

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

**DECLARATION OF MONTE M.F. COOPER IN SUPPORT OF THE FACEBOOK
DEFENDANTS' MOTION TO COMPEL PLAINTIFFS TO IMAGE AND SEARCH
THEIR MEMORY DEVICES FOR SOURCE CODE, AND TO COMPLY WITH
REQUESTS FOR PRODUCTION NOS. 1-2, 67-68 AND 117**

I, Monte Cooper, declare as follows:

1. I am Of Counsel at the law firm of Orrick, Herrington & Sutcliffe, counsel for Defendants Facebook, Inc., Mark Zuckerberg, Dustin Moskovitz, Andrew McCollum, and TheFacebook, LLC in this action. I am an active member in good standing of the Bar of the States of California and Colorado, and am admitted to appear *pro hac vice* before this Court. I make this declaration in support of Defendants' Motion to Compel Plaintiffs to Image and Search Their Memory Devices For Source Code, and to Comply With Requests for Production Nos. 1-2, 67-68 and 117. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the August 9, 2005, Deposition of ConnectU pursuant to Fed.R.Civ.P. 30(b)(6) taken in *ConnectU v. Zuckerberg et al.*, case no. 1:04-cv-11923.

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the October 5, 2007, Deposition of iMarc LLC pursuant to Fed.R.Civ.P. 30(b)(6) taken in *Facebook Inc., et al. v. ConnectU, Inc., et al.*, case no. 5:07-cv-01389.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the January 29, 2007, Deposition of Pacific Northwest Software, Inc. pursuant to Fed.R.Civ.P. 30(b)(6) taken in *Facebook Inc., et al. v. ConnectU, Inc., et al.*, case no. 06-2-39146-2 SEA (Washington State Superior Court). **CONFIDENTIAL DOCUMENT SUBMITTED UNDER SEAL.**

5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the June 19, 2007, Deposition of Winston Williams pursuant to Fed.R.Civ.P. 30(b)(6) taken in *Facebook Inc., et al. v. ConnectU, Inc., et al.*, case no. 5:07-cv-01389. **CONFIDENTIAL DOCUMENT SUBMITTED UNDER SEAL.**

6. Attached hereto as **Exhibit 5** is a true and correct copy of Plaintiffs' [Proposed] Second Amended Complaint For Violation Of California Penal Code § 502(C); California And Massachusetts Common Law Misappropriation / Unfair Competition; Violation Of

Massachusetts General Law 93(A); 18 U.S.C § 1030; And 15 U.S.C. §§ 7704 And 7705, filed May 30, 2007 in *Facebook Inc., et al. v. ConnectU, Inc., et al.*, case no. 5:07-cv-01389 [Dkt. 76].

7. Attached hereto as **Exhibit 6** is a true and correct copy of an e-mail message from I. Neel Chatterjee, counsel for the Facebook Defendants, to John Hornick, Scott Mosko, Margaret Esquenet and Meredith Schoenfeld, counsel for Plaintiffs, dated June 16, 2007.

8. Attached hereto as **Exhibit 7** is a true and correct copy of a letter from I. Neel Chatterjee to Margaret Esquenet, dated July 2, 2007.

9. Attached hereto as **Exhibit 8** is a true and correct copy of an e-mail message from Meredith Schoenfeld to I. Neel Chatterjee, Theresa Sutton, Guy Hopkins and Monte Cooper, counsel for the Facebook Defendants, dated July 12, 2007.

10. Attached hereto as **Exhibit 9** is a true and correct copy of an e-mail message from Monte Cooper to Meredith Schoenfeld, Pat Hart, Daniel Kaufman, John Hornick and Margaret Esquenet, counsel for Plaintiffs, dated July 24, 2007.

11. Attached hereto as **Exhibit 10** is a true and correct copy of an e-mail message from Monte Cooper to John Hornick, Pat Hart, Daniel Kaufman, Margaret Esquenet and Meredith Schoenfeld, dated July 31, 2007.

12. Attached hereto as **Exhibit 11** is a true and correct copy of an e-mail message from Monte Cooper to Meredith Schoenfeld, John Hornick, Pat Hart, Daniel Kaufman and Margaret Esquenet, dated August 8, 2007.

13. Attached hereto as **Exhibit 12** is a true and correct copy of a letter from Meredith Schoenfeld to Monte Cooper, dated August 13, 2007.

14. Attached hereto as **Exhibit 13** is a true and correct copy of a letter from Monte Cooper to Meredith Schoenfeld, dated August 23, 2007.

15. Attached hereto as **Exhibit 14** is a true and correct copy of a letter from Meredith Schoenfeld to Monte Cooper, dated August 24, 2007.

16. Attached hereto as **Exhibit 15** is a true and correct copy of a letter from Monte Cooper to Meredith Schoenfeld, dated September 6, 2007.

17. Attached hereto as **Exhibit 16** is a true and correct copy of a letter from Meredith Schoenfeld to Monte Cooper, dated September 10, 2007.

18. Attached hereto as **Exhibit 17** is a true and correct copy of Plaintiff and Counterclaim Defendant ConnectU LLC's Responses To Defendant And Counterclaim Plaintiff TheFacebook, Inc.'s First Request For The Production Of Documents And Things, served May 31, 2005, in *ConnectU v. Zuckerberg et al.*, case no. 1:04-cv-11923.

19. Attached hereto as **Exhibit 18** is a true and correct copy of Plaintiff and Counterclaim Defendant ConnectU LLC's Responses To Defendant And Counterclaim Plaintiff Facebook, Inc.'s Second Request For The Production Of Documents And Things (Nos. 29-152), served June 19, 2006, in *ConnectU v. Zuckerberg et al.*, case no. 1:04-cv-11923.

20. Attached hereto as **Exhibit 19** is a true and correct copy of excerpts from the September 27, 2007, Deposition of Joe Jackson taken in this action.

21. Attached hereto as **Exhibit 20** is a true and correct copy of a document produced by ConnectU LLC, bearing production numbers C003776 – 3778. **CONFIDENTIAL DOCUMENT SUBMITTED UNDER SEAL.**

22. Attached hereto as **Exhibit 21** is a true and correct copy of a document produced by third party Hurricane Electric, bearing production numbers Hurricane002 – 008. **CONFIDENTIAL DOCUMENT SUBMITTED UNDER SEAL.**

23. Attached hereto as **Exhibit 22** is a true and correct copy of documents produced by third party Pacific Northwest Software, Inc., bearing production numbers PNS000243, PNS000307-308, PNS000556-558, PNS000751-753, PNS01769. **CONFIDENTIAL DOCUMENTS SUBMITTED UNDER SEAL.**

24. Attached hereto as **Exhibit 23** is a true and correct copy of a document produced by third party iMarc, bearing production number iMarc000774.

25. Attached hereto as **Exhibit 24** is a true and correct copy of a document produced by third party David Gucwa, bearing production number GUCWA 0004.

26. Attached hereto as **Exhibit 25** is a true and correct copy of excerpts from the transcript of the September 13, 2007 hearing in this action.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 24th day of October 2007, at Menlo Park, California.

/s/ Monte M.F. Cooper /s/

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 October 24, 2007.

Dated: October 24, 2007.

Respectfully submitted,

/s/ Theresa A. Sutton /s/

Theresa A. Sutton