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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SEAN LANE, et al.,

No. C 08-3845 RS

Plaintiffs,

**PRELIMINARY APPROVAL AND
NOTICE ORDER**

v.

FACEBOOK, INC., et al,

Defendants.

_____ /
On October 14, 2009, the Court heard plaintiffs’ motion for preliminary approval of the proposed settlement agreement dated September 17, 2009 (“Settlement Agreement”) in the above-captioned action (“Litigation”). The Settlement Agreement and the Exhibits annexed thereto set forth the terms and conditions of a proposed settlement of the Litigation whereby, upon final approval of the Court the Litigation will be dismissed with prejudice (“Settlement”). Having fully considered the written and oral arguments and authorities presented by counsel and having read and considered the Settlement Agreement and the Exhibits annexed thereto, the Court finds that preliminary approval is appropriate. The parties are advised that when seeking final approval, they should be prepared to establish that the requirements for unconditional certification of the class have been met, specifically with respect to the question of whether there is sufficient “typicality” as between members of the class who may have claims under the Video Privacy Protection Act (“VPPA”), 18 U.S.C. § 2710, and those who do not. Similarly, final

1 approval will require a sufficient showing that the terms of the settlement are reasonable,
2 specifically in light of the claims under the VPPA, and the apparent availability of statutory
3 penalties thereunder in some circumstances.

4 NOW, THEREFORE IT IS HEREBY ORDERED THAT:

5 The Court grants preliminary approval of the Settlement Agreement and the proposed
6 Settlement set forth herein, subject to further consideration at the Settlement Hearing described
7 below. All defined terms contained herein shall have the same meanings as set forth in the
8 Settlement Agreement.

9 The Court grants a stay of all proceedings in the Litigation until the Court renders a final
10 decision on approval of the Settlement.

11 Solely for the purposes of the Settlement Agreement and the proposed Settlement, the
12 Court certifies the following Class:

13 All Facebook members who, during the period of November 6, 2007 to
14 the date this Order is entered, engaged in one or more activities on a
15 website of any company, corporation, business enterprise, or other person
16 that entered into an agreement with Facebook with respect to the Beacon
17 functionality, which triggered Beacon, the program launched by
18 Facebook on November 6, 2007 and all iterations thereof bearing the
19 "Beacon" name.

20 Excluded from the Class are any judicial officer to whom this Litigation is assigned; Facebook
21 and any of its affiliates; any current or former employees, officers, or directors of Facebook; any
22 persons presently residing outside of the United States; and all Persons who timely and validly
23 request exclusion from the Class pursuant to the Notice disseminated in the accordance with the
24 this Order.

25 Solely for the purposes of the Settlement Agreement and the proposed Settlement this
26 Court finds and concludes that the Class is ascertainable and that there is a well-defined
27 community of interest in the questions of law and fact involved affecting the Class Members.
28 The Court finds and concludes that (a) the Persons who are part of the Class are so numerous that
joinder of all such Persons is impracticable; (b) there are questions of law or fact common to the

1 Class that predominate over any individual questions; (c) the claims of the Representative
2 Plaintiffs are typical of those of the Class; (d) in negotiating and entering into the Agreement, the
3 Representative Plaintiffs and their counsel have fairly and adequately represented and protected
4 the interests of all Persons who are part of the Class; and (e) a class action is superior to other
5 available methods for the fair and efficient adjudication of the controversy, considering (i) the
6 interests of the Persons who are part of the Class individually controlling the prosecution of
7 separate actions; (ii) the extent and nature of any litigation concerning the controversy already
8 commenced by Persons who are part of the Class; (iii) the desirability or undesirability of
9 concentrating litigation of the claims in this particular forum; and (iv) the difficulties likely to be
10 encountered in the management of the Litigation as a class action.

11 To act on behalf of the Class in connection with the Agreement and proposed Settlement,
12 the Court appoints Representative Plaintiffs Sean Lane, Mohannaed Sheikha, Sean Martin, Ali
13 Sammour, Mohammed Zidan, Sara Karrow, Colby Henson, Denton Hunker, Firas Sheikha,
14 Hassen Sheikha, Linda Stewart, Tina Tran, Matthew Smith, Erica Parnell, John Conway, Austin
15 Muhs, Phillip Huerta, Alicia Hunker, and M.H., a minor, by and through her parent Rebecca
16 Holey as representatives of the Class and their counsel of record, Scott A. Kamber and David A.
17 Stampley of KamberEdelson, LLC and Joseph H. Malley of the Law Office of Joseph H. Malley,
18 P.C., as class counsel.

