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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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|---|---|--------------------------------|
| WORLDSLIDE, LLC, a Delaware Limited Liability Company, |) | 2:10-cv-02025-GEB-JFM |
| |) | |
| Plaintiff, |) | |
| |) | <u>ORDER CONTINUING STATUS</u> |
| v. |) | <u>(PRETRIAL SCHEDULING)</u> |
| |) | <u>CONFERENCE AND ORDER OF</u> |
| WHAM-O, INC., a Delaware Corporation, |) | <u>DISMISSAL</u> |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff and Defendant Wham-O, Inc. filed a Joint Status Report on January 4, 2011, in which they request a "further status conference be set in two months" due to pending settlement negotiations between the parties. (ECF No. 9, 2:25-27, 3:22-24.) Therefore, the Status (Pretrial Scheduling) Conference set for January 18, 2011, is continued to commence at 9:00 a.m. on March 14, 2011. A joint status report shall be filed no later than fourteen (14) days prior.

Further, an order issued on December 7, 2010, which notified Plaintiff under Federal Rule of Civil Procedure 4(m) that any defendant not served with process within the 120 day period prescribed in that Rule may be dismissed as a defendant unless Plaintiff showed "good cause" for the failure to serve the unserved defendant in a filing due no later than January 4, 2011. (ECF No. 7.) Plaintiff states in the January 4, 2011 Joint Status Report that it has not been able to serve Defendant Brands On Sale, Inc. despite "several attempts to serve [its]

1 Agent for Process of Service" and "[m]ore time for service is needed."
2 (ECF No. 9, 1:23-24, 3:27.) This response fails to indicate when
3 Plaintiff first attempted to serve this defendant, the nature of its
4 service attempts, whether the service attempts should have occurred
5 earlier during the proceeding, or why service was ineffective. Nor has
6 Plaintiff indicated that granting more time for service would be
7 fruitful. Plaintiff's response fails to demonstrate good cause for its
8 failure to timely serve Defendant Brands On Sale, Inc. Therefore, that
9 defendant is dismissed from this action without prejudice.

10 IT IS SO ORDERED.

11 Dated: January 10, 2011

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GARLAND E. BURRELL, JR.
United States District Judge