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Attorneys for Defendants NSO GROUP TECHNOLOGIES
LIMITED and Q CYBER TECHNOLOGIES LIMITED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

WHATSAPP INC., a Delaware corporation,
and FACEBOOK, INC., a Delaware
corporation,

Plaintiffs,

v.

NSO GROUP TECHNOLOGIES LIMITED
and Q CYBER TECHNOLOGIES LIMITED,

Defendants.

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

**DECLARATION OF JOSEPH N.
AKROTIRIANAKIS IN SUPPORT OF
DEFENDANTS NSO GROUP
TECHNOLOGIES LIMITED AND Q
CYBER TECHNOLOGIES LIMITED'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL AND OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL**

**REDACTED VERSION OF
DOCUMENT SOUGHT TO BE
SEALED**

Judge: Hon. Phyllis J. Hamilton

Action Filed: 10/29/2019

1 I, Joseph N. Akrotirianakis, declare as follows:

2 1. I am a member of the California State Bar and the bar of this court, a partner in the
3 law firm of King & Spalding LLP, and counsel of record to Defendants NSO Group Technologies
4 Limited and Q Cyber Technologies Limited (collectively, the "Defendants"). This Declaration is
5 made in support of Defendants' September 2, 2020, administrative motion to seal and in support
6 of Defendants' September 2, 2020, opposition to plaintiffs' motion to compel (Dkt. No. 116). I
7 have personal knowledge of the facts set forth herein and, except as otherwise stated, could testify
8 competently to each fact averred herein.

9 2. The Complaint was filed on October 29, 2019. (Dkt. No. 1.) Defendants were
10 served on March 12, 2020, and moved to dismiss the complaint on April 2, 2020. (Dkt. No. 45.)
11 The parties conducted the Rule 26(f) conference on May 6, 2020. (*See* Dkt. No. 76.) Thereafter,
12 on June 2, 2020, Plaintiffs served Requests for Production of Documents, to which Defendants
13 timely responded on July 6, 2020. On June 16, 2020, Defendants moved to stay discovery pending
14 resolution of Defendants' motion to dismiss. (Dkt. No. 95.) On July 16, 2020, the Court ruled on
15 Defendants' motion to dismiss the complaint and denied as moot Defendants' motion to stay
16 discovery. (Dkt. No. 111.) On August 5, Plaintiffs filed a motion to compel. (Dkt. No. 116.) On
17 August 20, this Court extended Defendants' deadline to oppose the motion to compel until
18 September 2, 2020. (Dkt. No. 126.)

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9. My partner, Aaron Craig, provided copies of Exhibits A through F of the Gelfand Declaration to Micah Block, Facebook’s counsel of record. I subsequently provided Mr. Block the August 3, 2020 Declaration of Roy Blecher (Defendants’ Israeli outside counsel) and the August 3, 2020 Declaration of Chaim Gelfand (Defendants’ Head of Compliance). Defendants provided copies of these documents to Plaintiffs under the “attorneys’ eyes only” provision of the protective order issued by this Court (Dkt. No. 132). On September 2, 2020, I met and conferred with Mr. Block concerning Facebook’s position on Defendants’ motion to seal the Sealed Documents. I informed Mr. Block of Defendants’ position as to why there is good cause (and, if necessary, a compelling reason) for the sealing of the Sealed Documents. Mr. Block indicated that Facebook would provide its position in response to Defendants’ motion to seal.

10. [REDACTED]

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5 11. Accordingly, good cause (and, if necessary, a compelling reason) exists to seal each
 6 of the above-listed documents, and Defendants respectfully request that the Court grant the
 7 accompanying Administrative Motion to File Under Seal and order the Sealed Documents be kept
 8 under seal.

9 12. The Declarant has carefully sought sealing of only those parts of this Declaration
 10 as are necessary to comply with other legal obligations binding on Defendants, as described
 11 above, and, on behalf of Defendants, respectfully submits that the good cause and compelling
 12 reasons standards are met with respect to the Sealed Documents.⁴

13 13. Plaintiffs in this action served their First Requests for Production (“RFPs”) on
 14 Defendants on June 4, 2020. (August 5, 2020 Declaration of Antonio Perez-Marques (“Perez-
 15 Marques Decl.”), Exh. A (Dkt. No.116-2).) Defendants timely served their objections to the
 16 RFPs on July 6, 2020. (Perez-Marques Decl, Exh. B (Dkt. No.116-3).) Defendants asserted the
 17 two objections addressed in Plaintiffs’ motion to compel: (1) that discovery was stayed until final
 18 resolution of Defendants’ foreign sovereign immunity defense and (2) that the RFPs are
 19 overbroad because they seek information unrelated to the claims in Plaintiffs’ Complaint. As
 20 Plaintiffs’ motion concedes (Mot. 5 n.4 (Dkt. No. 116)), Defendants also asserted multiple other
 21 objections that Plaintiffs do not challenge in their motion.

22 14. On July 9, 2020, Plaintiffs’ counsel, Mr. Perez-Marques sent me a letter disputing
 23 what he called the two “threshold” objections addressed in Plaintiffs’ motion. (Perez-Marques
 24 [REDACTED])

25 ⁴ To the extent the Court disagrees with Defendants’ sealing request, the Declarant respectfully
 26 requests that references to the unredacted version of this Declaration, Defendants’ unredacted
 27 Opposition to Plaintiffs’ motion to compel, paragraphs 2-4 of the Blecher Declaration, and
 28 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.

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