

1 Larry W. McFarland (Bar No. 129668)
 E-Mail: lmcfarland@kmwlaw.com
 2 Dennis Wilson (Bar No. 155407)
 E-Mail: dwilson@kmwlaw.com
 3 David K. Caplan (Bar No. 181174)
 E-Mail: dcaplan@kmwlaw.com
 4 Christopher T. Varas (Bar No. 257080)
 E-Mail: cvaras@kmwlaw.com
 KEATS McFARLAND & WILSON LLP
 5 9720 Wilshire Boulevard
 Penthouse Suite
 6 Beverly Hills, California 90212
 Telephone: (310) 248-3830
 7 Facsimile: (310) 860-0363

8 Attorneys for Plaintiff
 ZYNGA INC.

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RICHARD W. WIEKING
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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

13 *u*
 14 ZYNGA INC., a Delaware Corporation,

15 Plaintiff,

16 v.

17 KOBOJO SAS, a French business entity,

18 Defendant.

CASE NO.

19 **CV 12-02236**
 COMPLAINT FOR:

HRL

- (1) TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114(1);
- (2) TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1125(a);
- (3) FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1115(a);
- (4) FEDERAL DILUTION UNDER 15 U.S.C. § 1125(c);
- (5) CALIFORNIA DILUTION UNDER CAL. BUS. & PROF. CODE § 14247
- (6) CALIFORNIA COMMON LAW TRADEMARK INFRINGEMENT;
- (7) CALIFORNIA COMMON LAW PASSING OFF AND UNFAIR COMPETITION;
- (8) VIOLATION OF CAL. BUS. & PROF. CODE § 17200;

DEMAND FOR JURY TRIAL

CASE NO. _____

COMPLAINT

1 Plaintiff Zynga Inc. (“Zynga”) brings this Complaint against Defendant Kobojo SAS
2 (“Defendant”) for injunctive relief and damages under the laws of the United States and the State of
3 California.

4 **Summary of the Case and Allegations Common to All Causes of Action**

5 1. This case involves the willful violation of Zynga’s trademark rights by a competitor
6 seeking to exploit Zynga’s hard-earned reputation in the social gaming space.

7 2. Zynga is the world’s largest social gaming company and is the premier publisher of
8 social games. Zynga’s games are available on social networking platforms such as Facebook, as
9 well as on mobile platforms such as Android and Apple’s iOS (incorporated into Apple’s iPhone and
10 iPad products).

11 3. Since it was founded in 2007, Zynga has created and published the world’s most
12 successful social games, including its famous family of ‘VILLE games. These games include, but
13 are not limited to, CASTLEVILLE™, CITYVILLE®, FARMVILLE®, FISHVILLE®,
14 FRONTIERVILLE™, PETVILLE® and YOVILLE® (collectively the “VILLE Family of
15 Games”.) The names and respective trademarks of the ‘VILLE Family of Games are alleged in
16 detail below, and are collectively referred to herein as the “VILLE Family of Marks”.

17 4. Zynga’s ‘VILLE Family of Games consists of the most popular online and mobile
18 games in the world. For example, the social gaming site App Data reported in January 2012, that
19 Zynga’s CITYVILLE® was the most-played game on Facebook with more than 49,000,000 monthly
20 active users. As of the time of App Data’s reporting, Zynga’s CASTLEVILLE™ was in second
21 place with more than 35,000,000 monthly active users. Zynga’s FARMVILLE® was in third place
22 with more than 33,000,000 monthly active users. At the same time, several of Zynga’s other
23 ‘VILLE games also continued to have more than 1,000,000 monthly active users – e.g.,
24 PETVILLE® had 2,000,000 monthly active users, YOVILLE® and FISHVILLE® each had more
25 than 1,500,000 monthly active users, and FRONTIERVILLE™ had more than 1,000,000 monthly
26 active users. In sum, more than 100,000,000 people play Zynga’s famous ‘VILLE Family of Games
27 every month on Facebook and other social websites and mobile platforms.

28

1 5. Zynga has consistently promoted the 'VILLE Family of Games together as a family,
2 identified by the distinctive 'VILLE suffix. Among other things, Zynga has advertised the 'VILLE
3 Family of Games on Zynga.com and Facebook using such slogans as "Welcome to the home of
4 Zynga's *Ville*™ games," "Zynga – home of the Ville," "What's your Ville?" and "Join the Ville
5 Family." Zynga has promoted the 'VILLE Family of Games to millions of potential consumers
6 through advertisements and promotions. As a result of Zynga's extensive marketing efforts and the
7 unmatched success of its 'VILLE Family of Games, Facebook users and other users of online social
8 games throughout the United States have come to associate immediately the distinctive 'VILLE
9 Family of Marks with Zynga.

