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7 Korea Corporation
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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

13 NEXON AMERICA, INC., a Delaware
corporation, and NEXON KOREA
14 CORPORATION, a Korean corporation,

15 Plaintiffs,

16 v.

17 RYAN MICHAEL CORNWALL a/k/a
"Riu Kuzaki" and "Alexandria
18 Cornwall"; YANGYU ZHOU a/k/a
"Yang Yu," "W8baby," and
19 "Gamersoul"; DOUGLAS CRANE a/k/a
"DJ" and "Lonerboy"; WILLIAM
20 "BILLY" KEISTER a/k/a
"ThePhoneGuy"; AMARJOT GILL
21 a/k/a "Alphaamar"; DEREK OSGOOD
a/k/a "Jayce"; COLIN JOHNSON a/k/a
22 "Colin "; LINDA LIU a/k/a
"linnyda942"; JEREMY SIMPSON;
23 V.H. a/k/a "Vince"; DOE 1 a/k/a
"Bizarro" and "Andrew," DOE 2 a/k/a
24 "Cam1596," and DOES 3 through 10,
25 inclusive,

26 Defendants.
27

CASE NO. 12CV-00160 JGB (FFMx)

The Honorable Jesus G. Bernal

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
DEFAULT JUDGMENT AGAINST
DEFENDANTS AND JUDGMENT IN
FAVOR OF PLAINTIFFS**

Date: February 25, 2013
Time: 9:00 a.m.
Ctm: 790

1 The Motion For Default Judgment Against Defendants William Keister
2 (a/k/a Billy Keister and “ThePhoneGuy”), Amarjot Gill (a/k/a “Alphaamar”),
3 Derek Osgood (a/k/a “Jayce”), Colin Johnson (a/k/a “Colin_”), and Linda Liu
4 (a/k/a “linnyda942”) (collectively, “Defendants”) (the “Motion”) by Plaintiffs
5 NEXON Korea Corporation and its affiliate Nexon America Inc. (collectively,
6 “Nexon”), came on regularly for hearing before this Court on February 25, 2013.
7

8 After full consideration of Nexon’s moving papers, including the supporting
9 declarations and exhibits thereto, the arguments of counsel, any papers submitted
10 by the Defendants in opposition thereto, and all other matters presented to the
11 Court, the Court finds that:

- 12
- 13 1. The entry of default judgment is appropriate in this action for the following
14 reasons:
 - 15 A. The Clerk has entered default in this action against each of the
16 Defendants based on their failure to appear or otherwise respond to
17 Nexon’s Amended Complaint, within the time prescribed by the
18 Federal Rules of Civil Procedure;
 - 19 B. Defendants are not infants or incompetent persons;
 - 20 C. Defendants are not in military service or otherwise exempted under
21 The Servicemembers Civil Relief Act;
 - 22 D. Notice of this Motion was served on Defendants in accordance with
23 Local Rule 55-1(e) and Fed. R. Civ. P. 55(b)(2);
 - 24 E. Nexon has satisfied the procedural requirements of Federal Rule of
25 Civil Procedure 55(b)(2) and Local Rule 55-1;
 - 26 F. Nexon would suffer prejudice if default judgment is not entered
27 because it would be denied the right to judicial resolution of its
28 claims;

- 1 G. The Amended Complaint sets forth *prima facie* claims showing that
2 Defendants are liable for copyright infringement, inducement to
3 infringe copyrights, contributory and vicarious copyright
4 infringement, violations of the Digital Millennium Copyright Act
5 (“DMCA”), breach of contract, and interference with contractual
6 relations;
- 7 H. There is no possibility of dispute regarding the material facts of the
8 case because Defendants’ defaults establish Nexon’s allegations as
9 true; and
- 10 I. Defendants’ defaults did not result from excusable neglect because
11 they have had adequate and ample notice of the lawsuit and their
12 obligation to defend themselves.

