

**EXHIBIT D**

Date: 07:51 pm 9/25/2008  
Subject: Preliminary Procedural Matters  
From: "Cullum, Janet" <jcullum@cooley.com>  
To: minsky@minsky.com

Dear Mr. Minsky:

Thank you for your timely response to my email concerning the extension of the time for Linden Research, Inc. ("Linden") to respond to the complaint and the possibility of stipulating to have the TRO become the preliminary injunction in the case. We have submitted the signed stipulation on the extension to the Court for approval.

With respect to the conversion of the TRO to a preliminary injunction, I have followed up with Linden on your concern with evidence preservation. Initially, please be assured that Linden did not remove the alleged infringing use which was the subject of your notice to Linden last Friday, September 19, or take any other action to cause that alleged use to be removed. Upon receipt of your notice, which provided a screen shot of a location which you had apparently captured the day before, and within less than one hour of receipt of that notice, Linden searched for the use you identified, both at the location you identified in your notice and in Second Life search under the "All" tab. The use you identified was not present at the location you identified and did not appear in the Second Life search results. The following day, Linden again checked to see if it could locate the alleged infringing use at the location you identified and again was unable to locate it. At that point and again on Monday, Linden captured screen shots of the location identified in your notice which reflect that the object "SLart Show Viewer" was not present at that location. I can provide you with a copy of those screen captures, if you would like.

In your email you suggest that evidence is not being preserved unless Linden can provide to you a record of the appearance of the particular location in Second Life at the time you captured the screen shot you included with your notice. As you are aware, Second Life is a constantly changing environment with modifications made on an ongoing basis by millions of individual users as they conduct their activities and consequently modify the appearance of the world in real time. The Second Life world thus consists of a massive amount of data which is constantly changing. For purposes of your claims, Linden will abide by the terms of the TRO including, upon receipt of a notice of alleged infringement from you, will capture and preserve screen shots showing the results of its investigation of any alleged infringing use you identify at the location you identify in the Second Life world and using Second Life search under the "All" tab and any other search tab you identify in your notice.

Similarly, I anticipate that you will abide by the terms of the TRO and preserve all evidence related to alleged infringements which you identify, including for example screen captures and communications concerning those alleged infringements.

It seems to me these steps will adequately preserve the evidence of any infringement you identify. Please let me know if you have continuing concerns. In the meantime, I suggest we agree to postpone for one week the deadline set for next Monday to serve discovery on the preliminary injunction motion. That will give us time to further discuss and, if agreed, implement the conversion of the TRO to a preliminary injunction.

Sincerely,  
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