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14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

17 Blizzard Entertainment, Inc., a
 Delaware corporation,
 18
 Plaintiff,
 19
 v.
 20
 21 Blizzard Sports Center, Inc., a
 California corporation, Blizzard
 22 Volleyball, Inc., a California
 corporation, and Does 1 through 10,
 23
 Defendants.

CASE NO. 8:17-cv-01001-JVS-DFM
 Honorable Douglas F. McCormick
**STIPULATED PROTECTIVE
 ORDER**

24
 25 AND RELATED COUNTERCLAIM.
 26

1 **GOOD CAUSE STATEMENT**

2 Good cause exists for entry of this Protective Order because the parties to
3 this action: (1) have sought and expect to seek in the future the discovery of certain
4 information in this action that is sensitive, private, and confidential, or that third
5 parties required to get involved in discovery in this action might believe is
6 sensitive, private, and confidential, including, but not limited to, information
7 concerning the source code underlying the parties' proprietary software, amounts
8 paid under and other terms in confidential contracts entered into by the parties with
9 third parties, and the financial and other terms of contracts entered into by the
10 parties that are competitively sensitive and that would harm the parties if such
11 terms were disclosed to their competitors; (2) believe that unrestricted disclosure or
12 dissemination of such confidential information will cause them some business,
13 commercial, and privacy injury; (3) desire an efficient and practicable means to
14 designate such information as "CONFIDENTIAL" or "HIGHLY
15 CONFIDENTIAL – ATTORNEYS' EYES ONLY" and thereby help ensure its
16 continued protection against unwarranted disclosure or dissemination; and (4) have
17 agreed to such means as set forth herein.

18
19 1. **PURPOSES AND LIMITATIONS**

20 Disclosure and discovery activity in this action are likely to involve
21 production of confidential, proprietary, or private information for which special
22 protection from public disclosure and from use for any purpose other than
23 prosecuting this litigation may be warranted. Accordingly, the parties hereby
24 stipulate to and petition the court to enter the following Stipulated Protective
25 Order. The parties acknowledge that this Order does not confer blanket protections
26 on all disclosures or responses to discovery and that the protection it affords from
27 public disclosure and use extends only to the limited information or items that are
28 entitled to confidential treatment under the applicable legal principles. The parties

1 further acknowledge, as set forth in Section 12.3, below, that this Stipulated
2 Protective Order does not entitle them to file confidential information under seal;
3 Civil Local Rule 79-5 sets forth the procedures that must be followed and the
4 standards that will be applied when a party seeks permission from the court to file
5 material under seal.

6

7 2. DEFINITIONS

8 2.1 Challenging Party: a Party or Non-Party that challenges the
9 designation of information or items under this Order.

10 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
11 how it is generated, stored or maintained) or tangible things that qualify for
12 protection under Federal Rule of Civil Procedure 26(c). In this action, the parties
13 expect that this will include, but not be limited to, marketing and business plans
14 and projections, as well as documents reflecting advertising practices and
15 strategies, expenditures, and sponsorships.

16 2.3 Consultant: a person with specialized knowledge or experience in a
17 matter pertinent to the litigation who (1) has been retained by a Party’s Outside
18 Counsel of Record (as defined below) to serve as a consultant in this action (2) is
19 not a past or current employee of a Party, and (3) at the time of retention, is not
20 anticipated to testify.

21 2.4 Counsel (without qualifier): Outside Counsel of Record and House
22 Counsel (as well as their support staff).

23 2.5 Designating Party: a Party or Non-Party that designates information or
24 items that it produces in disclosures or in responses to discovery as
25 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
26 ONLY”.

27 2.6 Disclosure or Discovery Material: all items or information, regardless
28 of the medium or manner in which it is generated, stored, or maintained (including,

1 among other things, testimony, transcripts, and tangible things), that are produced
2 or generated in disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter
4 pertinent to the litigation who (1) has been retained by a Party or its counsel to
5 serve as an expert witness in this action, (2) is not a past or current employee of a
6 Party, and (3) at the time of retention, is not anticipated to become an employee of
7 a Party.

8 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
9 Information or Items: extremely sensitive “Confidential Information or Items,”
10 disclosure of which to another Party or Non-Party would create a substantial risk of
11 serious harm that could not be avoided by less restrictive means.

12 2.9 House Counsel: attorneys who are employees of a party to this action.
13 House Counsel does not include Outside Counsel of Record or any other outside
14 counsel.