13
14 2. Nexon is entitled to a permanent injunction in this action for the following
15 reasons:

- 16 A. Defendants’ conduct, including direct infringement of Nexon’s
17 copyright in the online computer game Maplestory, inducement to
18 infringe copyright, contributory and vicarious copyright infringement,
19 breach of contract, and intentional interference with contractual
20 relations, has caused irreparable injury to Nexon that cannot be fully
21 compensated in an award of damages and will continue to cause such
22 injury unless Defendants are permanently enjoined from engaging in
23 such conduct in the future;
- 24 B. Defendants likely will continue to engage in the aforesaid unlawful
25 conduct unless enjoined by the Court from doing so;
- 26 C. The balance of hardships favors granting a permanent injunction;
- 27 D. The public interest favors granting a permanent injunction; and
- 28 E. Nexon’s requested injunctive relief is reasonable and appropriate.

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3. Nexon is entitled to awards of statutory damages under the Copyright Act and DMCA in the collective sum of \$550,000 in this action for the following reasons:

- A. By virtue of the Clerk’s entry of default against Defendants, Nexon’s allegations of copyright infringement and violations of the anti-trafficking and anti-circumvention provisions of the DMCA are deemed admitted;
- B. Defendants’ infringements of Nexon’s copyrights have been knowing and willful;
- C. An award of \$150,000 under the Copyright Act is reasonable and appropriate in light of Defendants’ willful conduct, the egregiousness of Defendants’ infringements, Defendants’ failure to defend this action despite having adequate and ample notice, and the need to deter these defendants as well as others from violating Nexon’s rights in the future;
- D. In light of the Clerk’s entry of default against Defendants, as well as the evidence presented, Defendants are deemed to have admitted to providing users of their services with at least 2,000 unique downloads of their infringing software that, among other things, circumvents Nexon’s access control measures; and
- E. An award of \$400,000 representing minimum statutory damages under the DMCA is just in light of the aforesaid number of distributions of Defendants’ software.

4. Nexon is entitled to reasonable attorneys’ fees and costs in this action for the following reasons:

- A. Nexon is the prevailing party under 17 U.S.C. § 505; and

1 B. Nexon’s request for \$14,600 in attorneys’ fees is consistent with
2 Local Rule 55-3.

3
4 IT IS HEREBY ORDERED THAT the Motion is GRANTED and judgment
5 shall be entered as follows:

6 1. Defendants and all persons acting under their direction or control (including
7 but not limited to their agents, representatives and employees), hereby are
8 enjoined, and shall immediately and permanently cease and desist from:

9 A. obtaining, possessing or accessing any unauthorized software the use
10 of which infringes any of Nexon’s Intellectual Property Rights,
11 circumvents technological measures that control access to Nexon’s
12 computer games, or violates the Terms of Use thereof (“TOU”),
13 including but not limited to the Bizarro Trainer, RiPE, RiME, or any
14 other MapleStory “bot” or trainer software, packet editor, hack, or
15 cheating software;

16 B. taking any steps on their own behalf or assisting others in creating,
17 distributing or otherwise making available any software the use of
18 which infringes any of Nexon’s Intellectual Property Rights,
19 circumvents technological measures that control access to Nexon’s
20 computer games, or violates the TOU, including but not limited to the
21 Bizarro Trainer, RiPE, RiME, or any other MapleStory “bot” or
22 trainer software, packet editor, hack, or cheating software;

23 C. selling, reselling, or processing payments for any software, the use of
24 which infringes any of Nexon’s Intellectual Property Rights,
25 circumvents technological measures that control access to Nexon’s
26 computer games, or violates the TOU, including but not limited to the
27 Bizarro Trainer, RiPE, RiME, or any other MapleStory “bot” or
28 trainer software, packet editor, hack, or cheating software;

