

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

**DEFENDANTS MOSKOVITZ AND MCCOLLUM'S  
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM PURSUANT TO  
FED.R.CIV.P. 12(B)(6) AND ANY OTHER RULE OR POWER THE COURT DEEMS  
APPROPRIATE IN ITS SOUND DISCRETION**

Pursuant to Rules 12(b)(6) of the Federal Rule of Civil Procedure, and any other rule or power the Court deems appropriate in its sound discretion, Defendants Dustin Moskovitz and Andrew McCollum move to dismiss ConnectU Inc.'s sixth (unjust enrichment), seventh (copyright infringement), eighth (trade secret misappropriation) and ninth (unfair trade practices) claims for relief. Mark Zuckerberg and the Facebook entities join in this Motion.

Plaintiffs' First Amended Complaint does not cure most, if any, of the defects described in the Defendants' April 23, 2007, motions to dismiss. Dkt. Nos. 16, 17, 18.

ConnectU's FAC fails to identify what role the Individual Defendants have played in any wrongdoing or violation of ConnectU's rights. As set forth in the memorandum filed on behalf of Mark Zuckerberg, such "shotgun" pleadings are inappropriate and warrant dismissal of the FAC in its entirety under the law. The challenged claims do not meet the pleading requirements for copyright infringement, unjust enrichment, misappropriation of trade secrets, or unfair trade practices. ConnectU's claims for violation of Mass.G.L. ch. 93A and unjust enrichment also are preempted by the Copyright Act.

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)**

Counsel for the Individual Defendants certifies that pursuant to Local Rule 7.1(a)(2) they met and conferred with counsel for Plaintiffs and Defendant Eduardo Saverin regarding this motion on August 27, 2007, via telephone conference.

Dated: August 29, 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 August 29, 2007.

Dated: August 29, 2007.

Respectfully submitted,

/s/ I. Neel Chatterjee /s/

I. Neel Chatterjee