

Replacement for Dkt. 149-1

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

17 MATTHEW CAMPBELL and MICHAEL
HURLEY,

18 Plaintiffs,

19 v.

20 FACEBOOK, INC.,

21 Defendant.
22

Case No. C 13-05996 PJH

**DECLARATION OF CHRISTOPHER
CHORBA IN SUPPORT OF DEFENDANT
FACEBOOK, INC.'S OPPOSITION TO
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

23
24 REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED
25
26
27
28

1 I, Christopher Chorba, declare as follows:

2 1. I am an attorney admitted to practice law before this Court. I am a partner in the law
3 firm of Gibson, Dunn & Crutcher LLP, and I am one of the attorneys responsible for representing
4 Defendant Facebook, Inc. (“Facebook”) in the above-captioned action. I submit this declaration in
5 support of Facebook’s Opposition to Plaintiffs’ Motion for Class Certification (Dkt. 138). Unless
6 otherwise stated, the following facts are within my personal knowledge and, if called and sworn as a
7 witness, I could and would testify competently to these facts.

8 **I. Demonstratives**

9 2. Attached as **Exhibits A–D** are demonstrative graphics regarding the named plaintiffs
10 and challenged practices.*

11 a. Attached as **Exhibit A** is a chart summarizing a number of individualized issues
12 concerning the named Plaintiffs and some putative class members.

13 b. Attached as **Exhibit B** is a graphical representation of the steps required to send
14 and receive a Facebook message with a URL preview attachment.

15 c. Attached as **Exhibit C** are graphical representations of the individualized inquiries
16 related to ascertainability.

17 d. Attached as **Exhibit D** are charts summarizing the variability for the challenged
18 practices.

19 3. Facebook and its messaging service have often been the subject of public news
20 reports, blog posts, and other publications. Attached as **Exhibit E** is a chart summarizing seventy-
21 seven publicly available online publications, including, *inter alia*, news reports, articles, editorials,
22 and Facebook developer documentation, published between May 6, 2009 and August 7, 2013.
23 Attached as **Exhibits F, G, H, I, J, and K** are the corresponding seventy-seven publications, arranged
24 by Bates numbers FB000000066 to FB000000424 and produced by Facebook during this litigation.
25

26 _____
27 * For the Court’s convenience, and to avoid duplication in the numbering of the exhibits submitted
28 by Plaintiffs, Facebook has used letters rather than numbers to designate its exhibits.

1 **II. Discovery Requests And Responses From Plaintiffs**

2 **A. Plaintiffs' Deposition Testimony**

3 4. Attached as **Exhibit L** is a true and correct copy of relevant excerpts of the deposition
4 transcript of Plaintiff Matthew Campbell on May 19, 2015.

5 5. Attached as **Exhibit M** is a true and correct copy of relevant excerpts of the deposition
6 transcript of Plaintiff Michael Hurley on July 9, 2015.

7 6. Attached as **Exhibit N** is a true and correct copy of relevant excerpts of the deposition
8 transcript of Mr. David Shadpour on October 1, 2015.

9 **B. Plaintiffs' Written Discovery Responses**

10 7. Attached as **Exhibit O** is a true and correct copy of Plaintiff Campbell's Corrected
11 Objections and Responses to Defendant Facebook, Inc.'s First Set of Interrogatories, dated April 2,
12 2015. As these responses reflect, Mr. Campbell has sent or received at least [REDACTED] Facebook messages
13 containing URLs between the time he filed this action (December 30, 2013), and the date of his
14 responses (April 2, 2015).

15 8. Attached as **Exhibit P** is a true and correct copy of Plaintiff Hurley's Objections and
16 Responses to Defendant Facebook, Inc.'s First Set of Interrogatories, dated April 1, 2015. As these
17 responses reflect, Mr. Hurley has sent or received at least [REDACTED] Facebook messages containing URLs
18 between the time he filed this action (December 30, 2013), and the date of his responses (April 1,
19 2015).

20 9. Attached as **Exhibit Q** is a true and correct copy of (Former) Plaintiff Shadpour's
21 Corrected Objections and Responses to Defendant Facebook, Inc.'s First Set of Interrogatories, dated
22 April 2, 2015. As these responses reflect, Mr. Shadpour has sent or received at least [REDACTED] Facebook
23 messages containing URLs between the time he filed this action (January 21, 2014), and the date of
24 his responses (April 2, 2015).

