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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 WINDY CITY INNOVATIONS, LLC

16 Plaintiff,

17 v.

18 FACEBOOK, INC.

19 Defendant.

Case Nos. 4:16-cv-01730-YGR

**PLAINTIFF WINDY CITY
INNOVATIONS, LLC'S RESPONSE
TO FACEBOOK'S NOTICE RE IPR
APPEALS DKT. NO. 96**

20 Plaintiff Windy City Innovations, LLC (“Windy City”) files this Response to Defendant
21 Facebook, Inc.’s February 8th, 2018 “Notice Re Status of Windy City’s Appeals of Adverse IPR
22 Decisions.” Dkt. No. 96. Facebook’s notice informs the Court that Windy City recently filed Notices of
23 Appeal regarding Final Written Decisions of certain *inter partes review* (“IPR”) decisions. *Id.* at 1.

24 Windy City is unclear as to the purpose behind Facebook’s notice, as it does not even purport to relate to
25 any pending dispute and seems only a misguided attempt to conjure up the appearance of impropriety.

26 First, to the extent Facebook is suggesting to the Court that Windy City should have made its
27 decision to appeal earlier—before the deadline set forth by the Federal Circuit rules—there is no basis
for such a suggestion. In fact, Windy City even previously observed to the Court that Windy City’s
deadline to appeal, if it chose to do so, was February 7, 2018. Dkt. No. 95 at 4.

1 Second, naturally, Windy City is not appealing the PTAB rulings *it won* confirming the validity
2 of fifty-three of its patent claims. Accordingly, Facebook knows (or certainly should know¹) that Windy
3 City's notices of its intent to appeal certain IPR decisions pertain to patent claims that have been found
4 unpatentable by the PTAB—*i.e.*, patent claims that are no longer even at issue in this case. Windy City
5 would be happy to address this with the Court during Monday's case management conference if the
6 Court is so inclined; otherwise, Windy City is anxious to proceed on the merits.

7
8 Dated: February 8, 2018

Respectfully submitted,

9 /s/ Bradley W. Caldwell
10 Bradley W. Caldwell (*pro hac vice*)

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