Case 4:19-cv-07123-PJH Document 133-3 Filed 09/02/20 Page 1 of 9

1	JOSEPH N. AKROTIRIANAKIS (Bar No. 197971)				
2	jakro@kslaw.com AARON S. CRAIG (Bar No. 204741)				
3	acraig@kslaw.com KING & SPALDING LLP				
4	633 West Fifth Street, Suite 1700 Los Angeles, CA 90071				
5	Telephone: (213) 443-4355 Facsimile: (213) 443-4310				
6	Attorneys for Defendants NSO GROUP TECHNOLOGIES				
7	LIMITED and Q CYBER TECHNOLOGIES LIMITED				
8	UNITED STATES DISTRICT COURT				
9	NORTHERN DISTRICT OF CALIFORNIA				
10	OAKLAND DIVISION				
11	WHATSAPP INC., a Delaware corporation, and FACEBOOK, INC., a Delaware	Case No. 4:19-cv-07123-PJH			
12	corporation,	DECLARATION OF JOSEPH N. AKROTIRIANAKIS IN SUPPORT OF			
13	Plaintiffs,	DEFENDANTS NSO GROUP TECHNOLOGIES LIMITED AND Q			
14	v.	CYBER TECHNOLOGIES LIMITED'S ADMINISTRATIVE MOTION TO FILE			
15	NSO GROUP TECHNOLOGIES LIMITED and Q CYBER TECHNOLOGIES LIMITED,	UNDER SEAL AND OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL			
16		REDACTED VERSION OF			
17	Defendants.	DOCUMENT SOUGHT TO BE SEALED			
18		Judge: Hon. Phyllis J. Hamilton			
19					
20		Action Filed: 10/29/2019			
21					
22					
23					
24					
25					
26					
27					
28					
-					

Case No. 4:19-cv-07123-PJH

AKROTIRIANAKIS DECL.

6

7

5

8 9

11

10

12 13

14

15 16

17

18

19

3.

