

EXHIBIT 3

EXHIBIT A
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18 *Attorneys for Plaintiffs and the Proposed Class*

19 UNITED STATES DISTRICT COURT
20
21 NORTHERN DISTRICT OF CALIFORNIA

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

24 Plaintiffs,

25 v.

26 FACEBOOK, INC.,

27 Defendant.
28

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Case No. 4:13-cv-05996-PJH

**NOTICE OF DEPOSITION PURSUANT TO
FED. R. CIV. P. 30(B)(6)**

Date: September 25, 2015

Time: 9:00 a.m.

Location: 1881 Page Mill Rd.
Palo Alto, CA 94304

1 PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil
2 Procedure, Plaintiffs will take the deposition upon oral examination of Defendant Facebook, Inc.
3 (“Facebook”), through its designated agent(s). Pursuant to Fed. R. Civ. P. 30(b)(6), Facebook is
4 hereby directed to designate one or more officers, directors, managing agents, or other persons
5 who consent to testify and are most knowledgeable and competent to testify regarding the
6 following topics:

7 1. The identification of Facebook source code utilized to carry out each process
8 characterized in Facebook’s Responses and Objections to Plaintiffs’ Interrogatories (“Resp.”),
9 Interrogatories No. 2 and 3, including but not limited to the following characterizations:

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

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2. The identification of Facebook source code utilized to carry out each process characterized in Facebook’s Responses and Objections to Plaintiffs’ Interrogatories (“Resp.”), Interrogatory No. 4, including but not limited to the following characterizations:

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[REDACTED]

3. The creation and use of Objects and Associations from content or data contained within or otherwise related to private messages, including:¹

[REDACTED]

4. The identification of all documents and ESI which Facebook contends established users’ consent (express and implied) to the practices challenged in this litigation, and Facebook’s bases

¹ [REDACTED]

1 for such contention.

2 5. The role of “Likes” and the “Like” social plugin within Facebook’s business model,
3 including:

4 (a) Any analysis or identification by Facebook of the number of “Likes” generated during the
5 relevant period, including totals on a daily, weekly, monthly, and annual basis.

6 (b) Any analysis or identification by Facebook of the number of “Like” social plugins
7 embedded on third-party websites during the relevant period, including totals on a daily,
8 weekly, monthly, and annual basis.

9 (c) Analyses conducted by or on behalf of Facebook ascribing monetary value to “Likes” or
10 the “Like” social plugin, whether on Facebook or on third party websites.

11 6. All information that third parties (including but not limited to websites with embedded
12 “Like” social plugins) had access to – from April, 2009 until December 30, 2012 – related to
13 “Likes” created from URLs within private messages, including the identification of all relevant
14 source code related to processes effectuating access to such information.

15 7. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 The deposition will commence at 9:00 a.m. on September 25, 2015, at the offices of
19 Gibson, Dunn & Crutcher LLP, 1881 Page Mill Rd., Palo Alto, California, 94304. The
20 deposition will be taken by oral examination before a certified court stenographer or other officer
21 authorized to administer oaths under applicable law. The deposition shall continue from day to
22 day (weekends and holidays excepted) until recessed or completed.

23 PLEASE TAKE FURTHER NOTICE that Plaintiffs reserve the right to record the
24 deposition testimony of the above-identified deponent by videotape, in addition to recording the
25 testimony by stenographic means. Livenote may be used. Plaintiffs reserve the right to use the
26 videotape deposition at trial.

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1 Dated: September 18, 2015

CARNEY BATES & PULLIAM, PLLC

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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
RESPONSES AND OBJECTIONS TO
PLAINTIFFS' NOTICE OF DEPOSITION
PURSUANT TO FED. R. CIV. P. 30(b)(6)**

24 **HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY**
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1 Pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, Defendant Facebook,
2 Inc. (“Facebook”) hereby submits the following responses and objections to Plaintiffs’ Notice of
3 Deposition Pursuant to Fed. R. Civ. P. 30(b)(6) (the “Notice”) as follows:

4 **GENERAL OBJECTIONS TO NOTICE**

5 The following General Objections apply to each and every specific Topic and are
6 incorporated by reference in each of the specific responses. The assertion of the same, similar, or
7 additional objections or partial responses to individual Topics does not waive any of Facebook’s
8 General Objections.

9 1. Facebook objects to each of the Topics set forth in the Notice on the grounds and to
10 the extent that they attempt or purport to impose obligations beyond those imposed or authorized by
11 the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules of the Northern
12 District of California, or other applicable federal or state law. Facebook will construe and respond to
13 the Notice in accordance with the requirements of the Federal Rules of Civil Procedure and other
14 applicable rules or laws.

15 2. Facebook objects to the Notice and each of the Topics to the extent that they seek
16 information unrelated to the particularized allegations detailed in the Consolidated Amended
17 Complaint (Dkt. No. 25), which renders the Notice and each of the Topics overly broad, unduly
18 burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible
19 evidence. Facebook will only produce a witness to provide testimony related to, or reasonably
20 calculated to lead to the discovery of admissible evidence related to, the particularized allegations
21 detailed in the Consolidated Amended Complaint.

22 3. Facebook objects to the Notice to the extent it seeks information that is protected from
23 disclosure by any applicable privilege, including, but not limited to, the attorney-client privilege and
24 the attorney work product doctrine.

25 4. Facebook objects to the Notice to the extent it seeks information that is not within the
26 possession, custody or control of Facebook, is publicly available, or is within the possession, custody
27 or control of Plaintiffs.

1 5. Facebook objects to the Notice to the extent that it is so broad, uncertain, and
2 unintelligible that Facebook cannot determine the nature of the information sought.

3 6. Facebook objects to the Notice on the grounds and to the extent that it calls for
4 testimony or documents regarding any trade secret or other private or confidential commercial,
5 business, financial, proprietary, or competitively sensitive information. Facebook will provide
6 testimony, if at all, on such matters only pursuant to the Protective Order issued in this action.

7 7. Facebook objects to each Topic in the Notice to the extent it calls for a legal
8 conclusion and/or expert testimony.

9 8. Facebook objects to each Topic to the extent that it fails to specify a relevant time
10 period, to the extent the specified time period is irrelevant to the instant case, or to the extent that the
11 specified period includes periods of time for which Plaintiffs would not be entitled to collect any
12 damages.

13 9. Facebook objects to each Topic set forth in the Notice to the extent that it is
14 duplicative of any other discovery request served by Plaintiffs in this action and/or to the extent the
15 information is better sought by another method of discovery.

16 10. Facebook objects to each Topic set forth in the Notice to the extent that it assumes
17 facts that are not in evidence. By responding to this Notice, Facebook does not admit or agree with
18 any explicit or implicit assumption made in this Notice.

19 11. By stating that it will produce a witness competent to testify on a Topic, Facebook
20 does not represent that it has any relevant information on that Topic, but merely that a designee will
21 testify to any corporate knowledge obtained through a reasonable investigation. Further, Facebook's
22 response to any particular Topic should not be taken as an admission that it accepts or admits the
23 existence of any fact set forth or assumed by the Topic, or that the response constitutes admissible
24 evidence. No response to any portion of any Topic shall be deemed a waiver of any objection not set
25 forth herein that could be made to any such portion regarding relevancy of the information or its
26 admissibility.

27 12. The responses given herein to any one or more of these Topics shall not be construed
28 or deemed as an admission as to the existence or non-existence of any document, or as an admission

1 or waiver of any question or right of objection as to authenticity, competency, relevancy, materiality,
2 admissibility, or any other objection Facebook may have, and such objections are expressly reserved.

3 13. Facebook reserves the right to set forth additional objections to each Topic at the time
4 of the deposition of any Rule 30(b)(6) witness, and further reserves the right to amend these
5 objections at any time.