19 Within twenty (20) days of the date of this Order, Facebook shall pay to Rosenthal &
20 Company, third party class action administrator, the sum of \$250,000 to be used to cover the
21 administrative and other incidental costs associated with responding to inquiries from Class
22 Members about this Settlement and the process by which this Settlement will be subject to
23 judicial approval.

24 If the Settlement Agreement is not approved by the Court or the Settlement is terminated
25 or fails to become effective in accordance with the terms of the Settlement Agreement, this
26 conditional class certification shall be vacated without further order of the Court and without
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1 prejudice to the right of any party to seek or oppose class certification thereafter. Otherwise,
2 upon the Effective Date of the Settlement, this class certification shall become unconditional.

3 A hearing (“Settlement Hearing”) shall be held before this Court on February 26, 2010 at
4 9:30 a.m. at the United States District Court for the Northern District of California, San Jose
5 Division, 280 South 1st Street, San Jose, CA 95113, to determine whether the proposed
6 Settlement, resolving and dismissing the Litigation on the terms and conditions provided for in
7 the Settlement Agreement, is fair, reasonable, and adequate to the Class and should be approved
8 by the Court; whether a Final Judgment and Order of Dismissal as provided in Exhibit 1 of the
9 Settlement Agreement should be entered herein; and to determine the amount of fees and
10 expenses that should be awarded to Class Counsel and the amount of the incentive award that
11 shall be awarded to representatives of the Class. The Court may adjourn the Settlement Hearing
12 without further notice to Class Members.

13 The Parties have proposed that the Class be given notice of the proposed Settlement in
14 the following manner:

15 a. As soon as reasonably practicable after the date of this Order, Facebook
16 shall distribute the Court approved Notice or links to such Notice, in a form substantially similar
17 to that attached hereto as Exhibit 2, via an internal Facebook message in the “Updates” section of
18 the Inbox section of Facebook users’ personal accounts targeting users whose PII was likely to
19 have been transmitted to Facebook via Beacon, as determined by Facebook based on reasonable
20 efforts; and

21 b. During the Notice Period, Facebook shall cause the Court-approved
22 summary form of publication notice, in a form substantially similar to that attached hereto as
23 Exhibit A (the “Publication Notice”), to be published in one daily issue of the national edition of
24 *USA Today*.

25 c. Within ten (10) days of the filing of the Motion for the Entry of the
26 Preliminary Approval and Notice Order with the Court, Facebook shall properly notify the
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1 appropriate state and federal officials of this Settlement Agreement pursuant to the Class Action
2 Fairness Act of 2005, 28 U.S.C. § 1715.

3 The Court approves the form and content of the Notices, and finds that under the
4 circumstances, transmission of the Notice as proposed by the Parties meets the requirements of
5 Federal Rule of Civil Procedure 23 and due process, is the best notice practicable under the
6 circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

7 d. At least seven (7) days prior to the Settlement Hearing, Facebook's
8 Counsel shall serve on Class Counsel and file with the Court proof, by affidavit or declaration,
9 that Facebook has fulfilled the requirements set forth in subsections (a) through (c) of this
10 section (9), above.

11 All Persons who fall within the Class definition and who do not timely and validly
12 exclude themselves from the Class shall be bound by all determinations and judgments in the
13 Litigation concerning the Settlement, whether favorable or unfavorable to the Class.

14 Persons who wish to exclude themselves from the Class shall request exclusion within
15 the time and the manner set forth in the Notice, such that the request is received on or before
16 February 1, 2010, to the Parties' counsel at the addresses listed in the Notice. Unless the Court
17 orders otherwise, no request for exclusion shall be valid unless it is made within the time and the
18 manner set forth in the Notice. A request for exclusion must state: (a) the name, address, and
19 telephone number of the person requesting exclusion and, if applicable, on whose behalf such
20 exclusion is being requested, and (b) that the person wishes to be excluded from the Settlement
21 Class. All persons who submit valid and timely requests for exclusion in the manner set forth in
22 this paragraph shall have no rights under and shall not share in the settlement relief, and shall not
23 be bound by any Order finally disposing of this matter.

