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 9 ZYNGA GAME NETWORK INC.

10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION
 14

15 ZYNGA GAME NETWORK INC., a Delaware
 Corporation,
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 17 Plaintiff,
 18 v.
 19 JASON WILLIAMS, an individual, LUNA
 MARTINI, an individual, and JOHN DOES 1-5
 20 D/B/A MW GROUP
 21 Defendants.

CASE NO. CV-10:01022 JF (PVTx)

**DECLARATION OF SEAN HANLEY IN
 SUPPORT OF PLAINTIFF ZYNGA GAME
 NETWORK INC.'S MOTION FOR LEAVE
 TO CONDUCT THIRD PARTY
 DISCOVERY**

1 I, Sean Hanley, declare as follows:

2 1. I am an employee of Zynga Game Network Inc. (“Zynga”). I have been employed by
3 Zynga since early 2009. I am over the age of eighteen and am competent to testify. Unless
4 otherwise stated herein, I have personal knowledge of the facts stated in this declaration, and if
5 called upon to do so, I could and would testify competently thereto.

6 2. Zynga is the largest social gaming company, providing, *inter alia*, online poker
7 games, word games, board games, role playing games and party games including Zynga Poker,
8 Mafia Wars, YoVille, Vampires, Street Racing, Scramble and Word Twist. Zynga’s games are
9 available on Facebook, MySpace, Bebo, Hi5, Friendster, Tagged, Yahoo!, the iPhone and iPod
10 Touch, among others.

11 3. Zynga’s games have been a runaway success. In July, 2008, Zynga had over 1.3
12 million daily active users and 20 million registered users. As of January 1, 2009, Zynga had over 75
13 million registered users. As of May 2009, Zynga had more than 9.5 million daily users. Today,
14 Zynga has over 100 million unique users playing its games every month.

15 4. One of Zynga’s most popular properties is Mafia Wars (the “Game”), a computer
16 game for use on wireless devices and computers that allows users to start a Mafia family with their
17 friends and compete to become the most powerful family.

18 5. Zynga has made use of the service mark MAFIA WARS in commerce since
19 September 2008. Zynga has made use of the trademark MAFIA WARS in commerce since April
20 2009. (The MAFIA WARS trademark and service mark are referred herein collectively as the
21 “Mark”.)

22 6. Zynga currently owns United States Federal Trademark Application Serial No.
23 77772110 for the Mark MAFIA WARS in International Class 009 for downloadable computer game
24 software for use on wireless devices and computers, and International Class 041 for entertainment
25 services, namely, providing on-line computer games.

26 7. Zynga’s success and the success of its MAFIA WARS Mark have been widely
27 reported in the press, on the Internet and in blogs. As of February, 2009, the Game had over 1.1
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1 million daily active users. As of July, 2009, the Game had more than 4 million daily active users.
2 As of December, 2009, the Game had over 7 million daily active users.

3 8. Zynga makes the Game available through social networking websites and
4 applications (collectively “Providers”), including but not limited to those identified in Paragraph 2
5 above.

6 9. Zynga owns or leases the computer servers that players must access in order to play
7 the Game. Zynga grants players who participate in the Game a revocable license to access its
8 servers for the purpose of playing the Game.

9 10. Zynga’s Terms of Service govern users’ play of the Game, and players who use the
10 Game must consent to the Terms of Service.

11 11. Players who use the Game in a manner not expressly authorized by Zynga, including
12 without limitation in violation of the Terms of Service, are not authorized to participate in the Game,
13 or to access Zynga’s servers.

14 12. When users sign up with Zynga to play the Game, they receive a certain amount of
15 “Virtual Currency” that they use to compete in the Game with other players using the Providers’
16 sites and/or applications. Players can increase their total amount of “Virtual Currency” through their
17 play, and can also purchase “Virtual Currency” from Zynga.