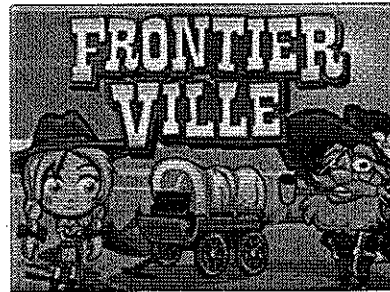
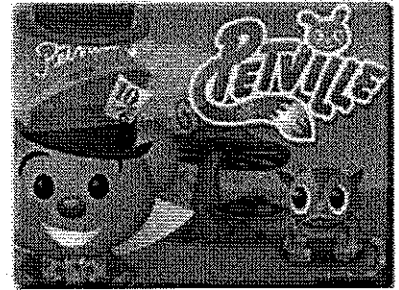
10 6. Zynga's games compete on websites and mobile platforms with hundreds of social
11 games. Unfortunately, following the success of the 'VILLE Family of Games, a number of entities
12 have attempted to adopt names that combine a word that connotes the particular game's theme, on
13 the one hand, with the distinctive and famous 'VILLE suffix, on the other. Such entities thereby
14 seek to use names that will confuse consumers, trade off of Zynga's popularity, and exploit the
15 goodwill Zynga has developed in the 'VILLE Family of Marks. Zynga has diligently policed its
16 rights in the 'VILLE Family of Marks against such would-be infringers, including through the use of
17 cease-and-desist letters and, where necessary, by instituting opposition proceedings with the United
18 States Patent and Trademark Office's Trademark Trial and Appeal Board.

19 7. Defendant is no different from these other infringers. Following the launches and
20 phenomenal successes of Zynga's CITYVILLE®, FARMVILLE®, FISHVILLE®,
21 FRONTIERVILLE™, PETVILLE® and YOVILLE® games, Defendant developed an Egyptian-
22 themed social game and chose to call it PYRAMIDVILLE. Not surprisingly, PYRAMIDVILLE
23 already has drawn comparisons to several games within Zynga's 'VILLE Family of Games.

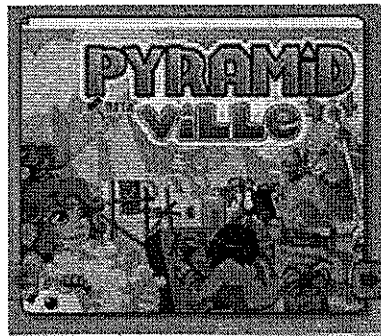
24 8. There can be no question that Defendant was fully aware of Zynga's success and
25 Zynga's 'VILLE Family of Games prior to selecting the name for its similarly themed game. For
26 example, on information and belief, more than one of Defendant's principals had installed and
27 played various games within Zynga's 'VILLE Family of Games prior to the release of
28 PYRAMIDVILLE.

1 9. Defendant's awareness of Zynga and Zynga's 'VILLE Family of Games, and
2 deliberate attempt to trade off Zynga's success, is further evidenced by Defendant's adoption of a
3 logo that itself evokes the logos that Zynga uses for several of its 'VILLE Family of Games:

4 Plaintiff Zynga:



17
18 Defendant Kobojo:



25 10. Zynga is informed and believes, and on that basis alleges, that with Zynga's game
26 titles fully in mind, and rather than selecting a name that distinguished its product from the most
27 popular competing games in the market, Defendant selected PYRAMIDVILLE. Like Zynga's
28 'VILLE Family of Marks, this name combines a term connoting the game's theme ("pyramid"), with

1 the distinctive 'VILLE suffix. Moreover, the game itself is of the same general type offered by
2 Zynga under its famous 'VILLE Family of Marks, is offered online and in the same marketing
3 channels as Zynga's games, and is geared toward the same consumers as Zynga's own 'VILLE
4 Family of Games.

5 11. Defendant's hitching on the fame of Zynga's 'VILLE Family of Games has been
6 noted throughout the social gaming community. Attached hereto as **Exhibit A** are true and correct
7 copies of just a few online articles and other Internet content highlighting Defendant's trading off of
8 Zynga's 'VILLE games.

9 12. Zynga never authorized Defendant to use the distinctive 'VILLE suffix that identifies
10 Zynga's 'VILLE Family of Games, nor would it authorize a game name likely to cause consumer
11 confusion and diminish the value of the 'VILLE Family of Marks.

12 13. When Zynga contacted Defendant regarding its concern that Facebook users are
13 likely to believe, erroneously, that PYRAMIDVILLE is a member of Zynga's 'VILLE Family of
14 Games, Defendant refused to stop its confusing use of the 'VILLE suffix.

15 14. Instead, Defendant has recently expanded its infringing PYRAMIDVILLE game by
16 launching a mobile version of PYRAMIDVILLE on Apple's iOS and on the iPhone and iPad – i.e.,
17 on platforms in which consumers can access many of Zynga's games (including several within
18 Zynga's 'VILLE Family of Games).