24 Any Class Member may enter an appearance in the Litigation, at the Class Member's
25 own expense, individually or through counsel of the Class Member's choice. Any Class Member
26 who does not enter an appearance will be represented by Class Counsel. Pending final
27 determination of whether the Settlement should be approved, neither the Representative
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1 Plaintiffs nor any Class Member, either directly, representatively, or in any other capacity, shall
2 commence or prosecute against any of the Protected Persons, any action or proceeding in any
3 court or tribunal asserting any of the Released Claims.

4 Any Class Member may appear and show cause why the proposed Settlement should or
5 should not be approved as fair, reasonable, and adequate; or why a Judgment should or should
6 not be entered thereon; or why attorneys' fees and expenses should or should not be awarded to
7 Class Counsel; provided, however, that no Class Member or any other Person shall be heard on
8 or entitled to contest the Court's decision on any of the foregoing matters unless that Person has
9 (a) no later than February 1, 2010, filed written objections and any supporting papers and briefs
10 with the Clerk of the United States District Court for the Northern District of California, 280
11 South 1st Street, San Jose, CA 95113; and (b) mailed or delivered copies of such objections,
12 papers, and briefs, such that they are received no later than February 6, 2010, to the Parties'
13 counsel at the addresses listed in the Notice.

14 Unless otherwise ordered by the Court, any Class Member who does not make his, her, or
15 its objection in the manner provided shall be deemed to have waived such objection and shall
16 forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of
17 the proposed Settlement, or to any award of attorneys' fees and expenses to Class Counsel.

18 The Settlement Fund shall be kept under the control and possession of Facebook but
19 within twenty (20) days of this Order, the Settlement Fund shall be deposited into a separate
20 bank account specifically established by Facebook for purposes of this Settlement.

21 All papers in support of the Settlement shall be filed and served by February 10, 2010.
22 The Parties may respond to any objection to the Settlement, provided that such response is filed
23 and served no later than February 14, 2010.

24 Any application for attorneys' fees or reimbursement of expenses made by Class Counsel
25 shall be considered separately from the fairness, reasonableness, and adequacy of the Settlement.
26 The application by Class Counsel for attorneys' fees and/or reimbursement of expenses shall be
27 filed and served by February 10, 2010, with any response to be filed and served no later than
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1 February 14, 2010. The application will be heard at the same time and place as the Settlement
2 Hearing.

3 All reasonable costs incurred in giving notice to Class Members and administering the
4 Settlement shall be borne and paid as set forth in the Settlement Agreement.

5 Neither the Settlement Agreement, nor any of its terms or provisions, nor any of the
6 negotiations or proceedings in connection therewith, shall be construed as an admission or
7 concession by Facebook of the truth of any of the allegations in the Litigation, or of any liability,
8 fault, or wrongdoing of any kind.

9 The Court reserves the right to adjourn the date of the Settlement Hearing without further
10 notice to the Class Members, and retains jurisdiction to consider all further applications arising
11 out of or in connection with the proposed Settlement. The Court may approve the Settlement,
12 with such modifications as may be agreed to by the Parties, if appropriate, without further notice
13 to the Class.

14 If the Settlement is not approved or consummated for any reason whatsoever, the
15 Settlement and all proceedings had in connection therewith shall be without prejudice to the
16 rights of the Parties status quo ante.

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18 IT IS SO ORDERED.

19 Dated: October 23, 2009

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22 RICHARD SEEBORG
23 UNITED STATES MAGISTRATE JUDGE
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Exhibit 2

NOTICE

NOTE: IF YOU ARE A MINOR, PLEASE IMMEDIATELY GIVE THIS NOTICE TO YOUR PARENT OR LEGAL GUARDIAN. ONLY YOUR PARENT OR GUARDIAN MAY INTERPOSE OBJECTIONS OR COMMENTS TO THE SETTLEMENT ON YOUR BEHALF OR EXCLUDE YOU FROM THE SETTLEMENT.

THIS NOTICE SUMMARIZES THE TERMS OF A PROPOSED CLASS-ACTION SETTLEMENT UNDER WHICH YOU MAY HAVE LEGAL RIGHTS.

From: Facebook

Subject: Federal Court's Notice of Proposed Class-Action Settlement. Please Read.

I. OVERVIEW

A federal court has directed that this notice be sent to inform you of a proposed class-action settlement. Your rights and options – and the deadlines to exercise them – are explained in this Notice.

