

EXHIBIT 27

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU LLC,

Plaintiff,

v.

C. A. No. 04-1923(DPW)

MARK ZUCKERBERG, EDUARDO SAVERIN,
DUSTIN MOSKOVITZ, ANDREW McCOLLUM,
CHRISTOPHER HUGHES and THE FACEBOOK,
INC.,

Defendants.

CERTIFIED
COPY

VOLUME 1

VIDEOTAPED DEPOSITION OF CONNECTU LLC

BY CAMERON H. WINKLEVOSS

Boston, Massachusetts

Tuesday, August 9, 2005

9:44 a.m. to 5:27 p.m.

Reported by:

Jessica L. Williamson, RMR, RPR, CRR
Notary Public, CSR No. 138795

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46 Corporate Park, Suite 100
Irvine, CA 92606

445 South Figueroa St., Suite 2950
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phone 877.955.3855
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VIDEOTAPED DEPOSITION OF CONNECTU LLC
by CAMERON H. WINKLEVOSS, a witness called
on behalf of the Defendant Mark Zuckerberg,
Dustin Moskovitz, Andrew McCollum,
Christopher Hughes and The Facebook, Inc.,
pursuant to Rule 30(b)(6) of the Federal
Rules of Civil Procedure, before Jessica L.
Williamson, Registered Merit Reporter,
Certified Realtime Reporter and Notary
Public in and for the Commonwealth of
Massachusetts, at the Offices of Proskauer
Rose, LLP, One International Place, Boston,
Massachusetts, on Tuesday, August 9, 2005,
commencing at 9:44 a.m.

A P P E A R A N C E S
FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
LLP

(By John F. Hornick, Esq.
and Troy E. Grabow, Esq.)
901 New York Avenue, NW
Washington, D.C. 20001-4413
(202) 408-4000
john.hornick@finnegan.com
Counsel for the Plaintiff

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A P P E A R A N C E S, Continued

ORRICK, HERRINGTON & SUTCLIFFE LLP

(By I. Neel Chatterjee, Esq.
and Joshua H. Walker, Esq.)

1000 Marsh Road

Menlo Park, California 94025

(650) 614-7356

nchatterjee@orrick.com

Counsel for the Defendants Mark

Zuckerberg, Dustin Moskovitz, Andrew

McCollum, Christopher Hughes and The

Facebook, Inc.

HELLER EHRMAN LLP

(By Robert B. Hawk, Esq.)

275 Middlefield Road

Menlo Park, California 94025-3506

(650) 324-7000

robert.hawk@hellerehrman.com

Counsel for the Defendant Eduardo Saverin

ALSO PRESENT:

George Dobrentey, Videographer

04:12:16 1 MR. HAWK: -- except conduct an
2 examination --
3 MR. HORNICK: You can't mislead the
4 witness.
5 MR. HAWK: -- and you're
6 interfering.
7 THE REPORTER: Hold on. I can't
8 take you guys both.
9 MR. HORNICK: You can't mislead the
10 witness.
04:12:21 11 MR. HAWK: Fine. All right.
04:12:21 12 A. To answer your question, when we asked Mr.
04:12:23 13 Gao for the code, I asked him for -- we
4:12:26 14 specifically asked him for code that did not
04:12:28 15 include Mark Zuckerberg's code when filing
04:12:30 16 with the copyright office, okay?
04:12:32 17 Q. Why did you do that?
04:12:33 18 A. Because we wouldn't file Mark Zuckerberg's
04:12:37 19 code with the copyright office. We filed
04:12:39 20 the code that we wrote.
04:12:41 21 Q. I thought you said there was only one
04:12:42 22 version of the code. So there are two
04:12:44 23 versions of the code, right?
04:12:45 24 A. No, no, no. There's one version of the
04:12:47 25 code. Mark -- as I said, Mark didn't upload

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any of his stuff into the server.

Q. Well, let me ask you this: You said you instructed Mr. Gao to give you code that did not contain any contributions by Mark Zuckerberg. Is that what you told Mr. Gao?

