

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 DEFENDANTS MARK
ZUCKERBERG, FACEBOOK, INC., DUSTIN MOSKOVITZ, ANDREW MCCOLLUM
AND FACEBOOK LLC'S MOTION FOR SUMMARY JUDGMENT ON PLAINTIFFS'
CLAIM OF COPYRIGHT INFRINGEMENT**

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 Facebook, 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 Mark Zuckerberg, Facebook, Inc., Dustin Moskovitz, Andrew McCollum and Facebook LLC's Motion For Summary Judgment on Plaintiffs' Claim of Copyright Infringement. 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 *Plaintiff and Counterclaim Defendant ConnectU LLC's Responses to Defendant and Counterclaim Plaintiff TheFacebook, Inc.'s First Set of Interrogatories (Nos. 1-17)*, served upon Defendants as a result of discovery in the related action ConnectU LLC v. Zuckerberg et al., Civil Action No. 1:04-cv-11923 (DPW) on August 22, 2005.

3. Attached hereto as **Exhibit 2** is a true and correct copy of a letter from Amy Dalton to John F. Hornick, from the related action ConnectU LLC v. Zuckerberg et al., Civil Action No. 1:04-cv-11923 (DPW) dated July 29, 2005, describing production by Defendants in response to Plaintiffs' discovery requests of Facebook source code.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a letter from Monte Cooper to John F. Hornick, from the related action ConnectU LLC v. Zuckerberg et al., Civil Action No. 1:04-cv-11923 (DPW) dated August 19, 2005 describing production by Defendants in response to Plaintiffs' discovery requests of Facebook source code.

5. Attached hereto as **Exhibit 4** is a true and correct copy of a letter from Theresa A. Sutton to Richard I. Werder, Jr., Esq., dated November 13, 2007 describing production by Defendants in response to Plaintiffs' discovery requests of Facebook source code.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the Rule 30(b)(6) Deposition of ConnectU LLC, taken in the related action ConnectU LLC v. Zuckerberg

et al., Civil Action No. 1:04-cv-11923 (DPW) on August 9, 2005, at which deposition Plaintiff Cameron Winklevoss was designated to testify for ConnectU.

7. Attached hereto as **Exhibit 6** is a true and correct copy of *Plaintiffs ConnectU, Inc., Cameron Winklevoss, Tyler Winklevoss and Divya Narendra's First Set of Supplemental Responses to the Facebook Defendants' Interrogatory No. 1*, served January 21, 2008, in response to the Court's November 19, 2007 Electronic Order granting The Facebook Defendants' Motion to Compel Response to Interrogatory No. 1.

8. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from the transcript of the motion hearing held on November 19, 2007 concerning The Facebook Defendants' Motion to Compel Response to Interrogatory No. 1.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the *Amended Notice of Deposition of Plaintiff and Counterdefendant ConnectU LLC Pursuant to Fed. R. Civ. P. 30(b)(6)*, served by the Facebook Defendants upon Plaintiff ConnectU LLC in the related action ConnectU LLC v. Zuckerberg et al., Civil Action No. 1:04-cv-11923 (DPW) on July 27, 2005.

10. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from the Rule 30(b)(6) Deposition of iMarc LLC, taken in a related action in the Northern District of California Facebook et al. v. ConnectU et al., Civil Case No. 5:07-cv-01389 (RS) on October 5, 2007, at which deposition David Tufts was designated to testify for iMarc LLC.

11. Attached hereto as **Exhibit 10** is a true and correct copy of Exhibit 65, Bates labeled iMarc000012, to the 30(b)(6) Deposition of iMar LLC, taken in a related action in the Northern District of California Facebook et al. v. ConnectU et al., Civil Case No. 5:07-cv-01389 (RS) on October 5, 2007. It is a copy of a June 22, 2005 email from David Tufts to other partners at iMarc LLC, produced by iMarc LLC on September 26, 2006 in response to Defendants' subpoena served on September 1, 2006, and later authenticated at the Rule 30(b)(6) deposition of iMarc LLC as a true and correct copy Mr. Tuft's email.

12. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts from the Deposition of Joe Jackson, taken on September 27, 2007.

13. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from the Deposition of Victor Gao, taken on December 3, 2007.

14. Attached hereto as **Exhibit 13** is a true and correct copy of the Copyright Registration for Harvard Connection, Bates labeled C004842 – C004845, produced by ConnectU in response to discovery requests in the related action ConnectU LLC v. Zuckerberg et al., Civil Action No. 1:04-cv-11923 (DPW) on or around April 7, 2005.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of February 2008, at Menlo Park, California.

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

Monte M.F. Cooper

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 February 12, 2008.

Dated: February 12, 2008.

Respectfully submitted,

/s/ I. Neel Chatterjee /s/

I. Neel Chatterjee