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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HIGHGRADE TECH. CO., LTD.,
Plaintiff,
v.
OSD AUDIO, et al.,
Defendants.

Case No. [13-cv-01881-JST](#)

**ORDER TO SHOW CAUSE AND
ORDER CONTINUING CASE
MANAGEMENT CONFERENCE**

Rule 4 of the Federal Rules of Civil Procedure provides as follows:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.

Fed. R. Civ. P. 4(m). This action was filed on April 24, 2013. 146 days have elapsed since the filing of the complaint, but Plaintiff has not yet served Defendants Freeshipmounts.com or Hayden Ly.

Plaintiff has not provided good cause for its failure to serve. In its most recent Case Management Statement, Highgrade says only, “Highgrade has been unsuccessful in its efforts to serve Defendants Freeshipmounts.com and Hayden Ly and anticipates that it will seek leave to serve these parties by publication.” Highgrade does not describe the efforts it has made to serve these defendants, or indicate the date by which it intends to seek an order permitting service by publication.

Accordingly, the Court now orders as follows:

1. Plaintiff is ORDERED TO SHOW CAUSE why Defendants Freeshipmounts.com and/or Hayden Ly should not be dismissed from this action pursuant to Rule 4(m). Plaintiff is ordered to file a written response to this order by September 27, 2013. If Plaintiff seeks to avoid

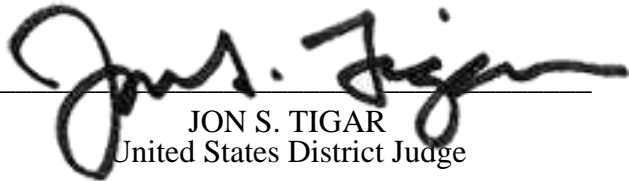
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dismissal, Plaintiff must also file an application for leave to serve by publication by that date.

2. The Case Management Conference currently scheduled for September 18, 2013 is
CONTINUED to Wednesday, October 9, 2013 at 2:00 p.m. in Courtroom 9.

IT IS SO ORDERED.

Dated: September 17, 2013



JON S. TIGAR
United States District Judge