15 2.10 Non-Party: any natural person, partnership, corporation, association,
16 or other legal entity not named as a Party to this action.

17 2.11 Outside Counsel of Record: attorneys who are not employees of a
18 party to this action but are retained to represent or advise a party to this action and
19 have appeared in this action on behalf of that party or are affiliated with a law firm
20 which has appeared on behalf of that party.

21 2.12 Party: any party to this action, including all of its officers, directors,
22 employees, consultants, retained experts, and Outside Counsel of Record (and their
23 support staffs).

24 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
25 Discovery Material in this action.

26 2.14 Professional Vendors: persons or entities that provide litigation
27 support services (e.g., photocopying, videotaping, translating, preparing exhibits or

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1 demonstrations, and organizing, storing, or retrieving data in any form or medium)
2 and their employees and subcontractors.

3 2.15 Protected Material: any Disclosure or Discovery Material that is
4 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –
5 ATTORNEYS’ EYES ONLY.”

6 2.16 Receiving Party: a Party that receives Disclosure or Discovery
7 Material from a Producing Party.

8
9 3. SCOPE

10 The protections conferred by this Stipulation and Order cover not only
11 Protected Material (as defined above), but also (1) any information copied or
12 extracted from Protected Material; (2) all copies, excerpts, summaries, or
13 compilations of Protected Material; and (3) any testimony, conversations, or
14 presentations by Parties or their Counsel that might reveal Protected Material.
15 However, the protections conferred by this Stipulation and Order do not cover the
16 following information: (a) any information that is in the public domain at the time
17 of disclosure to a Receiving Party or becomes part of the public domain after its
18 disclosure to a Receiving Party as a result of publication not involving a violation
19 of this Order, including becoming part of the public record through trial or
20 otherwise; and (b) any information known to the Receiving Party prior to the
21 disclosure or obtained by the Receiving Party after the disclosure from a source
22 who obtained the information lawfully and under no obligation of confidentiality to
23 the Designating Party. Any use of Protected Material at trial shall be governed by a
24 separate agreement or order.

25
26 4. DURATION

27 Even after final disposition of this litigation, the confidentiality obligations
28 imposed by this Order shall remain in effect until a Designating Party agrees

1 otherwise in writing or a court order otherwise directs. Final disposition shall be
2 deemed to be the later of (1) dismissal of all claims and defenses in this action,
3 with or without prejudice; and (2) final judgment herein after the completion and
4 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
5 including the time limits for filing any motions or applications for extension of
6 time pursuant to applicable law.

7
8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for Protection.

10 Each Party or Non-Party that designates information or items for protection under
11 this Order must take care to limit any such designation to specific material that
12 qualifies under the appropriate standards. To the extent it is practical to do so, the
13 Designating Party must designate for protection only those parts of material,
14 documents, items, or oral or written communications that qualify – so that other
15 portions of the material, documents, items, or communications for which
16 protection is not warranted are not swept unjustifiably within the ambit of this
17 Order.

18 Mass, indiscriminate, or routinized designations are prohibited. Designations
19 that are shown to be clearly unjustified or that have been made for an improper
20 purpose (*e.g.*, to unnecessarily encumber or retard the case development process or
21 to impose unnecessary expenses and burdens on other parties) expose the
22 Designating Party to sanctions.

23 If it comes to a Designating Party's attention that information or items that it
24 designated for protection do not qualify for protection at all or do not qualify for
25 the level of protection initially asserted, that Designating Party must promptly
26 notify all other parties that it is withdrawing the mistaken designation.

27 5.2 Manner and Timing of Designations. Except as otherwise provided in
28 this Order (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise

1 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
2 under this Order must be clearly so designated before the material is disclosed or
3 produced.

4 Designation in conformity with this Order requires:

5 (a) for information in documentary form (e.g., paper or electronic
6 documents, but excluding transcripts of depositions or other pretrial or trial
7 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
9 contains protected material. If only a portion or portions of the material on a page
10 qualifies for protection, the Producing Party also must clearly identify the
11 protected portion(s) (e.g., by making appropriate markings in the margins) and
12 must specify, for each portion, the level of protection being asserted.

13 A Party or Non-Party that makes original documents or materials available
14 for inspection need not designate them for protection until after the inspecting
15 Party has indicated which material it would like copied and produced. During the
16 inspection and before the designation, all of the material made available for
17 inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
18 ONLY.” After the inspecting Party has identified the documents it wants copied
19 and produced, the Producing Party must determine which documents, or portions
20 thereof, qualify for protection under this Order. Then, before producing the
21 specified documents, the Producing Party must affix the appropriate legend
22 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
23 ONLY”) to each page that contains Protected Material. If only a portion or
24 portions of the material on a page qualifies for protection, the Producing Party also
25 must clearly identify the protected portion(s) (e.g., by making appropriate
26 markings in the margins) and must specify, for each portion, the level of protection
27 being asserted.

28

1 (b) for testimony given in deposition or in other pretrial or trial proceedings,
2 that the Designating Party identify on the record, before the close of the deposition,
3 hearing, or other proceeding, all protected testimony and specify the level of
4 protection being asserted. When it is impractical to identify separately each portion
5 of testimony that is entitled to protection and it appears that substantial portions of
6 the testimony may qualify for protection, the Designating Party may invoke on the
7 record (before the deposition, hearing, or other proceeding is concluded) a right to
8 have up to 21 days to identify the specific portions of the testimony as to which
9 protection is sought and to specify the level of protection being asserted. Only
10 those portions of the testimony that are appropriately designated for protection
11 within the 21 days shall be covered by the provisions of this Stipulated Protective
12 Order. Alternatively, a Designating Party may specify, at the deposition or up to 21
13 days afterwards if that period is properly invoked, that the entire transcript shall be
14 treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
15 EYES ONLY.”

16 Parties shall give the other parties notice if they reasonably expect a
17 deposition, hearing or other proceeding to include Protected Material so that the
18 other parties can ensure that only authorized individuals who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
20 proceedings. The use of a document as an exhibit at a deposition shall not in any
21 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
22 – ATTORNEYS’ EYES ONLY.”

23 Transcripts containing Protected Material shall have an obvious legend on
24 the title page that the transcript contains Protected Material, and the title page shall
25 be followed by a list of all pages (including line numbers as appropriate) that have
26 been designated as Protected Material and the level of protection being asserted by
27 the Designating Party. The Designating Party shall inform the court reporter of
28 these requirements. Any transcript that is prepared before the expiration of a 21-

1 day period for designation shall be treated during that period as if it had been
2 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its
3 entirety unless otherwise agreed. After the expiration of that period, the transcript
4 shall be treated only as actually designated.

5 (c) for information produced in some form other than documentary and for
6 any other tangible items, that the Producing Party affix in a prominent place on the
7 exterior of the container or containers in which the information or item is stored
8 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
9 EYES ONLY”. If only a portion or portions of the information or item warrant
10 protection, the Producing Party, to the extent practicable, shall identify the
11 protected portion(s) and specify the level of protection being asserted.

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
13 failure to designate qualified information or items does not, standing alone, waive
14 the Designating Party’s right to secure protection under this Order for such
15 material. Upon timely correction of a designation, the Receiving Party must make
16 reasonable efforts to assure that the material is treated in accordance with the
17 provisions of this Order.

18

19 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
21 designation of confidentiality at any time. Unless a prompt challenge to a
22 Designating Party’s confidentiality designation is necessary to avoid foreseeable,
23 substantial unfairness, unnecessary economic burdens, or a significant disruption
24 or delay of the litigation, a Party does not waive its right to challenge a
25 confidentiality designation by electing not to mount a challenge promptly after the
26 original designation is disclosed.

27 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
28 resolution process by providing written notice of each designation it is challenging

1 and describing the basis for each challenge. To avoid ambiguity as to whether a
2 challenge has been made, the written notice must recite that the challenge to
3 confidentiality is being made in accordance with this specific paragraph of the
4 Protective Order. The parties shall attempt to resolve each challenge in good faith
5 and must begin the process by conferring directly (in voice to voice dialogue; other
6 forms of communication are not sufficient) within 14 days of the date of service of
7 notice. In conferring, the Challenging Party must explain the basis for its belief that
8 the confidentiality designation was not proper and must give the Designating Party
9 an opportunity to review the designated material, to reconsider the circumstances,
10 and, if no change in designation is offered, to explain the basis for the chosen
11 designation. A Challenging Party may proceed to the next stage of the challenge
12 process only if it has engaged in this meet and confer process first or establishes
13 that the Designating Party is unwilling to participate in the meet and confer process
14 in a timely manner.

15 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
16 court intervention, the Challenging Party shall file and serve a noticed motion
17 challenging confidentiality designation, under Civil Local Rule 7 (and in
18 compliance with Civil Local Rule 79-5, if applicable) no sooner than 21 days after
19 providing written notice of a challenge or 7 days after the parties agree that the
20 meet and confer process will not resolve their dispute, whichever is later. Each
21 such motion must be accompanied by a competent declaration affirming that the
22 movant has complied with the meet and confer requirements imposed in the
23 preceding paragraph. In addition, the Designating Party may file a noticed motion
24 to maintain confidentiality designation at any time, if there is good cause for doing
25 so. Any motion brought pursuant to this provision must be accompanied by a
26 competent declaration affirming that the movant has complied with the meet and
27 confer requirements imposed by the preceding paragraph.

28

1 The burden of persuasion in any such challenge proceeding shall be on the
2 Designating Party. Frivolous challenges and those made for an improper purpose
3 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
4 expose the Challenging Party to sanctions. Unless the Designating Party expressly
5 waives confidentiality during the pendency of a motion filed pursuant to the
6 preceding paragraph, all parties shall continue to afford the material in question the
7 level of protection to which it is entitled under the Producing Party’s designation
8 until the court rules on the challenge.

9
10 7. ACCESS TO AND USE OF PROTECTED MATERIAL

11 7.1 Basic Principles. A Receiving Party may use Protected Material that
12 is disclosed or produced by another Party or by a Non-Party in connection with this
13 case only for prosecuting, defending, or attempting to settle this litigation. Such
14 Protected Material may be disclosed only to the categories of persons and under
15 the conditions described in this Order. When the litigation has been terminated, a
16 Receiving Party must comply with the provisions of section 13 below (FINAL
17 DISPOSITION).

18 Protected Material must be stored and maintained by a Receiving Party at a
19 location and in a secure manner that ensures that access is limited to the persons
20 authorized under this Order.

21 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
22 otherwise ordered by the court or permitted in writing by the Designating Party, a
23 Receiving Party may disclose any information or item designated
24 “CONFIDENTIAL” only to:

25 (a) the Receiving Party’s Outside Counsel of Record in this action, as well
26 as employees of said Outside Counsel of Record to whom it is reasonably
27 necessary to disclose the information for this litigation;

1 (b) the officers, directors, and employees (including House Counsel) of the
2 Receiving Party to whom disclosure is reasonably necessary for this litigation;

3 (c) Experts (as defined in this Order) of the Receiving Party to whom
4 disclosure is reasonably necessary for this litigation and who have signed the
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

6 (d) Consultants (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this litigation and who have signed the
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (e) the court and its personnel;

10 (f) court reporters, professional jury or trial consultants, and Professional
11 Vendors to whom disclosure is reasonably necessary for this litigation and who
12 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) and
13 their staff;

14 (g) during their depositions, witnesses in the action to whom disclosure is
15 reasonably necessary and who have signed the “Acknowledgment and Agreement
16 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or
17 ordered by the court. Pages of transcribed deposition testimony or exhibits to
18 depositions that reveal Protected Material must be separately bound by the court
19 reporter and may not be disclosed to anyone except as permitted under this
20 Stipulated Protective Order.

21 (h) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise legally possessed or knew the
23 information.

24 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
25 ONLY” Information or Items. Unless otherwise ordered by the court or permitted
26 in writing by the Designating Party, a Receiving Party may disclose any
27 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
28 EYES ONLY” only to:

1 (a) the Receiving Party’s Outside Counsel of Record in this action, as well
2 as employees of said Outside Counsel of Record to whom it is reasonably
3 necessary to disclose the information for this litigation;

4 (b) Experts (as defined in this Order) of the Receiving Party to whom
5 disclosure is reasonably necessary for this litigation, who have signed the
6 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

7 (c) Consultants (as defined in this Order) of the Receiving Party to whom
8 disclosure is reasonably necessary for this litigation, and who have signed the
9 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

10 (d) the court and its personnel;

11 (e) court reporters, professional jury or trial consultants, and Professional
12 Vendors to whom disclosure is reasonably necessary for this litigation and who
13 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) and
14 their staff; and

15 (f) the author or recipient of a document containing the information or a
16 custodian or other person who otherwise legally possessed or knew the
17 information.

18
19 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
20 IN OTHER LITIGATION

21 If a Party is served with a subpoena or a court order issued in other litigation
22 that compels disclosure of any information or items designated in this action as
23 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
24 ONLY” that Party must:

25 (a) promptly notify in writing the Designating Party. Such notification shall
26 include a copy of the subpoena or court order;

27 (b) promptly notify in writing the party who caused the subpoena or order to
28 issue in the other litigation that some or all of the material covered by the subpoena

1 or order is subject to this Protective Order. Such notification shall include a copy
2 of this Stipulated Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued
4 by the Designating Party whose Protected Material may be affected.¹

5 If the Designating Party timely seeks a protective order, the Party served
6 with the subpoena or court order shall not produce any information designated in
7 this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY” before a determination by the court from which the
9 subpoena or order issued, unless the Party has obtained the Designating Party’s
10 permission. The Designating Party shall bear the burden and expense of seeking
11 protection in that court of its confidential material – and nothing in these
12 provisions should be construed as authorizing or encouraging a Receiving Party in
13 this action to disobey a lawful directive from another court.

14

15 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
16 PRODUCED IN THIS LITIGATION

17 (a) The terms of this Order are applicable to information produced by a
18 Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. Such information produced
20 by Non-Parties in connection with this litigation is protected by the remedies and
21 relief provided by this Order. Nothing in these provisions should be construed as
22 prohibiting a Non-Party from seeking additional protections.

23 (b) In the event that a Party is required, by a valid discovery request, to
24 produce a Non-Party’s confidential information in its possession, and the Party is

25

26

27 ¹ The purpose of imposing these duties is to alert the interested parties to the
28 existence of this Protective Order and to afford the Designating Party in this case
an opportunity to try to protect its confidentiality interests in the court from which
the subpoena or order issued.

1 subject to an agreement with the Non-Party not to produce the Non-Party's
2 confidential information, then the Party shall:

3 1. promptly notify in writing the Requesting Party and the Non-
4 Party that some or all of the information requested is subject to a confidentiality
5 agreement with a Non-Party;

6 2. promptly provide the Non-Party with a copy of the Stipulated
7 Protective Order in this litigation, the relevant discovery request(s), and a
8 reasonably specific description of the information requested; and

9 3. make the information requested available for inspection by the
10 Non-Party.

11 (c) If the Non-Party fails to object or seek a protective order from this
12 court within 14 days of receiving the notice and accompanying information, the
13 Receiving Party may produce the Non-Party's confidential information responsive
14 to the discovery request. If the Non-Party timely seeks a protective order, the
15 Receiving Party shall not produce any information in its possession or control that
16 is subject to the confidentiality agreement with the Non-Party before a
17 determination by the court.² Absent a court order to the contrary, the Non-Party
18 shall bear the burden and expense of seeking protection in this court of its
19 Protected Material.

20
21 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22 If a Receiving Party learns that, by inadvertence or otherwise, it has
23 disclosed Protected Material to any person or in any circumstance not authorized
24 under this Stipulated Protective Order, the Receiving Party must immediately (a)
25 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
26 _____

27 ² The purpose of this provision is to alert the interested parties to the existence of
28 confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to
protect its confidentiality interests in this court.

1 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
2 the person or persons to whom unauthorized disclosures were made of all the terms
3 of this Order, and (d) request such person or persons to execute the
4 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
5 A.

6
7 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
8 PROTECTED MATERIAL

9 When a Producing Party gives notice to Receiving Parties that certain
10 inadvertently produced material is subject to a claim of privilege or other
11 protection, the obligations of the Receiving Parties are those set forth in Federal
12 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
13 whatever procedure may be established in an e-discovery order that provides for
14 production without prior privilege review. Pursuant to Federal Rule of Evidence
15 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
16 of a communication or information covered by the attorney-client privilege or
17 work product protection, the parties may incorporate their agreement in the
18 stipulated protective order submitted to the court.

19
20 12. MISCELLANEOUS

21 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
22 person to seek its modification by the court in the future.

23 12.2 Right to Assert Other Objections. By stipulating to the entry of this
24 Protective Order no Party waives any right it otherwise would have to object to
25 disclosing or producing any information or item on any ground not addressed in
26 this Stipulated Protective Order. Similarly, no Party waives any right to object on
27 any ground to use in evidence of any of the material covered by this Protective
28 Order.

1 12.3 Filing Protected Material. Without written permission from the
2 Designating Party or a court order secured after appropriate notice to all interested
3 persons, a Party may not file in the public record in this action any Protected
4 Material. A Party that seeks to file under seal any Protected Material must comply
5 with Civil Local Rule 79-5. Protected Material may only be filed under seal
6 pursuant to a court order authorizing the sealing of the specific Protected Material
7 at issue. Pursuant to Civil Local Rule 79-5.2.2(b)(i), a Receiving Party seeking to
8 file Protected Material under seal must confer with a Designating Party in an
9 attempt to eliminate or minimize the need for filing under seal by means of
10 redaction. If the document cannot be suitably redacted by agreement, the
11 Receiving Party must file an Application with a supporting declaration establishing
12 that the Protected Material at issue is privileged, protectable as a trade secret, or
13 otherwise entitled to protection under the law. If a Receiving Party's request to file
14 Protected Material under seal pursuant to Civil Local Rule 79-5.2.2(b)(i) is denied
15 by the court, then the Receiving Party may file the Protected Material in the public
16 record pursuant to Civil Local Rule 79-5.2.2(b)(ii) no earlier than 4 days and no
17 later than 10 days after the Application is denied, unless otherwise instructed by
18 the court.

19 12.4 Production Of Source Code Not Anticipated. At the time of the filing
20 of this stipulated protective order, the Parties do not anticipate the production of
21 source code during the course of discovery. The Parties agree that, should
22 production of source code become necessary at a later stage in this litigation, the
23 Parties will negotiate and stipulate to an amendment to this protective order, which
24 amendment shall govern the production of source code, before any such production
25 takes place. Nothing in this paragraph, or this protective order, shall be construed
26 as a representation or admission regarding the relevance of source code to this
27 litigation, or as an obligation on any Party to produce any source code.

1 13. FINAL DISPOSITION

2 Within 60 days after the final disposition of this action, as defined in
3 paragraph 4, each Receiving Party must return all Protected Material to the
4 Producing Party or destroy such material. As used in this subdivision, “all
5 Protected Material” includes all copies, abstracts, compilations, summaries, and
6 any other format reproducing or capturing any of the Protected Material. Whether
7 the Protected Material is returned or destroyed, the Receiving Party must submit a
8 written certification to the Producing Party (and, if not the same person or entity, to
9 the Designating Party) by the 60-day deadline that (1) identifies (by category,
10 where appropriate) all the Protected Material that was returned or destroyed and
11 (2) affirms that the Receiving Party has not retained any copies, abstracts,
12 compilations, summaries or any other format reproducing or capturing any of the
13 Protected Material. Notwithstanding this provision, Counsel are entitled to retain
14 an archival copy of all pleadings, motion papers, trial, deposition, and hearing
15 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
16 reports, attorney work product, and consultant and expert work product, even if
17 such materials contain Protected Material. Any such archival copies that contain or
18 constitute Protected Material remain subject to this Protective Order as set forth in
19 Section 4 (DURATION).

20
21 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

22
23 DATED: March 5, 2018

MITCHELL SILBERBERG & KNUPP LLP

24
25 By: /s/ Mark C. Humphrey
26 MARK C. HUMPHREY
27 Attorneys for Plaintiff and
Blizzard Entertainment, Inc.

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury
5 that I have read in its entirety and understand the Stipulated Protective Order that
6 was issued by the United States District Court for the Central District of California
7 on _____ in the case of *Blizzard Entertainment, Inc. v.*
8 *Blizzard Sports Center, Inc.*, Case No. 8:17-cv-01001-JVS-DFM. I agree to
9 comply with and to be bound by all the terms of this Stipulated Protective Order
10 and I understand and acknowledge that failure to so comply could expose me to
11 sanctions and punishment in the nature of contempt. I solemnly promise that I will
12 not disclose in any manner any information or item that is subject to this Stipulated
13 Protective Order to any person or entity except in strict compliance with the
14 provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District
16 Court for the Central District of California for the purpose of enforcing the terms
17 of this Stipulated Protective Order, even if such enforcement proceedings occur
18 after termination of this action.

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and
21 telephone number] as my California agent for service of process in connection with
22 this action or any proceedings related to enforcement of this Stipulated Protective
23 Order.

24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____
[printed name]

27
28 Signature: _____
[signature]