

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY**

DAVID M. HOFFMAN
Individually and on Behalf of All
Others Similarly Situated,

Plaintiffs,

v.

FACEBOOK, INC.
Serve at:
1601 S. California Ave.
Palo Alto, CA 94304

DOES 1 THROUGH 10,

Defendants.

Case No: 5:11cv-166 R

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff, on behalf of himself and all others similarly situated, alleges and avers as follows:

INTRODUCTION

1. This class action arises out of improper and unlawful actions by the Defendants who participated in a scheme to intercept, endeavor to intercept, or procure the Plaintiff and the Class members' personal information as prohibited by law.
2. Plaintiff and the Class members are individuals who subscribe to the online social media site Facebook.
3. Facebook maintains personal information pertaining to each individual as well as monitors the individual online habits of its users keeping track of websites they visit.
4. Upon obtaining personal information and/or wire or electronic communications of the Plaintiff, Facebook conspired to use said information for target marketing which

Plaintiff, Facebook conspired to use said information for target marketing which pertained to the Plaintiff and the individual Class members, over the Internet.

5. Such conduct was committed in violation of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Electronic Communication Privacy Act of 1986, 18 U.S.C. § 2511, *et seq.* (the “Wiretap Act”).

PARTIES

Plaintiffs

6. Plaintiff David Hoffman is an individual who resides Paducah, Kentucky. Upon information and belief, Defendants intercepted, collected and stored personal information from Plaintiff.

Defendants

7. Defendant is a company organized and existing under the laws of Delaware with its principal place of business at 1601 S. California Ave. Palo Alto, California. 94304. Upon information and belief, Facebook, Inc. owns and/or operates websites including www.facebook.com, which offer online social interaction and picture storage.
8. Defendants Doe 1 through 10 are the remaining directors, employees, agents, or contractors of Facebook that are yet to be named and whose identity will become known through discovery and/or by requests made by Plaintiff or the members of the plaintiff class, after which such remaining defendants will be added as individual defendants.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action and all the defendants pursuant to 28 U.S.C. § 1331 in that this action arises under statutes of the United States, specifically violations of the “Wiretap Act.”

10. Additionally, this Court has personal jurisdiction over Defendant Facebook, Inc. pursuant to Kentucky's long-arm statute, KRS 454.210, since Facebook, Inc. transacted business and made contracts in Kentucky directly through the website www.facebook.com, violated the law within the state of Kentucky, and otherwise has sufficient minimum contacts with the state of Kentucky as more particularly described below.
11. Defendant Facebook, Inc. has sufficient minimum contacts such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice. Facebook has voluntarily submitted itself to the jurisdiction of this Court and jurisdiction is proper because, among other things:
 - a. Facebook, Inc. directly and purposefully obtained, misappropriated and used personal information and/or information relating to wire or electronic communications of individuals living in Kentucky, including the Plaintiff and the individual Class members;
 - b. Facebook, Inc. committed tortious acts within this state by misappropriating personal information and/or wire or electronic communications of citizens of Kentucky and otherwise violating the Wiretap Act and 42 U.S.C. § 1983;
 - c. Plaintiff's and the Class members' causes of action directly arise from Facebook's commission of tortious and unlawful acts in Kentucky;
 - d. Plaintiff's and the Class members' causes of action directly arise from Facebook's transaction of business in Kentucky;
 - e. Facebook, Inc. should reasonably anticipate being haled into court in Kentucky to answer for its unlawful acts. Kentucky has a strong interest in providing a forum for its residents aggrieved by violations of the law.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(c) because a substantial amount of the acts and omissions giving rise to this cause of action occurred in the Western District of Kentucky.