25 10. On April 10, 2015, Plaintiffs supplemented their responses to Facebook's
26 Interrogatories through a letter from counsel (David Rudolph). In particular, Plaintiffs supplemented
27 their responses to Facebook's Interrogatory No. 5 to describe the manner in which they learned of the
28

1 facts supporting their claims, as follows:

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

12 Attached as **Exhibit R** is a true and correct copy of Mr. Rudolph's letter dated April 10, 2015.

13 **C. Plaintiffs' Document Productions**

14 11. During discovery, Facebook requested that Plaintiffs produce copies of the Facebook
15 messages that they sent or received, including but not limited to messages containing URLs.

16 12. Attached as **Exhibits S-U** are true and correct copies of the Facebook messages that
17 Mr. Campbell produced in this action, bearing Bates numbers CAMPBELL000001-181 ([REDACTED])
18 ([REDACTED]), CAMPBELL000440-494 ([REDACTED])
19 ([REDACTED]), and CAMPBELL000495-496
20 ([REDACTED])
21 ([REDACTED]). In the latter category, [REDACTED]
22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

1 [REDACTED]
2 (Ex. V, CAMPBELL000495–496 (emphases added).)

3 In response, [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 (Ex. V, CAMPBELL000496.)

9 13. Attached as **Exhibit V** are true and correct copies of the Facebook messages that Mr.
10 Hurley produced in this action, bearing Bates numbers HURLEY000001–003.

11 **D. Plaintiffs’ Interrogatory No. 8 To Facebook**

12 14. On May 26, 2015, Plaintiffs propounded their Second Set of Interrogatories, which
13 consisted of Interrogatory No. 8, and which sought detailed information regarding the processing of
14 “each [Facebook] message sent or received by Plaintiffs containing a URL.” (Dkt. 130.)

15 15. After discussions between the parties regarding the scope of Interrogatory No. 8,
16 Plaintiffs’ counsel (Mr. Rudolph) wrote to Facebook’s counsel on July 24, 2015, to confirm
17 Plaintiffs’ agreement to limit their Interrogatory No. 8 “to a subset of the total messages at issue,” and
18 Mr. Rudolph provided a list of 19 messages (8 messages to/from Plaintiff Hurley, and 11 messages
19 to/from Plaintiff Campbell). Mr. Rudolph explained that for these 19 messages, “Plaintiffs seek
20 identification and data production of each of the Objects and Associations created when Facebook
21 processed Plaintiffs’ Private Messages containing a URL.” Attached as **Exhibit W** is a true and
22 correct copy of Mr. Rudolph’s letter dated July 24, 2015.

23 16. A true and correct copy of Facebook’s Second Supplemental Responses and
24 Objections to Plaintiffs’ Narrowed Second Set of Interrogatories (dated October 28, 2015) is attached
25 to the Declaration of Alex Himel as **Exhibit MM**. As discussed in these Responses, [REDACTED]

26 [REDACTED]
27 [REDACTED]

28 [REDACTED] (*Id.* at 17.) Facebook explained [REDACTED]

1 [REDACTED]
2 [REDACTED] (*Id.*) At the time of the Responses, Facebook determined that [REDACTED]

3 [REDACTED]
4 [REDACTED] (*Id.*) Facebook
5 produced documents related to its responses regarding the 19 messages. (*Id.* at 18 & Ex. A)

6 17. Facebook also analyzed these messages to determine which of the messages (if any)
7 had a possibility of incrementing a social plugin count on a third-party website. Although Facebook
8 does not possess records to determine whether a particular third-party webpage displayed a social
9 plugin count at the time Plaintiffs’ selected messages were either sent or received, the Internet
10 Wayback Machine (<https://archive.org/web/>) is a “reliable” resource that Plaintiffs’ technical expert,
11 Dr. Jennifer Golbeck, uses “pretty frequently” to view archived webpages. (**Ex. EE**, Golbeck Depo.
12 Tr., at 20:7-21:3.)

