

1 GLENN D. POMERANTZ (State Bar No. 112503)
 glenn.pomerantz@mto.com
 2 KELLY M. KLAUS (State Bar No. 161091)
 kelly.klaus@mto.com
 3 CAROLYN HOECKER LUEDTKE (State Bar No. 207976)
 carolyn.luedtke@mto.com
 4 ROHIT K. SINGLA (State Bar No. 213057)
 rohit.singla@mto.com
 5 MUNGER, TOLLES & OLSON LLP
 560 Mission Street
 6 Twenty-Seventh Floor
 San Francisco, California 94105-2907
 7 Telephone: (415) 512-4000
 Facsimile: (415) 512-4077
 8

GREGORY L. CURTNER (*Pro Hac Vice*)
 9 gcurtner@schiffhardin.com
 ROBERT J. WIERENGA (State Bar No. 183687)
 10 rwierenga@schiffhardin.com
 KIMBERLY K. KEFALAS (*Pro Hac Vice*)
 11 kkefalas@schiffhardin.com
 SCHIFF HARDIN LLP
 12 350 Main St., Suite 210
 Ann Arbor, MI 48104
 13 Telephone: (734) 222-1500
 Facsimile: (734) 222-1501
 14

Attorneys for Defendant
 15 National Collegiate Athletic Association
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17 **UNITED STATES DISTRICT COURT**
 18 **NORTHERN DISTRICT OF CALIFORNIA,**
OAKLAND DIVISION

19 EDWARD O'BANNON, et al.,
 20
 Plaintiffs,
 21
 v.
 22 NATIONAL COLLEGIATE ATHLETIC
 ASSOCIATION; ELECTRONIC ARTS,
 23 INC.; AND COLLEGIATE LICENSING
 COMPANY,
 24
 Defendants
 25
 26

Case No. 09-CV-3329-CW
**STIPULATION AND [PROPOSED]
 ORDER AMENDING JUDGMENT [DKT.
 NO. 293] TO CERTIFY FINAL
 JUDGMENT UNDER RULE 54(b)**

Judge: Hon. Claudia Wilken

1 WHEREAS, on August 8, 2014, the Court entered Judgment in favor of the Plaintiffs
2 against the Defendant National Collegiate Athletic Association (NCAA) [Dkt. No. 293], and
3 further clarified that Judgment by Order entered August 19, 2014 [Dkt. No. 298] (collectively, the
4 “Judgment”); and

5 WHEREAS, although the Court has finally resolved Plaintiffs’ claims against the NCAA,
6 the Court has not yet finally approved the settlement of Plaintiffs’ claims against Defendants
7 Electronic Arts, Inc. (“EA”) and Collegiate Licensing Company (“CLC”), and therefore the
8 Judgment against the NCAA resolves claims against “fewer than all” parties to the case and does
9 not constitute a final judgment under Federal Rule of Civil Procedure 54(b); and

10 WHEREAS, although the NCAA has filed a notice of appeal [Dkt. No. 299], and the Court
11 of Appeals has jurisdiction under 28 U.S.C. § 1292(a)(1), over “orders ... granting ...
12 injunctions,” and orders and decisions that are “inextricably bound up with the grant of the ...
13 injunction,” *see, e.g., Paige v. State of Cal.*, 102 F.3d 1035, 1039 (9th Cir. 1996), § 1292(a)(1)
14 does not vest the Court of Appeals with jurisdiction to consider questions unrelated to the
15 permanent injunction; and

16 WHEREAS, as a result of the current posture of the Judgment, the NCAA may not appeal
17 the Judgment under 28 U.S.C. § 1291 until this Court certifies that judgment as final under Rule
18 54(b) or—likely several months from now, at least—enters final judgment on Plaintiffs’ claims
19 against CLC and EA, thereby “adjudicating all the claims and all the parties’ rights and liabilities.”
20 Fed. R. Civ. P. 54(b).

