

EXHIBIT F

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

EMC

10 Zynga Game Network, Inc.,
11 Plaintiff,
12 vs.
13 Playdom, Inc.
14 Defendant.

CASE NO.
CV 09 2748
COMPLAINT;
DEMAND FOR JURY TRIAL;
CERTIFICATION OF INTERESTED ENTITIES OR PERSONS.

15
16 Plaintiff Zynga Game Network, Inc. ("Zynga") brings this action against Defendant
17 Playdom, Inc. ("Playdom") and complains as follows:

18 **THE NATURE OF THE ACTION**

19 1. Zynga publishes the very successful game "Mafia Wars" on various social
20 networking sites such as Facebook and MySpace. Playdom publishes a competing game on social
21 networking sites called "Mobsters." In the past month, Playdom has run an advertisement that
22 misleadingly associates its Mobsters game with the more popular Mafia Wars game and with
23 Zynga. Zynga brings this action to enjoin Playdom from continuing to post the advertisement
24 online or in any other forum, to obtain damages, and to require Playdom to engage in corrective
25 advertising to remedy the confusion caused by its advertisements.

26 **THE PARTIES**

27 2. Zynga Game Network, Inc. is a Delaware corporation with its principal place of
28 business at 365 Vermont Street, San Francisco, California.

1 3. Zynga is informed and believes and on that basis alleges that Playdom, Inc. is a
2 California Corporation with its principal place of business at 100 West Evelyn Avenue, Suite 110,
3 Mountain View, California.

4
5 **JURISDICTION AND VENUE**

6 4. This action arises under the Lanham Act, 17 U.S.C. §§ 1051 et seq., as well as
7 California Business & Professions Code §§ 17200 and 17500.

8 5. This Court has subject matter jurisdiction over Zynga's Lanham Act claims under
9 the provisions of 28 U.S.C. §§ 1331 and 1338(a) and 15 U.S.C. § 1121.

10 6. This Court has supplemental jurisdiction over all claims arising under state law
11 under 28 U.S.C. § 1367(a).

12 7. This Court has personal jurisdiction over Playdom because Playdom is
13 incorporated and maintains its principal place of business in California.

14 8. Venue is proper in this District under the provisions of 28 U.S.C. § 1391(c).

15 **INTRADISTRICT ASSIGNMENT**

16 9. Because this action is an Intellectual Property Action within the meaning of Civil
17 Local Rule 3-2(c), the action is to be assigned on a district-wide basis.

18 **GENERAL ALLEGATIONS**

19 10. Zynga was founded in February 2007 with the goal of bringing a social element to
20 casual online games. Zynga is now the number one social gaming company on the web and the
21 top developer of Facebook applications. Zynga makes and distributes a variety of online social
22 games, including casino-themed games, word games, board-type games, role-playing games and
23 party games.

24 11. Mafia Wars is one of Zynga's most popular games, with over 2.5 million daily
25 users. Zynga has invested significant resources in developing and promoting Mafia Wars, and
26 users have come to associate the game, the name, and the trademark "Mafia Wars" with a high
27 standard of quality and innovation. Zynga is the senior user of the "Mafia Wars" mark.

28

1 12. Playdom is a competing developer of social games and publisher of the game
2 Mobsters.

3 13. On June 11, 2009, a Zynga employee discovered that Playdom was running an
4 advertisement for Mobsters on Facebook using the Mafia Wars trademark prominently (the
5 "Advertisement"). A copy of the Advertisement is attached as Exhibit A.

6 14. The Advertisement states in large text: "Like Mafia Wars?" Underneath the text
7 appears a picture of a gangster, and underneath that, in much smaller text, appears the following:
8 "Click here to play Mobsters. Its [sic] got henchmen, mini games, message boards and
9 sophisticated style."

10 15. The Advertisement does not include Playdom's name or trademark, nor does it
11 make clear which game, between Mobsters and Mafia Wars, is being advertised, and further is
12 likely to wrongly suggest that there is association, endorsement or sponsorship between Mobsters
13 or the publishers of Mobsters and Mafia Wars and the publishers of Mafia Wars.

14 16. If a user clicks anywhere on the Advertisement, including on the name Mafia Wars,
15 a window appears prompting the user to install the Mobsters game. The install window does not
16 contain Playdom's name or trademark. A user may thus be led to install the game without any
17 warning that the game is a Playdom product, not a product of Zynga or Mafia Wars. As a
18 consequence, the Advertisement is likely to cause confusion between Mafia Wars and Mobsters or
19 to suggest that Zynga endorses, encourages or sponsors Mobsters.

20 17. Zynga contacted Playdom within the past two weeks to request that Playdom cease
21 using the Mafia Wars trademark in advertisements. Playdom briefly conceded, changing the text
22 of the advertisement to read, "Like Mafia Games?" Playdom has since returned to using the
23 original text referring to Mafia Wars, and has refused to cease use of the trademark.