GENERAL ALLEGATIONS

13. Defendant Facebook, Inc. operates a website, www.facebook.com, which is primarily a social networking site.
14. In conducting its business, Facebook, Inc. aggregates data on individual members of the public and uses that information in furtherance of marketing and advertising.
15. Facebook tracks, collects and stores wire or electronic communications of its users, including but not limited to their Internet browsing history.
16. Leading up to September 23, 2011, Facebook tracked, collected and stored its users' wire or electronic communications, including but not limited to portions of their Internet browsing history even when the users were not logged-in to Facebook.
17. Plaintiff did not give consent or otherwise authorize Facebook to intercept, track, collect and store his wire or electronic communications, including but not limited to his Internet browsing history when not logged-in to Facebook.
18. The electronic information procured by Facebook, Inc. while Plaintiff was not logged-in to Facebook contained personal information and/or wire or electronic communications of the Plaintiff.
19. At all times material, Defendant knew, or reasonably should have known, that their actions violated clearly established statutory rights of the Plaintiff and the Class members.

CLASS ACTION ALLEGATIONS

20. This action is properly brought as a plaintiff class action pursuant to Fed. R. Civ. P. 23(b)(3). Plaintiff brings this action on his own behalf and all others similarly situated, as representative of the following class and subclass:

All individuals in the United States who subscribe to Facebook and whose electronic internet information was intercepted by Facebook when the individuals were not logged-in to Facebook.

Excluded from the Class are (1) any individual defendant who opts out of the class; (2) any member of the immediate family of any individual defendant; and/or (3) any member of the undersigned attorney's immediate families.

21. The particular members of the Class are capable of being described without difficult managerial or administrative problems. The members of the Class are readily identifiable from the information and records in the possession or control of the defendants.
22. The Class members are so numerous that individual joinder of all members is impractical. This allegation is based upon information and belief that Defendant intercepted the personal information of millions of Facebook users of which there are more than 150 million in the United States.
23. There are questions of law and fact common to the Class, which questions predominate over any questions affecting only individual members of the Class, and, in fact, the wrongs suffered and remedies sought by Plaintiff and the other members of the Class are premised upon an unlawful scheme participated in by all defendants. The principal common issues include, but are certainly not limited to the following:
- a. The nature and extent of the Defendant's participation in intercepting the wire or electronic communications of class members;
 - b. Whether or not the interception of wire or electronic communications was

intentional;

- c. Whether or not Defendant should be enjoined from intercepting any wire or electronic communications without the consent of its users;
 - d. Whether the actions taken by Defendant in intercepting the wire or electronic communications of class members violate the Wiretap Act;
 - e. The nature and extent to which the wire or electronic communications of Class members was unlawfully intercepted, tracked, stored or used;
 - f. The nature and extent to which Defendants were unjustly enriched by their actions;
 - g. The nature and extent to which Defendants intruded upon the seclusion of Class members
 - h. The nature and extent to which Defendants committed a trespass to Class members' personal property
 - i. The nature and extent of the Class members actual damages;
 - j. The nature and extent of all statutory penalties or damages for which the Defendant are liable to the Class members; and
 - k. Whether punitive damages are appropriate.
24. Plaintiff's claims are typical of those of the Class and are based on the same legal and factual theories.
25. Plaintiff will fairly and adequately represent and protect the interests of the Class. She has suffered injury in his own capacity from the practices complained of and is ready, willing and able to serve as class representative. Moreover, Plaintiff's counsel is experienced in handling class actions and actions involving unlawful commercial

practices. Neither Plaintiff nor his counsel has any interest that might cause them not to vigorously pursue this action.

26. Certification of a plaintiff class under Fed. R. Civ. P. 23(b)(3) is appropriate in that Plaintiff and the Class members seek monetary damages, common questions predominate over any individual questions, and a plaintiff class action is superior for the fair and efficient adjudication of this controversy. A plaintiff class action will cause an orderly and expeditious administration of the Class members' claims and economies of time, effort and expense will be fostered and uniformity of decisions will be ensured. Moreover, the individual class members are unlikely to be aware of their rights and not in a position (either through experience or financially) to commence individual litigation against the likes of the defendants.
27. Alternatively, certification of a plaintiff class under Fed. R. Civ. P. 23(b)(1) is appropriate in that inconsistent or varying adjudications with respect to individual members of the Class would establish incompatible standards of conduct for the defendants or adjudications with respect to individual members of the Class as a practical matter would be dispositive of the interests of the other members not parties to the adjudications or would substantially impair or impede their ability to protect their interests.