19 15. One popular social gaming website – no doubt recognizing the similarity between the
20 PYRAMIDVILLE name and Zynga's 'VILLE Family of Marks – reported on Defendant's
21 expansion with the headline "Pyramidville Adventure, or FrontierVille in Egypt, Slated for iPhone,
22 iPad." A true and correct copy of this article is included in **Exhibit A**. FRONTIERVILLE™ is the
23 name of one of Zynga's popular games, and it is important to note that Zynga did not endorse, and
24 instead objects to, the characterization of the PYRAMIDVILLE game as related in any way to
25 Zynga's own FRONTIERVILLE™ game.

26 16. Because Defendant has refused to remove the 'VILLE suffix from its title and is in
27 the process of greatly expanding the scope of its infringement, Zynga has filed this lawsuit in order
28

1 to ensure that Defendant does not continue to create consumer confusion and exploit the goodwill
2 that Zynga has developed in its distinctive 'VILLE Family of Marks.

3 **Nature of the Case**

4 17. This is an action for violation of the federal Lanham Act, 15 U.S.C. §§ 1114(1),
5 1125(a) and 1125(c) as well as California common law and Cal. Bus. & Prof. Code §§ 14247 and
6 17200.

7 **The Parties**

8 18. Plaintiff Zynga is a corporation organized and existing under the laws of the State of
9 Delaware and has its principal place of business in San Francisco, California.

10 19. Zynga is informed and believes, and on that basis alleges, that Defendant is a French
11 business entity with its principal place of business in Paris, France.

12 **Jurisdiction and Venue**

13 20. This action arises under the trademark laws of the United States, 15 U.S.C. § 1051, *et*
14 *seq.*, particularly under 15 U.S.C. §§ 1114 and 1125, the common law of trademark infringement,
15 passing off and unfair competition and California statutory dilution and unfair competition law. This
16 Court has jurisdiction of the federal claims under 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. §§
17 1116, 1121, and 1125. This Court has supplemental jurisdiction of the state law claims under 28
18 U.S.C. §§ 1367(a) and 1338(b), those claims being joined with a substantial and related claim under
19 the Trademark Laws of the United States and so related to the federal claims that they form part of
20 the same case or controversy and derive from a common nucleus of operative fact.

21 21. Zynga is informed and believes and on that basis alleges that this Court has personal
22 jurisdiction over Defendant, which has numerous and substantial contacts with this District. Zynga
23 is informed and believes, and on that basis alleges, that among other things:

- 24 a. Defendant markets its PYRAMIDVILLE game to users located in this District;
25 b. Consumers located in this District have played, and continue to play, Defendant's
26 PYRAMIDVILLE game;
27 c. Defendant collects revenue from PYRAMIDVILLE players who are located in this
28 District;

- 1 d. Defendant hosts its PYRAMIDVILLE game on Amazon Web Services servers
2 located in this District;
- 3 e. Defendant causes its PYRAMIDVILLE game to be advertised on and distributed
4 through Facebook, which is a website located in this District;
- 5 f. Defendant causes its PYRAMIDVILLE game to be advertised through Twitter, a
6 service and website located in this District;
- 7 g. Defendant processes payments from PYRAMIDVILLE users, including payments in
8 United States Dollars, through PayPal, a company located in this District;
- 9 h. Defendant has entered into one or more contracts with third parties, including
10 contracts relating to PYRAMIDVILLE, that subject Defendant to personal
11 jurisdiction in this judicial district;
- 12 i. One of Defendant's co-founders, who is currently Defendant's Vice President of
13 Products and Strategy, is located in this District;
- 14 j. Defendant maintains a substantial English-language presence on the Internet,
15 including an English language Facebook Community Page at the Internet address
16 <http://www.facebook.com/PyramidVilleEN> and significant portions of Defendant's
17 website at <http://kobojo.com>.

18 22. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c).

19 **Intradistrict Assignment**

20 23. This being an intellectual property action, the Court's Assignment Plan provides for
21 assignment of this action on a district-wide basis. To the extent this action may be deemed to have
22 arisen in a particular county within this District, that county is San Francisco County on the grounds
23 that a substantial part of the events or omissions that give rise to Zynga's claims occurred in San
24 Francisco County, where Zynga is located.

25 **First Cause of Action**

26 **(Federal Trademark Infringement – 15 U.S.C. § 1114(1))**

27 24. Zynga repeats, realleges and incorporates Paragraphs 1-23 as though fully set forth in
28 this cause of action.