The settlement will resolve a lawsuit against Facebook, Inc. (“Facebook”), Blockbuster, Inc., Fandango, Inc., Hotwire, Inc., STA Travel, Inc, Overstock.com, Inc., Zappos.com, Inc. and Gamefly, Inc. (collectively, “Defendants”) filed in the Northern District of California, San Jose Division, Case No. 5:08-cv-03845-RS (the “Lawsuit”).

A. WHAT IS THE LAWSUIT ABOUT?

The case involves claims arising out of the Facebook Beacon program, which Facebook launched in November, 2007. Beacon was designed to allow users to share information with their selected friends about actions taken on affiliated, but third party, websites (such as the sites operated by the other defendants in this lawsuit).

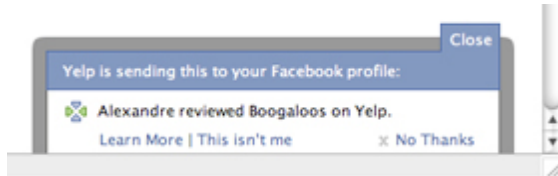
The Beacon program is described as follows on the Facebook website at

<http://www.facebook.com/beacon/faq.php> as follows:

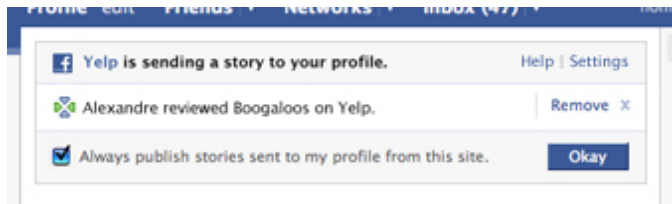
How does Beacon work?

Facebook Beacon is a way for you to bring actions you take online into Facebook. Beacon works by allowing affiliate websites to send stories about actions you take to Facebook. Here's how that process happens:

If you are logged in to Facebook and visit a Beacon Affiliate, an action you take (like writing a review or purchasing an item), may trigger that website to want to publish a story to Facebook. Before that happens, the website will send some information to Facebook in order for Facebook to generate a notification that will display in the lower right corner of your screen. If you click "No, Thanks", no stories or information will be published anywhere on Facebook. Any information that was sent to Facebook's servers will be deleted. If you click "Close" or ignore the story, the story will be sent to Facebook, but not yet published.



The next time you visit your home page, you'll see a message remind you that this story is being sent. There are three things you can do with this story: approve the story by clicking Okay, remove the story by clicking "Remove", or ignore the entire message by doing nothing. If you approve the story and click "Okay", the story will be published in your Wall and may appear in your friends' News Feeds. If you remove the story using the "Remove" link next to it, the story will never appear in your Wall or a friend's News Feed. If you ignore the whole message, it will go away after a few days and nothing will be published to Wall or News Feed. However, when you ignore a story, it remains queued, so that the next time you generate a Beacon story, this home page message will have two stories, instead of one.



Once this story has been published, it will appear in your Wall, and may appear in the News Feeds of your friends.

The plaintiffs in this lawsuit asserted allegations about the level of notice and choice they received regarding how Beacon collected information about their activities on affiliated websites and transmitted it to Facebook for publication. The complaint alleged violations of (i) the Electronic Communications Privacy Act, 18 U.S.C. §2510; (ii) Computer Fraud and Abuse Act, 18 U.S.C. 1030; (iii) Video Privacy Protection Act, 18 U.S.C. § 2710; (iv) California's Consumer Legal Remedies Act, California Civil Code § 1750; and (v) California's Computer Crime Law, Penal Code § 502.

B. WHAT DOES THE SETTLEMENT DO?

A proposed settlement agreement as set forth in a Stipulation and Agreement of Settlement (the "Settlement Agreement") will resolve the claims asserted in the lawsuit against Facebook and the other Defendants. Under the Settlement Agreement, Facebook will terminate the Beacon program within 60 days of Preliminary Approval, if so approved by the Court. In addition, Facebook has agreed to establish a gross settlement fund of \$9.5 million, the net proceeds

(determined after court approved administrative costs, attorneys' fees and other costs are paid) of which will fund a non-profit foundation ("Privacy Foundation"), the purpose of which shall be to fund projects and initiatives that promote the cause of online privacy, safety, and security. In consideration for the Settlement payment, Facebook and the other Defendants will be dismissed with prejudice from the lawsuit and will be released from any and all liability arising out of or relating to the claims and allegations in the lawsuit.

