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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, WAN-WEN KUO, an
 20 individual, and JOHN DOES 4-5 D/B/A MW
 GROUP
 21 Defendants.
 22

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

**NOTICE REGARDING STATUS OF
 COMPLIANCE WITH FEDERAL RULE OF
 CIVIL PROCEDURE 4(m) SERVICE
 DEADLINE IN RESPONSE TO COURT
 ORDER DATED JULY 8, 2010**

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 CASE NO. CV-10:01022 JF (PVTx)
 NOTICE REGARDING STATUS OF COMPLIANCE WITH
 FED. RULE OF CIV. PROC. 4(m) SERVICE DEADLINE IN
 RESPONSE TO COURT ORDER DATED JULY 8, 2010

1 Plaintiff Zynga Game Network Inc. (“Zynga”) hereby files this notice regarding the status of
2 service of the Summons and Complaint on the defendants in this action in response to this Court’s
3 July 8, 2010 Order continuing the Federal Rule of Civil Procedure (“FRCP”) 4(m) service deadline
4 until September 8, 2010.

5 Zynga filed the Complaint in this action on March 10, 2010. (Dkt. No. 1.) Zynga filed its
6 First Amended Complaint in this action on September 7, 2010. (Dkt. No. 22.) FRCP 4(m) requires
7 the plaintiff to serve defendants in the United States within 120 days of the date a case is filed. Fed.
8 R. Civ. Proc. 4(m). Accordingly, the FRCP 4(m) deadline was set to expire on July 8, 2010.
9 However, “if the plaintiff shows good cause for the failure, the court must extend the time for
10 service for an appropriate period.” Fed. R. Civ. Proc. 4(m). The FRCP 4(m) deadline “does not
11 apply to service in a foreign country under Rule 4(f)....”

12 On July 2, 2010, Zynga filed a Motion to Continue the FRCP 4(m) Deadline because Zynga
13 was still in the process of obtaining and analyzing responsive documents and information from third
14 parties and had been unable to confirm the identity or location of most of the defendants. (*See* Dkt.
15 No. 16.) On July 8, 2010, this Court, finding good cause to continue the deadline, granted Zynga’s
16 Motion to Continue the FRCP 4(m) Deadline and continued the deadline until September 8, 2010.
17 (*See* Dkt. No. 17.)

18 As detailed below, the defendants are yet to be served with process because they are located
19 outside the United States or their locations are currently still unknown.

20 **Defendants To Be Served Outside the United States**

21 On May 20, 2010, the Court authorized Zynga to conduct third party discovery to determine
22 the identities and locations of the defendants in this case. (*See* Dkt. No. 14.) Zynga subsequently
23 issued third party subpoenas to GoDaddy.com, Inc., PayPal, Inc. and Microsoft Office Live, as
24 authorized by the Court.

25 The responsive documents and information Zynga obtained from PayPal, Inc. indicate that
26 defendant Wan-Wen Kuo is located in Taipei City, Taiwan. Because the deadline to effect service
27

1 under FRCP 4(m) does not apply if a defendant must be served in a foreign country under FRCP
2 4(f), the requirement that Zynga serve defendants by September 8, 2010 does not apply to defendant
3 Wan-Wen Kuo.

4 To date, Zynga has been unable to serve defendant Wan-Wen Kuo with process. However,
5 Zynga is working with foreign counsel to effect service on this defendant in Taiwan.

6 **Defendants With Unknown Locations**

7 Zynga has been unable to confirm the identity and location of defendants Jason Williams,
8 Luna Martini and John Does 2-5 doing business as MW Group (the “Remaining Defendants”). The
9 Remaining Defendants owned, controlled and/or operated websites at the Internet domain names
10 MWBLACKMARKET.COM, MAFIAWARSDIRECT.COM and MWFEXPRESS.COM. (See Dkt.
11 No. 22.) Initial production from GoDaddy.com, Inc. regarding the registrants or operators of these
12 domain names, as well as Zynga’s own investigation of publicly-available information, identified
13 addresses in San Francisco, California and Richmond, Indiana. Zynga unsuccessfully attempted to
14 serve the Remaining Defendants at the San Francisco, California addresses, but discovered that the
15 addresses were either not a home or business address related to the Remaining Defendants or the
16 address did not exist.¹

17 Thereafter, Zynga sent a subpoena to Microsoft Office Live, the host of the websites at the
18 Internet domain names MWBLACKMARKET.COM, MAFIAWARSDIRECT.COM and
19 MWFEXPRESS.COM, but Microsoft Office Live failed to timely respond to Zynga’s subpoena.
20 Counsel for Zynga raised this failure with Microsoft Office Live’s Registered Agent for Service of

21 _____
22 ¹ The physical address identified for MWBLACKMARKET.COM is not a home or business address,
23 but rather is a UPS Depot from which cargo trucks and vans are dispatched. (See Declaration of
24 Tara D. Rose in Support of Zynga’s Motion to Continue Case Management Conference Scheduled
25 for June 11, 2010 (“Dkt. No. 10”).) The physical address identified for MWFEXPRESS.COM does
26 not exist in the city listed for the domain name. (See *id.*) The physical address identified for
27 MAFIAWARSDIRECT.COM is for Indiana University East and the documents and information
28 received from GoDaddy.com, Inc. did not include a suite, dorm or office number necessary to locate
a person or entity at the University. (See *id.*) Thus, Zynga did not attempt to serve the Remaining
Defendants at this address.

1 Process and is attempting to seek compliance by Microsoft Office Live. If Microsoft Office Live
2 responds to the subpoena and production from Microsoft Office Live reveals different addresses for
3 the Remaining Defendants, Zynga will proceed to serve the Remaining Defendants within ten (10)
4 days of receiving Microsoft Office Live's production response.

5
6 Dated: September 8, 2010

By: _____ /s/ _____

7 David K. Caplan
8 Keats McFarland & Wilson LLP
9 Attorneys for Plaintiff
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