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6 Attorneys for Defendant
FACEBOOK, INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

12 GLYNNIS BOHANNON, Individually and
on Behalf of Her Minor Child I.B. and on
13 Behalf of All Others Similarly Situated,

14 Plaintiff,

15 v.

16 FACEBOOK, INC.,

17 Defendant.

ADR E-Filing

FILED

APR 17 2012

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

fees paid
190 # 1
no process

CV 12-01894 HRL

California Superior Court,
County of Santa Clara
Case No. 112CV219256

NOTICE OF REMOVAL OF ACTION UNDER
28 U.S.C. §§ 1332(d), 1446, & 1453(b)

Complaint Filed: March 8, 2012

20 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

21 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332(d), 1446, and 1453(b),
22 Defendant Facebook, Inc. ("Facebook" or "Defendant"), by its undersigned attorneys, hereby
23 removes to this Court the above-captioned civil action, and all claims and causes of action
24 therein, from the Superior Court of California, County of Santa Clara, to the United States
25 District Court for the Northern District of California. Defendant states as follows:

26 **Jurisdiction and Authority for Removal**

27 1) On March 8, 2012, an action was commenced by Glynnis Bohannon individually
28 and on behalf of her minor son ("Plaintiffs") against Facebook in the Superior Court of the State

ORIGINAL

1 of California in and for the County of Santa Clara, entitled “Glynnis Bohannon, individually and
2 on behalf of her minor child I.B. and on behalf of all others similarly situated v. Facebook, Inc.,”
3 with case number 112CV219256. Attached hereto as **Exhibits A - I** are all available documents
4 in the *Bohannon* case file, including a copy of the *Bohannon* complaint (“Complaint”).

5 2) The Northern District of California encompasses Santa Clara County.

6 3) Plaintiffs served Facebook with the Complaint on March 19, 2011.

7 4) This Court has original jurisdiction over this action under 28 U.S.C. § 1332(d) (the
8 Class Action Fairness Act (“CAFA”)) because (a) minimal diversity under CAFA is satisfied
9 under 28 U.S.C. § 1332(d)(2)(A), as explained further below; (b) the putative class action consists
10 of at least 100 putative class members, 28 U.S.C. § 1332(d)(5)(B); and (c) the amount in
11 controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, 28 U.S.C.
12 § 1332(d)(2).

13 5) This action is a “class action” within the meaning of CAFA because Plaintiffs seek
14 to represent a class of persons in a civil action filed under California Code of Civil Procedure
15 § 382 (Compl. ¶ 24), which is a “statute . . . of judicial procedure authorizing an action to be
16 brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B).

17 6) Defendant may thus remove this action to this Court under 28 U.S.C. § 1453(b).

18 **Citizenship of Parties and Putative Class (28 U.S.C. § 1332(d)(2)(A))**

19 7) On the basis of Plaintiffs’ allegations in the Complaint (Compl. ¶¶ 8-9), Defendant
20 is informed that at the time Plaintiffs filed this action, Glynnis Bohannon and her minor child I.B.,
21 were, and still are, residents of Phoenix, Arizona.

22 8) At the time this action was filed, Facebook was, and still is, a corporation
23 organized under the laws of Delaware with its principal place of business in Menlo Park,
24 California.

25 9) Facebook operates a social networking website (www.facebook.com) that enables
26 users to connect and share with other users and the world around them. Users of the Facebook
27 website reside throughout the United States.

28 ///

1 10) Plaintiffs seek to represent a class of individuals who reside throughout the United
2 States. As stated in the Complaint:

3 Plaintiff brings this action as a class action for monetary and
4 equitable relief pursuant to California Code of Civil Procedure §
5 382, California Civil Code 1781, and applicable case law on behalf
6 of the following class: **All parents and legal guardians in the
United States** whose minor children made unauthorized purchases
of Facebook Credits from the minor child's Facebook account

7 (Compl. ¶ 24 (emphases added).)

8 11) Thus, Plaintiffs and at least one member of the putative class are citizens of a state
9 other than Delaware (Facebook's state of incorporation) or California (Facebook's principle place
10 of business). 28 U.S.C. § 1332(d)(2)(A).

11 **Number of Class Members (28 U.S.C. § 1332(d)(5)(B))**

12 12) Plaintiffs allege that Facebook sells Facebook Credits which can be obtained by
13 purchase for use in "many games and Apps" on Facebook. (Compl. ¶ 19.) Plaintiffs allege that
14 Facebook has "not offered to return any of the millions of dollars it received from minor
15 children's purchases of Facebook Credits for virtual currency or items within Facebook Apps."
16 (Compl. ¶ 21.)

17 13) Plaintiffs allege that, "millions of Facebook's users" have reported themselves to
18 be minors, and that, "Facebook specifically requires that users agree "not [to] provide any false
19 personal information." (Compl. ¶ 3.)

20 14) Plaintiffs seek to represent *all* parents and legal guardians whose minor children
21 allegedly made unauthorized purchases of Facebook Credits from the minor's account. (Compl. ¶
22 24 (emphasis added).)

23 15) Plaintiffs allege that they believe there are "thousands of members of the Class"
24 (Compl. ¶ 25.).