20

21 22

23

24

25 26

27

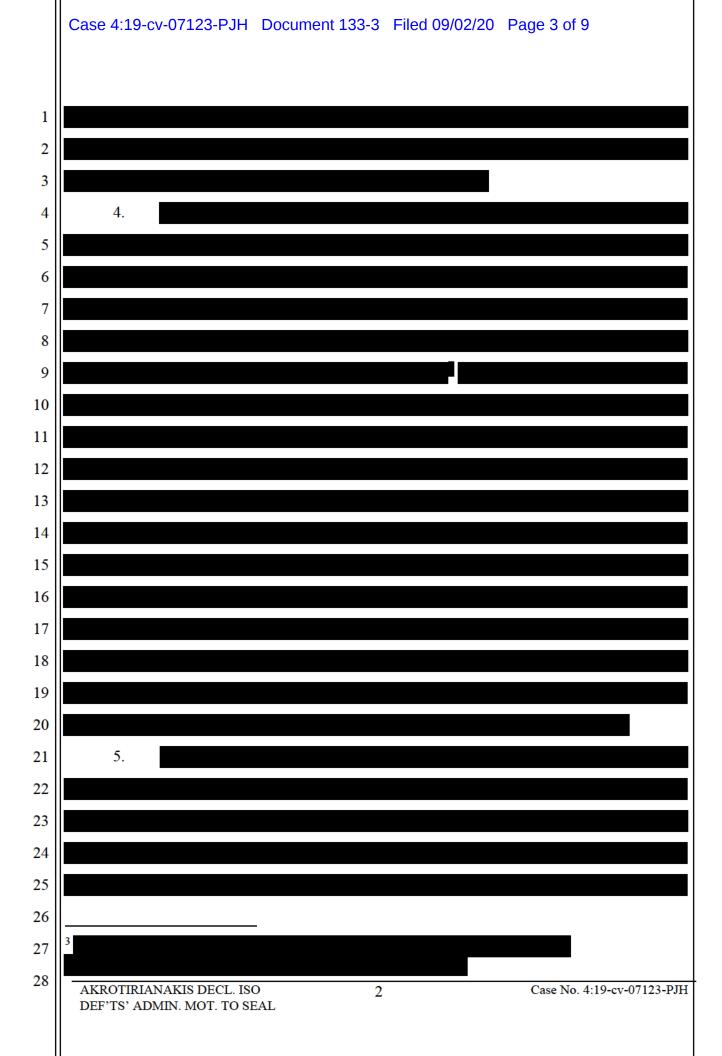
28

AKROTIRIANAKIS DECL. ISO DEF'TS ADMIN. MOT. TO SEAL

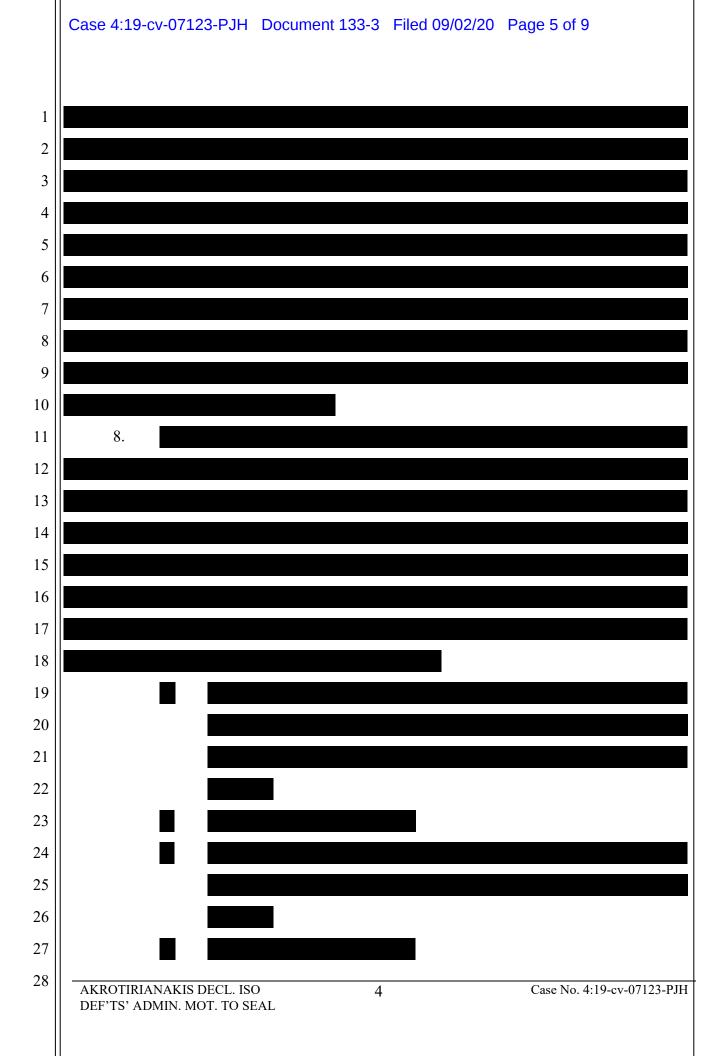
I, Joseph N. Akrotirianakis, declare as follows:

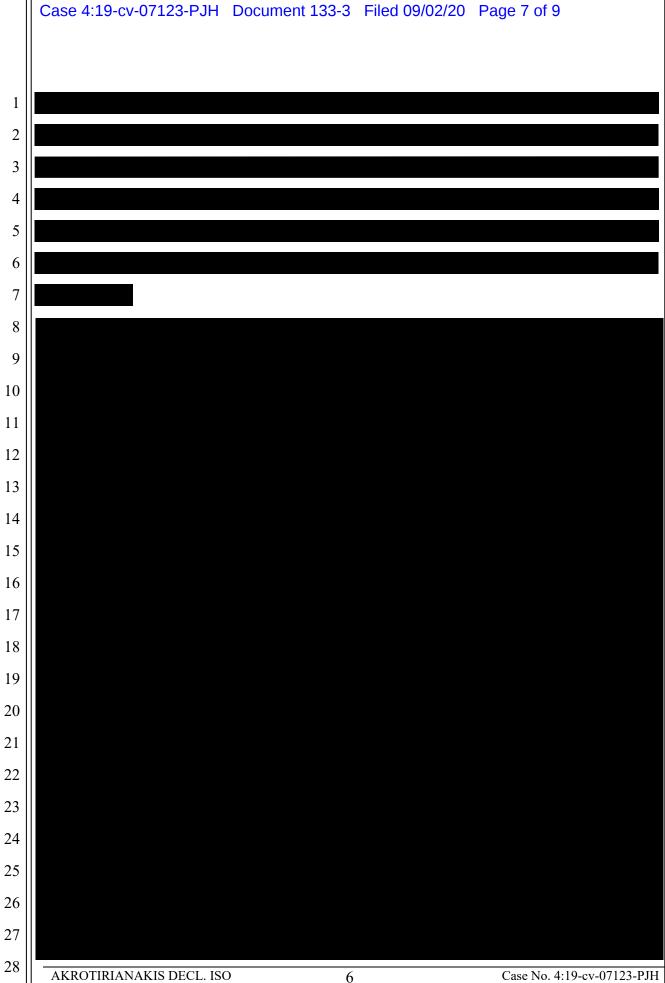
- I am a member of the California State Bar and the bar of this court, a partner in the 1. law firm of King & Spalding LLP, and counsel of record to Defendants NSO Group Technologies Limited and Q Cyber Technologies Limited (collectively, the "Defendants"). This Declaration is made in support of Defendants' September 2, 2020, administrative motion to seal and in support of Defendants' September 2, 2020, opposition to plaintiffs' motion to compel (Dkt. No. 116). I have personal knowledge of the facts set forth herein and, except as otherwise stated, could testify competently to each fact averred herein.
- The Complaint was filed on October 29, 2019. (Dkt. No. 1.) Defendants were 2. served on March 12, 2020, and moved to dismiss the complaint on April 2, 2020. (Dkt. No. 45.) The parties conducted the Rule 26(f) conference on May 6, 2020. (See Dkt. No. 76.) Thereafter, on June 2, 2020, Plaintiffs served Requests for Production of Documents, to which Defendants timely responded on July 6, 2020. On June 16, 2020, Defendants moved to stay discovery pending resolution of Defendants' motion to dismiss. (Dkt. No. 95.) On July 16, 2020, the Court ruled on Defendants' motion to dismiss the complaint and denied as most Defendants' motion to stay discovery. (Dkt. No. 111.) On August 5, Plaintiffs filed a motion to compel. (Dkt. No. 116.) On August 20, this Court extended Defendants' deadline to oppose the motion to compel until September 2, 2020. (Dkt. No. 126.)

