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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,  
 16  
 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 DAVID K. CAPLAN  
 IN SUPPORT OF ZYNGA’S MOTION TO  
 CONTINUE FRCP 4(m) SERVICE  
 DEADLINE**

1 I, David K. Caplan, declare as follows:

2 1. I am a partner of the firm Keats McFarland & Wilson LLP, counsel to Zynga Game  
3 Network Inc. (“Zynga”) in this matter. I am over the age of eighteen and am competent to testify.  
4 Unless otherwise stated herein, I have personal knowledge of the facts stated in this declaration, and  
5 if called upon to do so, I could and would testify competently thereto.

6 2. Zynga requests that the Court continue the Federal Rule of Civil Procedure (“Rule”)   
7 4(m) service deadline in this matter based on the fact that Zynga must conduct additional third party  
8 discovery in order to confirm the identity and location of the defendants (“Defendants”) and to effect  
9 service on them.

10 3. On June 7, 2010, Zynga served subpoenas on GoDaddy.com, Inc., Microsoft Office  
11 Live and PayPal, Inc.

12 4. On March 17, 2010, Zynga unsuccessfully attempted to serve Defendants at the  
13 address listed in the Whois database for Internet domain name MWFEXPRESS.COM, but this  
14 address was not valid. Production from GoDaddy.com, Inc. provided the same spurious physical  
15 address for Defendants.

16 5. On March 29, 2010, Zynga unsuccessfully attempted to serve Defendants at the  
17 address listed in the Whois database for Internet domain names MWBLACKMARKET.COM, but  
18 this address was not valid. Production from GoDaddy.com, Inc. provided the same spurious  
19 physical address for Defendants.

20 6. Production from GoDaddy.com, Inc. also provided three additional addresses for  
21 Defendants in Seattle, Washington, Chicago, Illinois, and New York, New York. A search for these  
22 addresses has revealed that all three addresses do not exist.

23 7. Confidential production from PayPal, Inc. provided a name and address in Taipei  
24 City, Taiwan. Zynga has not yet been able to confirm whether this address is legitimate.

25 8. To date, Zynga has not received the requested documents and information from  
26 Microsoft Office Live.

27 9. The fact that Zynga has yet to confirm Defendants’ identity or location prevents  
28

1 Zynga from submitting this motion as a stipulation.

2 10. Failure to continue the Rule 4(m) deadline would prejudice Zynga's ability to  
3 prosecute its case against Defendants because Zynga's claims would be subject to dismissal before  
4 Zynga could complete the third party discovery necessary to either comply with Rule 4(m) or  
5 confirm that Rule 4(m) does not apply because Defendants must be served outside of the United  
6 States.

7 11. The Court previously granted Zynga's Motion to Continue the Case Management  
8 Conference in this matter from June 11, 2010 to August 27, 2010 at 10:30 a.m. (*See* Dkt. No. 15.)

9 12. Because the Court has not yet issued a scheduling order pursuant to Rule 16(b), the  
10 requested continuance will not affect the schedule for this case other than possibly continuing the  
11 currently scheduled August 27, 2010 Case Management Conference if Zynga is unable to serve any  
12 of the defendants prior to August 27, 2010.

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

16  
17 Executed this 2nd day of July, 2010 at Beverly Hills, CA.

18  
19 \_\_\_\_\_  
20 /s/  
21 David K. Caplan