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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   **CASE NO. CV-10:01022 JF (PSGx)**
    Corporation,
16
                                            PLAINTIFF'S FOURTH MOTION TO
17   Plaintiff,   **CONTINUE CASE MANAGEMENT**
                                            CONFERENCE; AND
18   v.
                                            MEMORANDUM OF POINTS AND
19 JASON WILLIAMS, an individual, LUNA   **AUTHORITIES**
    MARTINI, an individual, WAN-WEN KUO, an
20 individual, and JOHN DOES 4-5 D/B/A MW
    GROUP
21   **No Hearing Date Requested**
                Defendants.
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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 January 14, 2011 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 January 14, 2011.

On September 7, 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 still pending before the Court.

On October 19, 2010, the Court continued the Case Management Conference until January

14, 2011, and continued all related dates accordingly. (Dkt. No. 31.) In this case, the deadline for

the conference of counsel to occur was Friday, December 24, 2010 and the deadline to file the Rule

26(f) report is Friday, January 7, 2011.

III.   ARGUMENT

There is good cause to continue the Case Management Conference in this case. For the

reasons set forth in Zynga's motion for leave to serve the defendants by electronic mail and the

supporting declaration of David K. Caplan, Zynga has been unable to serve the defendants with

process. (See Dkt. Nos. 26-27.) As a result, while Zynga has been diligently pursuing the necessary

discovery in this case, Zynga has been unable to conduct the conference required by Federal Rule of

Civil Procedure ("Federal Rule") 26(f)(1), and will not be able to timely file the joint statement

required by Federal Rule 26(f)(2) and Civil Local Rule 16-9. (Declaration of David K. Caplan in Support of Zynga's Fourth Motion to Continue Case Management Conference ("Caplan Decl."), ¶ 2.) Accordingly, it will be impractical for the Case Management Conference to proceed as scheduled on January 14, 2011, and there is good cause for the Court to continue the Case Management Conference.[1]

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

IV. CONCLUSION

For the foregoing reasons, Zynga respectfully requests that the Court issue an order continuing the Case Management Conference and all related dates in this matter until April 15, 2011, or another date that is convenient for the Court. Zynga is prepared to provide any additional information the Court may request regarding this Motion.

Dated: January 5, 2011

By: _____/s/_____

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

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[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.)

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