

Exhibit D

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RICHARD MINSKY, an individual, d/b/a
SLART ENTERPRISES,

Plaintiff,

v.

LINDEN RESEARCH, INC., d/b/a LINDEN LAB, a Delaware
corporation, JOHN DOE (a/k/a VICTOR VEZINA), an individual,
PHILIP ROSEDALE, an individual, MITCHELL KAPOR, an
individual, other DOES, presently unknown to Plaintiff,

Defendants.

08 - CV - 0819

LEK-DRH

[PROPOSED] TEMPORARY RESTRAINING ORDER BY CONSENT

On August 14, 2008, Plaintiff, Richard Minsky ("Plaintiff") filed an Amended Complaint alleging, *inter alia*, a claim of trademark infringement under the Lanham Act;

On September 4, 2008, on *ex parte* application of Plaintiff, this Court entered its Memorandum Decision and Order (the "Order"), which expires as a matter of law on September 14, 2008;

On September 8, 2008, Defendants Linden Research, Inc., Philip Rosedale and Mitchell Kapor moved to dissolve the Order, reserving their right to raise certain procedural issues including, *inter alia*, personal jurisdiction and/or venue before this Court and the sufficiency of Plaintiff's Complaint to state a claim;

On September 10, 2008, the Court heard argument on the motion to dissolve and directed the parties to attempt to agree upon a temporary restraining order to preserve evidence and maintain the status quo pending adjudication of the Plaintiff's motion for a preliminary injunction;

The parties, having met and conferred, hereby stipulate to the entry of the following Temporary Restraining Order by Consent:

1. In the event that Plaintiff identifies the use of a term in the Second Life virtual world which he believes in good faith is an infringement of SLART, the subject of U.S. Federal Trademark Registration No. 3399258 ("Plaintiff's Registration"), and which is being used on or in connection with the services identified in Plaintiff's Registration, Plaintiff may give notice of such alleged infringement to Linden Research, Inc. ("Linden") by sending an email to removals@lindenlab.com. Plaintiff's emailed notice shall include a detailed description of the alleged infringement, the user identity associated with the alleged infringement, the specific search which Plaintiff used to identify the use, and the precise location of the alleged infringing use in the Second Life virtual world, and shall be accompanied by a screen shot reflecting the alleged infringing use, which, to the extent possible, shall reflect the date and time of the alleged infringing use.

2. Except as set forth in paragraph 3 below, within two business days of receipt of a notice described in paragraph 1 above, Linden shall forward Plaintiff's emailed notice to the Second Life user identified in the notice as the source of the alleged infringing use, shall advise the user that this Action is pending, and that, pursuant to this Order, the use must be removed pending the resolution of the Action. If, within three business days of providing such notice to the user, the alleged infringing use has not been removed from the Second Life virtual world, Linden shall remove the use.

3. In the event that the alleged infringing use is anything other than the use of "SLART" as one word with all letters depicted in a uniform size, font and color, Linden may decline to forward Plaintiff's notice to the user and shall within three business days of receipt of

the notice advise Plaintiff that it has declined to do so. In the event Plaintiff desires to continue to pursue removal of the alleged infringement, Plaintiff and Linden agree that the parties shall submit the issue of whether the alleged infringing use should be removed to U.S. Magistrate Judge David R. Homer for resolution. The parties further agree that they will submit the issue to Magistrate Judge Homer via letter briefs, each not to exceed five pages; Plaintiff shall submit his letter brief no later than five business days after receipt of Linden's notification to Plaintiff that it has declined to forward his notice, and Linden shall submit its letter brief in response no later than five business days after receipt of Plaintiff's letter brief. All briefs shall be served on Plaintiff and counsel of record for Defendants by email.

4. Pending the conclusion of this Action, Plaintiff and Defendants shall each preserve: (a) all materials reflecting communications between Plaintiff and Defendants related to any notice of alleged infringement submitted by Plaintiff, and (b) all materials reflecting any use with respect to which Plaintiff has claimed infringement.

5. In the event that Plaintiff seeks from Defendants the disclosure of any personal identifying information of a Second Life user whom Plaintiff alleges is making an infringing use, Plaintiff shall file a motion with Magistrate Judge Homer setting forth a *prima facie* case of infringement and detailing the reasons the requested disclosure is necessary. Defendants shall have the opportunity to respond to Plaintiff's motion in accordance with the Court's local rules on motion practice. In the event that such motion is granted, an appropriate protective order will concurrently be entered to protect, to the extent possible, against the disclosure or dissemination of the personal identifying information of the alleged infringer to third parties outside the context of this Action, on terms to be determined at the time the protective order is entered.

This Order shall expire upon the earlier of (a) dismissal of this Action for any reason, or (b) this Court's hearing on Plaintiff's motion for a preliminary injunction, which may occur no earlier than October 15, 2008.

IT IS SO ORDERED.

DATED: September __, 2008
Albany, New York

BY THE COURT:

Hon. Lawrence E. Kahn
U.S. District Judge