1 25. Zynga owns United States Federal Trademark Registration No. 3994661 for the
2 trademark and service mark CITYVILLE® in International Class 41, a true and correct copy of
3 which is attached hereto as **Exhibit B**. The CITYVILLE® mark is one of Zynga's 'VILLE Family
4 of Marks, which Zynga uses in connection with its famous social games on Facebook and other
5 platforms.

6 26. As a result of Zynga's substantial marketing and promotional efforts and the
7 tremendous success of Zynga's 'VILLE Family of Games generally, and CITYVILLE® specifically,
8 users of social games immediately associate the distinctive CITYVILLE® mark with Zynga.

9 27. Zynga owns United States Federal Trademark Registration No. 3861880 for the
10 trademark and service mark FARMVILLE® in International Classes 9 and 41 and United States
11 Federal Trademark Registration No. 3861862 for the trademark and service mark FARMVILLE BY
12 ZYNGA (& Design)® in International Classes 9 and 41; true and correct copies of which are
13 attached hereto as **Exhibit C**. The FARMVILLE® mark and FARMVILLE BY ZYNGA (&
14 Design)® mark are two of Zynga's 'VILLE Family of Marks, which Zynga uses in connection with
15 its famous social games on Facebook and other platforms.

16 28. As a result of Zynga's substantial marketing and promotional efforts and the
17 tremendous success of Zynga's 'VILLE Family of Games generally, and FARMVILLE® and
18 FARMVILLE BY ZYNGA (& Design)® specifically, users of social games immediately associate
19 the distinctive FARMVILLE® and FARMVILLE BY ZYNGA (& Design)® marks with Zynga.

20 29. Zynga owns United States Federal Trademark Registration No. 3840284 for the
21 trademark and service mark FISHVILLE® in International Classes 9 and 41, a true and correct copy
22 of which is attached hereto as **Exhibit D**. The FISHVILLE® mark is one of Zynga's 'VILLE
23 Family of Marks, which Zynga uses in connection with its famous social games on Facebook and
24 other platforms.

25 30. As a result of Zynga's substantial marketing and promotional efforts and the
26 tremendous success of Zynga's 'VILLE Family of Games generally, and FISHVILLE® specifically,
27 users of social games immediately associate the distinctive FISHVILLE® mark with Zynga.

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1 31. Zynga owns United States Federal Trademark Registration No. 4072420 for the
2 trademark and service mark PETVILLE® in International Classes 9 and 41, a true and correct copy
3 of which is attached hereto as **Exhibit E**. The PETVILLE® mark is one of Zynga’s ‘VILLE Family
4 of Marks, which Zynga uses in connection with its famous social games on Facebook and other
5 platforms.

6 32. As a result of Zynga’s substantial marketing and promotional efforts and the
7 tremendous success of Zynga’s ‘VILLE Family of Games generally, and PETVILLE® specifically,
8 users of social games immediately associate the distinctive PETVILLE® mark with Zynga.

9 33. Zynga owns the United States Federal Trademark Registration No. 3773188 for the
10 trademark and service mark YOVILLE® in International Classes 9 and 41, a true and correct copy
11 of which is attached hereto as **Exhibit F**. The YOVILLE® mark is one of Zynga’s ‘VILLE Family
12 of Marks, which Zynga uses in connection with its famous social games on Facebook and other
13 platforms.

14 34. As a result of Zynga’s substantial marketing and promotional efforts and the
15 tremendous success of Zynga’s ‘VILLE Family of Games generally, and YOVILLE® specifically,
16 users of social games immediately associate the distinctive YOVILLE® mark with Zynga.

17 35. In addition to the individual CITYVILLE®, FARMVILLE®, FISHVILLE®,
18 PETVILLE® and YOVILLE® marks, the ‘VILLE suffix has acquired distinctiveness within the
19 market for social games as an indicator of source. Users of social games immediately associate the
20 ‘VILLE suffix with Zynga and its reputation for creating dynamic and high-quality social games.

21 36. Defendant’s use in commerce of the name PYRAMIDVILLE in connection with a
22 social game that competes with Zynga’s ‘VILLE Family of Games, including CITYVILLE®,
23 FARMVILLE®, FISHVILLE®, PETVILLE® and YOVILLE®, constitutes trademark infringement
24 of the registered CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (& Design)®,
25 FISHVILLE®, PETVILLE® and YOVILLE® marks, and each of them, pursuant to 15 U.S.C. §
26 1114(1). Defendant’s use of PYRAMIDVILLE is likely to cause confusion, or to cause mistake, or
27 to deceive Facebook users and other users of social games, who are likely to believe erroneously that
28 PYRAMIDVILLE originates from the same source as the games CITYVILLE®, FARMVILLE®,

1 FISHVILLE® PETVILLE® and YOVILLE® or is otherwise affiliated, connected, or associated
2 with Zynga, or sponsored or approved by Zynga, when in fact it is not.

