

1 JOSEPH N. AKROTIRIANAKIS (Bar No. 197971)
jakro@kslaw.com
 2 AARON S. CRAIG (Bar No. 204741)
acraig@kslaw.com
 3 KING & SPALDING LLP
 633 West Fifth Street, Suite 1700
 4 Los Angeles, CA 90071
 Telephone: (213) 443-4355
 5 Facsimile: (213) 443-4310

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

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 OAKLAND DIVISION

11 WHATSAPP INC., a Delaware corporation,
 12 and FACEBOOK, INC., a Delaware
 corporation,
 13 Plaintiffs,
 14 v.
 15 NSO GROUP TECHNOLOGIES LIMITED
 and Q CYBER TECHNOLOGIES LIMITED,
 16
 17 Defendants.

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

**DECLARATION OF NACHUM FALEK
 IN SUPPORT OF DEFENDANTS'
 MOTION TO DISMISS UNDER RULES
 12(B)(1), 12(B)(2), 12(B)(6), AND 12(B)(7)**

Date: May 13, 2020
 Time: 9:00 a.m.
 Ctrm: 3

Action Filed: 10/29/2019

18
19
20
21
22
23
24
25
26
27
28

1 I, Nachum Falek, declare as follows:

2 1. I am a citizen and resident of Israel. I am the Chief Financial officer of NSO
3 Group Technologies Limited (“NSO”). I have personal knowledge of the facts set forth herein.


4 2. Attached hereto as Exhibit 1 is an Independent Accountant’s Report prepared by
5 Kost Forer Gabbay & Kasierer, a member of Ernst & Young Global (“EY”). EY regularly
6 audits the books and records of NSO by performing audits and agreed upon procedures. When
7 EY completes its various audits and agreed upon procedures for NSO, it prepares reports of the
8 type attached hereto as Exhibit 1.

9 3. The Independent Account’s Report attached as Exhibit 1 is a record of an
10 event—the agreed upon procedures described in Exhibit 1. The report was made at or near the
11 time of the agreed upon procedures by the EY accountants who conducted the agreed upon
12 procedures and who had knowledge of their own work.

13 4. EY prepared the report attached hereto as Exhibit 1 (and all other reports of a
14 similar type) as part of its regularly conducted activities of auditing the books and records of
15 NSO, and NSO keeps the report attached hereto as Exhibit 1 (and all other reports of a similar
16 type) in the course of NSO’s regularly conducted activities of operating its business.

17 I declare under the penalty of perjury and the laws of the United States that the
18 foregoing is true and correct this 2d day of April 2020, at Herzliya, Israel.

19
20
21
22
23
24
25
26
27
28


Nachum Falek