18 13. Players use “Virtual Currency” to purchase various virtual, in-Game digital items
19 (“Virtual Goods”). Players can also earn “Virtual Goods” by doing “jobs” and otherwise playing the
20 Game.

21 14. Zynga grants players a limited, revocable license to use the “Virtual Currency” or
22 “Virtual Goods” while playing the Game, but retains sole and exclusive ownership of the “Virtual
23 Currency” or “Virtual Goods” and the source code that allows the “Virtual Currency” or “Virtual
24 Goods” to be used in the Game.

25 15. Zynga has not authorized any third party to sell the “Virtual Currency” or “Virtual
26 Goods” required to play the Game.

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1 16. Among other things, the Terms of Service that govern users' play of the Game
2 prohibit users from selling "Virtual Currency" or "Virtual Goods" for real-world money or otherwise
3 exchanging "Virtual Currency" or "Virtual Goods" for anything of value outside the Game.

4 17. Without Zynga's authorization or approval, Defendants created and operated websites
5 at the Internet domain names MAFIAWARSDIRECT.COM, MWBLACKMARKET.COM and
6 MWFEXPRESS.COM (the "Infringing Websites" or the "Domain Names"), possibly among others.

7 18. Through the Infringing Websites, Defendants "sell" "Virtual Goods" that users,
8 playing the Game through the Providers' websites and/or applications, can use to compete with other
9 players who obtained their "Virtual Goods" directly from Zynga.

10 19. Defendants advertise and "sell" these "Virtual Goods" using the MAFIA WARS
11 Mark and/or confusingly similar misspellings or variations of the MAFIA WARS Mark.

12 20. Defendants "sell" "Virtual Goods" for use in the Game for real-world money, and at
13 prices that are substantially lower than the prices paid by users who obtain their "Virtual Goods"
14 from Zynga.

15 21. Defendants have used the Game itself as part of their scheme, transferring the
16 "Virtual Goods" they "sell" during game play in contravention of the Game's terms of service and/or
17 security measures, and in violation of the license they received from Zynga to participate in the
18 Game.

19 22. Zynga has never authorized Defendants to use the Mark or to "sell" "Virtual Goods"
20 for use in the Game, nor has Zynga authorized Defendants to use the Game to transfer "Virtual
21 Goods" that Defendants have "sold" to players through the Infringing Websites.

22 23. Like many bad actors on the Internet, Defendants have taken one or more steps to
23 conceal their identities and locations, making it impossible for Zynga to identify, locate and serve
24 them with process without discovery.

25 24. However, because Defendants are operating an online business, they can be traced
26 through the legitimate companies that provide the services upon which they rely.

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1 25. Defendants contracted with Internet service provider GoDaddy.com, Inc.
2 (“GoDaddy”) for domain name registration services in connection with the Domain Names.
3 Attached hereto as Exhibits 1, 2 and 3 are true and correct copies of the Whois database information
4 Domain History for the domain names MAFIAWARSDIRECT.COM and
5 MWBLACKMARKET.COM as of March 1, 2010, and the domain name MWFEXPRESS.COM as
6 of March 2, 2010, identifying GoDaddy as the Registrar for the Domain Names. GoDaddy is likely
7 to have contact and billing information that will help Zynga to identify and locate Defendants.
8 GoDaddy may also have information about other domain names that Defendants have registered,
9 which may provide additional clues as to their identities and locations (for example if they maintain
10 personal websites that provide additional, valid information about their identities or locations, or
11 about other third parties with whom they do business).

12 26. Defendants contracted with Internet service provider Microsoft Office Live
13 (“Microsoft”) for website hosting services in connection with the Domain Names. Attached hereto
14 as Exhibits 4, 5 and 6 are true and correct copies of the Whois database information Hosting History
15 for the Domain Names as of March 29, 2010, confirming that the Infringing Websites resided on IP
16 addresses (207.46.222.29, 207.46.222.27 and 65.55.194.97) owned by Microsoft at the same
17 address. Microsoft is likely to have contact and billing information that will help Zynga to identify
18 and locate Defendants. Microsoft may also have information about other domain names that
19 Defendants are hosting through Microsoft, which may provide additional clues as to their identities
20 and locations (for example if they maintain personal websites that provide additional, valid
21 information about their identities or locations, or about other third parties with whom they do
22 business).