3 37. Defendant has knowingly and willfully infringed Zynga's trademark rights by
4 deliberately exploiting the substantial goodwill associated with Zynga's 'VILLE Family of Marks
5 generally, and specifically with the registered marks CITYVILLE®, FARMVILLE®, FARMVILLE
6 BY ZYNGA (& Design)®, FISHVILLE®, PETVILLE® and YOVILLE®, and each of them.
7 Zynga is informed and believes and on that basis alleges that Defendant selected the name
8 PYRAMIDVILLE with the express intent to cause confusion and to deceive consumers into
9 believing that PYRAMIDVILLE is one of, or otherwise associated with, Zynga's 'VILLE Family of
10 Games.

11 38. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
12 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in its
13 CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (& Design)®, FISHVILLE®,
14 PETVILLE® and YOVILLE® marks, and to its business reputation and goodwill, as well as
15 damages in an amount that cannot be accurately computed at this time but will be proven at trial.

16 **Second Cause of Action**

17 **(Federal Trademark Infringement— 15 U.S.C. § 1125(a))**

18 39. Zynga repeats, realleges and incorporates Paragraphs 1-38 as though fully set forth in
19 this cause of action.

20 40. The CITYVILLE® mark is one of Zynga's 'VILLE Family of Marks, which Zynga
21 uses in connection with its famous social games on Facebook and other platforms.

22 41. As a result of Zynga's substantial marketing and promotional efforts and the
23 tremendous success of Zynga's 'VILLE Family of Games generally, and CITYVILLE® specifically,
24 users of social games immediately associate the distinctive CITYVILLE® mark with Zynga.

25 42. The FARMVILLE® mark and FARMVILLE BY ZYNGA (& Design)® marks are
26 two of Zynga's 'VILLE Family of Marks, which Zynga uses in connection with its famous social
27 games on Facebook and other platforms.

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1 43. As a result of Zynga's substantial marketing and promotional efforts and the
2 tremendous success of Zynga's 'VILLE Family of Games generally, and FARMVILLE®
3 specifically, users of social games immediately associate the distinctive FARMVILLE® and
4 FARMVILLE BY ZYNGA (& Design)® marks with Zynga.

5 44. The FISHVILLE® mark is one of Zynga's 'VILLE Family of Marks, which Zynga
6 uses in connection with its famous social games on Facebook and other platforms.

7 45. As a result of Zynga's substantial marketing and promotional efforts and the
8 tremendous success of Zynga's 'VILLE Family of Games generally, and FISHVILLE® specifically,
9 users of social games immediately associate the distinctive FISHVILLE® mark with Zynga.

10 46. Zynga owns Federal Trademark Application Serial No. 77894903 for the trademark
11 and service mark FRONTIERVILLE™ in International Classes 9 and 41 and Federal Trademark
12 Application Serial No. 85187815 for the trademark and service mark FRONTIERVILLE
13 (Stylized)™ in International Class 41. True and copies of the application records for these
14 applications from the Patent and Trademark Office Electronic Search System Database are attached
15 hereto as **Exhibit G**. The FRONTIERVILLE™ mark and FRONTIERVILLE (Stylized)™ mark are
16 two of Zynga's 'VILLE Family of Marks, which Zynga uses in connection with its famous social
17 games on Facebook and other platforms.

18 47. As a result of Zynga's substantial marketing and promotional efforts and the
19 tremendous success of Zynga's 'VILLE Family of Games generally, and FRONTIERVILLE™ and
20 FRONTIERVILLE (Stylized)™ specifically, users of social games immediately associate the
21 distinctive FRONTIERVILLE™ and FRONTIERVILLE (Stylized)™ marks with Zynga.

22 48. The PETVILLE® mark is one of Zynga's 'VILLE Family of Marks, which Zynga
23 uses in connection with its famous social games on Facebook and other platforms.

24 49. As a result of Zynga's substantial marketing and promotional efforts and the
25 tremendous success of Zynga's 'VILLE Family of Games generally, and PETVILLE® specifically,
26 users of social games immediately associate the distinctive PETVILLE® mark with Zynga.

27 50. The YOVILLE® mark is one of Zynga's 'VILLE Family of Marks, which Zynga
28 uses in connection with its famous social games on Facebook and other platforms.

1 51. As a result of Zynga's substantial marketing and promotional efforts and the
2 tremendous success of Zynga's 'VILLE Family of Games generally, and YOVILLE® specifically,
3 users of social games immediately associate the distinctive YOVILLE® mark with Zynga.

4 52. In addition to the individual CITYVILLE®, FARMVILLE®, FARMVILLE BY
5 ZYNGA (& Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™,
6 PETVILLE® and YOVILLE® marks, the 'VILLE suffix has acquired distinctiveness within the
7 market for social networking games as an indicator of source. Users of social games immediately
8 associate the 'VILLE suffix with Zynga and its reputation for creating dynamic and high quality
9 social games.