The Court still has to decide whether or not to approve the Settlement.

II. DETAILED INFORMATION ABOUT THE LAWSUIT AND SETTLEMENT

A. WHY SHOULD I READ THIS NOTICE ?

The proposed Settlement of this Lawsuit affects the rights of all current or former Facebook users in the United States whose activities on affiliated websites were communicated to Facebook via the Facebook Beacon program during the period of November 6, 2007 to [Date Preliminary Order is entered]. The Court ordered that this Notice be distributed to all potential class members because you have a right to know about the proposed Settlement of this Lawsuit and about your options relating to the Settlement, before the Court decides whether or not to approve the Settlement. The Court further ordered that a Publication Notice be published in one daily issue of the national edition of *USA Today*.

This Notice provides a summary of the terms of the proposed Settlement. It also explains the Lawsuit and Class Members' legal rights under the Settlement.

B. WHAT IS A CLASS ACTION?

In a class action, one or more "Plaintiffs" sue on behalf of all people who have claims similar to theirs. All of these people are members of the "Class." One court resolves the issues for all members of the Class, except for those persons who exclude themselves, or opt-out, from the Class.

C. WHY IS THERE A SETTLEMENT?

Facebook does not believe that it did anything wrong. In fact, Facebook denies any and all liability for the claims alleged in the Lawsuit. The Court has not decided in favor of the Class or Facebook, and by requiring Facebook to provide this Notice, the Court is not expressing any view on the merits of the Lawsuit.

Instead, the parties engaged in a series of settlement negotiation sessions mediated by Anthony Piazza, Esq., of Gregorio, Haldeman, Piazza, Rotman, Frank & Feder. Eventually, both sides agreed to a Settlement. By settling their claims, both sides avoid the uncertainty and cost of a trial or appeal. The Representative Plaintiffs and Facebook believe that the Settlement is fair and in the best interest of all members of the Class.

On _____, 2009, the parties entered into a formal Settlement Agreement, which is on file with the Court and available through the following link: [WEBSITE]

D. HOW DO I KNOW IF I AM PART OF THE SETTLEMENT?

On _____, 2009, Judge Seeborg entered an order granting preliminary approval of the Settlement and certifying the following “Class” for purposes of the Settlement:

All Facebook members who, during the period of November 6, 2007 to [Date Preliminary Order is entered], engaged in one or more activities on a website of any company, corporation, business enterprise, or other person that entered into an agreement with Facebook with respect to the Beacon functionality, which triggered Beacon, the program launched by Facebook on November 6, 2007 and all iterations thereof bearing the “Beacon” name.

Excluded from the Class are any judicial officer to whom this Litigation is assigned; Facebook and any of its affiliates; any current or former employees, officers, or directors of Facebook; any persons currently residing outside of the United States; and all Persons who timely and validly request exclusion from the Class pursuant to this Notice. Members of the Class that are not excluded from the Class are referred to as “Class Members.”

E. WHO REPRESENTS ME IN THIS CASE?

To represent the Class, the Court has appointed Sean Lane, Mohannaed Sheikha, Sean Martin, Ali Sammour, Mohammaed Zidan, Sara Karrow, Colby Henson, Denton Hunker, Firas Sheikha, Hassen Sheikha, Linda Stewart, Tina Tran, Matthew Smith, Erica Parnell, John Conway, Austin Muhs, Phillip Huerta, Alicia Hunker, and M.H., a minor, by and through her parent Rebecca Holey as Representative Plaintiffs, and their counsel of record, Scott A. Kamber and David A. Stampley of KamberEdelson, LLC and Joseph H. Malley of the Law Office of Joseph H. Malley, P.C as class counsel. If you want to be represented in this lawsuit by your own attorney, you may hire one at your own expense, and you may appear in this litigation through your own attorney.