24 18. Playdom's unauthorized use in commerce of Zynga's "Mafia Wars" trademark is
25 intentional and designed to confuse and deceive the consuming public, and to divert business and
26 valuable goodwill away from Mafia Wars.

27 19. As a result of Playdom's conduct, Zynga has suffered and will continue to suffer
28 irreparable injury by having its "Mafia Wars" trademark confused with Mobsters, and by having

1 Mafia Wars or Zynga confused as endorsing, encouraging or sponsoring Mobsters. Zynga also
2 has suffered and will continue to suffer a loss of user traffic and profits that it otherwise would
3 have made, and has endured and will continue to endure damage to its goodwill and reputation.

4
5 **FIRST CLAIM FOR RELIEF**

6 **(Trademark Infringement--Lanham Act § 32, 15 U.S.C. § 1114)**

7 20. Zynga realleges and incorporates by reference paragraphs 1 through 19, inclusive,
8 as though fully set forth in this paragraph.

9 21. Playdom's use of the "Mafia Wars" trademark in its Advertisement for Mobsters is
10 unauthorized and constitutes infringement of the "Mafia" Wars trademark under 15 U.S.C. § 1114.

11 22. Playdom caused the Advertisement to enter interstate commerce.

12 23. Zynga has been injured as a result of the confusion caused by the unauthorized use
13 of its trademark regarding the source of the Advertisement and Mobsters game.

14 24. Zynga is entitled to an award of damages against Playdom to compensate it for
15 these injuries as well as costs and attorneys' fees.

16 25. The trademark infringement was willful and intentional, in bad faith and in
17 conscious disregard of Zynga's rights and the rights of the public. As a consequence, Zynga is
18 entitled treble damages and a disgorgement of Playdom's profits, gains and advantages derived
19 from these unlawful acts.

20 26. As a direct and proximate result of Playdom's wrongful conduct, Zynga has been
21 irreparably injured by such wrongful acts. Zynga's remedy at law is inadequate, and Zynga is
22 therefore entitled to a temporary restraining order, a preliminary injunction, and a permanent
23 injunction.

24 **SECOND CLAIM FOR RELIEF**

25 **(False or Misleading Designation of Origin--Lanham Act § 43(a), 15 U.S.C. § 1125(a))**

26 27. Zynga realleges and incorporates by reference paragraphs 1 through 26, inclusive,
27 as though fully set forth in this paragraph.

28

1 28. Playdom's use of the "Mafia Wars" trademark in its Advertisement for Mobsters
2 creates confusion as to the origin of the Mobsters and Mafia Wars games.

3 29. Playdom caused the Advertisement to enter interstate commerce.

4 30. By failing to properly attribute the Advertisement and Mobsters game, Playdom's
5 conduct constitutes "false designation of origin" under Section 43(a) of the Lanham Act.

6 31. Playdom's false designation of origin is material, and Zynga has been injured as a
7 result of the confusion caused regarding the source of the Advertisement and Mobsters game.

8 32. Zynga is entitled to an award of damages against Playdom to compensate it for
9 these injuries as well as costs and attorneys' fees.

10 33. The false designation of origin with regard to the Advertisement was willful and
11 intentional, in bad faith and in conscious disregard of Zynga's rights and the rights of the public.
12 As a consequence, Zynga is entitled treble damages and a disgorgement of Playdom's profits,
13 gains and advantages derived from these unlawful acts.

14 34. As a direct and proximate result of Playdom's wrongful conduct, Zynga has been
15 irreparably injured by such wrongful acts. Zynga's remedy at law is inadequate, and Zynga is
16 therefore entitled to a temporary restraining order, a preliminary injunction, and a permanent
17 injunction.

18 **THIRD CLAIM FOR RELIEF**

19 **(False Advertising—Lanham Act § 43(a), 15 U.S.C. § 1125(a))**

20 35. Zynga realleges and incorporates by reference paragraphs 1 through 34, inclusive,
21 as though fully set forth in this paragraph.

22 36. As detailed above, and without Zynga's authority, Playdom used the trademark
23 "Mafia Wars" in its Advertisement for the Mobsters game, which falsely and misleadingly implies
24 an association between defendant's Mobsters game and Zynga's Mafia Wars game.

25 37. Defendant's banner advertisement has actually deceived or is likely to continue to
26 deceive members of the public.

27 38. Defendant caused the banner advertisement to enter interstate commerce.

28

1 39. Defendant's false and misleading use of Zynga's "Mafia Wars" trademark in its
2 Advertisement is material, and Zynga has been injured as a result of the direct diversion of users
3 from Zynga and by diminishment of the goodwill associated with the Zynga game.

4 40. Zynga is entitled to an award of damages against defendant to compensate it for
5 these injuries as well as costs and attorneys' fees.

6 41. Playdom's false and misleading use of the "Mafia Wars" trademark in its
7 Advertisement was wilful and intentional, in bad faith and in conscious disregard of Zynga's
8 rights and the rights of the public. As a consequence, Zynga is entitled treble damages and a
9 disgorgement of Playdom's profits, gains and advantages derived from these unlawful acts.