10 53. Defendant's use in commerce of the name PYRAMIDVILLE in connection with a
11 social game that competes with Zynga's 'VILLE Family of Games, including the games
12 CITYVILLE®, FARMVILLE®, FISHVILLE®, FRONTIERVILLE™, PETVILLE® and
13 YOVILLE®, constitutes trademark infringement of Zynga's rights in the 'VILLE Family of Marks,
14 as well as Zynga's rights in the CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (&
15 Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™, PETVILLE®
16 and YOVILLE® marks, and each of them, and unfair competition pursuant to 15 U.S.C. § 1125(a).
17 Defendant's use of PYRAMIDVILLE is likely to cause confusion, or to cause mistake, or to deceive
18 Facebook users and other users of social games, who are likely to believe erroneously that
19 PYRAMIDVILLE originates from the same source as Zynga's 'VILLE Family of Games, including
20 without limitation the games CITYVILLE®, FARMVILLE®, FISHVILLE®,
21 FRONTIERVILLE™, PETVILLE® and YOVILLE® or is otherwise affiliated, connected, or
22 associated with Zynga, or sponsored or approved by Zynga, when in fact it is not.

23 54. Defendant has knowingly and willfully infringed Zynga's trademark rights by
24 deliberately exploiting the substantial goodwill associated with Zynga's 'VILLE Family of Marks,
25 and with the CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (& Design)®,
26 FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™, PETVILLE® and
27 YOVILLE® marks, and each of them. Zynga is informed and believes and on that basis alleges that
28 Defendant selected the name PYRAMIDVILLE with the express intent to cause confusion and to

1 deceive Facebook users and users of other social games into believing that PYRAMIDVILLE is one
2 of, or otherwise associated with, Zynga's 'VILLE Family of Games.

3 55. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
4 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in the 'VILLE
5 Family of Marks, as well as its rights in the CITYVILLE®, FARMVILLE®, FARMVILLE BY
6 ZYNGA (& Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™,
7 PETVILLE® and YOVILLE® marks, and each of them, and to its business reputation and
8 goodwill, as well as damages in an amount that cannot be accurately computed at this time but will
9 be proven at trial.

10 **Third Cause of Action**

11 **(Federal False Designation of Origin – 15 U.S.C. § 1125(a))**

12 56. Zynga repeats, realleges and incorporates Paragraphs 1-55 as though fully set forth in
13 this cause of action.

14 57. Zynga owns the trademark rights in the distinctive 'VILLE Family of Marks for use
15 in connection with social networking games, including without limitation the games CITYVILLE®,
16 FARMVILLE®, FISHVILLE®, FRONTIERVILLE™, PETVILLE® and YOVILLE®, which are
17 played on Facebook, as well as other platforms.

18 58. As a result of Zynga's substantial marketing and promotional efforts, as well as the
19 tremendous success of Zynga's 'VILLE Family of Games, the 'VILLE suffix has acquired
20 distinctiveness within the market for social games as an indicator of source. Users of social games
21 immediately associate the 'VILLE suffix with Zynga and its reputation for creating dynamic and
22 high quality social networking games.

23 59. Consumers who come across the PYRAMIDVILLE game are likely to believe,
24 erroneously, that PYRAMIDVILLE is another new addition to, or is otherwise affiliated with,
25 Zynga's 'VILLE Family of Games.

26 60. Defendant's use in commerce of the suffix 'VILLE for a social game that competes
27 with Zynga's famous 'VILLE Family of Games generally, and with the games CITYVILLE®,
28 FARMVILLE®, FISHVILLE®, FRONTIERVILLE™, PETVILLE® and YOVILLE® specifically,

1 constitutes a false designation of origin pursuant to 15 U.S.C. § 1125(a). Defendant's use of
2 PYRAMIDVILLE is likely to cause confusion, or to cause mistake or to deceive users of social
3 games into believing that Defendant's "VILLE game" originates from the same source as Zynga's
4 'VILLE Family of Games generally, and the games CITYVILLE®, FARMVILLE®, FISHVILLE®,
5 FRONTIERVILLE™, PETVILLE® and YOVILLE® specifically, or is otherwise affiliated,
6 connected, or associated with Zynga, or sponsored or approved by Zynga, when in fact it is not.

7 61. Defendant has knowingly and willfully infringed Zynga's trademark rights by
8 deliberately exploiting the substantial goodwill associated with Zynga's 'VILLE Family of Marks,
9 as well as the goodwill associated with the CITYVILLE®, FARMVILLE®, FARMVILLE BY
10 ZYNGA (& Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™,
11 PETVILLE® and YOVILLE® marks, and each of them. Zynga is informed and believes that
12 Defendant selected the name PYRAMIDVILLE with the express intent to cause confusion and to
13 deceive Facebook users and users of other social games into believing that PYRAMIDVILLE is one
14 of, or otherwise associated with, Zynga's 'VILLE Family of Games.

