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 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN FRANCISCO DIVISION
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16 ZYNGA GAME NETWORK INC.
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 Plaintiff,
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 v.
 19 LINDA GREENE; NATHAN WIPF;
 20 CHADWICK MARTIN; SHADI
 ABDULSALAM; MICHAEL RUTHERFORD,
 21 A/K/A KEREM AZER; ALEXANDRU
 MIHALACHE; CELINO STOIAN; VICTOR
 22 GHENADI; LUCIAN IONESCU; ANDRZEJ
 KOPJAS, A/K/A PAUL GYONGYOSI,
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 Defendants.
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CASE NO. CV-09: 2744 SI

**[PROPOSED] DEFAULT JUDGMENT
 AGAINST DEFENDANT MICHAEL
 RUTHERFORD A/K/A KEREM AZER**

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 [PROPOSED] DEFAULT JUDGMENT
 AGAINST DEFENDANT MICHAEL
 RUTHERFORD A/K/A KEREM AZER

1 Plaintiff Zynga Game Network, Inc. (“Zynga”), having filed a Complaint in this action
2 charging defendant Michael Rutherford a/k/a Kerem Azer (“Defendant Azer”), and other defendants,
3 with Federal Trademark Infringement, Federal Cybersquatting, State Statutory Unfair Competition,
4 State Common Law Trademark Infringement and Unfair Competition, Breach of Contract and
5 Intentional Interference with Contractual Relations, and the Court having found good cause, it is
6 hereby

7 **ORDERED, ADJUDGED AND DECREED** as between Zynga and Defendant Azer:

8 1. This Court has jurisdiction over the Parties to this action and over the subject matter
9 hereof pursuant to 15 U.S.C. §§ 1116, 1121 and 1125, and 28 U.S.C. §§ 1331, 1338(a) and (b), and
10 1367(a). Service was properly made against Defendant Azer.

11 2. Zynga owns the trademark and service mark ZYNGA (the “ZYNGA Mark”) and has
12 used the Zynga Mark in commerce since June 2007.

13 3. The ZYNGA Mark is inherently distinctive and by virtue of Zynga’s extensive
14 advertising and sales under the ZYNGA Mark, has become well-known within social gaming circles
15 as a source identifier for Zynga’s online games.

16 4. Zynga is the owner of United States Federal Trademark Registration No. 3,685,749
17 for the mark ZYNGA in International Classes 9 and 41 for downloadable computer game software
18 for use on wireless devices and computers.

19 5. Zynga is the publisher of Zynga Poker (the “Game”), a computerized version of the
20 world-famous poker game in which players compete with one another using virtual “chips.”

21 6. Zynga’s Terms of Service, which govern users’ play of the Game, provide that the
22 “chips” used in the Game are not redeemable for any sum of “real world” money or monetary value.
23 The Terms of Service also prohibit the sale of “chips” “for ‘real world’ money” and prohibit the use
24 of the Game for unacceptable purposes, including activity in “conflict with the spirit or intent of” the
25 Game. Zynga has not authorized any third party to sell or distribute the “chips” used in the Game.

1 7. Defendant Azer assented to and is bound by the Terms of Service governing use of
2 the Game, which are located at http://www.zynga.com/legal/terms_of_service.php.

3 8. Defendant Azer has owned and operated websites through which he has unlawfully
4 sold and offered for sale “chips” for use in the Game, and has wrongfully used the ZYNGA Mark to
5 advertise and sell these unauthorized “chips”. Defendant Azer has operated these websites from the
6 following Internet domain names: BUYCHIPSNOW.COM and FACEBOOKPOKERSTORE.COM.

7 9. Defendant Azer has willfully and maliciously violated Zynga’s intellectual property,
8 contractual, and other rights, and Defendant Azer is liable for trademark infringement pursuant to 15
9 U.S.C. § 1125(a); violation of Cal. Bus. & Prof. Code § 17200; California common law trademark
10 infringement; common law passing off and unfair competition; breach of contract; and intentional
11 interference with contractual relations.

