

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARC BRAGG, Esq., an individual,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	Case No. 06-4925
	:	
LINDEN RESEARCH, INC., a	:	
corporation,	:	
and PHILIP ROSEDALE, an individual,	:	
	:	
Defendants.	:	

LINDEN RESEARCH, INC., a	:
corporation,	:
	:
Counterclaim Plaintiff,	:
	:
v.	:
	:
MARC BRAGG, an individual,	:
	:
Counterclaim	:
Defendant.	:

**PLAINTIFF’S RESPONSES AND OBJECTIONS TO DEFENDANT AND
COUNTERCLAIM PLAINTIFF LINDEN RESEARCH INC.’S
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF
AND COUNTERCLAIM DEFENDANT MARC BRAGG**

AND NOW, comes, Plaintiff, Marc Bragg, Esq. by and through counsel, Jason A. Archinaco, Esq., Colin G. Schafer, Esq., and the law firm of White and Williams, and serves Plaintiff’s Responses and Objections to Defendant and Counterclaim Plaintiff Linden Research, Inc.’s First Set of Requests for Production of Documents to Plaintiff and Counterclaim Defendant Marc Bragg as follows.

**PLAINTIFF'S RESPONSES AND OBJECTIONS TO
REQUESTS FOR PRODUCTION OF DOCUMENTS**

REQUEST FOR PRODUCTION NO. 1:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute any alleged misrepresentations of Defendants on which YOU personally and actually relied, and which caused YOU damage, as alleged in the COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

See also documents in Defendant's possession, custody or control, including but not limited to Defendant Linden's website, blog, forums and chat logs.

REQUEST FOR PRODUCTION NO. 2:

All DOCUMENTS supporting your calculation of losses or damages you contend YOU sustained as a result of any misrepresentations or omissions of Defendants as alleged in the COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 3:

For each of the items of "virtual property" YOU acquired over the course of YOUR participation in Second Life as alleged in the COMPLAINT, DOCUMENTS sufficient to

identify the purchase price YOU paid for each such item and the amount YOU realized upon the sale of each such item.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 4:

All DOCUMENTS supporting your calculation of the amounts YOU invested in connection with YOUR activities in Second Life, all revenues YOU received as a result of those activities, and any profit or loss from those activities.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 5:

Any accounting records, ledgers, spreadsheets, or other DOCUMENTS that refer to, reflect, mention, or discuss YOUR economic transactions in connection with Second Life.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 6:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute any notice YOU sent or caused to be sent to Defendants in compliance with California Code section 1782(a).

RESPONSE:

See attached documents. Further, see documents already in the possession, custody and/or control of Defendant Linden. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 7:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute any return receipt for any notice YOU sent or caused to be sent to Defendants in compliance with California Code section 1782(a).

RESPONSE:

See attached documents. Further, see documents already in the possession, custody and/or control of Defendant Linden. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 8:

For each item of YOUR "virtual property" YOU allege in Count 6 of the COMPLAINT was wrongfully converted by Defendants, DOCUMENTS supporting your calculation of its value at the time of the alleged conversion, and DOCUMENTS referring to or reflecting the basis for YOUR valuation.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary.

Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 9:

For each item of YOUR “virtual property” YOU allege in Count 6 of the COMPLAINT was wrongfully converted by Defendants, DOCUMENTS supporting YOUR calculation of its value at the time of the alleged conversion, and the basis for YOUR valuation.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff’s Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 10:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute each of YOUR “contracts with third parties for the sale of virtual property and/or the virtual items” with which YOU contend Defendants interfered, as alleged in Count 7 of the COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff’s Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative and improperly assumes that such documents would exist. The Request is overly broad and vague. Further, the

discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 11:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute each of the “prospective contractual relations [that] existed between Plaintiff and third parties for the sale of his virtual property and/or items,” as alleged in Count 7 of the COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff’s Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative and improperly assumes that such documents would exist. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 12:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute each contract YOU contend Defendants breached, as alleged in your COMPLAINT.

RESPONSE:

See attached documents. See pleadings filed in this case, including Complaint. See also document produced in response to Plaintiff’s Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). See documents attached to the Complaint. Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 13:

All DOCUMENTS supporting your calculation of the amount of damages YOU contend YOU incurred as a result of each of the breaches of contract alleged in your COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 14:

For each alleged contract in connection with which YOU contend Defendants violated the covenant of good faith, all DOCUMENTS that refer to, reflect, mention, or discuss the acts of Defendants that YOU contend constituted an unjust interference with YOUR right to receive the benefit of the alleged contract.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 15:

All DOCUMENTS supporting YOUR calculation of damages YOU contend YOU incurred as a result of each of the alleged breaches of the covenant of good faith and fair dealing as alleged in the COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

To the extent that this Request seeks any expert reports, such a request is untimely and Plaintiff has not determined who, if anyone, will testify as an expert on his behalf at the time of trial or whether such an expert would be necessary. Accordingly, Plaintiff will supplement this response in accordance with and as required by the Federal Rules of Civil Procedure

REQUEST FOR PRODUCTION NO. 16:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute the "messages posted by Defendants' agents in Defendant's forums on Defendants' web site, and by Defendants' agents in forums hosted by Linden Labs [sic] that there was more than one way to purchase land from Defendants via Defendants' auctions," as alleged in Paragraph 109 of the COMPLAINT.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 17:

The DOCUMENT that was enclosed with your letter to the Federal Trade Commission dated May 4, 2006 (BRAGG 0023), which You describe in that letter as a "document from the company's website [that] shows a company rep describing to a player how to bid on the auctions that were won and then cancelled."