6 14. Facebook objects to any attempt by Plaintiffs to identify additional Topics for a Rule
7 30(b)(6) deposition. Facebook will designate and produce witnesses on Rule 30(b)(6) Topics only
8 once. In a previous meet and confer, Facebook advised Plaintiffs on this position, and Plaintiffs have
9 not objected to that position or indicated that they intend to identify additional Rule 30(b)(6) Topics.

10 15. Facebook objects to the noticed deposition date of September 25, 2015. While one
11 of Facebook's Rule 30(b)(6) witnesses will testify on that date, pursuant to the discussions of the
12 parties, Facebook's other Rule 30(b)(6) witness(es) will not.

13 **SPECIFIC RESPONSES AND OBJECTIONS**

14 Subject to and without waiving any of the foregoing General Objections, Facebook responds
15 to each Topic as follows:

16 **TOPIC NO. 1:**

17 The identification of Facebook source code utilized to carry out each process characterized in
18 Facebook's Responses and Objections to Plaintiffs' Interrogatories ("Resp."), Interrogatories No. 2
19 and 3, including but not limited to the following characterizations:

20 ■ [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 ■ [REDACTED]

25 [REDACTED]

26 [REDACTED]

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RESPONSES AND OBJECTIONS TO TOPIC NO. 1:

Facebook incorporates the General Objections as though fully set forth herein. Facebook further objects to the terms “identification,” “utilized,” “carry out,” “process,” “characterized,” and “characterizations” in this Topic as vague, ambiguous, overly broad, and unduly burdensome, including to the extent that Plaintiffs purport to use these defined terms to seek materials that are not relevant to the claims and defenses in this action. Facebook further objects to this Topic as compound, vague, overly broad, unduly burdensome, and oppressive. Facebook objects to preparing a witness on such a broad range of information. Facebook further objects on the grounds that this

1 Topic seeks information duplicative of that previously produced by Facebook in this litigation,
2 including Facebook’s source code made available to Plaintiffs’ experts under the terms of the
3 Protective Order. Facebook further objects to this Topic to the extent it calls for expert analysis or
4 legal conclusions. Facebook further objects to this Topic to the extent it is not limited to a specific
5 time period relevant to this litigation. Facebook further objects to this Topic on the grounds and to
6 the extent it seeks information protected from disclosure by the attorney client privilege and/or the
7 work product doctrine.

8 Subject to and without waiving any of the general or specific objections stated herein,
9 Plaintiffs have initiated the discovery briefing process on this Topic, and Facebook will not produce a
10 witness on this improper Topic for the reasons noted above and in its brief. However, Facebook met
11 and conferred in person with Plaintiffs on this Topic on September 2, 2015. As indicated during that
12 meeting, Facebook is willing to discuss specific questions Plaintiffs may have regarding Facebook’s
13 source code in lieu of producing a Rule 30(b)(6) witness.

14 **TOPIC NO. 2:**

15 The identification of Facebook source code utilized to carry out each process characterized in
16 Facebook’s Responses and Objections to Plaintiffs’ Interrogatories (“Resp.”), Interrogatory No. 4,
17 including but not limited to the following characterizations:

- 18 ■ [REDACTED]
- 19 [REDACTED]
- 20 [REDACTED]
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2 [REDACTED]
3 **RESPONSES AND OBJECTIONS TO TOPIC NO. 2:**

4 Facebook incorporates the General Objections as though fully set forth herein. Facebook
5 further objects to the terms “identification,” “utilized,” “carry out,” “process,” “characterized,” and
6 “characterizations” in this Topic as vague, ambiguous, overly broad, and unduly burdensome,
7 including to the extent that Plaintiffs purport to use these defined terms to seek materials that are not
8 relevant to the claims and defenses in this action. Facebook further objects to this Topic as
9 compound, vague, overly broad, unduly burdensome, and oppressive. Facebook objects to preparing
10 a witness on such a broad range of information. Facebook further objects on the grounds that this
11 Topic seeks information duplicative of that previously produced by Facebook in this litigation,
12 including Facebook’s source code made available to Plaintiffs’ experts under the terms of the
13 Protective Order. Facebook further objects to this Topic to the extent it calls for expert analysis or
14 legal conclusions. Facebook further objects to this Topic to the extent it is not limited to a specific
15 time period relevant to this litigation. Facebook further objects to this Topic on the grounds and to
16 the extent it seeks information protected from disclosure by the attorney client privilege and/or the
17 work product doctrine.

18 Subject to and without waiving any of the general or specific objections stated herein,
19 Plaintiffs have initiated the discovery briefing process on this Topic, and Facebook will not produce a
20 witness on this improper Topic for the reasons noted above and in its brief. However, Facebook met
21 and conferred in person with Plaintiffs on this Topic on September 2, 2015. As indicated during that
22 meeting, Facebook is willing to discuss specific questions Plaintiffs may have regarding Facebook’s
23 source code in lieu of producing a Rule 30(b)(6) witness.
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1 **TOPIC NO. 3:**

2 The creation and use of Objects and Associations from content or data contained within or
3 otherwise related to private messages, including:¹

- 4 (a) How Objects are created during the processing of private messages, including
5 the (id) and the Object Type for each Object, as well as any Key -> Value
6 Pair(s) contained in each Object.
- 7 (b) How Objects are specifically created when a URL within a private message is
8 shared, including the (id) and the Object Type for each Object, as well as any
9 Key -> Value Pair(s) contained in each Object.
- 10 (c) How Associations are created during the processing of private messages,
11 identified by the Source Object, Association Type, and Destination Object, as
12 well as any Key -> Value Pair(s) contained in each Association.
- 13 (d) The identification of all databases and tables in which Associations and
14 Objects created from private messages are stored, and the corresponding
15 schemas.
- 16 (e) The identification of each application or feature in Facebook that uses the
17 Objects or Associations created from private messages.
- 18 (f) How Facebook uses Objects and Associations created from private messages.

19 **RESPONSES AND OBJECTIONS TO TOPIC NO. 3:**

20 Facebook incorporates the General Objections as though fully set forth herein. Facebook
21 objects to the terms “creation and use,” “content or data contained within,” “private messages,”
22 “Object,” “Association,” “(id),” “Object Type,” “Key -> Value Pair,” “Source Object,” “Association
23 Type,” and “Destination Object” in this Topic as vague, ambiguous, overly broad, and unduly
24 burdensome, including to the extent that Plaintiffs purport to use these defined terms to seek
25 materials that are not relevant to the claims and defenses in this action. Facebook further objects to

26 _____
27 ¹ The terms “Object,” “Association,” “(id),” “Object Type,” “Key -> Value Pair,” “Source Object,” “Association
28 Type,” and “Destination Object” are used herein pursuant to the definitions set forth in Plaintiffs’ Second Set of Interrogatories.

1 this Topic as compound, vague, overly broad, unduly burdensome, and oppressive. Facebook further
2 objects on the grounds and to the extent that this Topic seeks information duplicative of that
3 previously provided by Facebook in this litigation, as Facebook has made its source code available to
4 Plaintiffs' experts under the terms of the Protective Order. Facebook further objects to this Topic to
5 the extent it calls for expert analysis or legal conclusions. Facebook further objects to this Topic to
6 the extent it is not limited to a specific time period relevant to this litigation. Facebook further
7 objects to this Topic on the grounds and to the extent it seeks information protected from disclosure
8 by the attorney client privilege and/or the work product doctrine.

9 Subject to and without waiving any of the general or specific objections stated herein,
10 Facebook will designate a witness to provide testimony regarding the creation and use of objects and
11 associations related to URLs in Facebook messages between April 1, 2010 and December 30, 2013.

12 **TOPIC NO. 4:**

13 The identification of all documents and ESI which Facebook contends established users'
14 consent (express and implied) to the practices challenged in this litigation, and Facebook's bases for
15 such contention.