15 62. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
16 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in its 'VILLE
17 Family of Marks, and to its business reputation and goodwill, as well as damages in an amount that
18 cannot be accurately computed at this time but will be proven at trial.

19 **Fourth Cause of Action**

20 **(Federal Dilution – 15 U.S.C. § 1125(c))**

21 63. Zynga repeats, realleges and incorporates Paragraphs 1-62 as though fully set forth in
22 this cause of action.

23 64. Zynga owns the trademark rights in the distinctive 'VILLE Family of Marks for use
24 in connection with social networking games, including without limitation the games CITYVILLE®,
25 FARMVILLE®, FISHVILLE®, FRONTIERVILLE™, PETVILLE® and YOVILLE®, which are
26 played on Facebook as well as other platforms.

27 65. Zynga's 'VILLE Family of Marks is famous in that it is widely recognized by the
28 general consuming public of the United States as a designation of Zynga's goods and services.

1 Zynga's 'VILLE Family of Marks became famous throughout the United States prior to any use in
2 commerce of the name PYRAMIDVILLE by Defendant or any of its predecessors.

3 66. Defendant's use of the name PYRAMIDVILLE in connection with a social game is
4 likely to impair the distinctiveness of Zynga's famous 'VILLE Family of Marks by causing an
5 association in the minds of consumers arising from the similarity between the name
6 PYRAMIDVILLE and Zynga's famous 'VILLE Family of Marks.

7 67. Defendant's use of the name PYRAMIDVILLE in connection with a social game is
8 likely to harm the reputation of Zynga's famous 'VILLE Family of Marks.

9 68. Defendant has knowingly and willfully sought to dilute Zynga's famous 'VILLE
10 Family of Marks. Zynga is informed and believes that Defendant selected the name
11 PYRAMIDVILLE with the express intent to associate PYRAMIDVILLE with Zynga's famous
12 'VILLE Family of Marks in the minds of consumers.

13 69. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
14 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in its 'VILLE
15 Family of Marks, and to its business reputation and goodwill, as well as damages in an amount that
16 cannot be accurately computed at this time but will be proven at trial.

17 **Fifth Cause of Action**

18 **(California Statutory Dilution – Cal. Bus. & Prof. Code § 14247)**

19 70. Zynga repeats, realleges and incorporates Paragraphs 1-69 as though fully set forth in
20 this cause of action.

21 71. Zynga owns the trademark rights in the distinctive 'VILLE Family of Marks for use
22 in connection with social networking games, including without limitation the games CITYVILLE®,
23 FARMVILLE®, FISHVILLE®, FRONTIERVILLE™, PETVILLE® and YOVILLE®, which are
24 played on Facebook as well as other platforms.

25 72. Zynga's 'VILLE Family of Marks is famous in that it is widely recognized by the
26 general consuming public in California as a designation of source for Zynga's goods and services.
27 Zynga's 'VILLE Family of Marks became famous in California prior to any use in commerce of the
28 name PYRAMIDVILLE by Defendant or any of its predecessors.

1 Defendant selected the name PYRAMIDVILLE with the express intent to cause confusion and to
2 deceive Facebook users and users of other social games into believing that PYRAMIDVILLE is one
3 of, or otherwise associated with, Zynga's 'VILLE Family of Games.

4 80. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
5 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in the 'VILLE
6 Family of Marks, and its rights in the CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA
7 (& Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™, PETVILLE®
8 and YOVILLE® marks, and each of them, and to its business reputation and goodwill, as well as
9 damages in an amount that cannot be accurately computed at this time but will be proven at trial.

10 **Seventh Cause of Action**

11 **(California Common Law Passing Off and Unfair Competition)**

12 81. Zynga repeats, realleges and incorporates Paragraphs 1-80 as though fully set forth in
13 this cause of action.

14 82. Defendant's conduct as alleged herein constitutes passing off and unfair competition
15 under California common law.

16 83. Defendant has knowingly and willfully infringed Zynga's trademark rights by
17 deliberately exploiting the substantial goodwill associated with Zynga's 'VILLE Family of Marks,
18 as well as the CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (& Design)®,
19 FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™, PETVILLE® and
20 YOVILLE® marks, and each of them. Zynga is informed and believes and on that basis alleges that
21 Defendant selected the name PYRAMIDVILLE with the express intent to cause confusion and to
22 deceive Facebook users and users of other social games into believing that PYRAMIDVILLE is one
23 of, or otherwise associated with, Zynga's 'VILLE Family of Games.