	_		
1			
2			



	Case 4:19-cv-07123-PJH Document 133-3 Filed 09/02/20 Page 4 of 9
1	
2	
3 4	
5	
6	
7	
8	
9	
10	
11	6.
12	
13	
14	
15	
1617	
18	
19	
20	
21	
22	
23	
24	
25	
26	7.
27	
28	AKROTIRIANAKIS DECL. ISO 3 Case No. 4:19-cv-07123-PJH DEF'TS' ADMIN. MOT. TO SEAL





⁴ To the extent the Court disagrees with Defendants' sealing request, the Declarant respectfully requests that references to the unredacted version of this Declaration, Defendants' unredacted Opposition to Plaintiffs' motion to compel, paragraphs 2-4 of the Blecher Declaration, and paragraph 6 and Exhibits A-F to the Gelfand Declaration be stricken from the docket of this action and that any copies thereof be destroyed.

- 11. Accordingly, good cause (and, if necessary, a compelling reason) exists to seal each of the above-listed documents, and Defendants respectfully request that the Court grant the accompanying Administrative Motion to File Under Seal and order the Sealed Documents be kept under seal.
- 12. The Declarant has carefully sought sealing of only those parts of this Declaration as are necessary to comply with other legal obligations binding on Defendants, as described above, and, on behalf of Defendants, respectfully submits that the good cause and compelling reasons standards are met with respect to the Sealed Documents.⁴
- 13. Plaintiffs in this action served their First Requests for Production ("RFPs") on Defendants on June 4, 2020. (August 5, 2020 Declaration of Antonio Perez-Marques ("Perez-Marques Decl."), Exh. A (Dkt. No.116-2).) Defendants timely served their objections to the RFPs on July 6, 2020. (Perez-Marques Decl, Exh. B (Dkt. No.116-3).) Defendants asserted the two objections addressed in Plaintiffs' motion to compel: (1) that discovery was stayed until final resolution of Defendants' foreign sovereign immunity defense and (2) that the RFPs are overbroad because they seek information unrelated to the claims in Plaintiffs' Complaint. As Plaintiffs' motion concedes (Mot. 5 n.4 (Dkt. No. 116)), Defendants also asserted multiple other objections that Plaintiffs do not challenge in their motion.
- 14. On July 9, 2020, Plaintiffs' counsel, Mr. Perez-Marques sent me a letter disputing what he called the two "threshold" objections addressed in Plaintiffs' motion. (Perez-Marques

Decl., Exh. C (Dkt. No. 116-4).) Between July 9, 2020, and August 3, 2020, Mr. Perez-Marques and I exchanged several letters and engaged in multiple telephone conferences related to Defendants' objections to the RFPs.

15. In all of my discussions with Mr. Perez-Marques, he was only willing to meet and confer regarding the two "threshold" objections addressed in Plaintiffs' motion. During the parties' conference of counsel on August 3, 2020, I asked Mr. Perez-Marques to discuss Defendants' other objections. Mr. Perez-Marques refused. He explained that, in his view, the parties could not productively discuss those objections until the Court addresses the two "threshold" objections. Consequently, Plaintiffs' counsel has not met and conferred with me or any other of NSO's counsel about any of Defendants' objections other than the two objections addressed in Plaintiffs' motion to compel.

I declare under the penalty of perjury and the laws of the United States that the foregoing is true and correct this 2nd day of September 2020, at Altadena, California.

/s/Joseph N. Akrotirianakis JOSEPH N. AKROTIRIANAKIS