

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU, INC., CAMERON
WINKLEVOSS, TYLER WINKLEVOSS,
AND DIVYA NARENDRA,

Plaintiff,

v.

FACEBOOK, INC., MARK ZUCKERBERG,
EDUARDO SAVERIN, DUSTIN
MOSKOVITZ, ANDREW MCCOLLUM, and
FACEBOOK, LLC,

Defendants.

Civil Action No. 1:07-CV-10593-DPW

**FACEBOOK DEFENDANTS' RESPONSE TO COURT'S SEPTEMBER 13, 2007
ORDER RE LOCATION OF RELEVANT CODE**

Facebook Defendants submit this response to the Court's September 13, 2007, Order On Remaining Disputed Discovery Items Outlined In The Corrected Amended Joint Report, Etc. (#94) (the "Order"). This response sets forth information related to the discovery of code and information currently known to the Facebook Defendants.

Attached hereto as **Exhibit 1** is the March 29, 2006, Declaration of James Butterworth, which describes the steps Facebook Defendants took to locate and produce relevant code on devices reasonably likely to have code. As set forth in the declaration, the search and production methodology was not designed to identify code in the way set forth the Order. All of the code extracted by Facebook Defendants' experts is located in their production at TFB000001 (CD containing source code); TFB000084 (CD containing PHP and HTML source code from Mark Zuckerberg's hard drive (371-01)); TFB000085 (CD containing PHP source code last modified through December 31, 2004); TFB000086 (CD containing PHP, HTML and PRL source code from Dustin Moskovitz's Maxtor hard drive (371-09) and Andrew McCollum's Western Digital Caviar drive (371-10)); TFB007670 (hard drive containing additional source code extracted by Guidance Software as described in the Declaration of James Butterworth); and TFB007671 (CD containing additional source code); FACE003231 (CD containing additional source code). Because of the search strategy employed, before the hearing giving rise to the Order, Facebook Defendants did not know where items (a) through (f) of the Order are located or if they exist.¹

As the Facebook Defendants read the Order, engaging in such an effort is not required but rather Facebook Defendants must identify if they know the location of items (a) through (f). In order to provide the specificity identified by the Order, Facebook Defendants must engage an expert to sift through upwards of 100 folders and sub-folders to determine where code is located.

¹ All hard drives with this code are currently being imaged by ConnectU's expert and in the

Such a process would require many hours of work and may not result in clear answers as to the dates and types of specific code located. Such an effort could not be accomplished in the time permitted under the Order.

While not specifically ordered by the Court, Facebook Defendants also provide the following information related to the code that has been produced:

1. Facebook Defendants are unaware of any Harvard Connection code allegedly worked on by Zuckerberg in the devices in question.
2. With respect to items (d)-(f) of the Order, Facebook Defendants located facebook.com code. Facebook Defendants believe that portions of code from December 2003 through September 2004 can be found on all hard drives. However the dates of creation of the code have not been identified and, in many instances, may not be able to be determined. To determine specific dates associated with specific portions of code would require reviewing hundreds of files and require many man hours of labor, as set forth above.
3. Facebook Defendants are unaware of whether any coursematch code exists on the devices in question. Since receiving the Order, Facebook Defendants searched under for the word “coursematch” and could not locate code matching that name.
4. Facebook Defendants are unaware of whether any facemash code exists on the devices in question. Since receiving the Order, Facebook Defendants searched for the word “facemash” and could not locate code matching that name.
5. Facebook Defendants are continuing their analysis of the code produced in this case. Should it learn of or identify responsive materials to the four categories enumerated by the Court, it will provide a disclosure to plaintiff.

production set described above.

Dated: September 24, 2007

Respectfully submitted,

/s/ I. Neel Chatterjee /s/

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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on September 24, 2007.

Dated: September 24, 2007.

Respectfully submitted,

/s/ I. Neel Chatterjee /s/

I. Neel Chatterjee