12 10. Defendant Azer and his affiliates, agents, servants, employees, representatives,
13 successors, assigns, and any person, corporation or other entity acting under Defendant Azer’s
14 direction or control, or in active concert or participation with Defendant Azer, are immediately and
15 permanently enjoined throughout the world from:

16 a. Directly or indirectly using the ZYNGA trademark and any other mark,
17 symbol, or logo that is a reproduction, counterfeit, copy, or colorable imitation of or that is
18 confusingly similar to, or that is identical with, or substantially indistinguishable from, the ZYNGA
19 mark on or in connection with any goods or services;

20 b. Infringing any of Zynga’s intellectual property rights in any manner, including
21 but not limited to the ZYNGA Mark, any copyrights owned by Zynga, or any other rights owned by
22 Zynga related to the Game;

23 c. Engaging in any conduct that tends falsely to represent that, or is likely to
24 confuse, mislead or deceive purchasers, Defendant Azer’s customers and/or members of the public
25 to believe that, the actions of Defendant Azer are connected with Zynga, are sponsored, approved, or
26 licensed by Zynga, or are in any way connected or affiliated with Zynga;

1 d. Affixing, applying, annexing, or using in connection with the manufacture,
2 distribution, advertising, sale, and/or offering for sale or other use of any goods or services, a false
3 description or representation, including words or other symbols, tending to falsely describe or
4 represent such goods as being those of, or authorized by, Zynga;

5 e. Registering any Internet domain name that includes the ZYNGA Mark, or any
6 variations or misspellings thereof, whether alone or in combination with any other term(s) or
7 character(s);

8 f. Accessing, directly or indirectly, any computer server or computer system
9 owned, leased or operated by Zynga for any reason whatsoever, including without limitation any
10 server or computer that provides access to the Game, or to any other game or application published
11 by Zynga;

12 g. Advertising, purchasing, selling, trading, exchanging, profiting from,
13 accepting or processing payments for, or facilitating or participating in any way in the advertisement,
14 purchase, sale, trade, or exchange of “chips” for use in the Game or any virtual item used in any
15 Zynga game or application;

16 h. Participating in any way in the display of online “sponsored links” or any
17 other form of pay-per-click or pay-per-impression advertising related to “chips” for use in the Game
18 or any other virtual item used in any Zynga game or application, including but not limited to causing
19 hyperlinks and other advertising materials to be displayed in response to searches for “zynga”, or
20 searches for any of Zynga’s games or applications;

21 i. Otherwise competing unfairly with Zynga in any manner; and

22 j. Effecting assignments or transfers, forming new entities or associations or
23 utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set
24 forth in subparagraphs (a)-(i) above.

1 11. The Internet registrar(s) through which the domain names BUYCHIPSNOW.COM
2 and FACEBOOKPOKERSTORE.COM are registered are hereby ORDERED to transfer ownership
3 of these domain names to Zynga.

4 12. Defendant Azer is hereby ORDERED to account for and to disgorge all profits from
5 his sale of “chips” for use in the Game.

6 13. The Court finds that this is an exceptional case warranting an award of attorneys’ fees
7 and costs, and will consider a motion for an award of attorneys’ fees and a bill of costs submitted by
8 Plaintiff pursuant to Federal Rule of Civil Procedure 54(d) and Civil Local Rule 54.

9 14. This Court retains jurisdiction of this matter for the purposes of making any further
10 orders necessary or proper for the enforcement of this Judgment and the punishment of any
11 violations thereof.

12 15. This Judgment shall be deemed to have been served upon Defendant Azer at the time
13 of its execution by the Court.

14 16. The Court expressly determines that there is no just reason for delay in entering this
15 Judgment, and pursuant to Rule 54(a) of the Federal Rules of Civil Procedure, the Court directs entry
16 of judgment against Defendant Azer.

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1 17. This Judgment is a final judgment, entered against Defendant Azer pursuant to
2 Federal Rule of Civil Procedure 54(b). This Judgment is not and shall not be deemed to be a
3 judgment as to any of Zynga’s claims against any defendants in this litigation other than Defendant
4 Azer.

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6 Dated 4/26/10, 2010



The Honorable Susan Illston
United States District Court Judge

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9 Presented by:

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