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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, 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)

**PLAINTIFF’S THIRD 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 Rule 7-11 for an order continuing the Case Management Conference in this matter. This motion is based on the Motion, the declaration of David K. Caplan, 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 November 5, 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 November 5, 2010.

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.)

On August 13, 2010, the Court continued the Case Management Conference until November 5, 2010, and continued all related dates accordingly. (Dkt. No. 21.) In this case, the deadline for the conference to occur and to file the ADR forms is Friday, October 15, 2010 and the deadline to file the Rule 26(f) report is Friday, October 29, 2010.

Zynga filed its First Amended Complaint adding defendant Wan-Wen Kuo on September 7, 2010. (Dkt. No. 22.) On October 8, 2010, Zynga filed its motion for leave to serve the defendants in this case by electronic mail. (Dkt. No. 26.) That motion is currently pending before the Court.

1 **III. ARGUMENT**

2 There is good cause to continue the Case Management Conference in this case. For the
3 reasons set forth in Zynga’s motion for leave to serve the defendants by electronic mail and the
4 supporting declaration of David K. Caplan, Zynga has been unable to serve the defendants with
5 process. (See Dkt. Nos. 26-27.) As a result, while Zynga has been diligently pursuing the necessary
6 discovery in this case, Zynga has been unable to conduct the conference required by Federal Rule of
7 Civil Procedure (“Federal Rule”) 26(f)(1), and will not be able to timely file the joint statement
8 required by Federal Rule 26(f)(2) and Civil Local Rule 16-9. (Declaration of David K. Caplan in
9 Support of Zynga’s Third Motion to Continue Case Management Conference (“Caplan Decl.”), ¶ 2.)
10 Accordingly, it will be impractical for the Case Management Conference to proceed as scheduled on
11 November 5, 2010, and there is good cause for the Court to continue the Case Management
12 Conference.¹

13 Assuming the Court grants Zynga’s motion to serve the defendants by electronic mail, and
14 allowing sufficient time for the parties to fulfill their obligations under the Federal Rules and the
15 Civil Local Rules, Zynga respectfully requests that the Court continue the Case Management
16 Conference until January 14, 2011, or another date that is convenient for the Court.

17 **IV. CONCLUSION**

18 For the foregoing reasons, Zynga respectfully requests that the Court issue an order
19 continuing the Case Management Conference and all related dates in this matter until January 14,
20 2011, or another date that is convenient for the Court. Zynga is prepared to provide any additional
21 information the Court may request regarding this Motion.

22 Dated: October 11, 2010

23 By: _____ /s/

24 David K. Caplan
25 Keats McFarland & Wilson LLP
26 Attorneys for Plaintiff
27 ZYNGA GAME NETWORK INC.

28 ¹ The fact that Zynga has yet to effect service on the Defendants prevents Zynga from submitting this motion as a stipulation. (Caplan Decl. ¶ 4.)