23 27. Defendants may have contracted with PayPal, Inc. (“PayPal”) to process payments
24 for sales they make through the Infringing Websites. Attached hereto as Exhibits 7 and 8 are true
25 and correct copies of the web pages that appeared at the Internet URLs
26 <http://mwfexpress.com/default.aspx>, as of October 27, 2009, and
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1 <http://mwblackmarket.com/default.aspx>, as of December 4, 2009, on which Defendants offered to
2 process payments through PayPal.

3 28. PayPal identifies its customers' accounts by one or more email addresses the
4 customers provide when they establish their accounts.

5 29. See Exhibits 1, 2 and 3 for true and correct copies of the Whois database information
6 Domain History for the Domain Names, on which Defendants advised their customers that they use
7 the email addresses jwilliams1980@ymail.com and lmartini888@gmail.com. See Exhibit 8 for a
8 true and correct copy of the web page that appeared at the Internet URL

9 <http://mwblackmarket.com/default.aspx>, on which Defendants advised their customers that they use
10 the email address mafiawarsblackmarket@gmail.com to carry on business through the website at the
11 domain name MWBLACKMARKET.COM. Attached hereto as Exhibits 9 and 10 are true and
12 correct copies of the web pages that appeared at the Internet URLs

13 <http://mwfexpress.com/default.aspx>, as of December 4, 2009, and

14 <http://mafiawarsdirect.com/default.aspx>, as of January 28, 2010, on which Defendants advised their
15 customers that they use the email addresses mwfexpress@gmail.com and

16 mafiawarsdirect@gmail.com to carry on business through the websites at the domain names
17 MWFEXPRESS.COM and MAFIAWARSDIRECT.COM.

18 30. Because Defendants use these email addresses to carry on their unlawful business, it
19 is likely that they have established one or more PayPal accounts related to their business using any
20 or all of these email addresses.

21 31. PayPal is likely to have information regarding Defendants' true identities and
22 locations. Information obtained from PayPal is likely to be accurate because Defendants rely on
23 PayPal to provide them with the money their customers pay for the "Virtual Goods" Defendants sell.

24 32. To date, Zynga has undertaken significant efforts to discover Defendants' identities.
25 Since discovering the existence of the Infringing Websites, Zynga has analyzed publicly-available
26 information about the Infringing Websites and the Domain Names to identify the third parties who
27 are likely to possess information that will allow it to confirm Defendants' identities and locations.

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1 This has included examining information in the public Whois Internet domain name database,
2 analyzing the links to third party websites or applications on the Infringing Websites, and examining
3 the source code of the Infringing Websites.

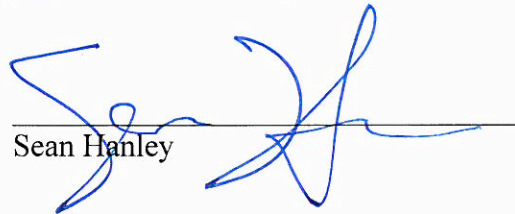
4 33. The types of third parties Zynga has identified through its analysis generally will not
5 or cannot disclose information for their customers without a subpoena or other legal authorization.

6 34. At this point, Zynga has largely exhausted the publicly-available information
7 available to it regarding Defendants and the Infringing Websites.

8 35. Additional information that will allow Zynga to identify, locate and serve Defendants
9 will be available to Zynga only once it has Court authorization to compel the production of such
10 information through the service of subpoenas.

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12 I declare under penalty of perjury under the laws of the United States that the foregoing is
13 true and correct.

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15 Executed this 10th day of May, 2010 at San Francisco, CA

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Sean Hanley