A. Yes, but there were no contributions from Mr. Zuckerberg in the code, is what I'm getting at.

Q. Well, did Mr. Gao confirm to you that he did not strip out anything from the code that -- before he gave it to you?

A. I believe that Mr. Gao told me that there was no code in there, that Mark Zuckerberg wrote when he file -- when he gave us the code to file with the copyright office.

Q. Okay. So that's your testimony; Mr. Gao told you that there was no code written by Mr. Zuckerberg, no code whatsoever in the HarvardConnection code that he found and that he gave to you?

A. My testimony is that the code that was filed with the copyright office did not contain Mark Zuckerberg's code. Now, in addition to that, I am under the impression that Mr. Gao said that there was no contribution from

04:14:02 1 Mark on the server, aside from him poking
04:14:05 2 around in files and duplicating code that
04:14:08 3 Mr. Gao had already written.

04:14:10 4 Now, if you want to call that a
04:14:11 5 version, I'm not sure what you mean by a
04:14:14 6 version. You're talking about multiple
04:14:15 7 versions of the code.

04:14:16 8 Q. Well, you're not answering my question.

04:14:16 9 MR. HORNICK: Yes, he has answered
04:14:16 10 your question.

04:14:18 11 Q. Let me ask you this. Let me ask you this.

04:14:19 12 MR. HORNICK: You showed him the
04:14:21 13 code --

04:14:21 14 MR. CHATTERJEE: Counsel, lodge an
04:14:23 15 objection. You don't need to instruct the
04:14:24 16 witness, and you don't need to argue.

04:14:25 17 MR. HORNICK: I'm not instructing
04:14:27 18 the witness.

04:14:27 19 MR. HAWK: Yeah, you're --

04:14:28 20 MR. HORNICK: You're asking unfair
04:14:29 21 questions.

04:14:29 22 MR. CHATTERJEE: I'm looking
04:14:30 23 forward to bringing this in front of the
04:14:32 24 Court.

04:14:33 25 BY MR. HAWK:

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Q. Did Mr. Gao strip out any code from the version that he gave you which you gave to your lawyers to deposit with the copyright office?

A. I am -- I can't answer that. I don't know the answer to that. I know that the code given to the copyright office has none of Mark Zuckerberg's code.

Q. And how do you know that? Is that because Mr. Gao told you that?

A. Because we wouldn't have filed code that he written -- wrote for copyright because it's not our code.

Q. Right. And I know you didn't intend to do that, but you've made an unequivocal statement that you did not file code with the copyright office that contained contributions by Mr. Zuckerberg. Now, hold on, let me finish the question. And so I want to know what is your factual basis for that statement, not what you intended to do, but what your factual basis for that statement is?

A. Simply based on the fact that it was not -- you know, it would not be our intent to file

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such code.

Q. Okay. Did you ever have any discussion with Mr. Gao about whether or not he stripped out any code that was done by Mr. Zuckerberg?

A. To be quite honest, I don't remember if -- I remember that the contribution -- Mark's contribution was nil, okay? He went onto the server, and there was no contribution.

Q. That wasn't my question. My question was, did you ever have any conversation with Mr. Gao about whether he stripped out any code?

A. I believe that I asked Mr. Gao at the time, is there any code -- is any of Mr. Zuckerberg's code in this? And his response was that -- I believe that there was no code from Mr. Zuckerberg in that piece of code.

Q. And that there never had been?

A. Well, see, the thing is, like, you know, if you want to contin -- if you want to -- I'm not a programmer, I'm not an expert, but are you -- would you consider -- you know, are you considering code that Mark Zuckerberg copied and renamed from -- that Victor Gao wrote? Because that code is Victor Gao's code. Do you see what I'm getting at? And

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that's what Mark Zuckerberg did.

Q. But you know what? My question -- the problem that I'm having is that you're not answering my question. My question went simply to your conversations with Mr. Gao, and you're like two or three steps ahead of me --

A. Okay.

Q. -- about, you know, whether code if it's copied over. I'm asking you about a specific question about your conversation with Mr. Gao, and that's what I'd like you to answer.

Did you ever discuss with Mr. Gao, No. 1, whether he stripped out any code that was written by Mark Zuckerberg?

