

EXHIBIT FF

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CALIFORNIA

MATTHEW CAMPBELL, MICHAEL)
HURLEY, and DAVID SHADPOUR,)
Plaintiffs,)
v.) No.C 13-05996 PJH(MEJ)
FACEBOOK, INC.,)
Defendant.)

DEPOSITION OF [REDACTED]
CONFIDENTIAL

Taken on behalf of Defendant

* * *

BE IT REMEMBERED THAT the
deposition of [REDACTED] was taken
before Rosemary Tanzer, a Registered
Professional Reporter and a Certified
Shorthand Reporter for Oregon and Washington,
on Friday, August 7, 2015, commencing at the
hour of 9:04 a.m., at the Embassy Suites,
20001 NW Tanasbourne Drive, Hillsboro,
Oregon.

* * *

1 A I don't really have an opinion about
2 it. I don't have a belief around it. I
3 don't know.

4 Q You don't have any belief, as you sit
5 here today, as to whether Facebook was
6 accessing --

7 A I would imagine, as there is a
8 class-action lawsuit taking place, that there
9 is a probability that this is occurring.

10 Q Do you have any other basis for
11 believing that there was a probability this
12 was occurring besides the fact of the class
13 action?

14 A No.

15 Q Have you investigated at all or
16 looked into whether this is happening or
17 whether there is any basis for these claims?

18 A No.

19 Q Did you continue to use Facebook
20 after you first learned about this claim?

21 A Yes.

22 Q Do you use Facebook messages at all
23 to the extent you remember after hearing
24 about these claims?

25 A Uh-huh.

1 Q We're going to get to that. I asked
2 the question, do you care whether --

3 A I just told you that I don't know
4 what it is.

5 Q You don't know what it is.

6 A And actually I told you before I
7 don't know what it is.

8 Q That's fine. I would like to get
9 marked as -- are we up to Exhibit 3 now? Get
10 marked as Exhibit 3 this document.

11 (Exhibit No. 3 marked.)

12 Q BY MS. RAJAGOPALAN: Do you want to
13 take a moment to look that over, and just let
14 me know when you're ready.

15 A (The witness complied.) Okay.

16 Q So I'll represent to you this is not
17 a document that we've produced in this case.
18 My team and I generated a URL preview and
19 this is a screen shot of a URL preview. Does
20 what you see depicted on this document look
21 familiar to you?

22 A In what way?

23 Q Have you seen something like this
24 before?

25 A Yes.

1 Q Where have you seen it?

2 A On Facebook.

3 Q And what does it look like to you
4 based on your familiarity?

5 A It looks like a link.

6 Q Okay. Do you see the left-hand side
7 column that says Inbox, Other, More?

8 A Uh-huh.

9 Q What does that look like to you?

10 A What do you mean?

11 Q Have you seen something like that
12 before?

13 A I don't know. It doesn't look
14 familiar here.

15 Q Have you seen something -- do you
16 think you may have seen something like that
17 in the -- when you've opened the Facebook
18 messages product?

19 A I don't know. I only really just
20 look at messages. It doesn't look familiar
21 at all, actually.

22 Q The box that's called "new message,"
23 do you see that, this big box on the right?

24 A Uh-huh.

25 Q Does that look familiar to you?

1 A In, like, this area below? I guess.
2 I don't know. This doesn't look like what I
3 have on my phone.

4 Q Does it look at all like what you've
5 seen when you've sent a message on your
6 computer?

7 A I don't really send Facebook messages
8 on my computer very often.

9 Q To the extent -- I think you
10 testified you have sometimes.

11 A Sure. If there is a few things
12 different, I wouldn't be able to say. It's a
13 computer page. I don't remember what they
14 look like.

15 Q Do you see the box at the bottom that
16 says -- it has a link that says
17 HTTP:/money.CNN.com and then there is a
18 picture below that with some text? Have you
19 seen something like that before?

20 A That's a URL. Correct?

21 Q Which part is the URL?

22 A The link.

23 Q The link. And then what about below
24 that?

25 MS. GARDNER: Let the record

1 Q Are you aware at all if Facebook's
2 developer page disclosed that the number of
3 Likes on a third-party website is derived in
4 part from the number of Facebook messages
5 that contain a URL? I realize that was a
6 long question, so let me know if you need me
7 to break it up.

8 A No. The answer is no. We can do
9 that with all the rest of your questions,
10 make it one question.

11 Q Do you know whether the number of
12 Likes on third-party websites was derived or
13 incremented, increased or decreased in any
14 way, based on people sending URLs in Facebook
15 messages?

