

EXHIBIT 2

Gardner, Melissa

From: Jessen, Joshua A. <JJessen@gibsondunn.com>
Sent: Thursday, June 25, 2015 9:01 PM
To: Hank Bates; Rudolph, David T.
Cc: Chorba, Christopher; Maute, Jeana Bisnar; Sobol, Michael W.; Allen Carney; David Slade; Diamand, Nicholas; Gardner, Melissa
Subject: RE: Campbell v Facebook

This is generally fine, Hank, though can you clarify what exactly you are looking for in Request 36 seeking “all code repositories related to produced source code”?

Thanks,

Joshua A. Jessen

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From: Hank Bates [mailto:hbates@cbplaw.com]
Sent: Thursday, June 25, 2015 11:11 AM
To: Jessen, Joshua A.; Rudolph, David T. (drudolph@lchb.com)
Cc: Chorba, Christopher; Maute, Jeana Bisnar; Sobol, Michael W.; Allen Carney; David Slade; Diamand, Nicholas; Gardner, Melissa
Subject: RE: Campbell v Facebook

Josh,

Thank you for your email. While it appears the parties are in general agreement regarding the production of relevant source code, for the avoidance of doubt we think it is appropriate to articulate the scope of relevant source code given the posture of this issue so as to avoid further disputes down the road.

As a general matter Plaintiffs request all source code articulated in, and related to, Request For Production Nos. 4-11, 13-14, 16-17 & 19. (In our April 7, 2015 letter we agreed to table Requests Nos. 12, 15 & 18.) Request No. 4 is the broadest of these requests. For clarification, Request No. 4 includes all source code related to the private message function from creation through end storage, including any scanning or acquisition of private message content and any data structures that connect or associate users to messages or message content, and messages to attachments or URLs. This would also include all source code and Diffs referenced or included in Mr. Himel’s declaration and the Exhibits thereto.

To address your concerns regarding specific requests below, with respect to Request Nos. 7, 8 & 9, we interpret these to be seeking information relevant to spam and malware filtering and URL previews in the context of private messages. With respect to Request No. 11, this has the meaning that Facebook intended in the referenced pleading; however, it is our interpretation that it was related to the private message context. With respect to Request Nos. 16 and 17, while these requests are not specifically limited to private messages we did limit these requests to the Passive Like context in our April 7th letter; these Requests go to the issue of whether

the data collected or acquired from private messages is in any form available to third parties; we expect Facebook to produce responsive source code.

With respect to the time frame, as we discussed, we are amenable to an initial source code production spanning from September 1, 2009 to December 31, 2012 (which tracks the timeframe in Mr. Himel's declaration) but reserve our rights to seek source code outside of this time frame to the extent we determine based on our review of the code or subsequent depositions of Mr. Himel or others that such further code is relevant.

In addition, Plaintiffs requested all code repositories related to produced source code (Request No. 36) and all check in/check out histories for such source code (Request No. 37). Please confirm that this production will be provided contemporaneously with the source code production, as these documents will assist in expediting the code review.

Please confirm Facebook agrees to the above scope of production. Assuming Facebook agrees, the parties can proceed with the stipulation and modified protective order. I've revised and added to your stipulation language some and propose the following language to be included in the stipulation:

“Subject to the entry of an amended protective order governing the treatment of source code, Facebook has agreed to produce source code responsive to Plaintiffs' discovery requests for the time period September 1, 2009 to December 31, 2012. The parties have met and conferred in good faith and have not identified any issues of disagreement related to the scope of the source code production. However, in the event that a dispute arises as to whether particular portions of the source code are responsive or relevant to Plaintiffs' claims, the parties will meet and confer in a good-faith attempt to resolve the dispute. If they cannot reach agreement, the parties will brief the dispute for the Court. Accordingly, by agreement of the parties, the deposition of Alex Himel scheduled for July 1, 2015 has been continued to a date yet to be determined, Plaintiffs will not file a motion to compel related to the source code at this time, and the deadlines associated with such briefing set by the Court in its April 13, 2015 Order shall be taken off calendar.”

Regards,

Hank Bates
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From: Jessen, Joshua A. [<mailto:JJessen@gibsondunn.com>]
Sent: Wednesday, June 24, 2015 8:27 PM
To: Hank Bates; Rudolph, David T. (drudolph@lchb.com)
Cc: Chorba, Christopher; Maute, Jeana Bisnar
Subject: Campbell v Facebook

Gentlemen –

Thank you for speaking with us earlier.

Per our discussions, and subject to the entry of an amended protective order, we are amenable to making the relevant source code available during the period discussed in the Himel declaration (September 2009 to December 2012).

I've gone back and looked at the specific requests for production you referenced on our call and have a few concerns. Some of them are not tethered specifically to the messages product, such as Requests 7, 8, 9, 11, 16, and 17. And for some others, we disagree with the phrasing (e.g., "Facebook User Data Profiles"). However, we seem to have general agreement regarding the relevant source code (i.e., source code relating to the operation of the messages product and Plaintiffs' allegations of "scanning," "intercepting," etc. in connection with social plugins). It is of course possible disputes will arise in the future regarding specific portions of the source code, but if that happens, I believe the parties can resolve them.

Therefore, the kind of language I would propose we build into our stipulation is something along the following lines: "Subject to the entry of an amended protective order governing the treatment of source code, Facebook has agreed to make available source code relevant to Plaintiffs' claims for the time period September 2009 to December 2012. In the event the parties dispute whether particular portions of the source code are relevant to Plaintiffs' claims, the parties will meet and confer in a good-faith attempt to resolve the dispute. If they cannot reach agreement, the parties will brief the dispute for the Court." Please let me know if this (or something along these lines) works. Again, I don't anticipate disputes, but this preserves all parties' rights.

I also anticipate sending you proposed source code PO provisions by tomorrow.

Thanks,

Josh

Joshua A. Jessen

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