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10 Attorneys for Defendant
 RANKWAVE CO., LTD.

11
 12 **UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

15
 16 FACEBOOK, INC., a Delaware corporation,
 17 Plaintiff,
 18 v.
 19 RANKWAVE CO., LTD., a South Korean
 corporation,
 20 Defendant.

CASE NO.: 19-cv-3738
NOTICE OF REMOVAL

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1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**
2 **NORTHERN DISTRICT OF CALIFORNIA:**

3 Please take notice that Defendant Rankwave Co., Ltd. (“Rankwave”), by and through its
4 undersigned attorneys, hereby removes the above-captioned civil action, and all claims and causes
5 of action therein, from the Superior Court of the State of California, County of San Mateo, to the
6 United States District Court for the Northern District of California, pursuant to 28 U.S.C.
7 §§ 1441(a) and 1332(a).

8 As required by 28 U.S.C. § 1446(a), all process, pleadings, and orders served on Rankwave
9 in the action to date are attached hereto as Exhibit A.

10 As the requisite “short and plain statement of the grounds for removal,” 28 U.S.C.
11 § 1446(a), Rankwave states as follows:

12 **I. INTRODUCTION**

13 1. This action arises out of Plaintiff Facebook, Inc.’s (“Facebook”) allegations that
14 Rankwave misused data found on Facebook’s website in violation of certain terms of Facebook’s
15 Terms of Service (“TOS”) and Platform Policy. (*See* Ex. A, Compl. ¶ 39.) Despite Facebook
16 failing to adhere to or police its own TOS and Platform Policy prior to the Cambridge Analytica
17 scandal, Facebook itself engaging in far worse conduct than that falsely alleged against Rankwave,
18 and Facebook’s own employees expressly approving Rankwave’s collection and use of data found
19 on Facebook in an in-person meeting between Rankwave and Facebook on May 12, 2016,
20 Facebook now asserts that it was somehow injured as a result of certain alleged breaches by
21 Rankwave.

22 2. On May 10, 2019, Facebook filed a civil complaint in the Superior Court of
23 California, County of San Mateo. Facebook asserts claims under California law for breach of
24 contract; breach of the implied covenant of good faith and fair dealing; and unlawful, unfair, or
25 fraudulent business practices. Facebook seeks, among other things, an audit of Rankwave’s data,
26 money damages, and disgorgement of the value of the data found on Facebook that Rankwave
27 allegedly received in violation of Facebook’s TOS. (*See* Ex. A, Compl. at 10:13-27.)

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1 3. Rankwave now removes this action to this Court pursuant to 28 U.S.C. § 1446.¹ As
2 explained below, this Court has subject matter jurisdiction over all claims due to the diversity of
3 the named parties and pursuant to 28 U.S.C. § 1332(a).

4 **II. REMOVAL IS PROPER UNDER DIVERSITY JURISDICTION**

5 4. This civil action falls within the original subject matter jurisdiction of this Court
6 under the diversity jurisdiction doctrine. Pursuant to 28 U.S.C. § 1441(a), a civil action may be
7 removed to the appropriate federal district court if the “district courts of the United States have
8 original jurisdiction.” 28 U.S.C. § 1441(a). A federal district court has original diversity
9 jurisdiction over a civil action where (1) the amount in controversy exceeds \$75,000; and (2) the
10 action is between “citizens of a State and citizens or subjects of a foreign state.” 28 U.S.C. §
11 1332(a)(2).

12 5. This action meets both of those requirements, as Facebook and Rankwave are of
13 diverse citizenship and the matter in controversy exceeds, exclusive of interests and costs, \$75,000.

14 6. *Amount in Controversy.* First, Facebook as the plaintiff has already alleged that this
15 action meets the amount-in-controversy requirement of \$75,000. *See* 28 U.S.C. § 1332(a). Among
16 other things, Facebook alleges that “Rankwave has been unjustly enriched in the amount of
17 \$9,800,000”—Rankwave’s alleged sale price in its acquisition by a South Korean entertainment
18 company. (Ex. A, Compl. ¶¶ 24-25, 56; *see also id.* ¶ 6 (“The contractual interest at stake in this
19 litigation has significant value to Facebook.”).) Putting aside the legal infirmities and factual
20 inaccuracies with Facebook’s “damages” theory, if the sale price were disgorged, the amount in
21 controversy would well exceed \$75,000. While Rankwave strongly denies that Facebook is entitled
22 to recover any amount (or any other relief), Facebook plainly seeks to recover an aggregate amount
23 over \$75,000.

24 7. *Diversity of Citizenship.* Second, diversity of citizenship exists between the named
25 parties, as required by 28 U.S.C. § 1332(a)(2).

26 8. On the one hand—and as alleged by Facebook in its Complaint—Rankwave is and

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28 ¹ Rankwave’s election to remove this case to federal court does not waive a personal
jurisdiction defense. *See Maplebrook Townhomes LLC v. Greenbank*, No. 10-CV-03688-LHK,
2010 WL 4704472, at *4 (N.D. Cal. Nov. 12, 2010).

1 always has been (including both when the state court action was filed and at the time of removal) a
2 citizen of South Korea. *See* 28 U.S.C. § 1332(c). Rankwave is a corporation incorporated in South
3 Korea, with its principal place of business in Seoul, South Korea. (*See* Ex. A, Compl. ¶ 5.)
4 Rankwave has never been a citizen of California, and it has never done business in California.

5 9. On the other hand—and again as alleged by Facebook—Facebook is a Delaware
6 corporation with its principal place of business in Menlo Park, California. (*See* Ex. A, Compl. ¶ 4.)

7 10. Thus, this controversy is clearly between “citizens of a State and citizens or subjects
8 of a foreign state” 28 U.S.C. § 1332(a)(2).

9 **III. THIS REMOVAL NOTICE IS TIMELY AND SATISFIES ALL PREREQUISITES**

10 11. Facebook filed its Complaint against Rankwave on May 10, 2019, in the Superior
11 Court of the State of California, County of San Mateo, as case number 19CIV02592. Service was
12 effectuated through the South Korean District Court on May 30, 2019. (*See* Ex. A, at 1.) This
13 Notice of Removal is therefore timely because it has been filed within thirty days of Facebook’s
14 purported service of the Complaint. *See* 28 U.S.C. § 1446(b).

15 12. No previous application has been made by Rankwave for this or similar relief.

16 13. Written notice of the filing of this Notice of Removal will be given to Facebook, the
17 adverse party, as required by 28 U.S.C. § 1446(d).

18 DATED: June 27, 2019

19 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

20
21 By: _____
22 /s/ John M. Neukom
23 JOHN M. NEUKOM
24 Attorneys for Defendant
25 RANKWAVE CO., LTD.
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