

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

CONNECTU, INC.,

Plaintiff,

v.

FACEBOOK, INC., MARK ZUCKERBERG,  
EDUARDO SAVERIN, DUSTIN MOSKOVITZ,  
ANDREW MCCOLLUM, CHRISTOPHER  
HUGHES, AND THEFACEBOOK, LLC,

Defendants.

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

Related Action: Civil Action No. 04-CV-  
11923 (DPW)

District Judge Douglas P. Woodlock

Magistrate Judge Robert B. Collings

**DECLARATION OF MARGARET A. ESQUENET  
IN SUPPORT OF PLAINTIFF'S CONSOLIDATED OPPOSITION TO  
FACEBOOK DEFENDANTS' MOTIONS TO DISMISS**

I, Margaret A. Esquenet, declare as follows:

1. I am an attorney with the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, counsel for Plaintiff ConnectU, Inc. I make this Declaration in support of Plaintiff's Consolidated Opposition to Facebook Defendants' Motions to Dismiss (Dkts. 16, 17, and 18). I am an active member in good standing of the Bars of the State of Maryland and the District of Columbia and I am admitted to appear *pro hac vice* before this Court. I have personal knowledge of the facts stated therein and if called as a witness, could and would competently testify thereto.

2. None of the Facebook Defendants have been deposed on the merits of ConnectU's claims.

3. In the Related Action, almost a year after they answered, on October 14, 2005, Defendants filed a Rule 12(b)(1) motion to dismiss. (R.A. Dkt. 94). Evaluating and deciding that motion entailed 23 Facebook subpoenas for documents, 17 Facebook subpoenas for deposition, 10 Facebook depositions, 129 Facebook discovery requests, 21 briefs, and two

evidentiary hearings. By contrast, ConnectU served 51 discovery requests and deposed one witness.

4. Defendants' motivation is to derail this litigation, contrary to this Court's Order that proceedings should continue where they left off and proceed promptly to trial. Toward that end, Facebook Defendants would not accept service, unsuccessfully sought an extension to respond to a Complaint that is substantively identical to the Complaint they answered 2 ½ years ago (Dkt. 13), filed three new motions to dismiss, and have threatened to move to stay this action in view of ConnectU's appeal of the Court's March 28, 2007 Order adopting the Report and Recommendation. A true and correct copy of an email from Facebook Defendants' counsel containing the threat to move to stay is attached hereto as **Ex. A**.

5. In the Related Action, ConnectU suggested that the parties stipulate under Fed. R. Civ. P. 41(a)(2). Facebook Defendants did not respond. A true and correct copy of an email exchange between the parties' counsel confirming Facebook Defendants failure to respond is attached hereto as **Ex. B**.

6. Facebook Defendants' counsel represented that they had "ample authority" to support Facebook Defendants' copyright preemption argument. A true and correct copy of an email from Facebook Defendants' counsel regarding this issue is attached hereto as **Ex. A**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This Declaration is executed on the 7th day of May 2007.

/s/ Margaret A. Esquenet  
Margaret A. Esquenet

**CERTIFICATE OF SERVICE**

I hereby certify that this document 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 May 7, 2007.

/s/ John F. Hornick  
John F. Hornick