16 A No.

17 Q If that were happening, would you
18 object to it?

19 A State again what exactly it is?

20 Q So you mentioned -- we mentioned
21 before how on third-party websites you have a
22 Like button. And -- well, I'll just say for
23 the benefit of this question, that on certain
24 third-party websites there is a Like count,
25 like there is a number that says, you know,

1 opinion of?

2 Q Whether Facebook should block
3 viruses.

4 A I'm not sure.

5 Q I'm asking, do you have an opinion,
6 yes or no?

7 A I would need more information to make
8 an opinion.

9 Q So that means at this point you don't
10 have an opinion?

11 A Yes.

12 Q And you don't have an opinion as to
13 whether Facebook should block viruses?

14 A Define "opinion."

15 Q Well, you said I don't have enough
16 information to have an opinion, so I'm
17 asking, does that mean you don't have an
18 opinion? Because you said "I don't have
19 enough information to have an opinion," so
20 does that mean you don't have an opinion?

21 A This is getting really convoluted and
22 I'm starting to lose track of what exactly it
23 is that we're talking about.

24 Q I asked you before, do you object to
25 this whole series of things, blocking

1 malware, blocking viruses, blocking spam, et
2 cetera, and for each one you said, "I don't
3 know if I object to that." And then I asked
4 you follow-up questions on a couple of those
5 to say, well, do you -- actually let me go
6 back.

7 I asked you a couple of times,
8 "What would that depend on?" And you said,
9 "I don't know. I don't have enough
10 information to form an opinion." So now I'm
11 asking, does that mean that you just don't
12 have an opinion? And I can ask for each one
13 in turn if that would help.

14 A If I have an opinion about whether or
15 not I have an objection?

16 Q No. If you have an opinion on
17 whether Facebook should do any things that I
18 mentioned?

19 A No.

20 Q So you don't have an opinion as to
21 whether Facebook should block viruses?

22 A At this moment I don't have enough
23 information to create an opinion. That
24 doesn't mean that later I might have one.

25 Q Right, but I'm asking, right now, do

1 you have an opinion? And I'm asking is the
2 answer to that question yes or no?

3 A No.

4 Q Do you have an opinion right now as
5 to whether Facebook should block viruses?

6 MS. GARDNER: Objection.
7 Vague.

8 A I can't say, and the reason I can't
9 say is because by saying I don't have an
10 opinion is different than saying I don't
11 know. If I say I don't have an opinion, it
12 is like a statement about how I feel about
13 something. I don't know how I feel. And to
14 say I don't have an opinion implies that it
15 doesn't matter to me. It might matter to me.
16 All of those things that you said, they might
17 matter to me and likely they do. But I don't
18 -- I don't have enough information right now
19 to be able to more -- to really say to the
20 extent that they matter.

21 Q BY MS. RAJAGOPALAN: Okay. Do you
22 understand that this lawsuit is a putative
23 class action?

24 MS. GARDNER: Objection.

25 A No.

1 Q Okay. We looked at the URL preview
2 earlier, Exhibit 3. Do you recall at all how
3 many Facebook messages you've either sent or
4 received that included a preview of the
5 website associated with the URL?

6 A No.

7 Q You have no recollection?

8 A (Shaking head.) No.

9 Q Do you remember ever seeing a URL
10 preview when you started composing a message
11 on Facebook?

12 MS. GARDNER: Objection.
13 Vague.

14 A I don't remember.

15 Q BY MS. RAJAGOPALAN: You don't
16 remember if you've ever seen one? You can
17 look back at Exhibit 3, if that helps.

18 A What do you mean by have I never seen
19 one when I'm writing a message in Messenger?

20 Q When you're writing a message in
21 Messenger and you put a link in there, do you
22 recall ever seeing --

23 A Like the thumbnail.

24 Q Say again?

25 A Like the thumbnail.

1 Q Yes, the thumbnail with the text.

2 MS. GARDNER: Objection.

3 Asked and answered.

4 MS. RAJAGOPALAN: She said she
5 didn't -- I'm restating the question.

6 MS. GARDNER: You asked the
7 same question again. This is the third time.

8 A I don't remember.

9 Q BY MS. RAJAGOPALAN: Do you think you
10 may have seen it?

11 A I remember, like, posting a link -- a
12 link. This makes me think of a news feed.

13 Q Okay. But --

14 A I don't remember, is what I'm saying.
15 It's possible that I could have, but I don't
16 remember. This doesn't look familiar to me.
17 I don't really send URLs in messages. Like I
18 said, there is like a handful, maybe a
19 handful, because I'm guessing people have,
20 like, sent maybe a video. But pretty much
21 all of this is in the news feed.

22 Q Okay. In that handful that you
23 remember either sending or receiving messages
24 --

25 A I don't remember a handful. I'm

1 guessing that it was.

