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 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION
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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.
 22

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

**SECOND MOTION TO CONTINUE CASE
 MANAGEMENT CONFERENCE; AND**

**MEMORANDUM OF POINTS AND
 AUTHORITIES**

No Hearing Date Requested

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MOTION

Plaintiff Zynga Game Network Inc. (“Zynga”) hereby moves the Court pursuant to Civil Local Rules 6-3 and 7-11 for an order continuing the Case Management Conference. This motion is based on the Motion, the Declaration of Tara D. Rose, the [Proposed] Order, all pleadings on file in this action, and any other matter that may be submitted in support of the motion.

ISSUE TO BE DECIDED

Whether the Case Management Conference currently scheduled for August 27, 2010 shall be continued.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Zynga Game Network Inc. (“Zynga”) respectfully requests that the Court continue the Case Management Conference currently scheduled for August 27, 2010 at 10:30 a.m.

II. FACTS

The Court originally scheduled the Case Management Conference for June 8, 2010, and ordered the parties to meet and confer as required by Federal Rule of Civil Procedure (“Rule”) 26(f)(1) and regarding ADR process selection pursuant to ADR Local Rule 3-5, and to file the ADR Certification and the Stipulation to ADR Process or Notice of Need for ADR Phone Conference forms no later than May 18, 2010. (Dkt. No. 4.)

On June 1, 2010, the Court continued the Case Management Conference until August 27, 2010, and continued all related dates accordingly. (Dkt. No. 15.) In this case, the deadline for the conference to occur and to file the ADR forms is Friday, August 6, 2010 and the deadline to file the Rule 26(f) report is Tuesday, August 17.

To date, Zynga has been unable to serve the defendants with process. Zynga unsuccessfully attempted to serve Defendants at the physical addresses listed for Defendants in the Whois database information Domain History for the Internet domain names MWBLACKMARKET.COM and MWFEXPRESS.COM. (See Declaration of Tara D. Rose in Support of Zynga’s Motion to Continue Case Management Conference Scheduled for June 11, 2010 (“Dkt. No. 10”).) The physical address

1 listed in the Whois database information for MWBLACKMARKET.COM is not a home or business
2 address for Defendants, but rather is a UPS Depot from which cargo trucks and vans are dispatched.
3 (*See* Dkt. No. 10.) The physical address listed in the Whois database information for
4 MWFEXPRESS.COM does not exist in the city listed for the domain name. (*See id.*) The physical
5 address listed in the Whois database information for MAFIAWARSDIRECT.COM is for Indiana
6 University East and the Whois database address did not include a suite, dorm or office number
7 necessary to locate a person or entity at the University. (*See id.*)¹

8 On May 20, 2010, the Court authorized Zynga to conduct third party discovery to determine
9 the identities and locations of the defendants in this case. (*See* Dkt. No. 14.) Zynga subsequently
10 issued third party subpoenas to Internet domain name registrar GoDaddy.com, Inc., credit card
11 processing company PayPal, Inc. and web host Microsoft Office Live, as authorized by the Court.
12 (Declaration of Tara D. Rose in Support of Plaintiff’s Second Motion to Continue Case Management
13 Conference (“Rose Decl.”) ¶ 4.)

14 Production from GoDaddy.com, Inc. revealed the same bogus addresses as those listed for
15 the defendants in the Whois database information Domain History for the Internet domain names
16 MWBLACKMARKET.COM, MWFEXPRESS.COM and MAFIAWARSDIRECT.COM. (Rose
17 Decl. ¶ 5.) Production from PayPal, Inc. revealed a name and address of an individual in Taiwan.
18 (*Id.* ¶ 6.) Zynga is currently working with local counsel in Taiwan to confirm whether this name and
19 address, in fact, exists in Taiwan. (*Id.*) Zynga is currently still awaiting responsive documents and
20 information from Microsoft Office Live. (*Id.* ¶ 7.)

21 **III. ARGUMENT**

22 There is good cause to continue the Case Management Conference in this case. Zynga has
23 not yet confirmed the defendants’ identities and locations, and as a result is unable to serve the
24 defendants with sufficient time for the parties to meet and confer ahead of the Case Management
25 Conference, file the required ADR forms and file a Rule 26(f) Joint Report. (*See* Rose Decl. ¶ 2.) A
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28 ¹ Therefore, Zynga did not attempt to serve Defendants at this address.

1 continuance of the Case Management Conference will allow Zynga to serve the defendants with
2 process with sufficient time for the parties to meet and confer prior to the conference.²

3 Although it is difficult to predict the amount of time it will take to serve the defendants
4 without knowing the identities and locations of Defendants, assuming local counsel in Taiwan
5 confirms that the name and location identified in productions from PayPal, Inc. is a valid name and
6 address and/or assuming Microsoft Office Live produces responsive documents and information in a
7 timely manner, and allowing sufficient time for the parties to fulfill their obligations under the
8 Federal Rules and Local Rules, Zynga respectfully requests that the Court continue the Case
9 Management Conference until Friday, November 5, 2010, or another date that is convenient for the
10 Court.

11 IV. CONCLUSION

12 For the foregoing reasons, Zynga respectfully requests that the Court issue an order
13 continuing the Case Management Conference in this matter. Zynga will gladly provide any
14 additional information the Court may request regarding this Motion.

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17 Dated: August 6, 2010

By: _____ /s/

18 David K. Caplan
19 Keats McFarland & Wilson LLP
20 Attorneys for Plaintiff
21 ZYNGA GAME NETWORK INC.

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28 ² The fact that Zynga has not yet been able to serve Defendants also prevents Zynga from presenting the instant motion as a stipulation. (*See* Rose Decl. ¶ 3.)