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Clerk of Court
Superior Court of CA,
County of Santa Clara
2011-1-CV-193767
Reviewed By:R. Walker

6 Attorneys for Defendant IMVU, INC.
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8 SUPERIOR COURT OF THE STATE CALIFORNIA
9 COUNTY OF SANTA CLARA

11 PETER MACKINNON, JR., an individual, on
behalf of himself, the general public and those
12 similarly situated,

13 Plaintiff,

14 v.

15 IMVU, INC.; AND DOES 1 THROUGH 50,

16 Defendants.
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Case No. 111-CV-193767

UNLIMITED CIVIL CASE

**CERTIFICATION OF KEVIN
HENSHAW REGARDING IMVU'S
COMPLIANCE WITH
DISTRIBUTION DEADLINES**

Date of Filing: January 29, 2015
Trial Date: None

1 I, Kevin Henshaw, declare and state that:

2 1. I am Chief Operating Officer and President of IMVU, Inc.

3 2. The information herein is stated based on personal knowledge. I am competent to
4 testify to the facts set forth below, and if called as a witness and placed under oath, I would testify to
5 those facts. Capitalized terms in this declaration have the same meaning as in the Settlement
6 Agreement dated September 16, 2015.

7 3. I make this Declaration to comply with paragraph 21 of the Court's order of final
8 approval, dated February 24, 2016, and the Court's November 16, 2016 Order Granting and
9 Extension of Settlement Benefit Distribution.

10 4. As stated in paragraphs 4 and 6 of my declaration of January 13, 2016, IMVU
11 previously searched its databases to identify all persons who were entitled to Settlement Benefits.
12 IMVU identified 119,417 members of the Settlement Class, which was defined as:

13 All persons who (1) after September 21, 2008 and before December 1,
14 2010, used IMVU Credits to purchase from the IMVU Virtual Catalog
15 at least one audio product whose playback length was greater than
16 twenty seconds, (2) subsequently logged into the IMVU service at least
17 once after January 31, 2011, (3) as of April 20, 2015, had not held an
18 IMVU account that had been terminated by IMVU for violations of
19 IMVU terms of service, and (4) as of the date of this Agreement
20 [September 16, 2015] have their country of residence setting in the
21 IMVU Application set as the United States.

22 IMVU also identified an additional 90,521 persons who were excluded from the Settlement Class
23 solely because their country of residence had been set as something other than the United States.
24 IMVU agreed to provide Settlement Benefits to these persons as well. Accordingly, a total of
25 209,938 persons were provisionally identified as entitled to Settlement Benefits (hereinafter,
26 "Qualified Beneficiaries").

27 5. The Claim Administrator, Garden City Group ("GCG") provided data to IMVU
28 showing that it had received 1708 Benefit Election Forms, of which 1151 sought cash and 327 sought
IMVU Credits. According to the Settlement Agreement, persons entitled to Settlement Benefits were
not required to submit a Benefit Election Form if they wished to receive IMVU Credits; rather, IMVU
Credits were to be provided automatically to all Qualified Beneficiaries.

6. Of the 1151 Benefit Election Forms that requested cash, IMVU searched against the

1 list of Qualified Beneficiaries and identified 350 persons. IMVU provided the identities of such
2 persons to CGC, along with the number of IMVU Credits they had expended on Qualified Audio
3 Products, and a computation showing the amount of cash due to them under the terms of the
4 Settlement.

5 7. Of the 327 Benefit Election Forms that requested IMVU Credits, IMVU searched
6 against the list of Qualified Beneficiaries and identified 235 persons. IMVU provided the identities
7 of such persons to CGC, along with the number of IMVU Credits these persons had expended on
8 Qualified Audio Products, and a computation showing the amounts IMVU Credits due to them under
9 the terms of the Settlement, totaling 6,004,502 IMVU Credits.

10 8. IMVU conducted additional analysis of its files to confirm that the Qualified
11 Beneficiaries were appropriately identified as members of the Settlement Class, including review of
12 the time of purchase of Affected Audio Products with Credits, and whether they engaged in qualified
13 activity during the relevant time period. IMVU identified numerous duplicate members (290), and
14 conducted an analysis to ensure that the data underlying the characteristics of each Class Member
15 (i.e. whether the member was banned from IMVU's service as of April 2015) was accurate. IMVU
16 used definitions of users who logged on after January 31, 2011 that were overinclusive and
17 conservative. In addition, IMVU's engineers have conducted a thorough review, and believe that
18 initial, provisional identification of class members had been generated from data files that had not
19 been thoroughly analyzed. That analysis led to a reduction in the number of Settlement Class
20 members.

21 9. Following the verification analysis described above, IMVU provided CGC a list of the
22 remaining 199,228 Qualified Beneficiaries who had not elected to receive cash or IMVU Credits and
23 thus were entitled to receive IMVU Credits. In addition, IMVU provided CGC with the number of
24 IMVU Credits these persons had expended on Qualified Audio Products, and a computation showing
25 the amounts IMVU Credits due to them under the terms of the Settlement, totaling 1,462,961,787
26 IMVU Credits.

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PROOF OF SERVICE

Peter Mackinnon, Jr. v. IMVU, Inc., et al.
Case No. 111-CV-193767

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on February 21, 2017, I served a copy of the following document(s).

CERTIFICATION OF KEVIN HENSHAW REGARDING IMVU'S COMPLIANCE WITH DISTRIBUTION DEADLINES

BY ELECTRONIC SERVICE [Code Civ. Proc sec. 1010.6; CRC 2.251] by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system from CThomas@mofo.com to the email address(es) set forth below, or as stated on the attached service list per agreement in accordance with Code of Civil Procedure section 1010.6 and CRC Rule 2.251.


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Attorneys for Plaintiff
PETER MACKINNON, JR.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this 21st day of February 2017.

Chinetha M. Thomas
(typed)


(signature)