F. WHAT DOES THE SETTLEMENT PROVIDE?

Under the Settlement, Facebook will terminate the Beacon program. In addition, Facebook will pay a total of nine million five hundred thousand dollars (\$9,500,000) into an interest-bearing account. The original deposit of \$9,500,000, plus accrued interest, will constitute the “Settlement Fund.” The Settlement Fund will be used: (i) to set up and a non-profit Privacy Foundation, described below; (ii) to pay certain costs of administering the Settlement, as approved by the Court; and (iii) to pay attorneys’ fees and expenses to Class Counsel in the amount awarded by the Court as well as any compensation to the Representative Plaintiffs, which the parties have proposed be in an amount totalling \$41,500 distributed among 21 individuals. After the deduction of administrative costs and Class Counsel’s attorneys’ fees and expenses and Representative Plaintiffs’ compensation, the balance of the Settlement Fund (the “Net Settlement Fund”) will be applied in accordance with the the Settlement Agreement.

In brief, the Plan of Allocation requires, among other things, that the Net Settlement Fund be used to form and establish the Privacy Foundation, the purpose of which shall be to fund projects and initiatives that promote the cause of online privacy, safety, and security. Individual class members will not be receiving a monetary benefit pursuant to the Settlement Agreement.

G. WHAT AM I GIVING UP IF I PARTICIPATE IN THE SETTLEMENT?

If the Settlement is granted final approval, the Court will enter a judgment dismissing all claims against Facebook and the other Defendants in the Lawsuit with prejudice, and releasing any and all claims for payment, non-economic, or injunctive relief of any kind or nature and any and all liabilities, demands, obligations, losses, actions, causes of action, damages, costs, expenses, attorneys' fees and any and all other claims of any nature whatsoever, arising from or relating to any of the allegations or statements made in, or in connection with, the Lawsuit (and including, without limitation, any and all claims based upon any of the laws, regulations, statutes, or rules cited, evidenced and referenced by all such allegations and statements), or any other known or unknown claims arising from or relating to Beacon (including, without limitation, arising from or relating to the use of data gathered through Beacon) against Facebook and any "Beacon Merchant," which is any company, corporation, business enterprise, or other person that entered into an agreement with Facebook with respect to Beacon or otherwise launched the Beacon program (specifically including, without limitation and by way of example, all non-Facebook defendants named in the Lawsuit, namely, Blockbuster, Inc., Fandango, Inc., Hotwire, Inc., STA Travel, Inc., Hotwire, Inc., Zappos.com, Inc., Overstock.com, Inc., and Gamefly, Inc.).

As a result, if you are a Class Member and do not exclude yourself from the Class, you will be barred from bringing any of the claims described above. This means that you will not be able to sue, continue to sue, or be part of another lawsuit against Facebook and its affiliates or any Beacon Merchant, for any of the claims identified in the preceding paragraph. You will be bound by all proceedings, orders, and judgments entered in connection with the Settlement, whether favorable or unfavorable. You will be represented by the Representative Plaintiffs and Class Counsel for purposes of the Settlement, unless you choose to hire your own lawyer at your own expense to represent you in this case.

In short, if you do not exclude yourself from the Class, and the Settlement is granted final approval, your claims against Facebook and its affiliates and all Beacon Merchants will be forever released as described above. If you do nothing, you will be deemed to have accepted the Settlement and any decisions of the Court with respect to the Settlement and the lawsuit.

H. WHAT IF I WANT TO EXCLUDE MYSELF (OPT-OUT) FROM THE SETTLEMENT?

If you do not want to remain a member of the Class and participate in the Settlement, then you may exclude yourself from the Class by mailing or delivering (email is not permitted) your written request, as follows:

Your original, signed request for exclusion must be RECEIVED on or before [DATE, 2009 and mailed to [insert claims administrator information]

Your request for exclusion must contain your name and address, be signed by you, and include the reference “*Lane et al. v. Facebook, Inc. et al.*, Civil Action No. 1:05-CV-01720.”

I. HOW WILL THE LAWYERS IN THE CASE BE PAID?

From the inception of the litigation in August 2008 to the present, Class Counsel have not received any payment for their services in bringing or prosecuting this case. Nor have they been reimbursed for any out-of-pocket expenses.

If the Court approves the Settlement, Class Counsel will make a motion, or “Fee Application,” to the Court for an award of attorneys’ fees of up to one third (1/3) of the Settlement Fund and reimbursement of expenses and costs already incurred or expected to be incurred in the prosecution of this Lawsuit. Class Counsel’s Fee Application may also include an application on behalf of certain of the Representative Plaintiffs for appropriate compensation for their time and effort serving as the Representative Plaintiffs. Such awards as may be granted by the Court will be paid from the Settlement Fund. The Fee Application will be heard at the Settlement hearing described below.