RESPONSE:

Plaintiff is not in possession, custody or control of the document as it was sent to the Federal Trade Commission. However, please see attached documents.

REQUEST FOR PRODUCTION NO. 18:

The DOCUMENT that was enclosed with YOUR letter to the California Department of Corporations dated May 4, 2006 (BRAGG 0024), which YOU describe in that letter as a "document from the company's website [that] shows a company rep describing to a player how to bid on the auctions that were won and then cancelled."

RESPONSE:

Plaintiff is not in possession, custody or control of the document as it was sent to the California Department of Corporations. However, please see attached documents.

REQUEST FOR PRODUCTION NO. 19:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute communications between YOU and the Federal Trade Commission following YOUR letter thereto dated May 4, 2006 (BRAGG 0023).

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 20:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute communications between YOU and the California Department of Corporations following YOUR letter thereto dated May 4, 2006 (BRAGG 0024).

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

REQUEST FOR PRODUCTION NO. 21:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute COMMUNICATIONS between YOU and InterNAP regarding Linden or the Second Life service.

RESPONSE:

Plaintiff is unaware of any such documents.

REQUEST FOR PRODUCTION NO. 22:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute COMMUNICATIONS between YOU and any third party regarding any complaints YOU made about Defendants or the Second Life service.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Plaintiff objects that the request calls for documents protected under the attorney work product doctrine. Plaintiff also objects in that the request calls for documents that are subject to the attorney/client privilege. Plaintiff is not the holder of said privilege and therefore cannot waive such privilege. Plaintiff will provide a log of privileged documents.

REQUEST FOR PRODUCTION NO. 23:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute COMMUNICATIONS with anyone regarding Linden or YOUR use of the Second Life service.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, this Request is improper as it calls for attorney-client privileged documents including communications with counsel for Plaintiff. As such, not only is such a request improper, but Plaintiff is not required to produce a privilege log with regard to communications with his counsel.

REQUEST FOR PRODUCTION NO. 24:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute COMMUNICATIONS with any user of the Second Life service regarding any purchase or sale or offer to purchase or sell "virtual land" within Second Life.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

REQUEST FOR PRODUCTION NO. 25:

All DOCUMENTS that refer to, reflect, mention, discuss, or constitute any forum posts placed by YOU or on YOUR behalf with regard to Second Life or Defendants.

RESPONSE:

See attached documents. See also document produced in response to Plaintiff's Initial and Supplemental Disclosures pursuant to Federal Rules of Civil Procedure 26 (a)(1). Plaintiff will supplement this discovery response in accordance with and as required by the Federal Rules of Civil Procedure.

By way of further response, Plaintiff objects to this Request in that the discovery sought is unreasonably cumulative and duplicative. The Request is overly broad and vague. Further, the discovery sought is in the control and possession of Defendant Linden and therefore is more readily obtainable by Defendants than Plaintiff.

Additionally, the terms "on your behalf" are vague and ambiguous. Hundreds, if not thousands, of posts, blogs and articles have been made all over the internet supporting Plaintiff and that have been made "on his behalf". Defendants are equally, if not better situated, to obtain such information and, as such, Plaintiff objects to printing and/or collecting thousands of webpages, blogs and forum pages that are publicly available.

Dated: August 23, 2007

WHITE AND WILLIAMS, LLP

By 

Jason A. Archinaco, Esq.

PA ID 76691

Christopher Ballod, Esq.

PA ID 89462

Colin G. Schafer, Esq.

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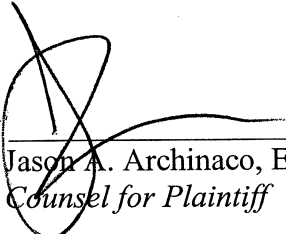
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I, Jason A. Archinaco, Esq., hereby certify that a true and correct copy of **Plaintiff's Responses and Objections to Defendant and Counterclaim Plaintiff Linden Research, Inc.'s First Set of Requests for Production of Documents to Plaintiff and Counterclaim Defendant Marc Bragg** have been served this 13th day of August, 2007, via Federal Express overnight to and upon the following:

Laurence Shiekman, Esq.
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Philadelphia, PA 19103-2799

John W. Crittenden, Esq.
COOLEY GODWARD KRONISH, LLP
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By 
Jason A. Archinaco, Esq.
Counsel for Plaintiff