16 **RESPONSES AND OBJECTIONS TO TOPIC NO. 4:**

17 Facebook incorporates the General Objections as though fully set forth herein. Facebook
18 objects to the terms "documents" and "ESI" to the extent that Plaintiffs purport to use these defined
19 terms to request the identification and disclosure of documents that: (a) were prepared in anticipation
20 of litigation; (b) constitute attorney work product; (c) reveal privileged attorney-client
21 communications; or (d) are otherwise protected from disclosure under any applicable privileges,
22 laws, and/or rules. Facebook further objects to the extent that these terms purport to impose
23 obligations that go beyond the requirements of the Federal and Local Rules. Facebook further
24 objects to this Topic as overly broad and unduly burdensome to the extent it seeks the identification
25 of "all" sources that Facebook contends establish users' consent to the practices challenged in this
26 litigation. Facebook objects to preparing a witness on such a broad range of information. Facebook
27 further objects to this Topic to the extent it calls for expert analysis or legal conclusions. Facebook
28 further objects to this Topic on the ground that it in an inappropriate attempt to seek the bases for

1 Facebook’s contentions, which is an improper Rule 30(b)(6) Topic. Facebook further objects to this
2 Topic to the extent it is not limited to a specific time period relevant to this litigation. Facebook
3 further objects to this Topic on the grounds and to the extent it seeks information protected from
4 disclosure by the attorney client privilege and/or the work product doctrine.

5 Subject to and without waiving any of the general or specific objections stated herein,
6 Facebook will designate a witness to provide testimony regarding documents that establish express
7 consent to the practice challenged in this action (the alleged increase in the Facebook “Like” count on
8 a website when the URL for that website was contained in a message transmitted through Facebook’s
9 Messages product) between December 30, 2011 and December 30, 2013, as well as documents
10 produced in this action that establish implied consent to the practice challenged in this action (which
11 obviously does not include all potential documents that could establish implied consent). By
12 producing a witness to testify regarding this Topic, Facebook does not concede—and instead it
13 continues to dispute—that it is possible to “identif[y] . . . all documents and ESI” that “established
14 users’ consent (express and implied) to the practices challenged in this litigation, and Facebook’s
15 basis for such contention.”

16 **TOPIC NO. 5:**

17 The role of “Likes” and the “Like” social plugin within Facebook’s business model,
18 including:

- 19 (a) Any analysis or identification by Facebook of the number of “Likes” generated
20 during the relevant period, including totals on a daily, weekly, monthly, and
21 annual basis.
- 22 (b) Any analysis or identification by Facebook of the number of “Like” social
23 plugins embedded on third-party websites during the relevant period, including
24 totals on a daily, weekly, monthly, and annual basis.
- 25 (c) Analyses conducted by or on behalf of Facebook ascribing monetary value to
26 “Likes” or the “Like” social plugin, whether on Facebook or on third party
27 websites.

1 **RESPONSES AND OBJECTIONS TO TOPIC NO. 5:**

2 Facebook incorporates the General Objections as though fully set forth herein. Facebook
3 objects to the terms “Likes,” “business model,” “analysis or identification,” “relevant period,”
4 “analyses,” and “conducted by or on behalf of” as vague, ambiguous, overly broad, and unduly
5 burdensome, including to the extent that Plaintiffs purport to use these defined terms to seek
6 materials that are not relevant to the claims and defenses in this action. Facebook further objects to
7 this Topic on the grounds and to the extent that it seeks information that is not relevant to the claims
8 or defenses of any party and/or is not reasonably calculated to lead to the discovery of admissible
9 evidence. Facebook further objects to this Topic on the grounds and to the extent it is not limited to a
10 specific time period relevant to this litigation. Facebook still further objects to this Topic to the
11 extent that it assumes facts. Facebook further objects to this Topic on the grounds and to the extent it
12 seeks information protected from disclosure by the attorney client privilege and/or the work product
13 doctrine.

14 Subject to and without waiving any of the general or specific objections stated herein,
15 Facebook will designate a witness to provide testimony regarding the role of “Likes” and the “Like”
16 social plugin as they relate to URLs shared in Facebook messages during the proposed class period
17 (January 30, 2011 to approximately December 20, 2012).

18 **TOPIC NO. 6:**

19 All information that third parties (including but not limited to websites with embedded “Like”
20 social plugins) had access to – from April, 2009 until December 30, 2012 – related to “Likes” created
21 from URLs within private messages, including the identification of all relevant source code related to
22 processes effectuating access to such information.

23 **RESPONSES AND OBJECTIONS TO TOPIC NO. 6:**

24 Facebook incorporates the General Objections as though fully set forth herein. Facebook
25 objects to the terms “information,” “access to,” “Likes,” “private messages,” “processes,” and
26 “effectuating access” as vague, ambiguous, overly broad, and unduly burdensome, including to the
27 extent that Plaintiffs purport to use these defined terms to seek materials that are not relevant to the
28 claims and defenses in this action. Facebook further objects to this Topic on the grounds and to the

1 extent that it seeks information that is not relevant to the claims or defenses of any party and/or is not
2 reasonably calculated to lead to the discovery of admissible evidence. Facebook further objects to
3 this Topic on the grounds and to the extent it is not limited to a specific time period relevant to this
4 litigation. Facebook further objects to this Topic as overly broad, unduly burdensome, and
5 oppressive. Facebook further objects on the grounds and to the extent that this Topic seeks
6 information duplicative of that previously provided by Facebook in this litigation, as Facebook has
7 made its source code available to Plaintiffs' experts under the terms of the Protective Order.
8 Facebook still further objects to this Topic to the extent that it assumes facts. Facebook further
9 objects to this Topic on the grounds and to the extent it seeks information protected from disclosure
10 by the attorney client privilege and/or the work product doctrine.

11 Subject to and without waiving any of the general or specific objections stated herein,
12 Facebook will designate a witness to provide testimony regarding the information that third parties
13 had access to related to "Likes" generated from URLs contained in Facebook messages between
14 April 1, 2010 and December 30, 2012 (not including an identification of source code).

15 **TOPIC NO. 7:**

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 **RESPONSES AND OBJECTIONS TO DEPOSITION REQUEST NO. 7:**

20 Facebook incorporates the General Objections as though fully set forth herein. Facebook
21 objects to the terms "decision," "decision-making process," "related thereto," and "implementation"
22 as vague, ambiguous, overly broad, and unduly burdensome, including to the extent that Plaintiffs
23 purport to use these defined terms to seek materials that are not relevant to the claims and defenses in
24 this action. Facebook further objects to this Topic on the grounds and to the extent that it seeks
25 information that is not relevant to the claims or defenses of any party and/or is not reasonably
26 calculated to lead to the discovery of admissible evidence. Facebook further objects to this Topic on
27 the grounds and to the extent it is not limited to a specific time period relevant to this litigation.
28 Facebook still further objects to this Topic to the extent that it assumes facts. Facebook further

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 22, 2015, I served the following document(s):

5 **DEFENDANT FACEBOOK, INC.’S RESPONSES AND OBJECTIONS TO**
6 **PLAINTIFFS’ NOTICE OF DEPOSITION PURSUANT TO FED. R. CIV. P.**
7 **30(B)(6)**

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
26 order or an agreement of the parties to accept service by electronic transmission, I
27 caused the documents to be sent to the persons at the electronic notification
28 addresses as shown 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 22, 2015.

/s/
Ashley M. Rogers

EXHIBIT C
(Redacted)

1 GIBSON, DUNN & CRUTCHER LLP
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13 Attorneys for Defendant
14 FACEBOOK, INC.

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

PUTATIVE CLASS ACTION

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

24
25 **HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY**

26 Pursuant to Draft Stipulated Protective Order (Sent by Counsel for Facebook on March 30, 2015)

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 responses and objections to Plaintiffs’ First Set of Interrogatories
5 (the “Interrogatories”).

6 These responses are designated Highly Confidential – Attorney’s Eyes Only under the draft
7 Stipulated Protective Order sent by Facebook’s counsel to Plaintiffs’ counsel on March 30, 2015, and
8 as agreed by the parties.

9 **PRELIMINARY STATEMENT**

10 1. Before the further production of information, Facebook will meet and confer with
11 Plaintiffs regarding the entry of a Protective Order to protect confidential, proprietary, and trade
12 secret materials.