13 18. For each of the remaining twelve messages selected by Plaintiffs and for which a share
14 object was created, the Internet Wayback Machine revealed that for the 10 of 12 messages that did
15 have a share object, there was no corresponding social plugin on the websites referenced by the URLs
16 in Plaintiffs’ messages at or near the time the messages were sent. For example, on [REDACTED]

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] Thus, 10 of the 19 messages identified by Plaintiffs had a share
21 object but did not have a corresponding social plugin on the third-party website.

22 19. For 1 of the 12 messages that did have a share object, the Internet Wayback Machine
23 did not have the webpage archived. That message was sent by [REDACTED]

24 [REDACTED]
25 [REDACTED]
26 20. The remaining message was sent from Plaintiff Hurley to Plaintiffs’ counsel Melissa
27 Gardner.
28

1 **III. Other Discovery Issues**

2 **A. Facebook’s “Public-Facing Statements” and “Dedicated Team of Privacy**
3 **Professionals”**

4 21. In their Motion, Plaintiffs assert as follows:

5 Discovery also demonstrates that Facebook’s public-facing statements about
6 “procedural safeguards” for ensuring user privacy in product development are
7 false. Facebook has represented, *inter alia*, in its filings with the Security and
8 Exchange Commission that it has “a dedicated team of privacy professionals who
9 are involved in new product and feature development from design through
10 launch” and who conduct “ongoing review and monitoring of the way data is
11 handled by existing features and applications.” However, when asked to produce
12 documents sufficient to identify the individuals comprising this “dedicated team,”
13 Facebook responded that *none* existed.

14 (Dkt. 138 at 20-21.)

15 22. In fact, Facebook’s counsel never told Plaintiffs’ counsel that Facebook did not have a
16 “dedicated team of privacy professionals.” On the contrary, Facebook specifically *denied* Plaintiffs’
17 request to admit that there was no such team, and indeed there is such a team. Attached as **Exhibit X**
18 is a true and correct copy of Defendant Facebook, Inc.’s Responses and Objections to Plaintiffs’ First
19 Set of Requests for Admission dated June 29, 2015.

20 23. Rather, Facebook’s counsel simply confirmed that, in response to a *document request*,
21 there was not a “specific list.” Plaintiffs’ request sought “*documents*” regarding “the ‘dedicated team
22 of privacy professionals’ identified on page 8 of Your Form 10-K for fiscal year ending
23 December 31, 2013.” (Dkt. 138-4, Ex. 31.) Facebook responded by explaining that it did not have a
24 *document* responsive to Request No. 29, listing members of its internal privacy team. Plaintiffs even
25 misstated the correspondence among counsel by *omitting* the bolded portion below in their brief:

26 With respect to Request No. 29, please be advised that there is no specific list of
27 the ‘dedicated team of privacy professionals’ referenced in the Request, **but we**
28 **have already agreed to conduct a reasonable search for non-privileged**
documents sufficient to identify Facebook’s current and former employees
who may possess knowledge relevant to the practice challenged in this action,
and we also have identified witnesses with relevant knowledge in Facebook’s
Initial Disclosures and responses to Plaintiffs’ Interrogatories.

Plaintiffs attached Facebook’s complete response to the request as Exhibit 32 (Dkt. 138-4, Ex.
32).

1 **B. Plaintiffs’ Expanded Proposed Class Definition Exceeds The “Relevant Time**
2 **Period” For Discovery**

3 24. Plaintiffs’ Consolidated Amended Complaint identified the following proposed class:
4 “All natural-person Facebook users located within the United States who have sent or received
5 private messages that included URLs in their content, from within two years before the filing of this
6 action up through and including the date when Facebook ceased its practice,” which Plaintiffs alleged
7 to be “at some point after it was exposed in October 2012.” (Dkt. 25 ¶ 59 & n.3.)

8 25. In their Motion for Class Certification, Plaintiffs now seek to certify a proposed class
9 of all “Facebook users located within the United States who have sent, or received from a Facebook
10 user, private messages that included URLs in their content (and from which Facebook generated a
11 URL attachment), within two years before the filing of this action *up through the date of*
12 *certification of the class.*” (Dkt. 138 at 10 (emphasis added).) In other words, Plaintiffs have now
13 expanded their proposed class by over three years.