- 1 D. assisting in any way the development of any software the use of which
2 infringes any of Nexon's Intellectual Property Rights, circumvents
3 technological measures that control access to Nexon's computer
4 games, or violates the TOU, including but not limited to the Bizarro
5 Trainer, RiPE, RiME, or any other MapleStory "bot" or trainer
6 software, packet editor, hack, or cheating software;
- 7 E. sharing, copying, or distributing any software the use of which
8 infringes any of Nexon's Intellectual Property Rights, circumvents
9 technological measures that control access to Nexon's computer
10 games, or violates the TOU, including but not limited to the Bizarro
11 Trainer, RiPE, RiME, or any other MapleStory "bot" or trainer
12 software, packet editor, hack, or cheating software;
- 13 F. operating, assisting, or linking to any website (including
14 www.w8baby.com or www.gamersoul.com) designed to provide
15 information to assist others in developing or obtaining any software
16 the use of which infringes any of Nexon's Intellectual Property
17 Rights, circumvents technological measures that control access to
18 Nexon's computer games, or violates the TOU, including but not
19 limited to the Bizarro Trainer, RiPE, RiME, or any other MapleStory
20 "bot" or trainer software, packet editor, hack, or cheating software;
21 and/or
- 22 G. investing or holding any financial interest in any enterprise which they
23 or any of them know is now, or planning in the future, to engage in
24 any of the activities prohibited by this Paragraph;
- 25 2. Nexon is awarded a monetary judgment in the sum of \$575,518.88,
26 constituting:

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- A. Statutory damages provided by the Copyright Act, 17 U.S.C. § 504, for the willful infringements of Nexon’s copyright in MapleStory, totaling \$150,000;
- B. Statutory damages in the minimum allowable amount (\$200 per violation) under § 1203(c)(3)(A) of the Digital Millennium Copyright Act (“DMCA”), for each of Defendants’ 2,000 violations, totaling \$400,000;
- C. Attorneys’ fees totaling \$14,600, and
- D. Costs of suit totaling \$10,918.88.

IT IS SO ORDERED.

Dated: _____, 2013

The Honorable Jesus G. Bernal
United States District Judge

Submitted by:

DATED: January 18, 2013

MITCHELL SILBERBERG & KNUPP LLP
KARIN G. PAGNANELLI
MARC E. MAYER

By: /s/ Marc E. Mayer

Marc E. Mayer
Attorney for Plaintiffs Nexon America,
Inc. and Nexon Korea Corporation

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF Los Angeles

I am employed in the County of Los Angeles, State of California, I am over the age of eighteen years and am not a party to this action; my business address is Mitchell Silberberg & Knupp LLP, 11377 West Olympic Boulevard, Los Angeles, CA 90064-1683.

On January 18, 2013, I served a copy of the foregoing document described as **[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANTS AND JUDGMENT IN FAVOR OF PLAINTIFFS** on the interested parties in this action at their last known address as set forth below by taking the action described below:

Colin Johnson
59750 Dogwood Road
Mishawaka, IN 46544

Defendant

Robin Unander, Esq.
Law Office of Robin L. Unander
924 Anacapa Street, Suite 21
Santa Barbara, CA 93101

Attorney for Linda Liu

William Keister
1014 Hanson Road
Joppa, MD 21085

Defendant

Derek Osgood
9 3rd Avenue
Lakeville, MA 02347

Defendant

BY MAIL: I placed the above-mentioned document(s) in sealed envelope(s) addressed as set forth above, and deposited each envelope in the mail at Los Angeles, California. Each envelope was mailed with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the United States that the above is true and correct.

Executed on January 18, 2013, at Los Angeles, California.



Sunni Donmoyer

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I am employed in the County of Los Angeles, State of California, I am over the age of eighteen years and am not a party to this action; my business address is Mitchell Silberberg & Knupp LLP, 11377 West Olympic Boulevard, Los Angeles, CA 90064-1683, and my business email address is sgd@msk.com.

On January 18, 2013, I served a copy of the foregoing document described as **[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANTS AND JUDGMENT IN FAVOR OF PLAINTIFFS** on the interested parties in this action at their last known address as set forth below by taking the action described below:

Douglas Crane EMAIL: dcranelonerboy@yahoo.com <i>Defendant</i>	Armajot Gill EMAIL: alphaamar@gmail.com <i>Defendant</i>
--	---

Ryan Michael Cornwall
EMAIL: riukuzaki@gmail.com
Defendant

BY ELECTRONIC MAIL: I served the above-mentioned document electronically on the parties listed at the email addresses above and, to the best of my knowledge, the transmission was complete and without error in that I did not receive an electronic notification to the contrary

I declare under penalty of perjury under the laws of the United States that the above is true and correct.

Executed on January 18, 2013, at Los Angeles, California.



Sunni Donmoyer