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

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

20 4. Facebook’s responses are based on its understanding that Plaintiffs seek only that
21 information that is within Facebook’s possession, custody, and control.

22 5. Facebook incorporates by reference each and every general objection set forth into
23 each and every specific response. From time to time, a specific response may repeat a general
24 objection for emphasis or some other reason. The failure to include any general objection in any
25 specific response shall not be interpreted as a waiver of any general objection to that response.

26 6. Nothing contained in these Responses and Objections or provided in response to the
27 Interrogatories consists of, or should be construed as, an admission relating to the accuracy,
28

1 relevance, existence, or nonexistence of any alleged facts or information referenced in any
2 Interrogatory.

3 **GENERAL OBJECTIONS**

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

8 2. Facebook objects to each Interrogatory to the extent that it is not limited to the
9 relevant time period, thus making the Interrogatory overly broad, unduly burdensome, and not
10 relevant to the claims or defenses in this action. Unless otherwise specified in its responses,
11 Facebook's response will be limited to information generated between December 30, 2011 and
12 October 31, 2012.

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

16 4. Facebook objects to each Interrogatory as overly broad and unduly burdensome,
17 particularly in view of Facebook's disproportionate cost necessary to investigate as weighed against
18 Plaintiffs' need for the information. For example, many of the Interrogatories seek broad and
19 vaguely defined categories of materials that are not reasonably tailored to the subject matter of this
20 action.

21 5. Facebook objects to each Interrogatory to the extent that it purports to request the
22 identification and disclosure of information or documents that were prepared in anticipation of
23 litigation, constitute attorney work product, reveal privileged attorney-client communications, or are
24 otherwise protected from disclosure under any applicable privileges, laws, or rules. Facebook hereby
25 asserts all such applicable privileges and protections, and excludes privileged and protected
26 information from its responses to each Interrogatory. *See generally* Fed. R. Evid. 502; Cal. Code
27 Evid. § 954. Inadvertent production of any information or documents that are privileged or otherwise
28 immune from discovery shall not constitute a waiver of any privilege or of any other ground for

1 objecting to the discovery with respect to such information or documents or the subject matter
2 thereof, or the right of Facebook to object to the use of any such information or documents or the
3 subject matter thereof during these or any other proceedings. In the event of inadvertent disclosure
4 of any information or inadvertent production or identification of documents or communications that
5 are privileged or otherwise immune from discovery, Plaintiffs will return the information and
6 documents to Facebook and will be precluded from disclosing or relying upon such information or
7 documents in any way.

8 6. Facebook objects to each and every Interrogatory to the extent that the information
9 sought by the Interrogatory is more appropriately pursued through another means of discovery, such
10 as a request for production or deposition.

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

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

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

19 **OBJECTIONS TO DEFINITIONS**

20 1. Facebook objects to Plaintiffs' definition of "Active Likes" as vague, ambiguous,
21 overly broad, and unduly burdensome. Facebook further objects to the definition to the extent that
22 Plaintiffs purport to use this defined term to seek materials that are not relevant to the claims and
23 defenses in this action, particularly as a result of its reference to the undefined term, "Social Plugin."

24 [REDACTED]
25 [REDACTED]

26 2. Facebook objects to Plaintiffs' definition of "Architecture" as vague, ambiguous,
27 overly broad, and unduly burdensome. Facebook further objects to the definition to the extent that
28 Plaintiffs purport to use this defined term to seek materials that are not relevant to the claims and

1 defenses in this action, particularly as a result of its use of the phrase “including but not limited to”
2 and the undefined term “Your services.”

3 3. Facebook generally objects to Plaintiffs’ definitions of “Communication,”
4 “Document(s),” “Electronic Media,” “ESI,” “Electronically Stored Information,” “Identify,” and
5 “Metadata” to the extent that Plaintiffs purport to use these defined terms to request the identification
6 and disclosure of documents that: (a) were prepared in anticipation of litigation; (b) constitute
7 attorney work product; (c) reveal privileged attorney-client communications; or (d) are otherwise
8 protected from disclosure under any applicable privileges, laws, and/or rules. Facebook further
9 objects to the extent that these definitions purport to impose obligations that go beyond the
10 requirements of the Federal and Local Rules.

11 4. Facebook objects to Plaintiffs’ definition of “Facebook User Data Profile(s)” as vague,
12 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
13 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
14 claims and defenses in this action.

15 5. Facebook objects to Plaintiffs’ definition of “Passive Likes” as vague, ambiguous,
16 overly broad, and unduly burdensome. Facebook further objects to the definition to the extent that
17 Plaintiffs purport to use this defined term to seek materials that are not relevant to the claims and
18 defenses in this action. Facebook construes the term “Passive Likes” as it relates to the practice
19 challenged in this action (the alleged increase in the Facebook “Like” count on a website when the
20 URL for that website was contained in a message transmitted through Facebook’s Messages product
21 during the class period (December 30, 2011 to October 31, 2012)). Specifically, Facebook construes
22 “Passive Likes” to refer to an increase in the “Like” count on a third-party website resulting from
23 inclusion of that website’s URL in a Facebook message during the class period.

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

28

1 7. Facebook objects to Plaintiffs’ definition of “Private Message(s)” to the extent that it
2 is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the
3 definition to the extent that Plaintiffs purport to use this defined term to seek materials that are not
4 relevant to the claims and defenses in this action.

5 8. Facebook objects to Plaintiffs’ definition of “Private Message Content” to the extent
6 that it is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the
7 definition to the extent that Plaintiffs purport to use this defined term to seek materials that are not
8 relevant to the claims and defenses in this action. Facebook further objects to this definition on the
9 ground and to the extent it is inconsistent with applicable law.

10 9. Facebook objects to Plaintiffs’ definition of “Private Message Transmission” as vague,
11 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
12 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
13 claims and defenses in this action. Facebook further objects to this definition on the ground and to
14 the extent it is inconsistent with relevant law.

15 10. Facebook objects to Plaintiffs’ definitions of “Relate(s) to,” “Related to” and
16 “Relating to” on the ground that the definitions make the Interrogatories overly broad and unduly
17 burdensome and impose obligations that go beyond the requirements of the Federal and Local Rules.
18 Facebook shall construe these terms as commonly and ordinarily understood.

19 11. Facebook objects to Plaintiffs’ definition of “Targeted Advertising” as vague,
20 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
21 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
22 claims and defenses in this action. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 12. Facebook objects to Plaintiffs’ definition of “Transmission,” “Transmit,” and
27 “Transmitting” as vague, ambiguous, overly broad, and unduly burdensome. Facebook further

28

1 objects to the definition to the extent that Plaintiffs purport to use these terms to seek materials that
2 are not relevant to the claims and defenses in this action.

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

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

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

15 2. Facebook objects to Plaintiffs' Instruction No. 2 to the extent that it is not limited to
16 the relevant time period, thus making the Instruction overly broad, unduly burdensome, and not
17 relevant to the claims or defenses in this action. Unless otherwise specified in its responses,
18 Facebook's response will be limited to information generated between December 30, 2011 and
19 October 31, 2012.

20 3. Facebook objects to Plaintiffs' Instruction No. 6 as ambiguous and unduly
21 burdensome. Facebook further objects to the instruction to the extent it exceeds the requirements of
22 the Federal and Local Rules.

23 **OBJECTION TO PURPORTED "RELEVANT TIME PERIOD"**

24 Facebook objects to Plaintiffs' proposed "Relevant Time Period" (September 26, 2006
25 through the present) because it substantially exceeds the proposed class period identified in Plaintiffs'
26 Consolidated Amended Complaint, does not reflect the time period that is relevant to Plaintiffs'
27 claims in this action, and renders the Interrogatories overly broad, unduly burdensome, and irrelevant.
28 Unless otherwise specified, Facebook's Responses to these Interrogatories will be limited to

1 information generated between December 30, 2011 and October 31, 2012, which is the proposed
2 class period defined in Plaintiffs' Consolidated Amended Complaint. (*See* Pls.' Consol. Am. Compl.
3 [Dkt. 25] ¶ 59 & n.3.) Facebook otherwise objects to the remainder of Plaintiffs' statement regarding
4 the "Relevant Time Period" to the extent that it purports to impose obligations beyond those imposed
5 by the Federal and Local Rules.