14 26. Plaintiffs’ new proposed class definition extends well beyond the relevant time period
15 to which the parties expressly agreed for discovery. On April 7, 2015, Hank Bates, counsel for
16 Plaintiffs, proposed that the “Relevant Time Period” for “producing documents” should be April 1,
17 2010, to the date of filing the action, December 30, 2013. Attached as **Exhibit Y** is a true and correct
18 copy of Mr. Bates’ letter dated April 7, 2015.

19 27. After some further discussions between the parties, Facebook agreed to this time
20 period in letters dated May 13 and June 12, 2015. Attached as **Exhibits Z** and **AA** are true and
21 correct copies of these letters.

22 28. Regarding the production of source code, the parties agreed (and stipulated, *see*
23 Dkt. 90) to a slightly different time period—September 1, 2009 to December 31, 2012—reflecting the
24 fact that Plaintiffs had alleged that the challenged practice had ceased “at some point after it was
25 exposed in October 2012.” (Dkt. 25 ¶ 59 & n.3.)

26 29. Additionally, during depositions of Facebook’s witnesses, counsel for Plaintiffs
27 repeatedly limited questions to the time period of “2010 to 2012” or “2010 to 2013.” Attached as
28 **Exhibits BB** and **CC** are true and correct copies of excerpts of the deposition transcripts of Facebook

1 witnesses, Jiakai Liu and Ray He, dated June 30, 2015 and September 25, 2015, respectively,
2 reflecting, *inter alia*, a handful of those questions.

3 **C. Fernando Torres' Expert Report And The Information He Claims That He**
4 **Needs To Complete His Damages Analysis**

5 30. Plaintiffs' proposed damages expert, Mr. Fernando Torres, testified that, in order to
6 complete his damages analysis, he needed *additional* information that is distinct from Plaintiffs'
7 previous damages discovery requests— which they represented were “critical to establishing” their
8 damages theory. Attached as **Exhibit DD** is a true and correct copy of relevant excerpts of the
9 deposition transcript of Mr. Fernando Torres on December 18, 2015.

10 31. In support of prior discovery motions, Plaintiffs argued that they would be “unduly
11 prejudice[d]” without “discovery relevant to damages in this action.” (Dkt. 112 at 2; *see also*
12 Dkt. 109 at 2, 4 (arguing that “[w]ithout discovery into the revenue Facebook has generated . . .
13 Plaintiffs will be hampered in formulating a class-wide damages theory”).) Plaintiffs represented that
14 the discovery they sought was “critical to establishing” their damages theory and that “expert analysis
15 of the [] information sought” would allow them to “accurately model the profits attributable to the
16 challenged conduct.” (Dkt. 112 at 2-3.) And they also argued that the damages discovery sought was
17 “directly relevant to the issues of damages suffered by the class as well as the appropriate injunctive
18 relief . . . and [was] . . . necessary for Plaintiffs to fashion a theory of class-wide relief for their class
19 certification briefing.” (Dkt. 109 at 2, 4.)

20 32. In light of these and other arguments, Plaintiffs received a 30-day extension of the
21 briefing schedule (Dkt. 117) and successfully compelled Facebook to produce extremely broad
22 discovery (Dkt. 130, 136.).

23 33. In his expert report, however, Mr. Torres cited only 7 of the thousands of documents
24 produced by Facebook during the course of this litigation. (Dkt. 138-4, Ex. 33.) He also asserted in
25 his report that he needed *other information* from Facebook: “with additional information, including
26 production from Facebook, and inputs, these conclusions [in the Report] could be refined.”
27 (Dkt. 138-4, Ex. 33, ¶ 11 n.12.) In the final paragraph of his report, Mr. Torres explained, “With
28 quantitative data on the number of affected ‘Like’ counts, and identification of the affected URLs, it

1 will be feasible to narrow the ranges discussed here and calculate more precisely the potential
2 incremental benefit attributable to the accused practice.” (*Id.* ¶ 74.)

3 34. During his deposition, Mr. Torres discussed the additional information he needed or
4 was expecting from Facebook in order to complete his analysis. But as of the date of this
5 Declaration, Plaintiffs have not requested the vast majority of information that Mr. Torres identified
6 in his deposition. To the extent some of the information has been requested previously, Facebook has
7 already conducted a reasonable search and diligent inquiry and has produced responsive information
8 to the extent it exists.

