports to request the
14 identification and disclosure of information or documents that were prepared in anticipation of
15 litigation, constitute attorney work product, reveal privileged attorney-client communications, or are
16 otherwise protected from disclosure under any applicable privileges, laws, or rules. Facebook hereby
17 asserts all such applicable privileges and protections, and excludes privileged and protected
18 information from its responses to each Interrogatory. *See generally* Fed. R. Evid. 502; Cal. Code
19 Evid. § 954. Inadvertent production of any information or documents that are privileged or otherwise
20 immune from discovery shall not constitute a waiver of any privilege or of any other ground for
21 objecting to the discovery with respect to such information or documents or the subject matter
22 thereof, or the right of Facebook to object to the use of any such information or documents or the
23 subject matter thereof during these or any other proceedings. In the event of inadvertent disclosure
24 of any information or inadvertent production or identification of documents or communications that
25 are privileged or otherwise immune from discovery, Plaintiffs will return the information and
26 documents to Facebook and will be precluded from disclosing or relying upon such information or
27 documents in any way.

28 6. Facebook objects to each and every Interrogatory to the extent that the information

1 sought by the Interrogatory is more appropriately pursued through another means of discovery, such
2 as a request for production or deposition.

3 7. Facebook objects to each and every Interrogatory, Definition, and Instruction to the
4 extent that it seeks information outside of Facebook's possession, custody, and control.

5 8. Facebook objects to each Interrogatory to the extent that it requests information
6 protected by the right of privacy of Facebook and/or third parties, or information that is confidential,
7 proprietary, or competitively sensitive.

8 9. Facebook objects to each Interrogatory to the extent that it seeks documents or
9 information already in Plaintiffs' possession or available in the public domain. Such information is
10 equally available to Plaintiffs.

11 10. Facebook objects to each Interrogatory on the ground and to the extent that it exceeds
12 the bounds of Federal Rule of Civil Procedure 33(a)(1), which provides that "a party may serve on
13 any other party no more than 25 written interrogatories, including all discrete subparts."

14 **OBJECTIONS TO DEFINITIONS**

15 1. Facebook objects to Plaintiffs' definition of "Association" to the extent that it is
16 vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition
17 to the extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to
18 the claims and defenses in this action.

19 2. Facebook objects to Plaintiffs' definition of "Association Type" or "(atype)" to the
20 extent that it is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects
21 to the definition to the extent that Plaintiffs purport to use this defined term to seek materials that are
22 not relevant to the claims and defenses in this action.

23 3. Facebook generally objects to Plaintiffs' definitions of "Communication,"
24 "Document(s)," "Electronic Media," "ESI," "Electronically Stored Information," "Identify," and
25 "Metadata" to the extent that Plaintiffs purport to use these defined terms to request the identification
26 and disclosure of documents that: (a) were prepared in anticipation of litigation; (b) constitute
27 attorney work product; (c) reveal privileged attorney-client communications; or (d) are otherwise
28 protected from disclosure under any applicable privileges, laws, and/or rules. Facebook further

1 objects to the extent that these definitions purport to impose obligations that go beyond the
2 requirements of the Federal and Local Rules.

3 4. Facebook objects to Plaintiffs' definition of "Destination Object" or "(id2)" to the
4 extent that it is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects
5 to the definition to the extent that Plaintiffs purport to use this defined term to seek materials that are
6 not relevant to the claims and defenses in this action.

7 5. Facebook objects to Plaintiffs' definition of "(id)" to the extent that it is vague,
8 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
9 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
10 claims and defenses in this action.

11 6. Facebook objects to Plaintiffs' definition of "Key -> Value Pair" to the extent that it is
12 vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition
13 to the extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to
14 the claims and defenses in this action.

15 7. Facebook objects to Plaintiffs' definition of "Object" to the extent that it is vague,
16 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
17 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
18 claims and defenses in this action.

19 8. Facebook objects to Plaintiffs' definition of "Object type" or "(otype)" to the extent
20 that it is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the
21 definition to the extent that Plaintiffs purport to use this defined term to seek materials that are not
22 relevant to the claims and defenses in this action.

23 9. Facebook objects to Plaintiffs' definition and use of the term "Person" as vague,
24 ambiguous, overly broad, and unduly burdensome to the extent that Plaintiffs intend to use this term
25 to include "any natural person or any business, legal or governmental entity or association" over
26 which Facebook exercises no control.

27 10. Facebook objects to Plaintiffs' definition of "Process" to the extent that it is vague,
28 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the

1 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
2 claims and defenses in this action.

3 11. Facebook objects to Plaintiffs' definition of "Private Message(s)" to the extent that it
4 is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the
5 definition to the extent that Plaintiffs purport to use this defined term to seek materials that are not
6 relevant to the claims and defenses in this action.

7 12. Facebook objects to Plaintiffs' definitions of "Relate(s) to," "Related to" and
8 "Relating to" on the ground that the definitions make the Interrogatories overly broad and unduly
9 burdensome and impose obligations that go beyond the requirements of the Federal and Local Rules.
10 Facebook shall construe these terms as commonly and ordinarily understood.

11 13. Facebook objects to Plaintiffs' definition of "Source Object" or "(id1)" to the extent
12 that it is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the
13 definition to the extent that Plaintiffs purport to use this defined term to seek materials that are not
14 relevant to the claims and defenses in this action.

15 14. Facebook objects to Plaintiffs' definition and use of the terms "You," "Your," or
16 "Facebook" as vague, ambiguous, overly broad, and unduly burdensome to the extent the terms are
17 meant to include "directors, officers, employees, partners, members, representatives, agents
18 (including attorneys, accountants, consultants, investment advisors or bankers), and any other person
19 purporting to act on [Facebook, Inc.'s] behalf. . . . parents, subsidiaries, affiliates, predecessor
20 entities, successor entities, divisions, departments, groups, acquired entities and/or related entities or
21 any other entity acting or purporting to act on its behalf" over which Facebook exercises no control,
22 and to the extent that Plaintiffs purport to use these terms to impose obligations that go beyond the
23 requirements of the Federal and Local Rules.

24 **OBJECTIONS TO "RULES OF CONSTRUCTION" AND INSTRUCTIONS**

25 1. Facebook objects to Plaintiffs' "Rules of Construction" and "Instructions" to the
26 extent they impose obligations that go beyond the requirements of the Federal and Local Rules.

27 2. Facebook objects to Plaintiffs' Instruction No. 2 to the extent that it is not limited to
28 the relevant time period, thus making the Instruction overly broad, unduly burdensome, and not

1 relevant to the claims or defenses in this action. Unless otherwise specified in its responses, and
2 pursuant to the agreement of the parties, Facebook’s response will be limited to information
3 generated between April 1, 2010 and December 30, 2013.

4 3. Facebook objects to Plaintiffs’ Instruction No. 6 as ambiguous and unduly
5 burdensome. Facebook further objects to the instruction to the extent it exceeds the requirements of
6 the Federal and Local Rules.

7 **OBJECTION TO PURPORTED “RELEVANT TIME PERIOD”**

8 Facebook objects to Plaintiffs’ proposed “Relevant Time Period” (September 26, 2006
9 through the present) because it substantially exceeds the proposed class period identified in Plaintiffs’
10 Consolidated Amended Complaint, does not reflect the time period that is relevant to Plaintiffs’
11 claims in this action, and renders the Interrogatories overly broad, unduly burdensome, and irrelevant.
12 Unless otherwise specified, and pursuant to the agreement of the parties, Facebook’s Responses to
13 these Interrogatories will be limited to information generated between April 1, 2010 and December
14 30, 2013. Facebook otherwise objects to the remainder of Plaintiffs’ statement regarding the
15 “Relevant Time Period” to the extent that it purports to impose obligations beyond those imposed by
16 the Federal and Local Rules.

17 **SPECIFIC RESPONSES AND OBJECTIONS**

18 **INTERROGATORY NO. 8:**

19 Identify all facts relating to the Processing of each Private Message sent or received by
20 Plaintiffs containing a URL¹, including, for each Private Message:

- 21 (A) all Objects that were created during the Processing of the Private Message, including
22 the (id) and the Object Type for each Object, as well as any Key -> Value Pair(s)
23 contained in each Object;

24
25
26
27 ¹ Each such Private Message has been identified by each Plaintiff in Exhibit 1 to his respective Objections and
28 Responses to Defendant’s First Set of Interrogatories.

- 1 (B) all Objects that were created specifically when the embedded URL was shared,
2 including the (id) and the Object Type for each Object, as well as any Key -> Value
3 Pair(s) contained in each Object;
- 4 (C) all Associations related to each Private Message, identified by the Source Object,
5 Association Type, and Destination Object, as well as any Key -> Value Pair(s)
6 contained in each Association;
- 7 (D) the database names and table names in which each Association and Object is stored;
- 8 (E) each application or feature in Facebook that uses the Objects or Associations created
9 for each Private Message; and
- 10 (F) how each Object associated with the Private Message was used by Facebook.

11 **RESPONSE TO INTERROGATORY NO. 8:**

12 Facebook restates and incorporates its Preliminary Statement, General Objections, Objections
13 to “Rules of Construction,” Instructions, and Purported “Relevant Time Period” as though fully set
14 forth in this Response. Facebook further objects to this Interrogatory on the following additional
15 grounds:

16 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases
17 “Processing”; “Private Message”; “Objects”; “(id)”; “Object Type”; “Key -> Value Pair(s)”; “Objects
18 that were created specifically when the embedded URL was shared”; “Associations”; “Source
19 Object”; “Association Type”; “Destination Object”; “database names and table names”; and
20 “application or feature.”

21 (B) The Interrogatory is compound.