A. Okay. I -- to the best of my recollection, I asked Mr. Gao, "Is any of Mark Zuckerberg's code -- like, we need code -- we need the HarvardConnection without Mark Zuckerberg's code," okay? And I don't remember if Mr. Gao had to take something out. It's my assumption that --

Q. I don't want your assumption.

A. Okay. I believe that Mr. Gao -- well,

04:17:38 1 assumption, belief, same thing.

04:17:40 2 Q. I know, that's what I'm saying. I don't

04:17:42 3 want that. I want your recollections of

04:17:45 4 conversations --

04:17:45 5 A. Okay.

04:17:45 6 Q. -- with Mr. Gao.

04:17:46 7 A. Okay. I asked -- okay. If we're talking

04:17:47 8 about recollections, my recollection was

04:17:50 9 "Give me the HarvardConnection code that

04:17:53 10 everybody contributed to without Mark

04:17:54 11 Zuckerberg," okay? He gave that to me.

04:17:57 12 Q. Okay. And you know he gave that to you

04:17:59 13 because he said, "Here's the code you asked

04:18:01 14 for" --

04:18:02 15 A. Yes.

04:18:03 16 Q. -- correct?

04:18:05 17 All right. Did you ever discuss with

04:18:07 18 Mr. Gao whether or not he had stripped out

04:18:08 19 any code that was attributable to Mr.

04:18:10 20 Zuckerberg?

04:18:11 21 A. I don't believe we had that discussion.

04:18:15 22 Q. Okay. That was easy. Did the version that

04:18:17 23 Mr. Gao gave you and that you gave to your

04:18:21 24 attorneys to deposit with the copyright

04:18:23 25 office, did it include code from the connect

04:18:26 1 side of HarvardConnection?

04:18:28 2 A. I believe that, to the best of my knowledge,

04:18:33 3 it would contain code that we would have

04:18:35 4 written from the connect side. You know,

04:18:37 5 there was parts of the connect side that

04:18:39 6 worked, yes.

04:18:41 7 Q. Okay. So the answer to my question was yes?

04:18:43 8 A. Yes, there was some connect code.

04:18:44 9 Q. In November 2003 who owned the

04:19:15 10 HarvardConnection source code?

04:19:16 11 MR. HORNICK: Objection, calls for

04:19:17 12 a legal conclusion, but you can answer it.

04:19:18 13 MR. HAWK: I just want the

04:19:19 14 witness's understanding.

04:19:21 15 Q. Who owned that code?

04:19:26 16 A. November 2003 who owned that code.

04:19:33 17 Q. And if you don't know, you can tell me that.

04:19:40 18 A. At that point I don't know from a legal

04:19:43 19 standpoint who would own that code, no.

04:19:48 20 Q. In January 2004 who owned, according to your

04:19:52 21 understanding, the HarvardConnection code?

04:19:54 22 A. Well, certainly we owned parts of the code.

04:20:20 23 I can -- you know, all the contract work

04:20:22 24 that we did we absolutely owned.

04:20:23 25 Q. Who is "we"?

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I, CAMERON H. WINKLEVOSS, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this 12 day of September,
2005, at Queque (City), NY (State).



CAMERON H. WINKLEVOSS

1 In the United States District Court
2 For the District of Massachusetts

3 I, Jessica L. Williamson, Registered,
4 Merit Reporter, Certified Realtime Reporter
5 and Notary Public in and for the
6 Commonwealth of Massachusetts, do hereby
7 certify that CAMERON H. WINKLEVOSS, the
8 witness whose deposition is hereinbefore set
9 forth, was duly sworn by me and that such
10 deposition is a true record of the testimony[†]
11 given by the witness.

12 I further certify that I am neither
13 related to or employed by any of the parties
14 in or counsel to this action, nor am I
15 financially interested in the outcome of
16 this action.

17 In witness whereof, I have hereunto set
18 my hand and seal this 11th day of August,
19 2005.

20
21 

22
23 _____
24 Jessica L. Williamson, RMR, RPR, CRR
25 Notary Public, CSR No. 138795
My commission expires: 12/18/2009