6 **SPECIFIC RESPONSES AND OBJECTIONS**

7 **INTERROGATORY NO. 1:**

8 Identify all persons, including Third Parties and Your current and former employees, known
9 by You to have personal knowledge of any facts or issues involved in this lawsuit, and for each
10 person please identify

11 (A) the party's first and last name;

12 (B) the party's employer, if not You;

13 (C) the party's job title(s); and

14 (D) the nature of the party's personal knowledge of the facts or issues involved in this
15 lawsuit.

16 **RESPONSE TO INTERROGATORY NO. 1:**

17 Facebook restates and incorporates its Preliminary Statement, General Objections, Objections
18 to "Rules of Construction," Instructions, and Purported "Relevant Time Period" as though fully set
19 forth in this Response. Facebook further objects to this Interrogatory on the following additional
20 grounds:

21 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases "Third
22 Parties"; "any facts or issues involved in this lawsuit"; and "nature of the party's personal knowledge
23 of the facts or issues involved in this lawsuit."

24 (B) The Interrogatory is compound.

25 (C) The Interrogatory is overly broad in that it purports to seek information regarding each
26 Facebook employee's "personal knowledge" of "facts or issues involved in this lawsuit," over an
27 extended time period. Facebook will respond to the best of its ability and based on the information
28 known and identified to date.

1 (D) The Interrogatory purports to request employment information that is not relevant to the
2 claims or defenses in this action.

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

- 5 a. [REDACTED]
6 [REDACTED]
7 [REDACTED]
- 8 b. [REDACTED]
9 [REDACTED]
- 10 c. [REDACTED]
11 [REDACTED]
- 12 d. [REDACTED]
13 [REDACTED]
14 [REDACTED]
- 15 e. [REDACTED]
16 [REDACTED]
17 [REDACTED]
- 18 f. [REDACTED]
19 [REDACTED]

20 Facebook reserves the right to supplement its response to this Interrogatory as its investigation
21 continues.

22 **INTERROGATORY NO. 2:**

23 Identify by name, purpose, sequence, function and physical location each Process and/or piece
24 of Architecture involved in Private Message Transmission.

25 **RESPONSE TO INTERROGATORY NO. 2:**

26 Facebook restates and incorporates its Preliminary Statement, General Objections, Objections
27 to “Rules of Construction,” Instructions, and Purported “Relevant Time Period” as though fully set
28

1 forth in this Response. Facebook further objects to this Interrogatory on the following additional
2 grounds:

3 (A) The Interrogatory is vague and ambiguous in its use of the phrases “Process and/or
4 piece of Architecture” and “Private Message Transmission.”

5 (B) The Interrogatory is compound.

6 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
7 this action to the extent it concerns practices other than those challenged in this action (the alleged
8 increase in the Facebook “Like” count on a website when the URL for that website was contained in
9 a message transmitted through Facebook’s Messages product during the Class Period (December 30,
10 2011 to October 31, 2012)).

11 (D) The Interrogatory is overly broad in that it purports to seek information regarding each
12 “Process and/or piece of Architecture involved in” the transmission of Facebook messages over an
13 extended time period. Facebook will respond to the best of its ability and based on the information
14 known and identified to date, and as limited by the practice challenged in this action (as defined
15 above).

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

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

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

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[REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 **INTERROGATORY NO. 3:**

6 For each Process and/or piece of Architecture identified in Interrogatory No. 2, identify
7 whether – and the manner in which – such Process and/or piece of Architecture scans, analyzes, or
8 extracts Private Message Content.

9 **RESPONSE TO INTERROGATORY NO. 3:**

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

14 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
15 and/or piece of Architecture,” “Private Message Content,” “scans,” “analyzes,” and “extracts.”

16 (B) The Interrogatory is compound.

17 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
18 this action to the extent it concerns practices other than those challenged (the alleged increase in the
19 Facebook “Like” count on a website when the URL for that website was contained in a message
20 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
21 October 31, 2012)).

22 (D) The Interrogatory is overly broad in that it purports to seek additional information
23 regarding each “Process and/or piece of Architecture involved in” the transmission of Facebook
24 messages over an extended time period. Facebook will respond to the best of its ability and based on
25 the information known and identified to date, and as limited by the practice challenged in this action
26 (as defined above).

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

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

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
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[REDACTED]

INTERROGATORY NO. 4:

For each Process and/or piece of Architecture identified in Interrogatory No. 3, identify all uses to which the scanned/analyzed/extracted Private Message Content – as well as any additional data, metadata or other content generated therefrom – are put.

RESPONSE TO INTERROGATORY NO. 4:

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

- (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process and/or piece of Architecture,” “Private Message Content,” “scanned,” “analyzed,” and “extracted.”
- (B) The Interrogatory is compound.
- (C) The Interrogatory seeks information that is not relevant to the claims or defenses in this action to the extent it concerns practices other than those challenged (the alleged increase in the

1 Facebook “Like” count on a website when the URL for that website was contained in a message
2 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
3 October 31, 2012)).

4 (D) The Interrogatory is overly broad in that it purports to seek additional information
5 regarding each “Process and/or piece of Architecture involved in” the transmission of Facebook
6 messages over an extended time period. Facebook will respond to the best of its ability and based on
7 the information known and identified to date, and as limited by the practice challenged in this action
8 (as defined above).

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

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

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
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[REDACTED]

INTERROGATORY NO. 5:

Identify by name, purpose, sequence, function and physical location each Process and/or piece of Architecture involved in the creation, development, or maintenance of Facebook User Profiles.

RESPONSE TO INTERROGATORY NO. 5:

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

1 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
2 and/or piece of Architecture,” “Facebook User Profiles,” “purpose,” “sequence,” “function,” and
3 “physical location.”

4 (B) The Interrogatory is compound.

5 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
6 this action to the extent it concerns practices other than those challenged (the alleged increase in the
7 Facebook “Like” count on a website when the URL for that website was contained in a message
8 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
9 October 31, 2012)).

10 (D) The Interrogatory is overly broad in that it purports to seek information regarding each
11 “Process and/or piece of Architecture involved in the creation, development, or maintenance of
12 Facebook User Profiles” over an extended time period. Facebook will respond to the best of its
13 ability and based on the information known and identified to date, and as limited by the practice
14 challenged in this action (as defined above).

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

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

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 ■ [REDACTED]

27 [REDACTED]

28 ■ [REDACTED]

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■ [REDACTED]

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[REDACTED]

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■ [REDACTED]

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[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

INTERROGATORY NO. 6:

Identify all possible fields or data points that can comprise a Facebook User Profile.

RESPONSE TO INTERROGATORY NO. 6:

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

1 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases
2 “Facebook User Profile” and “all possible fields or data points.”

3 (B) The Interrogatory is compound.

4 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
5 this action to the extent it concerns practices other than those challenged (the alleged increase in the
6 Facebook “Like” count on a website when the URL for that website was contained in a message
7 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
8 October 31, 2012)).

9 (D) The Interrogatory is overly broad in that it purports to seek information regarding “all
10 possible fields or data points that can comprise a Facebook User Profile” over an extended time
11 period. Facebook will respond to the best of its ability and based on the information known and
12 identified to date, and as limited by the practice challenged in this action (as defined above).

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

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

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
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[REDACTED]

- [REDACTED]
- [REDACTED]
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- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

INTERROGATORY NO. 7:

For each field or data point identified in Interrogatory No. 6, identify whether – and the manner in which – such field or data point can be accessed, in any form, by Third Parties, including but not limited to Developers, Third Party websites, and Facebook Users.

RESPONSE TO INTERROGATORY NO. 7:

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

1 **PROOF OF SERVICE**

2 I, Jeana Bisnar Maute, 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 April 1, 2015, I served the following document(s):

5 **DEFENDANT FACEBOOK, INC.’S RESPONSES AND OBJECTIONS TO**
6 **PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

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

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

12 Jeremy A. Lieberman
13 Pomerantz Grossman Hufford Dahlstrom & Gross LLP
jalieberman@pomlaw.com

14
15 Melissa Ann Gardner
mgardner@lchb.com
16 Nicholas Diamand
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17 Rachel Geman
rgeman@lchb.com
18 Michael W. Sobol
19 Lieff Cabraser Heimann & Bernstein, LLP
msobol@lchb.com

20 Jon A Tostrud
21 Tostrud Law Group, P.C.
jtostrud@tostrudlaw.com

22
23 Lionel Z. Glancy
24 Glancy Binkow & Goldberg LLP
info@glancylaw.com

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- BY ELECTRONIC SERVICE:** On the above-mentioned date based on an agreement of the parties to accept service by electronic transmission, I caused the document to be sent to the persons at the electronic notification addresses as shown 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 April 1, 2015.

/s/
Jeana Bisnar Maute

EXHIBIT D
(Redacted)

1 GIBSON, DUNN & CRUTCHER LLP
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3 JJessen@gibsondunn.com
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9 Palo Alto, California 94304
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10 GLees@gibsondunn.com
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13 333 South Grand Avenue
14 Los Angeles, California 90071
15 Telephone: (213) 229-7000
16 Facsimile: (213) 229-7520

13 Attorneys for Defendant
14 FACEBOOK, INC.

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

PUTATIVE CLASS ACTION

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

24
25 **HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY**
26
27
28

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’ First Set of
5 Interrogatories (the “Interrogatories”).

6 These responses are designated Highly Confidential – Attorney’s Eyes Only under the
7 Amended Stipulated Protective Order entered by the Court on July 1, 2015.

8 **PRELIMINARY STATEMENT**

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

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

16 3. Facebook’s responses are based on its understanding that Plaintiffs seek only that
17 information that is within Facebook’s possession, custody, and control.

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

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

GENERAL OBJECTIONS

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

6 2. Facebook objects to each Interrogatory to the extent that it is not limited to the
7 relevant time period, thus making the Interrogatory overly broad, unduly burdensome, and not
8 relevant to the claims or defenses in this action. Unless otherwise specified in its responses,
9 Facebook’s response will be limited to information generated between December 30, 2011 and
10 December 20, 2012.

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

14 4. Facebook objects to each Interrogatory as overly broad and unduly burdensome,
15 particularly in view of Facebook’s disproportionate cost necessary to investigate as weighed against
16 Plaintiffs’ need for the information. For example, many of the Interrogatories seek broad and
17 vaguely defined categories of materials that are not reasonably tailored to the subject matter of this
18 action.

19 5. Facebook objects to each Interrogatory to the extent that it purports to request the
20 identification and disclosure of information or documents that were prepared in anticipation of
21 litigation, constitute attorney work product, reveal privileged attorney-client communications, or are
22 otherwise protected from disclosure under any applicable privileges, laws, or rules. Facebook hereby
23 asserts all such applicable privileges and protections, and excludes privileged and protected
24 information from its responses to each Interrogatory. *See generally* Fed. R. Evid. 502; Cal. Code
25 Evid. § 954. Inadvertent production of any information or documents that are privileged or otherwise
26 immune from discovery shall not constitute a waiver of any privilege or of any other ground for
27 objecting to the discovery with respect to such information or documents or the subject matter

1 thereof, or the right of Facebook to object to the use of any such information or documents or the
2 subject matter thereof during these or any other proceedings. In the event of inadvertent disclosure
3 of any information or inadvertent production or identification of documents or communications that
4 are privileged or otherwise immune from discovery, Plaintiffs will return the information and
5 documents to Facebook and will be precluded from disclosing or relying upon such information or
6 documents in any way.

7 6. Facebook objects to each and every Interrogatory to the extent that the information
8 sought by the Interrogatory is more appropriately pursued through another means of discovery, such
9 as a request for production or deposition.

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

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

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

18 **OBJECTIONS TO DEFINITIONS**

19 1. Facebook objects to Plaintiffs' definition of "Active Likes" as vague, ambiguous,
20 overly broad, and unduly burdensome. Facebook further objects to the definition to the extent that
21 Plaintiffs purport to use this defined term to seek materials that are not relevant to the claims and
22 defenses in this action, particularly as a result of its reference to the undefined term, "Social Plugin."

23 [REDACTED]

24 [REDACTED]

25 2. Facebook objects to Plaintiffs' definition of "Architecture" as vague, ambiguous,
26 overly broad, and unduly burdensome. Facebook further objects to the definition to the extent that
27 Plaintiffs purport to use this defined term to seek materials that are not relevant to the claims and

1 defenses in this action, particularly as a result of its use of the phrase “including but not limited to”
2 and the undefined term “Your services.”

3 3. Facebook generally objects to Plaintiffs’ definitions of “Communication,”
4 “Document(s),” “Electronic Media,” “ESI,” “Electronically Stored Information,” “Identify,” and
5 “Metadata” to the extent that Plaintiffs purport to use these defined terms to request the identification
6 and disclosure of documents that: (a) were prepared in anticipation of litigation; (b) constitute
7 attorney work product; (c) reveal privileged attorney-client communications; or (d) are otherwise
8 protected from disclosure under any applicable privileges, laws, and/or rules. Facebook further
9 objects to the extent that these definitions purport to impose obligations that go beyond the
10 requirements of the Federal and Local Rules.

11 4. Facebook objects to Plaintiffs’ definition of “Facebook User Data Profile(s)” as vague,
12 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
13 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
14 claims and defenses in this action.

15 5. Facebook objects to Plaintiffs’ definition of “Passive Likes” as vague, ambiguous,
16 overly broad, and unduly burdensome. Facebook further objects to the definition to the extent that
17 Plaintiffs purport to use this defined term to seek materials that are not relevant to the claims and
18 defenses in this action. Facebook construes the term “Passive Likes” as it relates to the practice
19 challenged in this action (the alleged increase in the Facebook “Like” count on a website when the
20 URL for that website was contained in a message transmitted through Facebook’s Messages product
21 during the class period (December 30, 2011 to approximately December 20, 2012)). Specifically,
22 Facebook construes “Passive Likes” to refer to an increase in the “Like” count on a third-party
23 website resulting from inclusion of that website’s URL in a Facebook message during the class
24 period.

25 6. Facebook objects to Plaintiffs’ definition and use of the term “Person” as vague,
26 ambiguous, overly broad, and unduly burdensome to the extent that Plaintiffs intend to use this term

1 to include “any natural person or any business, legal or governmental entity or association” over
2 which Facebook exercises no control.

3 7. 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 8. Facebook objects to Plaintiffs’ definition of “Private Message Content” to the extent
8 that it is vague, ambiguous, overly broad, and unduly burdensome. Facebook further objects to the
9 definition to the extent that Plaintiffs purport to use this defined term to seek materials that are not
10 relevant to the claims and defenses in this action. Facebook further objects to this definition on the
11 ground and to the extent it is inconsistent with applicable law.

12 9. Facebook objects to Plaintiffs’ definition of “Private Message Transmission” as vague,
13 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
14 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
15 claims and defenses in this action. Facebook further objects to this definition on the ground and to
16 the extent it is inconsistent with relevant law.

17 10. Facebook objects to Plaintiffs’ definitions of “Relate(s) to,” “Related to” and
18 “Relating to” on the ground that the definitions make the Interrogatories overly broad and unduly
19 burdensome and impose obligations that go beyond the requirements of the Federal and Local Rules.
20 Facebook shall construe these terms as commonly and ordinarily understood.