22 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
23 this action to the extent it concerns practices other than those challenged in this action (the alleged
24 increase in the Facebook “Like” count on a website when the URL for that website was contained in
25 a message transmitted through Facebook’s Messages product during the class period).

26 (D) The Interrogatory is vague, unduly burdensome, and overly broad in that it purports to
27 seek “all facts relating to the Processing of each Private Message sent or received by Plaintiffs
28 containing a URL.”

1 (E) The Interrogatory seeks information that reflects trade secrets, confidential, and/or
2 proprietary company information.

3 (F) The Interrogatory exceeds the bounds of Federal Rule of Civil Procedure 33(a)(1),
4 which provides that “a party may serve on any other party no more than 25 written interrogatories,
5 including all discrete subparts.”

6 Subject to and without waiving the foregoing general and specific objections, and subject to
7 the ongoing nature of discovery in this action, Facebook responds as follows:

8 Facebook refers Plaintiffs to Facebook’s Responses and Objections to Plaintiffs’ Interrogatory
9 Nos. 2, 3, and 4. Facebook also will meet and confer with Plaintiffs’ counsel to determine the proper
10 scope of this overly broad and ambiguous Interrogatory.

11 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:**

12 Facebook restates and incorporates its Preliminary Statement, General Objections, Objections
13 to “Rules of Construction,” Instructions, and Purported “Relevant Time Period” as though fully set
14 forth in this Response. Facebook further objects to this Interrogatory on the following additional
15 grounds:

16 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases
17 “Processing”; “Private Message”; “Objects”; “(id)”; “Object Type”; “Key -> Value Pair(s)”; “Objects
18 that were created specifically when the embedded URL was shared”; “Associations”; “Source
19 Object”; “Association Type”; “Destination Object”; “database names and table names”; and
20 “application or feature.”

21 (B) The Interrogatory is compound.

22 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
23 this action to the extent it concerns practices other than those challenged in this action (the alleged
24 increase in the Facebook “Like” count on a website when the URL for that website was contained in
25 a message transmitted through Facebook’s Messages product during the class period).

26 (D) The Interrogatory is vague, unduly burdensome, and overly broad in that it purports to
27 seek “all facts relating to the Processing of each Private Message sent or received by Plaintiffs
28 containing a URL.”

Exhibit 1

HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY

	To	From	Date	URL	Production Number(s)
1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005502-FB000005527 FB000005528-FB000005574 FB000005575-FB000005576
2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005577-FB000005578
3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005579-FB000005600 FB000005601-FB000005646 FB000005647-FB000005648
4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005649-FB000005672 FB000005673-FB000005719 FB000005720-FB000005721
5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005722-FB000005749 FB000005750-FB000005797 FB000005798-FB000005799
6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005800-FB000005801
7	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005802-FB000005826 FB000005827-FB000005879 FB000005880-FB000005881
10	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Unavailable.
68	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005882-FB000005883

HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY

	To	From	Date	URL	Production Number(s)
89	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005884-FB000005886 FB000005887-FB000005932 FB000005933-FB000005934
93	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000005935-FB000005957 FB000005958-FB000006004 FB000006005-FB000006006
99	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000006007-FB000006008
113	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000006009-FB000006037 FB000006038-FB000006084 FB000006085-FB000006087
115	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Unavailable.
123	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000006088-FB000006089
200	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000006090-FB000006119 FB000006120-FB000006169 FB000006170-FB000006171
410	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Unavailable.

	To	From	Date	URL	Production Number(s)
			[REDACTED]	[REDACTED]	
654	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000006172-FB000006173
482	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	FB000006174-FB000006175

1 **PROOF OF SERVICE**

2 I, Ashley M. Rogers, declare as follows:

3 I am employed in the County of Santa Clara, State of California, I am over the age of eighteen
4 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 September 1, 2015, I served the following document(s):

5 **DEFENDANT FACEBOOK, INC.’S SUPPLEMENTAL RESPONSES AND**
6 **OBJECTIONS TO PLAINTIFFS’ NARROWED SECOND SET OF**
7 **INTERROGATORIES**

8 on the parties stated below, by the following means of service:

9 David F. Slade
10 dslade@cbplaw.com
11 James Allen Carney
12 acarney@cbplaw.com
13 Joseph Henry Bates, III
14 Carney Bates & Pulliam, PLLC
15 hbates@cbplaw.com

16 Melissa Ann Gardner
17 mgardner@lchb.com
18 Nicholas Diamand
19 ndiamand@lchb.com
20 Rachel Geman
21 rgeman@lchb.com
22 Michael W. Sobol
23 Lief Cabraser Heimann & Bernstein, LLP
24 msobol@lchb.com

- 25 **BY ELECTRONIC SERVICE:** On the above-mentioned date, based on a court order or
26 an agreement of the parties to accept service by electronic transmission, I caused the
27 documents to be sent to the persons at the electronic notification addresses as shown
28 above.
- I am employed in the office of Joshua A. Jessen and am a member of the bar of this court.
- I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 1, 2015.

/s/

Ashley M. Rogers