COUNT I
(Violation of the Wiretap Act)

28. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.
29. As described herein, Facebook, Inc. intentionally intercepted and collected wire or electronic communications from its users.
30. At times, Facebook, Inc. intercepted and collected information from its users without

their consent while the users were not logged-in to Facebook.

31. The transmission of data between Plaintiff's computer and the Internet constitute "electronic communication" within the meaning of 18 U.S.C. § 2510(12).
32. Facebook's data collection practices as described herein constitute "interceptions" within the meaning of § 2510(4).
33. As a direct and proximate result of such unlawful conduct, Defendant violated 18 U.S.C. § 2511 in that the Defendants:
 - a. Intentionally intercepted, endeavored to intercept, or procured another person to intercept wire and/or electronic communications of the Plaintiff;
 - b. Upon belief predicated upon further discovery, intentionally disclosed or endeavored to disclose to another person the contents of Plaintiff's wire or electronic communications, knowing or having reason to know that the information was obtained through the interception of wire or electronic communications in violation of 18 U.S.C. §2511(1)(a).
 - c. Upon belief predicated upon further discovery, intentionally used or endeavored to use the contents of Plaintiff's wire or electronic communications, knowing or having reason to know that the information through the interception of wire or electronic communications in violation of 18 U.S.C. §2511(1)(a).
34. Facebook Inc.'s actions described in ¶33 occurred without the consent of Plaintiff and violated Facebook Inc's own Privacy Policy per the following promises it made to users:
 - a. "We receive data whenever you visit a....website that uses Facebook Platform or visit a site with a Facebook feature....This may include the date and time you visit the site; the web address, or URL, you're on; technical information about the IP address, browser and the operating system you use; and, if you are logged in to Facebook, your User ID." *Facebook Data Use Policy*, available at

<http://www.facebook.com/full_data_use_policy> as of October 4, 2011 and last updated September 23, 2011.

- b. “Does Facebook use cookies if I don't have an account or have logged out of my account? When you log out of Facebook, we remove the cookies that identify your particular account, but we do use other cookies primarily to help keep you and others on Facebook safe and secure. For example, we use cookies to identify and disable the accounts of spammers and phishers, to prevent people who are underage from signing up with a false birth date, to help you recover your account if you lose access to it or it's compromised, to power our opt-in security features like Login Notifications and Login Approvals, and to help identify public computers so that we can discourage people from using “Keep me logged in.” We may also use anonymized or aggregate information to improve our products. We also use cookies if you don't have a Facebook account, but have visited facebook.com. Again, these cookies help us protect Facebook and the people who use it from malicious activity. For example, they help us detect and prevent denial-of-service attacks and the mass creation of fake accounts. We do not use these cookies to create a profile of your browsing behavior on third-party sites. *Facebook Frequently Asked Questions*, available at permalink: <<https://www.facebook.com/help/?faq=239530772765713#Does-Facebook-use-cookies-if-I-don't-have-an-account-or-have-logged-out-of-my-account?>> on October 4, 2011; and
- c. “What information does Facebook receive when I visit a site with the Like button or another social plugin? . . . If you're logged out or don't have a Facebook account and visit a website with the Like button or another social plugin, your browser sends us a more limited set of information. For example, because you're not logged in to Facebook, we don't receive your user ID.” *Facebook Frequently Asked Questions*, available at permalink: <<https://www.facebook.com/help/?faq=293506123997323#What-information-does-Facebook-receive-when-I-visit-a-site-with-the-Like-button-or-another-social-plugin?>> on October 4, 2011.