21 11. Facebook objects to Plaintiffs’ definition of “Targeted Advertising” as vague,
22 ambiguous, overly broad, and unduly burdensome. Facebook further objects to the definition to the
23 extent that Plaintiffs purport to use this defined term to seek materials that are not relevant to the
24 claims and defenses in this action. [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

1 12. Facebook objects to Plaintiffs’ definition of “Transmission,” “Transmit,” and
2 “Transmitting” as vague, ambiguous, overly broad, and unduly burdensome. Facebook further
3 objects to the definition to the extent that Plaintiffs purport to use these terms to seek materials that
4 are not relevant to the claims and defenses in this action.

5 13. Facebook objects to Plaintiffs’ definition and use of the terms “You” or “Your” as
6 vague, ambiguous, overly broad, and unduly burdensome to the extent the terms are meant to include
7 “directors, officers, employees, partners, members, representatives, agents (including attorneys,
8 accountants, consultants, investment advisors or bankers), and any other person purporting to act on
9 [Facebook, Inc.’s] behalf. . . . parents, subsidiaries, affiliates, predecessor entities, successor entities,
10 divisions, departments, groups, acquired entities and/or related entities or any other entity acting or
11 purporting to act on its behalf” over which Facebook exercises no control, and to the extent that
12 Plaintiffs purport to use these terms to impose obligations that go beyond the requirements of the
13 Federal and Local Rules.

14 **OBJECTIONS TO “RULES OF CONSTRUCTION” AND INSTRUCTIONS**

15 1. Facebook objects to Plaintiffs’ “Rules of Construction” and “Instructions” to the
16 extent they impose obligations that go beyond the requirements of the Federal and Local Rules.

17 2. Facebook objects to Plaintiffs’ Instruction No. 2 to the extent that it is not limited to
18 the relevant time period, thus making the Instruction overly broad, unduly burdensome, and not
19 relevant to the claims or defenses in this action. Unless otherwise specified in its responses,
20 Facebook’s response will be limited to information generated between December 30, 2011 and
21 December 20, 2012.

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

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

26 Facebook objects to Plaintiffs’ proposed “Relevant Time Period” (September 26, 2006
27 through the present) because it substantially exceeds the proposed class period identified in Plaintiffs’
28

1 Consolidated Amended Complaint, does not reflect the time period that is relevant to Plaintiffs'
2 claims in this action, and renders the Interrogatories overly broad, unduly burdensome, and irrelevant.
3 Unless otherwise specified, Facebook's Responses to these Interrogatories will be limited to
4 information generated between December 30, 2011 and December 20, 2012, which is the proposed
5 class period defined in Plaintiffs' Consolidated Amended Complaint. (See Pls.' Consol. Am. Compl.
6 [Dkt. 25] ¶ 59 & n.3.) Facebook otherwise objects to the remainder of Plaintiffs' statement regarding
7 the "Relevant Time Period" to the extent that it purports to impose obligations beyond those imposed
8 by the Federal and Local Rules.

9 **SPECIFIC RESPONSES AND OBJECTIONS**

10 **INTERROGATORY NO. 1:**

11 Identify all persons, including Third Parties and Your current and former employees, known
12 by You to have personal knowledge of any facts or issues involved in this lawsuit, and for each
13 person please identify

14 (A) the party's first and last name;

15 (B) the party's employer, if not You;

16 (C) the party's job title(s); and

17 (D) the nature of the party's personal knowledge of the facts or issues involved in this
18 lawsuit.

19 **RESPONSE TO INTERROGATORY NO. 1:**

20 Facebook restates and incorporates its Preliminary Statement, General Objections, Objections
21 to "Rules of Construction," Instructions, and Purported "Relevant Time Period" as though fully set
22 forth in this Response. Facebook further objects to this Interrogatory on the following additional
23 grounds:

24 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases "Third
25 Parties"; "any facts or issues involved in this lawsuit"; and "nature of the party's personal knowledge
26 of the facts or issues involved in this lawsuit."

27 (B) The Interrogatory is compound.

1 (C) The Interrogatory is overly broad in that it purports to seek information regarding each
2 Facebook employee’s “personal knowledge” of “facts or issues involved in this lawsuit,” over an
3 extended time period. Facebook will respond to the best of its ability and based on the information
4 known and identified to date.

5 (D) The Interrogatory purports to request employment information that is not relevant to the
6 claims or defenses in this action.

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

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

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

6 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Third
7 Parties”; “any facts or issues involved in this lawsuit”; and “nature of the party’s personal knowledge
8 of the facts or issues involved in this lawsuit.”

9 (B) The Interrogatory is compound.

10 (C) The Interrogatory is overly broad in that it purports to seek information regarding each
11 Facebook employee’s “personal knowledge” of “facts or issues involved in this lawsuit,” over an
12 extended time period. Facebook will respond to the best of its ability and based on the information
13 known and identified to date.

14 (D) The Interrogatory purports to request employment information that is not relevant to the
15 claims or defenses in this action.

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

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
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[REDACTED]

Facebook reserves the right to supplement its response to this Interrogatory as its investigation continues.

1 **INTERROGATORY NO. 2:**

2 Identify by name, purpose, sequence, function and physical location each Process and/or piece
3 of Architecture involved in Private Message Transmission.

4 **RESPONSE TO INTERROGATORY NO. 2:**

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

9 (A) The Interrogatory is vague and ambiguous in its use of the phrases “Process and/or
10 piece of Architecture” and “Private Message Transmission.”

11 (B) The Interrogatory is compound.

12 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
13 this action to the extent it concerns practices other than those challenged in this action (the alleged
14 increase in the Facebook “Like” count on a website when the URL for that website was contained in
15 a message transmitted through Facebook’s Messages product during the Class Period (December 30,
16 2011 to October 31, 2012)).

17 (D) The Interrogatory is overly broad in that it purports to seek information regarding each
18 “Process and/or piece of Architecture involved in” the transmission of Facebook messages over an
19 extended time period. Facebook will respond to the best of its ability and based on the information
20 known and identified to date, and as limited by the practice challenged in this action (as defined
21 above).

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

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

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10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

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

- 19 (A) The Interrogatory is vague and ambiguous in its use of the phrases “Process and/or
20 piece of Architecture” and “Private Message Transmission.”
- 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 (December 30,
26 2011 to approximately December 20, 2012)).
- 27 (D) The Interrogatory is overly broad in that it purports to seek information regarding each
28

1 “Process and/or piece of Architecture involved in” the transmission of Facebook messages over an
2 extended time period. Facebook will respond to the best of its ability and based on the information
3 known and identified to date, and as limited by the practice challenged in this action (as defined
4 above).

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

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

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
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22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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[REDACTED]

INTERROGATORY NO. 3:

For each Process and/or piece of Architecture identified in Interrogatory No. 2, identify whether – and the manner in which – such Process and/or piece of Architecture scans, analyzes, or

1 extracts Private Message Content.

2 **RESPONSE TO INTERROGATORY NO. 3:**

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

7 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
8 and/or piece of Architecture,” “Private Message Content,” “scans,” “analyzes,” and “extracts.”

9 (B) The Interrogatory is compound.

10 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
11 this action to the extent it concerns practices other than those challenged (the alleged increase in the
12 Facebook “Like” count on a website when the URL for that website was contained in a message
13 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
14 October 31, 2012)).

15 (D) The Interrogatory is overly broad in that it purports to seek additional information
16 regarding each “Process and/or piece of Architecture involved in” the transmission of Facebook
17 messages over an extended time period. Facebook will respond to the best of its ability and based on
18 the information known and identified to date, and as limited by the practice challenged in this action
19 (as defined above).

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

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

24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

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

17 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
18 and/or piece of Architecture,” “Private Message Content,” “scans,” “analyzes,” and “extracts.”

19 (B) The Interrogatory is compound.

20 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
21 this action to the extent it concerns practices other than those challenged (the alleged increase in the
22 Facebook “Like” count on a website when the URL for that website was contained in a message
23 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
24 approximately December 20, 2012).

