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19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA

21
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. C 13-5996 PJH

**JOINT STIPULATION AND [PROPOSED]
ORDER CONTINUING THE DEPOSITION
OF ALEX HIMEL AND REMOVING THE
CURRENT SOURCE CODE BRIEFING
SCHEDULE AND HEARING DATE**

1 WHEREAS, in the course of the discovery process, a dispute arose between Plaintiffs and
2 Defendant Facebook, Inc. (the “Parties”) regarding the production of Facebook’s source code;

3 WHEREAS, on April 13, 2015, the Court entered a Discovery Order Re: Source Code
4 Briefing Schedule (“April 13, 2015 Order”) (Dkt. No. 68);

5 WHEREAS, a subsequent dispute arose over the availability for deposition of Alex
6 Himel, an employee of Facebook whose declaration accompanied Facebook’s source-code-
7 related discovery production of June 1, 2015;

8 WHEREAS, on June 12, 2015, the Court entered an Order Denying Telephonic Discovery
9 Conference Without Prejudice and Setting Deposition and Briefing Schedule (“June 12, 2015
10 Order”) (Dkt. No. 88), establishing a revised briefing schedule regarding source code production
11 and ordering Alex Himel to appear for deposition on July 1, 2015;

12 WHEREAS, the Parties have met and conferred, coming to an agreement with regard both
13 to the production of source code and to continuing the deposition of Alex Himel. Specifically,
14 subject to the entry of an amended protective order governing the treatment of source code,
15 Facebook has agreed to produce source code responsive to Plaintiffs’ discovery requests for the
16 time period September 1, 2009 to December 31, 2012. The Parties have met and conferred in
17 good faith and have not identified any issues of disagreement related to the scope of the source
18 code production. However, in the event that a dispute arises as to whether particular portions of
19 the source code are responsive or relevant to Plaintiffs’ claims, the Parties have agreed to meet
20 and confer in a good-faith attempt to resolve the dispute. If they cannot reach agreement, the
21 Parties will brief the dispute for the Court. Accordingly, by agreement of the Parties, the
22 deposition of Alex Himel scheduled for July 1, 2015 has been continued to a date yet to be
23 determined.

1 NOW, THEREFORE, subject to approval of the Court, the Parties hereby stipulate and
2 request that the Court enter an order allowing the postponement of the deposition of Alex Himel
3 and removing from the calendar the deadlines associated with such briefing set by the Court in its
4 April 13, 2015 Order and as amended in the Court's June 12, 2015 Order, including the hearing
5 date of August 13, 2015.
6

7 Respectfully submitted,

8 Dated: June 26, 2015

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

9 By: /s/ Michael W. Sobol

10 *Attorneys for Plaintiffs and the Proposed*
11 *Class*

12 Dated: June 26, 2015

GIBSON, DUNN, & CRUTCHER, LLP

13 By: /s/ Joshua A. Jessen

14 *Attorneys for Defendant Facebook, Inc.*
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18 **ATTORNEY ATTESTATION**

19 Pursuant to Civil Local Rule 5-1, I, Michael W. Sobol, hereby attest that concurrence in
20 the filing of this document has been obtained from Joshua A. Jessen.
21

22 Dated: June 26, 2015

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

23 By: /s/ Michael W. Sobol

24 *Attorneys for Plaintiffs and the Proposed*
25 *Class*
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[PROPOSED] ORDER

Having considered the Parties' Stipulation, and good cause appearing, the Court finds that, 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, the Court GRANTS the Parties Stipulation. It is HEREBY ORDERED that: 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 and as amended in the Court's June 12, 2015 Order, including the hearing date of August 13, 2015, shall be taken off calendar.

DATED: _____

The Honorable Maria-Elena James
United States Magistrate Judge