9 35. The following chart summarizes the discovery information Mr. Torres claims he needs
10 to complete his analysis and whether the information has been previously requested by Plaintiffs:

Information Mr. Torres Needs	Requested by Plaintiffs?
“[T]he number of [Facebook] messages that were intercepted that contain URLs” (Ex. EE [Torres Depo. at 27:20-22].)	No.
“[T]he total number of [Facebook] messages” (Ex. EE [Torres Depo. at 27:22-23].)	No.
“[H]ow many messages each user sent, et cetera, how many fall into the definition of the class” (Ex. EE [Torres Depo. at 227:9-11].)	No.
“[H]ow many URLs were intercepted that . . . led to like counts being increased” (Ex. EE [Torres Depo. at 285:10-14].)	Yes, but no responsive documents existed. ¹

23
24 ¹ Facebook’s Response to Plaintiffs’ Request for Production No. 57: “Facebook [] conduct[ed] a
25 reasonable search for non-privileged documents sufficient to identify the number [of] Likes that were
26 generated as a result of the processes involved in the practice challenged in this action (the alleged
27 increase in the Facebook ‘Like’ count on a website when the URL for that website was contained in a
28 message transmitted through Facebook’s Messages product) between April 1, 2010 and December
30, 2013, to the extent such documents exist, are within Facebook’s custody and control, ha[d] not
already been produced to Plaintiffs, and c[ould] be located using a reasonable search.”

Information Mr. Torres Needs	Requested by Plaintiffs?
<p data-bbox="212 239 932 310">“[T]he ratio of those increases to the total like counters”</p> <p data-bbox="212 344 932 380">(Ex. EE [Torres Depo. at 285:10-14].)</p>	No.
<p data-bbox="212 413 932 485">“[T]he value of the advertising revenue perceived by Facebook”</p> <p data-bbox="212 518 932 554">(Ex. EE [Torres Depo. at 285:14-15].)</p>	Yes. ²
<p data-bbox="212 588 932 623">“The advertising revenue that reflects only the U.S.”</p> <p data-bbox="212 657 932 690">(Ex. EE [Torres Depo. at 205:16-22].)</p>	No.
<p data-bbox="212 724 932 795">“[T]he number of links captured that fall under the definition of the class.”</p> <p data-bbox="212 829 932 865">(Ex. EE [Torres Depo. at 208:19-20].)</p>	No.
<p data-bbox="212 898 932 934">“[T]he number of links on the social graph.”</p> <p data-bbox="212 968 932 1001">(Ex. EE [Torres Depo. at 218:2-3].)</p>	No.
<p data-bbox="212 1035 932 1144">Whether websites corresponding to URLs in Facebook messages had social plugins at the time the message was sent.</p> <p data-bbox="212 1178 932 1215">(Ex. EE [Torres Depo. at 266:17-22].)</p>	No.

D. Response To Rudolph Declaration And Plaintiffs’ Misstatements About Discovery

36. In support of the Motion, Plaintiffs’ counsel David Rudolph filed a supporting declaration (Dkt. 138-3) in which he raises several complaints about discovery in this case. Mr. Rudolph’s declaration contains a large number of misstatements about the discovery conducted in this case, and the following paragraphs respond to his points in sequence.

37. First, relying on his previously filed Declaration in support of Plaintiffs’ Motion to Enlarge Time and Extend Deadlines (Dkt. 109-2), Mr. Rudolph argues that Plaintiffs’ “ability to

² Facebook produced documents in compliance with the Court’s Orders, which, *inter alia*, compelled Facebook to produce documents responsive to Plaintiffs’ Requests for Production Nos. 53, 54, and 59. (Dkt. 130, 136; *see also supra* ¶¶ 31-32.)

