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14 Right of Publicity Plaintiffs' Class Counsel Attorneys for Defendant Electronic Arts Inc.

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

16 EDWARD C. O'BANNON, JR., on behalf of
17 himself and all others similarly situated,

18 Plaintiffs,

19 v.

20 NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION (NCAA); ELECTRONIC
ARTS, INC.; and COLLEGIATE
LICENSING COMPANY,

21 Defendants.

22 SAMUEL MICHAEL KELLER, on behalf of
23 himself and all others similarly situated,

24 Plaintiffs,

25 v.

26 NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION (NCAA); ELECTRONIC
ARTS, INC.; and COLLEGIATE
LICENSING COMPANY,

27 Defendants.
28

Case Nos. 09-cv-3329-CW, 09-cv-1967 CW

**STIPULATION AND ORDER
CONCERNING EXTENSION OF
DEADLINES IN ORDERS GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENTS**

Judge: Hon. Claudia Wilken
Crtrm: 2, 4th Floor

1 WHEREAS, on September 3, 2014, the Court granted preliminary approval to two
2 settlements—one between the Antitrust Plaintiffs and the Right of Publicity Plaintiffs and
3 Electronic Arts Inc. (Case No. 09-1967-CW, Dkt. No. 1177); and one between the Right of
4 Publicity Plaintiffs and the National Collegiate Athletic Association (Case No. 09-1967-CW, Dkt.
5 No. 1178);

6 WHEREAS, the Court also approved both Class Notice plans, providing further that

7 As part of that Class Notice plan, the NCAA will request that its member
8 institutions and affiliated alumni associations provide to the Notice and Claims
9 Administrator reasonably ascertainable information regarding the names and last-
10 known addresses of NCAA football and basketball players who were listed on a
11 roster published or issued by a school whose team was included in an NCAA-
12 Branded Videogame originally published or distributed during the *Keller* Right of
13 Publicity Settlement Class Period. To the extent that a member institution or
14 affiliated alumni association declines to provide such information, Class Counsel
15 shall endeavor in good faith to obtain such information, including when necessary
16 by subpoena to such member institution or affiliated alumni association (to the
17 extent Class Counsel have not already done so), and shall forward any information
18 received to the Notice and Claims Administrator.

19 Case No. 09-1967-CW, Dkt. No. 1178, at 4.

20 As part of that Class Notice plan, in coordination with the NCAA Videogame
21 Settlement, the NCAA will request that its member institutions and affiliated
22 alumni associations provide to the Notice and Claims Administrator reasonably
23 ascertainable information regarding the names and last-known addresses of NCAA
24 football and basketball players who were listed on a roster published or issued by a
25 school whose team was included in an NCAA-Branded Videogame originally
26 published or distributed during the Settlement Class Period. To the extent that a
27 member institution or affiliated alumni association declines to provide such
28 information, Class Counsel shall endeavor in good faith to obtain such information,
including by subpoenaing if necessary such member institution and affiliated
alumni association for that information (to the extent it has not already done so),
and shall forward any information received to the Notice and Claims
Administrator.

Case No. 09-1967-CW, Dkt. No. 1177, at 5-6;

WHEREAS, in the intervening months the NCAA has requested on multiple occasions that
its member institutions and affiliated alumni associations provide to the Notice and Claims
Administrator reasonably ascertainable information regarding the names and last-known addresses
of NCAA football and basketball players who were listed on a roster published or issued by a

1 school whose team was included in an NCAA-Branded Videogame originally published or
2 distributed during the respective class periods;

3 WHEREAS, responsive to the NCAA's requests, 156 member institutions have now
4 provided to the Notice and Claims Administrator reasonably ascertainable information regarding
5 the names and last-known addresses of NCAA football and basketball players who were listed on
6 a roster published or issued by a school whose team was included in an NCAA-Branded
7 Videogame originally published or distributed during the respective class periods;

8 WHEREAS, the Notice and Claims Administrator, Gilardi & Co. LLC, has sampled the
9 information uploaded by NCAA member institutions and analyzed the quality of the addresses.
10 Gilardi's analysis found that approximately 97 % of the addresses were valid addresses, and are
11 therefore likely to be effective in disseminating information to Settlement Class Members;

12 WHEREAS, the NCAA has been in active communication with its member institutions,
13 some of whom have informed the NCAA that they will need additional time to respond to the
14 request;

15 WHEREAS, some of the NCAA's member institutions have informed the NCAA that they
16 believe that their student-athlete contact information is protected under the Family Educational
17 Rights and Privacy Act ("FERPA") and that they will provide the requested information once they
18 have received a subpoena for the information and the other procedural requirements of FERPA
19 have been satisfied;

20 WHEREAS, no member institution to date has refused outright to disclose the requested
21 information;

22 WHEREAS, the Antitrust Plaintiffs and Right of Publicity Plaintiffs are in the process of
23 subpoenaing member institutions that have yet to provide information;

24 WHEREAS, the parties are concerned that some member institutions' responses to the
25 subpoenas (which will yield additional information regarding the names and last-known addresses
26 of NCAA football and basketball players who were listed on a roster published or issued by a
27 school whose team was included in an NCAA-Branded Videogame originally published or
28

1 distributed during the respective class periods) will not be received until after January 2, 2015, the
 2 current date for mailed notice to issue under both orders (Case No. 09-1967-CW, Dkt. No. 1178,
 3 at 4; Case No. 09-1967-CW, Dkt. No. 1177, at 6);

4 WHEREAS, all parties agree that an extension of sixty days will benefit class members by
 5 allowing the parties to obtain additional contact information for class members, and that the
 6 extension will likely result in a higher claim rate.

7 **IT IS HEREBY STIPULATED AND AGREED THAT:**

8 The following deadlines in both preliminary-approval orders (Case No. 09-1967-CW, Dkt.
 9 Nos. 1177, 1178) are extended as set forth below:

Event	Current Deadline (Dkt. Nos. 1177, 1178)	New Deadline
Mailed Notice Date	January 2, 2015	March 3, 2015
Plaintiffs' Fee Petitions	February 10, 2015	April 13, 2015
Opt-Out/Objection Deadline	March 3, 2015	May 4, 2015
Replies to Objections	April 30, 2015	July 2, 2015
Claims Deadline	April 30, 2015	July 2, 2015
Fairness Hearing	May 14, 2015 at 2 p.m.	July 16, 2015 at 2 p.m.

18 The authority for and concurrence in the filing of this stipulated request has been obtained
 19 from each of the signatories, pursuant to Civil Local Rule 5-1(i)(3).

20 Dated: December 26, 2014

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26 Attorneys for Right of Publicity Plaintiffs

1 Dated: December 26, 2014

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14 Counsel for the Antitrust Plaintiffs

15 Dated: December 26, 2014

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26 Dated: July 1, 2014

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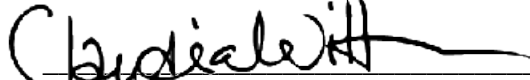
Attorneys for Defendant National Collegiate
Athletic Association

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ORDER

Pursuant to the stipulation of counsel, IT IS SO ORDERED.

Dated: December 29, 2014



The Honorable Claudia Wilken
Chief United States District Judge

CERTIFICATE OF SERVICE

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I hereby certify that on December 26, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification to the e-mail addresses registered.

/s/ Leonard W. Aragon
LEONARD W. ARAGON