21 NOW, THEREFOR, the parties stipulate that that Court’s Judgment of August 8, 2014
22 [Dkt. No. 293], as clarified on August 19, 2014 [Dkt. No. 298], should be amended to provide that
23 the Judgment is CERTIFIED as a Final Judgment pursuant to Federal Rule of Civil Procedure
24 54(b), on the ground that there is no just reason for delay of the entry of final judgment as to all of
25 Plaintiffs’ claims against the NCAA, as supported by the following considerations:

26 *First*, a Rule 54(b) certification promotes judicial efficiency. The Ninth Circuit already
27 has jurisdiction over the NCAA’s appeal of this Court’s order granting a permanent injunction and
28 related orders. *See* 28 U.S.C. § 1292(a)(1); *Paige*, 102 F.3d at 1039. A Rule 54(b) certification

1 would ensure that the Court of Appeals also has jurisdiction over any other issues relating to
2 Plaintiffs' claims against the NCAA. Without a certification, the Ninth Circuit might have to
3 resolve two separate appeals relating to the same claims and parties. *Second*, the Judgment
4 resolved all of Plaintiffs' claims against the NCAA. Plaintiffs' claims against the only other
5 defendants, EA and CLC, are the subject of a settlement. If the settlement receives final approval,
6 then there will not be any later appeal that shares common issues with an appeal taken now from
7 the judgment against the NCAA. *Third*, the equities support entering partial final judgment under
8 Rule 54(b) because it is in the parties' interest to obtain a prompt and complete resolution of all
9 grounds for appeal through a single proceeding.

10 Accordingly, it is hereby stipulated by and between the parties that that Court's Judgment
11 of August 8, 2014 [Dkt. No. 293], as clarified on August 19, 2014 [Dkt. No. 298], is CERTIFIED
12 as a final judgment pursuant to Rule 54(b).

13 DATED: September 4, 2014

14 HAUSFELD LLP

MUNGER, TOLLES & OLSON LLP

15

16 By: /s/ Sathya S. Gosselin*
17 Michael D. Hausfeld (pro hac vice)
18 Hilary K. Scherrer (SBN 209451)
19 Sathya S. Gosselin (SBN 269171)
20 1700 K Street, NW, Suite 650
21 Washington, DC 20006
22 Telephone: (202) 540-7200
23 Facsimile: (202) 540-7201
24 E-mail: *mhausfeld@hausfeldllp.com*
25 *hscherrer@hausfeldllp.com*
sgosselin@hausfeldllp.com

By: /s/ Kelly M. Klaus
Glenn D. Pomerantz (SBN 112504)
Kelly M. Klaus (State Bar No. 161091)
560 Mission Street, 27th Floor
San Francisco, CA 94105
Telephone: (415) 512-4000
Facsimile: (415) 512-4077
E-mail: *Glenn.Pomerantz@mto.com*
Kelly.Klaus@mto.com

*Attorneys for Defendant National Collegiate
Athletic Association*

22 Michael P. Lehmann (SBN 77152)
23 Arthur N. Bailey, Jr. (SBN 248460)
24 44 Montgomery St., 34th Floor
25 San Francisco, CA 94104
Telephone: (415) 633-1908
Facsimile: (415) 358-4980
E-mail: *mlehmann@hausfeldllp.com*
abailey@hausfeldllp.com

26 *Counsel for Antitrust Plaintiffs*

27

* Signed with concurrence of signatories pursuant to Civil Local Rule 5-1(i).

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1 KEKER & VAN NEST LLP

KILPATRICK TOWNSEND &
STOCKTON LLP

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By: /s/ R. James Slaughter*
Robert Van Nest
R. James Slaughter
633 Battery Street
San Francisco, CA 94111
Telephone: (415) 391-5400
Facsimile: (415) 397-7188
E-mail: *rslaughter@kvn.com*
rvannest@kvn.com

By: /s/ Peter M. Boyle*
William H. Brewster
R. Charles Henn, Jr.
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309
Telephone: (404) 815-6500
Facsimile: (404) 815-6555
E-Mail: *bbrewster@kilpatricktownsend.com*
chenn@kilpatricktownsend.com

Attorneys for Defendant Electronic Arts, Inc.

Peter M. Boyle
607 14th Street, NW, Suite 900
Washington, DC 20005
Telephone: (202) 508-5831
Facsimile: (202) 585-0057
e-Mail: *pboyle@kilpatricktownsend.com*

*Attorneys for Defendant Collegiate Licensing
Company*

[PROPOSED] ORDER

GOOD CAUSE APPEARING THEREFOR, IT IS SO ORDERED.

Dated: 10/16/2014



The Honorable Claudia Wilken
United States Chief District Judge