Class Counsel’s Fee Application will be based on various factors, including the time and effort already invested in the prosecution of the Lawsuit, the benefits obtained for the Class by

bringing this lawsuit, as specified herein and in the Settlement Agreement, as well as the time and effort that will be required of Class Counsel prior to final approval of this Settlement.

Facebook takes no position on the application for attorneys' fees, costs and expenses.

J. CAN I COMMENT IN SUPPORT OF OR IN OPPOSITION TO THE SETTLEMENT?

If you decide to remain in the Class (*i.e.*, you do not opt out), and you wish to comment in support of or in opposition to the Settlement or Class Counsel's Fee Application, you may do so by mailing or delivering (email is not permitted) your written comments, as follows:

Your original, signed comments must be filed with the Court no later than [DATE], 2009, at the following address:

Clerk of the United States District Court for the Northern District of California
San Jose Division
280 South 1st Street
San Jose, CA 95113

Your written comments must contain your name and address, be signed by you, and include the reference "*Lane et al. v. Facebook, Inc. et al.*, Civil Action No. 1:05-CV-01720". You must also mail or deliver copies of such objections, papers, and briefs, such that they are received no later than [date], to the Parties' counsel at the addresses listed above, in Section II(H).

Objecting is simply telling the Court that you do not like the Settlement or any aspect of the Settlement. You can object only if you are a member of, and do not exclude yourself from, the Settlement Class. If you do not comply with these procedures and deadlines for submitting written comments or appearing at the hearing, you will not be entitled to object, speak at the hearing, you will not be entitled to contest in any way the Settlement or the Court's decision on the Fee Application, and you will not be able to contest any other orders or judgments that the Court may enter in connection with the Settlement.

K. WHEN AND WHERE WILL THE COURT HOLD A HEARING ON THE SETTLEMENT?

The Court will hold a hearing on [DATE] at [TIME], before the Honorable Richard Seeborg, United States Magistrate Judge for the Northern District of California, 280 South 1st Street San Jose, CA 95113.

The purpose of the hearing will be to determine: (a) whether the proposed Settlement should be approved as fair, reasonable and adequate; (b) whether the Class should be certified for purposes of the Settlement; (c) whether Class Counsel's Fee Application should be granted and in what amount; and (d) whether the lawsuit and Class Members' claims should be dismissed with prejudice pursuant to the Settlement.

The Court reserves the right to adjourn or continue the Settlement hearing without further notice to the Class.

L. DO I HAVE TO COME TO THE HEARING?

No. You are not required to attend the hearing in order to participate in the Settlement. Nor do you have to attend the hearing for the Court to consider your objection or other written comments. As long as you mail your written comments on time and follow the procedures set forth above, the Court will consider them.

However, you may attend the Settlement hearing at your own expense if you wish. You may also ask your own lawyer to attend on your behalf, at your expense.

M. ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

This Notice contains only a summary of certain provisions in the Settlement. The full terms and provisions of the Settlement are contained in the Settlement Agreement. A copy of the Settlement Agreement is on file with the Court and can be viewed through the following link: [website]. The Clerk of the Court, located at 280 South 1st Street, San Jose, CA 95113, maintains files containing the Settlement Agreement and all other documents filed in the lawsuit. Copies of these documents are available for inspection and copying during the Court's normal business hours.

N. HOW DO I GET MORE INFORMATION ABOUT THE SETTLEMENT?

You can get more information by sending a letter or email to [insert information from claims administrator regarding automated process]:

Facebook employees cannot give you legal advice, and they will not be able to answer questions about the lawsuit or the settlement.

PLEASE DO NOT TELEPHONE THE COURT ABOUT THIS NOTICE.

Dated: _____

**BY ORDER OF:
THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Exhibit A

LEGAL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

THIS NOTICE MAY CONCERN YOUR LEGAL RIGHTS IF YOU WERE A USER OF www.facebook.com BETWEEN NOVEMBER 6, 2007 AND SEPTEMBER __, 2009.

THIS IS NOT AN ADVERTISEMENT OR ATTORNEY SOLICITATION.

IF YOU ARE A MINOR, IMMEDIATELY GIVE THIS NOTICE TO YOUR PARENT OR LEGAL GUARDIAN.