24 84. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
25 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in its 'VILLE
26 Family of Marks, as well as its CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (&
27 Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™, PETVILLE®
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1 and YOVILLE® marks, and each of them, and to its business reputation and goodwill, as well as
2 damages in an amount that cannot be accurately computed at this time but will be proven at trial.

3 **Eighth Cause of Action**

4 **(California Statutory Unfair Competition – Cal. Bus. & Prof. Code § 17200)**

5 85. Zynga repeats, realleges and incorporates Paragraphs 1-84 as though fully set forth in
6 this cause of action.

7 86. Defendant's conduct as alleged herein constitutes unfair competition in violation of
8 Cal. Bus. & Prof. Code § 17200.

9 87. Zynga has no adequate remedy at law. Defendant's conduct as alleged herein has
10 caused and if not enjoined will continue to cause irreparable harm to Zynga's rights in its 'VILLE
11 Family of Marks, as well as its CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (&
12 Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™, PETVILLE®
13 and YOVILLE® marks, and each of them, and to its business reputation and goodwill.

14 **PRAYER FOR RELIEF**

15 Wherefore, Zynga prays for judgment as follows:

16 A. That the Court enter a finding that use by Defendant of the name PYRAMIDVILLE
17 infringes Zynga's rights in the 'VILLE Family of Marks, as well as its rights in the CITYVILLE®,
18 FARMVILLE®, FARMVILLE BY ZYNGA (& Design)®, FISHVILLE®, FRONTIERVILLE™,
19 FRONTIERVILLE (Stylized)™, PETVILLE® and YOVILLE® marks, and each of them;

20 B. That the Court enter a finding that use by Defendant of the name PYRAMIDVILLE
21 is likely to cause dilution of Zynga's famous 'VILLE Family of Marks by blurring and by
22 tarnishment;

23 C. That the Court enter a preliminary injunction and a permanent injunction prohibiting
24 Defendant, as well as its members, organizers, predecessors, successors, agents, employees,
25 representatives and all persons corporations or other entities acting in concert or participation with
26 Defendant from:

- 27 i. Using the name PYRAMIDVILLE in connection with any social game in California
28 and throughout the United States;

- 1 ii. Infringing any of Zynga’s intellectual property rights in its ‘VILLE Family of Marks
2 and in the CITYVILLE®, FARMVILLE®, FARMVILLE BY ZYNGA (&
3 Design)®, FISHVILLE®, FRONTIERVILLE™, FRONTIERVILLE (Stylized)™,
4 PETVILLE® and YOVILLE® marks, and each of them;
- 5 iii. Continuing to engage in any activity that is likely to dilute the value of Zynga’s
6 ‘VILLE Family of Marks;
- 7 iv. Engaging in any conduct that tends falsely to represent that, or is likely to confuse,
8 mislead or deceive members of the public to believe that the actions of Defendant or
9 any of its members, organizers, predecessors, successors, agents, employees,
10 representatives and all persons corporations or other entities acting in concert or
11 participation with Defendant are sponsored, approved, or licensed by Zynga, or are in
12 any way connected or affiliated with Zynga;
- 13 v. Affixing, applying, annexing, or using in connection with the manufacture,
14 distribution, advertising, sale, and/or offering for sale or other use of any goods or
15 services, a false description or representation, including words or other symbols,
16 tending to falsely describe or represent such goods as being those of Zynga, including
17 without limitation the ‘VILLE suffix;
- 18 vi. Otherwise competing unfairly with Zynga in any manner; and
- 19 vii. Effecting assignments or transfers, forming new entities or associations or utilizing
20 any other device for the purpose of circumventing or otherwise avoiding the
21 prohibitions set forth in subparagraphs (i)-(vi) above.

22 D. That the Court award Zynga damages in accordance with applicable law, including
23 without limitation three times the amount of any and all profits realized by Defendant from the use
24 of the PYRAMIDVILLE name in accordance with 15 U.S.C. § 1117(a);

25 E. That the Court find that this is an exceptional case and award Zynga its reasonable
26 attorneys’ fees and costs of suit pursuant to 15 U.S.C. § 1117(a);

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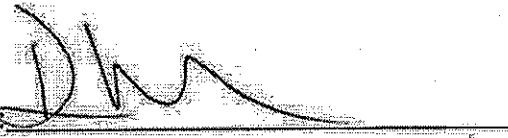
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F. That the Court retain jurisdiction of this action for the purpose of enabling Zynga to apply to the Court at any time for such further orders and interpretation or execution of any order entered in this action, for the modification of any such order, for the enforcement or compliance therewith and for the punishment of any violations thereof; and

G. For such other and further relief as the Court may deem just and equitable.

PLAINTIFF ZYNGA HEREBY DEMANDS A TRIAL BY JURY.

Dated: May 4, 2012

By: 

Dennis L. Wilson
Keats McFarland & Wilson LLP
Attorneys for Plaintiff
ZYNGA INC.