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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NINTENDO OF AMERICA INC., a
Washington Corporation,

Plaintiff,

v.

JAMES C. WILLIAMS a/k/a ARCHBOX, an
individual,

Defendant.

CASE NO. 2:24-CV-00960-LK

**PLAINTIFF’S SUPPLEMENTAL BRIEF
IN SUPPORT OF REQUEST FOR
CLERK’S ENTRY OF DEFAULT**

Nintendo of America Inc. (“Plaintiff” or “Nintendo”) hereby submits this Supplemental Brief in response to this Court’s October 24, 2024 Order Requesting Supplemental Briefing. Dkt. 14 (the “Order”). The Order follows Plaintiff’s Proof of Service of summons on Defendant James C. Williams a/k/a Archbox (“Defendant”) (Dkt. 9), Defendant’s failure to appear in this action, and Plaintiff’s Request for Clerk’s Entry of Default (Dkt. 12, the “Request”). In support of Plaintiff’s Request, Plaintiff submitted a declaration, pursuant to Federal Rule of Civil Procedure 55(a) and Local Civil Rule 55(a), demonstrating that Defendant was served in a manner authorized by Federal Rule of Civil Procedure 4. Dkt. 13. However, the Court requested supplemental briefing to confirm that the service address – *i.e.*, 17557 West Villa Chula Lane – is Williams’ “dwelling or usual place of abode.” Order at 4.

1 As noted by the Court’s Order, “[a]lthough a person can have more than one dwelling
 2 house or usual place of abode for purposes of Rule 4, a dwelling or usual place of abode must be a
 3 place where that person lives or resides.” *Bank of N.Y. Mellon as Tr. for Reg. Holders of CWABS,*
 4 *Inc., Asset-Backed Certs., Series 2005-13 v. Loyo-Morales*, No. 21-16041, 2022 WL 1616980, at
 5 *2 (9th Cir. May 23, 2022). As detailed below, Plaintiff conducted a thorough investigation in
 6 advance of its Complaint both to identify Defendant and to determine that Defendant did live or
 7 reside at 17557 W Villa Chula Lane, Surprise, Arizona 85387 (the “Surprise Address”).
 8 Moreover, following the Court’s Order, Plaintiff conducted additional research, both of public and
 9 internal information, to confirm that the Surprise Address was indeed Defendant’s residence at the
 10 time of service.

11 **Plaintiff’s Pre-Complaint Investigation**

12 Prior to 2024, Plaintiff determined that the individual acting under the pseudonym
 13 “archbox” in connection with the Infringing Shops likely lived in or around Phoenix, Arizona. *See*
 14 Declaration of James Berkley (“Berkley Decl.”) at ¶¶ 1-3 & Ex. 1. In or about February of 2024,
 15 Plaintiff succeeded at linking “archbox” with at least two Nintendo accounts for an individual
 16 named James Williams. Public records and Nintendo account information confirmed this
 17 individual as James Williams, residing at the Surprise Address. *See* Declaration of Ivan Avila
 18 Campillo (“IAC Decl.”) at ¶¶ 1-3; *see also* Berkley Decl., ¶ 4.

19 **The March 26, 2024 Cease-and-Desist Letter and Follow-Up**

20 On or about March 26, 2024, Plaintiff simultaneously sent Williams a cease and desist
 21 letter via email and by FedEx Priority Overnight shipping to the Surprise Address, with signature
 22 for delivery requested (the “March 26, 2024 C&D Letter”). Berkley Decl., ¶¶ 5-6 & Ex. 2. A
 23 FedEx proof of delivery, dated March 27, was signed for by “J. Williams.” *Id.* On March 31,
 24 2024, Defendant emailed Plaintiff’s counsel, stating he was in receipt of the March 26, 2024 C&D
 25 Letter, claiming (with caveats) that he would “comply and cooperate with any demands or
 26 requests . . . within [his] control” but denying any infringement of Nintendo’s intellectual
 27 property. Berkley Decl. ¶ 7 & Ex. 3.

1 Nintendo counsel thereafter engaged in an extended email exchange with Defendant
 2 regarding the infringing activities alleged in the Complaint. Berkley Decl., ¶ 8. This exchange
 3 took place between April 4, 2024 and May 10, 2024. However, Williams ultimately would not
 4 agree to cooperate or comply with Nintendo’s demands. *Id.*

5 **Confirmation Following the October 24, 2024 Order**

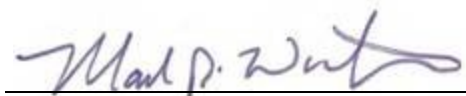
6 Following the Court’s Order, Plaintiff conducted additional research to again confirm that
 7 Defendant does in fact currently reside at the Surprise Address, or at minimum did reside there at
 8 the time of service. Specifically, Plaintiff’s counsel conducted a public record search on
 9 fastpeoplesearch.com, the results of which indicated that James C. Williams, aged 33, resided at
 10 the Surprise Address. Berkley Decl., ¶ 10 & Ex. 4. Counsel also obtained a report via Westlaw,
 11 the results of which indicated that through September of 2024, the last known address of James C.
 12 Williams, born in 1991, was the Surprise Address. *Id.*, ¶ 11 & Ex. 5. Plaintiff further confirmed
 13 the existence multiple repair orders, or partial orders, in Defendant Williams’ name which listed
 14 his address as the Surprise Address, including a shipment to him at the Surprise Address as
 15 recently as March 25, 2024, two days prior to his receipt of the March 26, 2024 C&D Letter. IAC
 16 Decl., ¶ 4 & Ex. 1; *see also* Berkley Decl., ¶ 9. One of the accounts at issue used the same e-mail
 17 address to which the March 26, 2024 C&D Letter was sent (in addition to being signed for at the
 18 Surprise Address). *Id.*

19 Plaintiff respectfully submits that it has conducted ample investigation supporting the fact
 20 that Defendant resides, or at the time of service did reside, at the Surprise Address. The foregoing
 21 sufficiently demonstrates that the Surprise Address is Defendants “dwelling or usual place of
 22 abode” for the purposes of Rule 4. *Compare Green Trading Co., LLC v. Shy*, No. 1:20-CV-
 23 01787-CL, 2021 WL 3135944 at *4 (D. Or. June 16, 2021), *report and recommendation adopted*,
 24 No. 1:20-CV-01787-CL, 2021 WL 3131309 (D. Or. July 14, 2021) (finding plaintiff satisfied Rule
 25 4(e)(2)(B) when counsel “stated on the record that she discovered the defendant’s address using a
 26 Lexis Nex[i]s public records search, and she verified it by finding local news reports mentioning
 27 the defendant’s business dealings in the Los Ang[e]les, California area”).

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The Court should find Nintendo has sufficiently demonstrated that Defendant resides at the Surprise Address and direct the Clerk to enter default.

Dated: November 7, 2024



Mark P. Walters (Bar No. 30819)
LOWE GRAHAM JONES
1325 Fourth Avenue, Suite 1130
Seattle, WA 98101
Telephone: (206) 381-3300
Fax: (206) 381-3301
Email: walters@lowegramjones.com

Marc E. Mayer (*pro hac vice*)
Mark C. Humphrey (*pro hac vice*)
MITCHELL SILBERBERG & KNUPP LLP
2049 Century Park East, 18th Floor
Los Angeles, CA 90067
Telephone: (310) 312-3154
Email: marc.mayer@msk.com
mxh@msk.com

Attorneys for Plaintiff Nintendo of America Inc.