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THE UNITED STATES OF AMERICA

9  
10 IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

11  
12 UNITED STATES OF AMERICA, )  
 ) Case No.  
13 Petitioner, )  
 ) **PETITION TO ENFORCE**  
14 v. ) **INTERNAL REVENUE SERVICE**  
 ) **SUMMONSES**  
15 FACEBOOK, INC. AND SUBSIDIARIES )  
(a Consolidated Group), )  
16 Respondent. )  
17 \_\_\_\_\_)

18 The United States of America, through undersigned counsel, petitions this Court for an  
19 order enforcing Internal Revenue Service (“IRS”) summonses served on respondent Facebook,  
20 Inc. and Subsidiaries (a Consolidated Group) (“Facebook”) pursuant to 26 U.S.C. § 7602.

21 In support of this petition, the United States alleges as follows:

22 1. This is a proceeding brought pursuant to Sections 7402(b) and 7604(a) of the  
23 Internal Revenue Code (Title 26, United States Code) for judicial enforcement of the IRS

1 summonses described below.

2           2.       The Court has jurisdiction over this proceeding pursuant to Sections 7402(b) and  
3 7604(a) of the Internal Revenue Code and 28 U.S.C. §§ 1340 and 1345. Venue properly lies  
4 within this district.

5           3.       This proceeding is appropriate for assignment to the San Francisco or Oakland  
6 Divisions since Facebook is headquartered in San Mateo County.

7           4.       The IRS is conducting an examination of the federal income tax liability of  
8 Facebook for the tax period ending December 31, 2010. Part of the IRS's examination concerns  
9 matters arising under certain agreements between Facebook Inc. and Facebook Ireland Holdings  
10 Limited ("Facebook Ireland") purporting to transfer rights associated with Facebook's  
11 worldwide business to Facebook Ireland, with the exception of the United States and Canada.  
12 Declaration of Revenue Agent Nina Wu Stone ("Stone Decl.") at ¶¶ 2, 17-18.

13           5.       Nina Wu Stone is a Revenue Agent employed in the Large Business and  
14 International Division of the IRS, assigned to the aforementioned Facebook examination.  
15 Revenue Agent Stone is authorized to issue administrative summonses pursuant to 26 U.S.C.  
16 § 7602, 26 C.F.R. § 301.7602-1, and IRS Delegation Order No. 25-1. Stone Decl. ¶¶ 1, 4, 5.

17           6.       In furtherance of the examination for 2010 and in accordance with 26 U.S.C.  
18 § 7602, on June 1, 2016, Revenue Agent Stone issued six IRS summonses directing Facebook to  
19 appear at 55 South Market Street, 6th floor, San Jose, California, 95113 on June 17, 2016, at  
20 1:00 p.m. and to produce for examination books, records, papers and other data as described in  
21 the summonses. Stone Decl. ¶ 6 & Exs. 1-6.

22           7.       In furtherance of the examination and in accordance with 26 U.S.C. § 7603, on  
23 June 1, 2016, Ms. Stone served an attested copy of each of the summonses on Facebook by

1 personal delivery to David Wehner, the Chief Financial Officer for Facebook. Stone Decl. ¶ 7,  
2 Exhibits 1-6.

3 8. Facebook failed to appear on June 17, 2016, the date scheduled for compliance  
4 with the summonses, and did not produce the books, records, papers, and other data demanded in  
5 the summonses. Facebook's failure to comply with the summonses continues to this date. Stone  
6 Decl. ¶ 8.

7 9. The books, records, papers, and other data demanded in the summonses are not  
8 already in the possession of the IRS. During the course of the examination, Facebook has  
9 provided the IRS with some documents; however, Facebook has not provided documents in  
10 response to the summonses at issue here. To the extent Facebook earlier provided documents  
11 that would also be responsive to a summons request, the IRS is not seeking production of those  
12 documents. Stone Decl. ¶ 10.

13 10. All administrative steps as required by the Internal Revenue Code for issuance  
14 and service of the summonses have been followed. Stone Decl. ¶ 11.

15 11. There is no "Justice Department referral," as that term is described in Section  
16 7602(d)(2) of the Internal Revenue Code, in effect with respect to Facebook for the taxable  
17 period ending December 31, 2010. Stone Decl. ¶ 12.

18 25. In order to obtain enforcement of a summons, the petitioner must establish that  
19 the summons: (1) is issued for a legitimate purpose; (2) seeks information relevant to that  
20 purpose; (3) seeks information that is not already within the IRS's possession; and (4) satisfies  
21 all administrative steps required by the Internal Revenue Code. *United States v. Powell*, 379  
22 U.S. 48, 57-58, (1964).

23 26. In further support of this Petition and incorporated herein by reference, the United

1 States submits the Declaration of Revenue Agent Nina Wu Stone. The United States has met the  
2 *Powell* factors through these documents.

3 WHEREFORE, petitioner, the United States of America, seeks the following relief:

- 4 A. That this Court enter an order directing Facebook to show cause in writing why it  
5 should not fully comply with and obey the aforementioned IRS summonses and every  
6 requirement thereof as enumerated in the Declaration of Revenue Agent Nina Wu  
7 Stone;
- 8 B. That this Court enter an order directing Facebook to appear before Revenue Agent  
9 Stone, or any other proper officer or employee of the Internal Revenue Service, and  
10 produce for examination books, records, papers and other data as required by the  
11 summonses;
- 12 C. That the United States of America recover its costs in this action; and
- 13 D. That the Court grant such other further relief as it deems just and proper.

14 Dated this 6th day of July, 2016.

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