1 prepare their motion for class certification” was “prejudice[ed]” by Facebook’s alleged “delay[s]
2 providing relevant discovery in this matter.” (Dkt. 138-3, ¶ 2.) More specifically, he claims that
3 Facebook “delayed production of its source code by over five months . . . and [] failed to produce a
4 significant number of documents responsive to Plaintiffs’ document requests” in a timely manner.
5 (*Id.*)

6 38. Mr. Rudolph does not explain that this Court already was presented with these
7 arguments on *two* separate occasions. After considering Facebook’s Opposition to Plaintiffs’ Motion
8 to Enlarge Time and Extend Deadlines (Dkt. 114) and the supporting Declaration of Joshua Jessen
9 (Dkt. 114-1), which rebutted similar assertions from Plaintiffs’ counsel, this Court ruled that the “90-
10 day extension sought by plaintiffs would unnecessarily delay the case,” and instead ordered a 30-day
11 extension. (Dkt. 117; *see also* Dkt. 113-1 at 13.)

12 39. Several weeks later, Plaintiffs filed a Renewed Motion to Continue, attempting to
13 revisit the issue and arguing that Facebook “delayed [] providing relevant discovery, including by
14 failing to produce a significant proportion of relevant and responsive documents until October 13,
15 and October 28.” (Dkt. 134-1.) Once again, Facebook responded to Plaintiffs’ false assertions and
16 corrected the record. (Dkt. 135, 135-1.) This Court denied Plaintiffs’ motion. (Dkt. 136.)

17 40. Mr. Rudolph’s most recent declaration (Dkt. 138-3) again argues that Facebook
18 “delayed” production of its source code, “delayed” producing a significant portion of documents until
19 October 13-28, 2015, and “delayed” producing additional documents until November 3-7, 2015.
20 (Dkt. 138-3, ¶¶ 2–5.) Facebook already refuted the first two assertions were before the Court. (*See*
21 Dkt. 114-1 ¶¶ 8–36; 135-1 ¶¶ 2–10.) On Mr. Rudolph’s last point, he fails to mention that
22 Facebook’s November productions were in response to Plaintiffs’ Motion to Compel (Dkt. 112),
23 Magistrate Judge James’ Order on October 14, 2015 (Dkt. 130), and this Court’s Order on
24 November 3, 2015. (Dkt. 136.) In other words, the productions were the result of *Plaintiffs’* motions
25 to compel. Facebook produced all responsive documents it could locate after a reasonable search in a
26 timely manner. Although Mr. Rudolph is correct to point out that the November 7 productions were
27 significant in volume, this was through no fault of Facebook—it had repeatedly warned Plaintiffs that
28

1 their requests were extremely overbroad and would yield many irrelevant documents, and Facebook
2 undertook extensive efforts to try to reach a reasonable compromise. (Dkt. 131-1.) For example,
3 Facebook offered to provide Plaintiffs with representative documents for certain of Plaintiffs'
4 requests, but Plaintiffs rejected all offers for compromise and continued to litigate these issues.
5 (Dkt. 131-1, Ex. 1.)

6 41. Contrary to Mr. Rudolph's declaration, Facebook's production was substantially
7 complete as of September 30, 2015, with respect to the documents Facebook had agreed to produce at
8 that point. Productions after this date were primarily in response to Plaintiffs' Motion to Compel
9 (Dkt. 112, 113, 122), which were not even decided until after September 30. (See Dkt. 130, 136.)

10 **IV. Authentication Of Remaining Exhibits**

11 42. Attached as **Exhibit EE** is a true and correct copy of excerpts of the deposition
12 transcript of Dr. Jennifer Golbeck (dated December 16, 2015).

13 43. Attached as **Exhibit FF** is a true and correct copy of excerpts of the deposition
14 transcript of [REDACTED] (dated August 7, 2015).

15 44. Attached as **Exhibit GG** is a true and correct copy of excerpts of the deposition
16 transcript of [REDACTED] (dated August 10, 2015).

17 45. Attached as **Exhibit HH** is a true and correct copy of excerpts of the deposition
18 transcript of [REDACTED] (dated August 11, 2015).

19 46. Attached as **Exhibit II** is a true and correct copy of excerpts of the deposition
20 transcript of Ray He (dated October 28, 2015).

21 47. Attached as **Exhibit JJ** is a true and correct copy of excerpts of the deposition
22 transcript of Michael Adkins (dated October 28, 2015).

23 48. Attached as **Exhibit KK** is a true and correct copy of a document that begins with
24 Bates number FB000006429, which Facebook produced during this litigation.