35. Facebook Inc.'s actions described in ¶33 occurred without the consent of Facebook-affiliated websites, including, for example, the websites for the New York Times and Washington Post newspapers, in that:

- a. The interception and collection of information described in this paragraph caused the New York Times to violate its own Privacy Policy for its websites, including www.nytimes.com, which informs readers:

“If you have registered online for one of our sites, The New York Times will not sell, rent, swap or authorize any third party to use your e-mail address without your permission. This also applies to any information that personally identifies you, except as noted immediately below;” and

“NYTimes.com will not share personal information about you as an individual to third parties without your consent.”

Available at: <http://www.nytimes.com/content/help/rights/privacy/highlights/privacy-highlights.html>

- b. The interception and collection of information described in this paragraph caused the Washington Post to violate its own Privacy Policy for its websites, including www.washingtonpost.com, which informs readers:

Do other companies or people have access to personally identifiable information I provide to washingtonpost.com?

When you are on an area of washingtonpost.com and are asked for personally identifiable information, you are providing that information to The Washington Post Company, its divisions or affiliates, or vendors providing contractual services for washingtonpost.com (such as hosting vendors and list managers). If personally identifiable information is being provided to and/or maintained by any company other than these, our policy is that we will not transfer that personally identifiable information unless notice is given prior to transfer. If you do not want your information to be shared, you can choose not to allow the transfer by not using that particular service or by expressing this preference, if requested.

Available at: <http://www.washingtonpost.com/wpsrv/interact/longterm/talk/members.htm>

36. Regardless of the consent alleged by Facebook, Inc. from Plaintiff or the Facebook-affiliated websites, such consent was not valid because Facebook Inc.’s actions described herein were for the purpose of committing tortuous acts in violation of the laws of the United States or of any State. In taking its actions, Facebook, Inc. committed the

following tortious acts alleged in this petition:

- a. Intrusion upon plaintiff's seclusion; and
- b. Trespass to personal property;

37. As a result of the above violations and pursuant to 18 U.S.C. § 2520, Defendant is liable to Plaintiff and the Class in the sum of statutory damages consisting of the greater of \$100 for each day each of the class members' data was wrongfully obtained or \$10,000.00 per violation; injunctive and declaratory relief; punitive damages in an amount to be determined by a jury, but sufficient to prevent the same or similar conduct by Facebook in the future, and a reasonable attorney's fee and other litigation costs reasonable.

COUNT II
(Unjust enrichment)

38. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.
39. Plaintiff conferred a benefit on Defendant without Plaintiff's consent, namely access to her wire or electronic communications over the Internet.
40. Upon information and belief, Defendant realized such benefits through either sales to third-parties or greater knowledge of its own users' behavior without their consent.
41. Acceptance and retention of such benefit without Plaintiff's consent is unjust and inequitable.

COUNT III
(Intrusion upon seclusion)

42. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.
43. In intercepting Plaintiff's wire and electronic communications on the Internet, Defendants intentionally intruded upon her solitude or seclusion.

44. Plaintiff did not consent to Defendant's intrusion.
45. Defendant's intentional intrusion on Plaintiff's solitude or seclusion without her consent would be highly offensive to a reasonable person.

**COUNT IV
(Trespass to Personal Property)**

46. Plaintiff incorporates all preceding paragraphs as though set forth herein.
47. Defendant, intentionally and without consent or other legal justification, tracked Plaintiff's activity while the Plaintiff was logged-off of the website Facebook.com, and, in the process, connected Plaintiff's personally identifiable information to her specific actions on the Internet.
48. Defendant, intentionally and without consent or other legal justification, placed cookies on Plaintiff's computers which tracked her activity while logged-off of Facebook.
49. Defendant's intentional and unjustified placing of a cookie designed to track Plaintiff's Internet activities while logged-off of Facebook and actual tracking of Plaintiff's activities interfered with Plaintiff's use of the following personal property owned by the Plaintiff:
 - a. Plaintiff's computer; and
 - b. Plaintiff's personally identifiable information

PRAYER FOR DAMAGES

WHEREFORE, Plaintiff, on behalf of herself and all members of the Class respectfully prays for judgment against the defendants as follows:

- a) For an order certifying that this action may be maintained as a class action under Fed. R. Civ. P. 23(b)(3) or, in the alternative, Fed. R. Civ. P. 23(b)(1) and appointing Plaintiff and her counsel, to represent the Class and directing that reasonable notice of this action

- be given to all other members of the Class as necessary and appropriate;
- b) For a declaration that the Defendants' actions violated the 18 U.S.C. 2511 *et seq.*;
 - c) For a declaration that the Defendants, through their actions and misconduct as alleged above, have been unjustly enriched and an order that Defendants disgorge such unlawful gains and proceeds;
 - d) For a declaration that the Defendants, through their actions and misconduct as alleged above, have intruded upon Class members' seclusion and an order assessing damages against Defendants for such violations;
 - e) For a declaration that the Defendants, through their actions and misconduct as alleged above, have committed trespass upon the personal property of Plaintiff and an order assessing damages against the Defendants for violations of Plaintiff's personal property rights;
 - f) For all actual damages, statutory damages, penalties, and remedies available for the defendants' violations of 18 U.S.C. 2511 *et seq.*;
 - g) That judgment be entered against Defendant for statutory damages pursuant to 18 U.S.C. §2520(c)(2)(B);
 - h) That judgment be entered against Defendant for statutory damages pursuant to 18 U.S.C. §2520(b)(2);
 - i) That Plaintiff and the Class recover pre-judgment and post-judgment interest as permitted by law;
 - j) For an award to Plaintiff and the Class of their reasonable attorneys fees and other litigation costs reasonably incurred pursuant to 18 U.S.C. §2520(b)(3);
 - k) That the court enter an order granting Plaintiff and the Class a preliminary and permanent

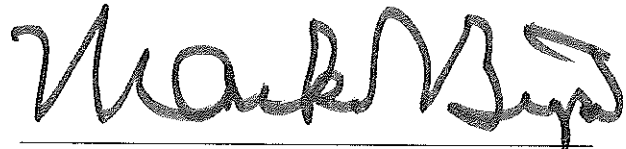
injunction restraining and enjoining Defendant from any act to intercept electronic information from its users when they are not logged in and from disclosing any of the information already acquired on its servers;

- l) That the Court grant such other and further relief as may be just and proper;

JURY DEMAND

Plaintiff demands that all issues so triable in this Complaint be tried to a jury.

Dated this 7th day of October, 2011.



Mark P. Bryant
Emily Ward Roark
BRYANT LAW CENTER, PSC
601 Washington Street
P.O. Box 1876
Paducah, KY 42002-1876
Phone: (270) 442-1422
email: mark.bryant@bryantpsc.com
emily.roark@bryantpsc.com

JS 44 (Rev. 09/11)

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.)

<p>I. (a) PLAINTIFFS Hoffman, David M.</p> <p>(b) County of Residence of First Listed Plaintiff <u>McCracken County, KY</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Mark P. Bryant, Bryant Law Center, 601 Washington Street, P.O. Box 1876, Paducah, KY 42002-1876. Phone: (270) 442-1422</p>	<p>DEFENDANTS Facebook, Inc.</p> <p>County of Residence of First Listed Defendant <u>Santa Clara County, CA</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION	FEDERAL TAX SUITS	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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):*
18 U.S.C. § 2511, et seq. (the "Wiretap Act").

Brief description of cause:
Defendant illegally acquires and stores information sent from Plaintiffs' computer after logging out. (Privacy)

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 _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD Mark Bryant

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Kentucky

David M. Hoffman

Plaintiff

v.

Facebook, Inc.

Defendant

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Civil Action No. 5:11cv-166 R

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Facebook, Inc.
1601 S. California Ave.
Palo Alto, CA 94304

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark Bryant
Bryant Law Center, PSC
601 Washington Street
P.O. Box 1876
Paducah, KY 42002-1876

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 10/12/2011

CLERK OF COURT
[Signature]
Signature of Clerk or Deputy Clerk
United States District Court
Western District of Kentucky

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: