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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

MDY Industries, LLC,
Plaintiff/Counterdefendant,
vs.
Blizzard Entertainment, Inc.; and
Vivendi Games, Inc.,
Defendants/Counterclaimants.

No. CV-06-2555-PHX-DGC

**ORDER SETTING FINAL PRETRIAL
CONFERENCE**

Blizzard Entertainment, Inc.; and
Vivendi Games, Inc.,
Third-Party Plaintiffs,
vs.
Michael Donnelly,
Third-Party Defendant.

Pursuant to Rule 16(d) of the Federal Rules of Civil Procedure, a Final Pretrial Conference shall be held on **September 24, 2008 at 4:00 p.m.** in Courtroom 603, Sandra Day O'Connor U.S. Federal Courthouse, 401 W. Washington St., Phoenix, Arizona 85003-2151. In preparation for this Final Pretrial Conference, it is hereby Ordered:

1 1. The attorneys who will be responsible for the trial of the case shall attend the
2 Final Pretrial Conference. Counsel shall bring their calendars so that trial scheduling can be
3 discussed.

4 2. The parties jointly shall prepare a Proposed Final Pretrial Order and shall lodge
5 it with the Court no later than **4:00 p.m.** on **September 3, 2008**. Preparation and lodging of
6 the Proposed Final Pretrial Order in accordance with the requirements of this Order shall be
7 deemed to satisfy the disclosure requirements of Rule 26(a)(3) of the Federal Rules of Civil
8 Procedure. The parties shall submit a copy of the Proposed Final Pretrial Order to the Court
9 in WordPerfect® 9.0 format either by email to Nancy_Johnson@azd.uscourts.gov or on an
10 IBM-compatible computer disk.

11 3. The Proposed Final Pretrial Order shall include the information prescribed in
12 the Joint Proposed Final Pretrial Order form found at www.azd.uscourts.gov under Judges
13 and Courtrooms and Orders, Forms and Procedures. Information shall not be set forth in the
14 form of a question, but shall be presented in concise narrative statements.

15 4. The Court will not allow the parties to offer any exhibit, witness, or other
16 evidence that was not disclosed in accordance with the provisions of this Order and the
17 Federal Rules of Civil Procedure and listed in the Proposed Final Pretrial Order, except to
18 prevent manifest injustice.

19 5. The parties shall exchange drafts of the Proposed Final Pretrial Order no later
20 than **14 days** before the submission deadline. The Plaintiff(s) shall have the burden of
21 initiating communications concerning the Proposed Final Pretrial Order.

22 6. The parties shall (a) number and mark exhibits in accordance with the
23 instructions found in Exhibit Marking Instructions at www.azd.uscourts.gov under Judges
24 and Courtrooms and Orders, Forms and Procedures (such numbers shall correspond to
25 exhibits numbers listed in the Proposed Final Pretrial Order); (b) meet in person and
26 exchange marked copies of all exhibits to be used at trial no later than **14 days** before the
27 submission deadline for the Proposed Final Pretrial Order (any exhibit not marked and
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1 exchanged at this meeting shall be precluded at trial); and (c) eliminate any duplicate exhibits
2 while meeting to exchange exhibits.

3 7. The parties shall file and serve all motions in limine no later than
4 **September 3, 2008**. Responses to motions in limine shall be filed on or before
5 **September 10, 2008**. Each motion in limine shall include proposed language for the order
6 in limine being sought from the Court, and the proposed language shall state with precision
7 the evidence that is subject to the proposed order and the limitation or exclusion placed on
8 the evidence. The motions and responses must be concise and shall not exceed three (3)
9 pages in length. No replies shall be filed. Counsel shall be prepared to argue the merits of
10 such motions at the Final Pretrial Conference.

11 8. If this case will be tried to a jury, the parties shall complete the following tasks
12 by the time of the lodging of the Proposed Final Pretrial Order:

13 (a) The parties shall file a stipulated description of the case to be read to the jury.

14 (b) The parties shall jointly file a proposed set of voir dire questions. The voir dire
15 questions shall be drafted in a neutral manner. To the extent possible, the parties shall
16 stipulate to the proposed questions. If the parties have any disagreement about a particular
17 question, they shall state the reason for their objection below the question. The parties shall
18 also provide, for the purposes of voir dire, a joint master list of the names of every witness
19 who may be called at trial.

20 (c) The parties shall file proposed jury instructions in accordance with "Guidelines
21 for Jury Instructions in Civil Cases" found at www.azd.uscourts.gov under Judges and
22 Courtrooms and Orders, Forms and Procedures.

23 (d) Each party shall file a proposed form of verdict, including any proposed special
24 verdict forms or juror interrogatories.

25 (e) The joint statement of the case, proposed voir dire questions, proposed jury
26 instructions, and forms of verdict shall be submitted in WordPerfect® 9.0 format either by
27 email to Nancy_Johnson@azd.uscourts.gov or on an IBM-PC compatible disk.