10 42. As a direct and proximate result of Playdom's wrongful conduct, Zynga has been
11 irreparably injured by such wrongful acts. Zynga's remedy at law is inadequate, and Zynga is
12 therefore entitled to a temporary restraining order, a preliminary injunction, and a permanent
13 injunction.

14 **FOURTH CLAIM FOR RELIEF**

15 **(False Advertising—California Bus. & Prof. Code § 17500 *et seq.*)**

16 43. Zynga realleges and incorporates by reference paragraphs 1 through 42, inclusive,
17 as though fully set forth in this paragraph.

18 44. Playdom's acts as described above constitute false and/or misleading advertising
19 and are likely to mislead the general public and are therefore violative of California Business &
20 Professions Code §§ 17500, *et seq.*

21 45. The acts of untrue and misleading advertising by Playdom described above present
22 a continuing threat to members of the public in that Playdom will misrepresent the nature,
23 characteristics, or qualities of the Mobsters game and its relationship to Zynga and Zynga's Mafia
24 Wars franchise. Playdom disseminated its Advertisement publicly, and knew, or in the exercise of
25 reasonable care should have known, that it was untrue and misleading.

26 46. As a direct and proximate result of the above-described acts, Playdom has created
27 confusion in the marketplace, discouraging competition and misleading customers into playing
28 Playdom's game over Zynga's game out of a false understanding as to the relative quality of the

1 products. Zynga has thus sustained an injury in fact.

2 47. Playdom's false and misleading advertising has permitted and will permit Playdom
3 to make sales and profits on the strength of Zynga's success, goodwill, and consumer recognition.
4 Zynga is entitled to disgorgement of any profits realized by Playdom as a result of its wrongdoing,
5 as well as restitution of any expenses or other injuries incurred.

6 48. As a direct and proximate result of Playdom's wrongful conduct, Zynga has been
7 irreparably injured by such wrongful acts. Zynga's remedy at law is inadequate, and Zynga is
8 therefore entitled to a temporary restraining order, a preliminary injunction, and a permanent
9 injunction.

10 **FIFTH CLAIM FOR RELIEF**

11 **(Unlawful Business Practices—California Bus. & Prof. Code § 17200 *et seq.*)**

12 49. Zynga realleges and incorporates by reference paragraphs 1 through 48, inclusive,
13 as though fully set forth in this paragraph.

14 50. The acts of Playdom described above are likely to mislead the general public in
15 violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A) and California Business & Professions
16 Code §§ 17500, and therefore constitute unlawful business practices in violation of California
17 Business & Professions Code §§ 17200, *et seq.*

18 51. The unlawful, unfair, and/or deceptive business practices of Playdom described
19 above present a continuing threat to members of the public in that Playdom intends to promote and
20 advertise the sale of Mobsters by making false and misleading representations regarding the
21 nature, characteristics, or qualities of the parties' products, and of Mobsters' relationship to Zynga
22 and Zynga's Mafia Wars games. Zynga has thus sustained an injury in fact.

23 52. The unlawful, unfair, and/or deceptive business practices of Playdom described
24 above have permitted and will permit Playdom to make sales and profits on the strength of
25 Zynga's success, goodwill, and consumer recognition. Zynga is entitled to disgorgement of any
26 profits realized by Playdom as a result of its wrongdoing, as well as restitution of any expenses or
27 other injuries incurred.

28

PRAYER FOR RELIEF

WHEREFORE, Zynga prays for judgment against Playdom as follows:

- A. For orders temporarily restraining, preliminarily and permanently enjoining Defendant Playdom and its agents, officers, employees, representatives, successors, assigns from using Zynga's "Mafia Wars" trademark, any colorable imitation thereof, or any trademark that is confusingly similar thereto;
- B. For an order requiring that Defendant Playdom engage in corrective advertising to dispel the confusion created by its use of Zynga's "Mafia Wars" trademark;
- C. For an order awarding Zynga its lost profits, Playdom's ill-gotten gains or profits, disgorgement, restitution and/or damages in an amount to be proven at trial, and trebled in light of Playdom's willful conduct;
- D. For an order awarding Zynga pre-judgment interest on all such damages;
- E. For an order awarding Zynga reasonable attorneys' fees and costs of suit incurred herein; and
- F. For such other relief as this Court deems just and proper.

DATED: June 19, 2009

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

By Claude Stern /with permission, JRP
Claude Stern

Attorneys for Plaintiff
Zynga Game Network, Inc.

DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Plaintiff Zynga Game Network, Inc. demands a trial by jury on all issues triable by jury.

DATED: June 19, 2009

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

By Claude Stern /with permission, JBB
Claude Stern

Attorneys for Plaintiff
Zynga Game Network, Inc.

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CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

DATED: June 19, 2009

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

By Claude Stern, /with permission, JBS
Claude Stern

Attorneys for Plaintiff
Zynga Game Network, Inc.

EXHIBIT A

Like Mafia Wars?



[Click here to play Mobsters.](#) Its got henchmen, mini games, message boards and sophisticated style.