25 16) There are therefore at least 100 members of Plaintiffs' putative classes. 28 U.S.C.
26 § 1332(d)(5)(B).

27 ///

28 ///

1 **Amount in Controversy (28 U.S.C. § 1332(d)(2))**

2 17) Assuming, for purposes of this Notice of Removal, that all of Plaintiffs'
3 allegations were true and the putative class proposed in the Complaint were to be certified, the
4 amount in controversy, exclusive of interest and costs, exceeds \$5,000,000. 28 U.S.C. §
5 1332(d)(2).

6 18) Plaintiffs bring four claims: (i) declaratory judgment under 28 U.S.C. § 2201 et
7 seq. (ii) violation of the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750 et
8 seq. (iii) violation of California's Unfair Competition Law, California Business & Professions
9 Code § 17200 et seq. and (iv) unjust enrichment. (Compl. ¶¶ 36 - 76.)

10 19) Plaintiffs seek, *inter alia*, (a) an injunction against Facebook, (b) "individual
11 damages" (c) declaratory judgment and (d) attorneys' fees, costs, and interest. (Compl. at 76.)

12 20) As noted above, Plaintiffs seek to represent a class that allegedly includes
13 "thousands of members." (Compl. ¶ 24.) Plaintiffs do not allege a specific dollar figure for
14 damages or restitution sought but note that the amount at issue is at least in "the millions of
15 dollars" (Compl. ¶ 21).

16 21) Plaintiffs allege that the value of their own damages was "several hundred
17 dollars." (Compl. ¶ 22.)

18 22) Without taking into account other relief sought by Plaintiffs, and based on
19 Plaintiffs' own allegations, Plaintiffs' demand for "individual damages" from the thousands of
20 members in the proposed class places more than \$5,000,000 in controversy. 28 U.S.C. §
21 1332(d)(2).¹

22 23) In addition, the Declaration of Bill Richardson, manager of Payment Operations at
23 Facebook, shows that Facebook users purportedly aged 13-17 have purchased in excess of
24 \$5,000,000 of Facebook Credits during 2011. (Richardson Decl. ¶ 4). Thus, the amount in
25 controversy exceeds the statutory minimum of \$5,000,000.

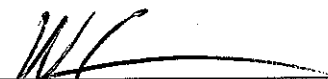
26
27 ¹ In filing this Notice of Removal, Facebook makes no admissions as to any allegations contained
28 in Plaintiffs' Complaint, nor does Facebook waive or forfeit any arguments or defenses.

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24) Defendant will promptly serve a copy of this Notice of Removal on counsel for Plaintiffs and will file a copy of this Notice of Removal with the Clerk of the Superior Court of California for the County of Santa Clara pursuant to 28 U.S.C. § 1446(d).

Dated: April 17, 2012

COOLEY LLP
WHITTY SOMVICHIAN (194463)
KRISTINE VAN HAMERSVELD (278745)


Whitty Somvichian (194463)
Attorneys for Defendant
Facebook, Inc.

E-Filing

JS 44 CAND (Rev. 12/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

GLYNNIS BOHANNON, Individually and on Behalf of Her Minor Child I.B. and on Behalf of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff Maricopa County, AZ (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) (see attachment)

DEFENDANTS

FACEBOOK, INC.

County of Residence of First Listed Defendant Santa Clara County, CA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) (see attachment)

CV 12-01894

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§ 1332(d), 1446, and 1453(b)

Brief description of cause: minors right to disaffirm online purchases

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SANJOSE EUREKA

DATE 04/17/2012

SIGNATURE OF ATTORNEY OF RECORD Whitty Somvichian

Handwritten signature of Whitty Somvichian

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity.

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

IX. **Divisional Assignment.** In accordance with Civil L.R. 3-2(c) - (f), select the appropriate venue based upon the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.

Date and Attorney Signature. Date and sign the civil cover sheet.

ATTACHMENT TO CIVIL COVER SHEET

GLYNNIS BOHANNON, Individually and on Behalf of Her Minor Child I.B. and on Behalf of
All Others Similarly Situated v. FACEBOOK, INC.

United States District Court, Northern District of California, Case No. : _____
Removed from California Superior Court, County of Santa Clara, Case No. 112CV219256

I. (c) Attorneys (Firm Name, Address, and Telephone Number)

KERSHAW, CUTTER, & RATINOFF, LLP

C. Brooks Cutter
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ATTORNEYS FOR PLAINTIFF

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San Francisco, CA 94111-5800
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ATTORNEYS FOR DEFENDANT FACEBOOK, INC.

PROOF OF SERVICE
(FRCP 5)

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I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800. On the date set forth below I served the documents described below in the manner described below:

FACEBOOK, INC.'S CIVIL COVER SHEET

- (BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.
- (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date.
- (BY FACSIMILE) I am personally and readily familiar with the business practice of Cooley LLP for collection and processing of document(s) to be transmitted by facsimile and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.
- (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Cooley LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by _____ for overnight delivery.
- (BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

KERSHAW, CUTTER, & RATINOFF, LLP
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Executed on April 17, 2012, at San Francisco, California.



Sandra Warren

1265121 v1/SF