This notice is being published because a settlement has been proposed by all parties in the class action matter of:

SEAN LANE, *et al.*, Plaintiffs v. FACEBOOK, INC., BLOCKBUSTER, INC., FANDANGO, INC., HOTWIRE, INC., STA TRAVEL, INC., OVERSTOCK.COM, INC., ZAPPOS.COM, INC., GAMEFLY, INC. (Delaware corporations), and DOES 1-40, corporations, Defendants (Case No. 08-cv-3845 RS)

pending in the UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION.

WHAT'S THE PURPOSE OF THIS NOTICE?

This notice is being published by order of the Court, before the Court considers final approval of the proposed settlement.

- This notice is to inform you of actions you may take in response to the proposed settlement.
- Your choices are: (1) do nothing; (2) opt out of the proposed settlement; or (3) object to the proposed settlement. If you choose to object to the proposed settlement or opt out of the proposed settlement, you must follow certain procedures.
- In addition, you may attend the Court's hearing about the proposed settlement.

This notice summarizes some of the information related to the proposed settlement. For more details, go to _____.

WHAT'S THE LAWSUIT ABOUT?

Facebook, located on the web at www.facebook.com, is a social networking website. This lawsuit relates to Facebook's Beacon program, which Facebook launched in November of 2007. Beacon was designed to allow users to share information with their selected friends about actions taken on affiliated, but third-party, websites (such as the sites operated by the other Defendants in this lawsuit).

The plaintiffs filed this class action lawsuit on August 12, 2008, alleging that Facebook and its affiliates did not give users adequate notice and choice about Beacon and the collection and use of users' personal information. The Defendants deny that they did anything wrong, and the Court has not made any decision about which side was right in this lawsuit.

WHAT DOES THE SETTLEMENT DO?

The proposed settlement would resolve this lawsuit before it gets to the point of asking the Court to take a position on which side is right—which could take a long time. Instead, both sides have agreed to the proposed settlement.

NOTE: This is not a settlement in which class members file claims to receive compensation. Under the proposed settlement agreement, Facebook will terminate the Beacon program. In addition, Facebook will provide \$9.5 million to set up a non-profit foundation that will: fund projects and initiatives that promote the cause of online privacy, safety, and security; cover attorneys' fees capped at no more than one-third of the settlement; as well as reimbursement of expenses and costs,

plus interest on the same; fund compensation for representative plaintiffs; and cover settlement administration costs.

AM I AFFECTED?

You may be a Class Member if, between November 6, 2007 and September __, 2009, you visited a Facebook-affiliated website that was participating in Facebook's Beacon program.

WHAT ARE MY OPTIONS?

- *Do nothing:* If you choose to do nothing, you will be legally bound by the settlement. By doing nothing, you will be giving up the right to sue Facebook and the other Defendants over claims related to or arising out of the Beacon program.
- *Opt out:* If you do not want to be legally bound by the settlement, you must exclude yourself by [date] or you will not be able to sue, or continue to sue, the Defendants and certain other parties for the claims listed in the settlement agreement. To opt out, you *must* mail your original, signed exclusion request to:

Counsel for Plaintiffs: KamberEdelson, LLC, Attn: Scott Kamber, 11 Broadway, 22nd Floor, New York, NY 10004

Counsel for Defendants: Cooley Godward Kronish LLP, % Facebook Beacon Class Action Settlement, Attn: Michael Rhodes, 4401 Eastgate Mall, San Diego, CA 92121

- *Object:* If you wish to object to the terms of the settlement, you *must* file your objection no later than [date] with:

Clerk's Office, U.S. District Court, Northern District of California, 280 South First St., Rm. 2112, San Jose, CA 95113

In addition, you *must* mail or deliver copies of your objection and any related briefs or papers to the parties' counsel at the addresses listed above for receipt no later than [date].

If you under the age of 18, you must provide a copy of this Notice to your parent or guardian. Only your parent or guardian may interpose objections or comments to the settlement on your behalf or exclude you from the settlement.

- *Attend the settlement hearing:* On [date], the Court will hold a hearing to consider whether to grant final approval to the proposed settlement. You may comment in support of or in opposition to the proposed settlement, but you do not have to attend the hearing and, if you do choose to attend the hearing, you do not have to speak at the hearing.

For a full copy of the Notice of Settlement and details on required procedures, deadlines, and your options and obligations, visit [website].