2 Q Okay. To the extent that you are
3 guessing that there is a handful, you don't
4 recall seeing a URL preview?

5 A No.

6 Q Okay. You mentioned earlier that you
7 used different browsers at different times
8 and possibly you've used different browsers
9 when you're using Facebook. I think we
10 mentioned Internet Explorer, Chrome, Firefox.
11 Do you recall that?

12 A Uh-huh.

13 Q Do you happen to know if any of those
14 browsers had Javascript enabled?

15 A I do not know.

16 Q Do you know if any of the URLs that
17 you sent in messages to other people -- the
18 URLs would obviously, as you said before, be
19 an address for a website. Do you know if any
20 of those websites had a Facebook Like button,
21 social plug-in on them?

22 A I do not know.

23 Q Do you think some of them did? Do
24 you think any of them did?

25 A I don't know.

1 happen. So that's informing how -- me
2 bringing it up now as well.

3 Q But so is this conversation today
4 your only basis for thinking that that
5 happened or is it not the only basis for
6 thinking that that happened?

7 A It's not the only basis.

8 Q And the other basis that you have for
9 thinking that happened is your conversations
10 with Melissa before this?

11 A That's correct.

12 Q But you don't know whether or not
13 your sharing your URL message actually did
14 increment the Like count or not?

15 A No.

16 Q And you know also that your name is
17 not associated with a Like count on a
18 third-party website?

19 MS. GARDNER: Objection.
20 Foundation.

21 A I don't know that.

22 Q BY MS. RAJAGOPALAN: So if the Like
23 count on the third-party website said, as I
24 think I mentioned earlier, just had a number
25 1.2 million, 500,000, 50, and there were no

1 names or anything like that associated with
2 it, and it was just anonymized, basically,
3 would you object to an anonymized Like, like
4 that, being incremented based on what you
5 shared in a private message?

6 A I don't know.

7 MS. GARDNER: Objection.
8 Form.

9 Q BY MS. RAJAGOPALAN: So before when
10 you said you don't know whether your sharing
11 of a URL in a message incremented the Like
12 count on a particular web page, do you have
13 any way of determining that?

14 A Not that I'm aware of.

15 Q I'm going to hand the court reporter
16 two exhibits this time. We can talk about
17 them in tandem, which will also make this go
18 a little bit more quickly.

19 A Okay.

20 Q So let's get these marked 4 and 5.
21 Is that right?

22 (Exhibit Nos. 4 and 5 marked.)

23 Q BY MS. RAJAGOPALAN: So the reporter
24 handed you documents marked Exhibit 4 and
25 Exhibit 5. So I'll represent to you that

1 A To the processing.

2 Q Of this message.

3 MS. GARDNER: The witness has
4 her head in her hands and she's staring down
5 at the table and groaning.

6 MS. RAJAGOPALAN: That's
7 inappropriate, Counsel. If you want to go
8 off the record, that's fine. Those kinds of
9 comments are really not appropriate.

10 A Okay. Ask it again.

11 Q BY MS. RAJAGOPALAN: If you need a
12 break, I'm happy to take a break.

13 A I just want to go. I just want to be
14 done.

15 Q I appreciate that.

16 A So how much longer do you think we're
17 going to have? Should I take a break if this
18 is going to be another two hours?

19 Q It's not going to be another two
20 hours, but if you would like to take a break
21 now, please go ahead.

22 A I would like to get this finished is
23 what I would like.

24 Q Then we can keep going.

25 I'll ask again. Do you know if

1 Mr. Hurley consented to the processing of
2 this message?

3 A I don't.

4 MS. GARDNER: Objection.

5 Vague.

6 Q BY MS. RAJAGOPALAN: Do you know what
7 understanding he had, if any, about whether
8 this message was being processed by Facebook
9 in any way?

10 MS. GARDNER: Objection.

11 Vague.

12 A I have no information about that.

13 Q BY MS. RAJAGOPALAN: Do you know if
14 he ever visited the Facebook developer page
15 that stated that URL attachments were
16 included in the Like count?

17 A I don't know much about Mike Hurley.

18 Q Do you ever recall visiting a
19 Facebook developer page that stated that URLs
20 in messages were included in the Like count?

21 A No.

22 Q Do you know if Mr. Hurley ever saw an
23 article or a press coverage regarding the
24 fact that Facebook was processing messages in
25 some way?

1 A I don't know much about Michael
2 Hurley.

3 Q Did you ever see an article or press
4 coverage regarding the fact that Facebook was
5 processing messages in some way?