25 (D) The Interrogatory is overly broad in that it purports to seek additional information
26 regarding each “Process and/or piece of Architecture involved in” the transmission of Facebook
27 messages over an extended time period. Facebook will respond to the best of its ability and based on

1 the information known and identified to date, and as limited by the practice challenged in this action
2 (as defined above).

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

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

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
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12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
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18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 **INTERROGATORY NO. 4:**

24 For each Process and/or piece of Architecture identified in Interrogatory No. 3, identify all
25 uses to which the scanned/analyzed/extracted Private Message Content – as well as any additional
26 data, metadata or other content generated therefrom – are put.

1 **RESPONSE TO INTERROGATORY NO. 4:**

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

6 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
7 and/or piece of Architecture,” “Private Message Content,” “scanned,” “analyzed,” and “extracted.”

8 (B) The Interrogatory is compound.

9 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
10 this action to the extent it concerns practices other than those challenged (the alleged increase in the
11 Facebook “Like” count on a website when the URL for that website was contained in a message
12 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
13 October 31, 2012)).

14 (D) The Interrogatory is overly broad in that it purports to seek additional information
15 regarding each “Process and/or piece of Architecture involved in” the transmission of Facebook
16 messages over an extended time period. Facebook will respond to the best of its ability and based on
17 the information known and identified to date, and as limited by the practice challenged in this action
18 (as defined above).

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

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

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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[REDACTED]

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[REDACTED]

1 [REDACTED]
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3 [REDACTED]
4 [REDACTED]

5 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:**

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

10 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
11 and/or piece of Architecture,” “Private Message Content,” “scanned,” “analyzed,” and “extracted.”

12 (B) The Interrogatory is compound.

13 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
14 this action to the extent it concerns practices other than those challenged (the alleged increase in the
15 Facebook “Like” count on a website when the URL for that website was contained in a message
16 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
17 approximately December 20, 2012)).

18 (D) The Interrogatory is overly broad in that it purports to seek additional information
19 regarding each “Process and/or piece of Architecture involved in” the transmission of Facebook
20 messages over an extended time period. Facebook will respond to the best of its ability and based on
21 the information known and identified to date, and as limited by the practice challenged in this action
22 (as defined above).

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

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

27 [REDACTED]

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[REDACTED]

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3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
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10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 **INTERROGATORY NO. 5:**

17 Identify by name, purpose, sequence, function and physical location each Process and/or piece
18 of Architecture involved in the creation, development, or maintenance of Facebook User Profiles.

19 **RESPONSE TO INTERROGATORY NO. 5:**

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

24 (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process
25 and/or piece of Architecture,” “Facebook User Profiles,” “purpose,” “sequence,” “function,” and
26 “physical location.”

27 (B) The Interrogatory is compound.

1 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
2 this action to the extent it concerns practices other than those challenged (the alleged increase in the
3 Facebook “Like” count on a website when the URL for that website was contained in a message
4 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
5 October 31, 2012)).

6 (D) The Interrogatory is overly broad in that it purports to seek information regarding each
7 “Process and/or piece of Architecture involved in the creation, development, or maintenance of
8 Facebook User Profiles” over an extended time period. Facebook will respond to the best of its
9 ability and based on the information known and identified to date, and as limited by the practice
10 challenged in this action (as defined above).

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

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

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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[REDACTED]

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5:

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

(A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Process and/or piece of Architecture,” “Facebook User Profiles,” “purpose,” “sequence,” “function,” and “physical location.”

(B) The Interrogatory is compound.

1 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
2 this action to the extent it concerns practices other than those challenged (the alleged increase in the
3 Facebook “Like” count on a website when the URL for that website was contained in a message
4 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
5 approximately December 20, 2012)).

6 (D) The Interrogatory is overly broad in that it purports to seek information regarding each
7 “Process and/or piece of Architecture involved in the creation, development, or maintenance of
8 Facebook User Profiles” over an extended time period. Facebook will respond to the best of its
9 ability and based on the information known and identified to date, and as limited by the practice
10 challenged in this action (as defined above).

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

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

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
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26 [REDACTED]
27 [REDACTED]

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[REDACTED]

INTERROGATORY NO. 6:

Identify all possible fields or data points that can comprise a Facebook User Profile.

RESPONSE TO INTERROGATORY NO. 6:

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

(A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Facebook User Profile” and “all possible fields or data points.”

1 (B) The Interrogatory is compound.

2 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
3 this action to the extent it concerns practices other than those challenged (the alleged increase in the
4 Facebook “Like” count on a website when the URL for that website was contained in a message
5 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
6 October 31, 2012)).

7 (D) The Interrogatory is overly broad in that it purports to seek information regarding “all
8 possible fields or data points that can comprise a Facebook User Profile” over an extended time
9 period. Facebook will respond to the best of its ability and based on the information known and
10 identified to date, and as limited by the practice challenged in this action (as defined above).

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

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

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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[REDACTED]

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:

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

- (A) The Interrogatory is vague and ambiguous in its use of the terms and phrases “Facebook User Profile” and “all possible fields or data points.”
- (B) The Interrogatory is compound.
- (C) The Interrogatory seeks information that is not relevant to the claims or defenses in

1 this action to the extent it concerns practices other than those challenged (the alleged increase in the
2 Facebook “Like” count on a website when the URL for that website was contained in a message
3 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
4 approximately December 20, 2012)).

5 (D) The Interrogatory is overly broad in that it purports to seek information regarding “all
6 possible fields or data points that can comprise a Facebook User Profile” over an extended time
7 period. Facebook will respond to the best of its ability and based on the information known and
8 identified to date, and as limited by the practice challenged in this action (as defined above).

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

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

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
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[REDACTED]

INTERROGATORY NO. 7:

For each field or data point identified in Interrogatory No. 6, identify whether – and the manner in which – such field or data point can be accessed, in any form, by Third Parties, including but not limited to Developers, Third Party websites, and Facebook Users.

RESPONSE TO INTERROGATORY NO. 7:

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

(A) The Interrogatory is vague and ambiguous in its use of the terms “field,” “data point,” “Developers,” and “Third Party websites.”

1 (B) The Interrogatory is compound.

2 (C) The Interrogatory seeks information that is not relevant to the claims or defenses in
3 this action to the extent it concerns practices other than those challenged (the alleged increase in the
4 Facebook “Like” count on a website when the URL for that website was contained in a message
5 transmitted through Facebook’s Messages product during the Class Period (December 30, 2011 to
6 October 31, 2012)). Facebook interprets this Interrogatory as limited to the practice challenged in
7 this action.

8 (D) The Interrogatory is overly broad in that it purports to seek information regarding
9 “each field or data point identified in Interrogatory No. 6” over an extended time period. Facebook
10 will respond to the best of its ability and based on the information known and identified to date, and
11 as limited by the practice challenged in this action (as defined above).

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

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

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:**

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

1 VERIFICATION

2 I, Alex Himel, declare as follows:

3 I am an Engineering Director at Defendant Facebook, Inc. ("Facebook") and am authorized to
4 execute this Verification on behalf of Facebook. I have read the foregoing DEFENDANT
5 FACEBOOK, INC.'S SUPPLEMENTAL RESPONSES AND OBJECTIONS TO PLAINTIFFS'
6 FIRST SET OF INTERROGATORIES. I understand that the facts stated in Facebook's Responses
7 were assembled by authorized employees, agents, and/or legal representatives of Facebook and am
8 informed and believed that, subject to any inadvertent errors or omissions, the information contained
9 in those Responses is true and correct based on the records of Facebook and information reasonably
10 available to its employees, agents, and/or legal representatives. Facebook reserves the right to correct
11 any inadvertent errors or omissions in this document that may come to its attention.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct and that this Verification was executed on September __, 2015 in Menlo
14 Park, California.

15 
16 _____
17 Alex Himel

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 8, 2015, I served the following document(s):

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

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

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

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

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

Executed on September 8, 2015.

/s/
Ashley M. Rogers