6 A Not that I recall.

7 Q Can you recall any other specific
8 people to whom you sent a Facebook message
9 containing a URL?

10 A No.

11 Q What other e-mail services -- sorry.
12 What e-mail services have you used?

13 A Gmail.

14 Q What time period would you say you've
15 used Gmail?

16 A How many years?

17 Q Yes, from when to when.

18 A Probably ten years.

19 Q So you would say from 2005 to now?

20 A Probably, yeah.

21 Q Any other e-mail services that you
22 used?

23 A I used Hot Mail in undergrad.

24 Q Do you use it now?

25 A No.

1 different ways to commute electronically,
2 would you agree?

3 A Define "many."

4 Q More than one.

5 A Yeah.

6 Q You don't have to use Facebook to
7 communicate. Would you agree with that?

8 A That's correct.

9 Q Now that you know about this lawsuit,
10 why are you continuing to use Facebook to
11 communicate?

12 A Because others send me messages that
13 I respond to.

14 Q And earlier, though, you testified
15 that since learning of this lawsuit you, too,
16 have sent messages. So why have you
17 continued to do that?

18 A So I've sent messages in response to
19 things. I don't really remember what I have
20 sent since I have learned of this lawsuit.
21 But Facebook Messenger is how I've
22 communicated with friends in the past, and so
23 I haven't changed my behavior as of this
24 point.

25 Q And is there a reason for that?

1 A I'm not sure. I don't know.

2 Q Would you say that you've been harmed
3 by Facebook's actions that are challenged in
4 this case?

5 MS. GARDNER: Objection.
6 Vague.

7 A I don't know enough about it to know
8 whether or not I've been harmed.

9 Q BY MS. RAJAGOPALAN: Okay. Based on
10 what you've been told that -- you said there
11 was a probability that it was happening
12 because there is a class action about it, do
13 you think that you have been harmed if that's
14 happened?

15 A From what I know about the
16 possibility of Facebook accessing my
17 messages, I don't like.

18 Q You don't like what? Sorry. You
19 trailed off.

20 A I don't like Facebook accessing my
21 messages or the possibility that a Like
22 increase is going to happen on a page that
23 I'm not aware of.

24 Q Would you say that you've been harmed
25 if that's happened?

1 actually, for anyone other than yourself in
2 expressing that view?

3 A No.

4 Q Do you have any information -- I'm
5 sorry. Let me back up. Do you believe that
6 your Facebook messages have monetary value?

7 A I don't know.

8 Q Do you believe that they do? Do you
9 think that they do or not?

10 A I don't have a thought about it.

11 Q Do you have information of any kind
12 that Facebook has targeted an advertisement
13 to you based on something that you put in a
14 message, whether it's a URL or something
15 else?

16 MS. GARDNER: Objection.
17 Vague.

18 A No, I don't think so.

19 Q BY MS. RAJAGOPALAN: You don't think
20 Facebook has done that or you don't think you
21 have any information to indicate that
22 Facebook has done that?

23 A I don't think -- I don't know. I
24 don't recall.

25 Q You don't recall what?

1 A No.

2 Q NPR?

3 A Yes.

4 Q Do you listen to it on the radio?

5 A No.

6 Q Do you go to the website?

7 A No.

8 Q Where have you read or gotten contact
9 from --

10 A I see links on the news feed on
11 Facebook.

12 Q Do you remember, on any of the
13 sources that you said that you do read or
14 have read, the New York Times, the New
15 Yorker, USA Today, have you read any articles
16 that seem like they would be relevant to what
17 we're talking about today?

18 A Not that I can remember.

19 Q Anything concerning the Facebook
20 messages product?

21 A No.

22 Q Anything concerning Facebook more
23 generally?

24 A Not that I'm aware of. There was a
25 time magazine article about Mark Zuckerberg,

1 but I didn't read it.

2 Q Do you remember what it was about at
3 all?

4 A It was about him. I think he was on
5 the cover, maybe.

6 Q Do you remember when this was at all?

7 A A couple of years ago.

8 Q I think that's it.

9 A Yay.

10 MS. GARDNER: All right.

11 MS. RAJAGOPALAN: Can we go
12 off the record?

13

14 (DEPOSITION ADJOURNED AT 2:08 P.M.)

15 * * *

16 (NOTE: Untranscribed steno notes
17 archived ten years on computer;
18 transcribed English files archived
19 five years on computer.)

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CERTIFICATE

I, Rosemary Tanzer, a Registered Professional Reporter, and a Certified Shorthand Reporter for Oregon and Washington Certified Court Reporter, hereby certify that said witness personally appeared before me at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand at Portland,
Oregon, this 18th day of August, 2015.

Rosemary Tanzer
OREGON CSR NO. 94-0299