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9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

11 NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA., and THE
12 INSURANCE COMPANY OF THE STATE
OF PENNSYLVANIA,

13
14 Plaintiffs,

15 v.

16 ELECTRONIC ARTS, INC. and THE
17 COLLEGIATE LICENSING COMPANY,

18 Defendants.

CASE NO.: C11-04897-SI

Case Assigned To:
Judge Illston, Courtroom 10, 19th Floor

JOINT STATUS REPORT

Complaint Filed: October 4, 2011

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20 This Joint Status Report is submitted on behalf of Plaintiffs National Union Fire Insurance
21 Company of Pittsburgh, Pa. (“National Union”) and The Insurance Company of the State of
22 Pennsylvania (“ISOP”) (collectively, National Union and ISOP are referred to as “Plaintiffs”) on
23 the one hand, and Defendants Electronic Arts Inc. (“EA”) and Collegiate Licensing Company
24 (“CLC”) (collectively, EA and CLC are referred to as “Defendants”) on the other, in accordance
25 with this Court’s Order Re: Filing Joint Status Report [Docket No. 141].

26 The procedural history of this declaratory relief action and the Underlying Actions is
27 described in the joint case management statement that the parties filed on May 15, 2013 [Docket
28

1 No. 139] and the Court’s Order Vacating Case Management Conference, entered on May 21,
2 2013 [Docket No. 140].

3 In Fall 2013, EA and CLC notified Chief Judge Wilken that they had agreed in principle
4 to a settlement of the Underlying NCAA Actions, and Judge Wilken stayed the Underlying
5 NCAA Actions as against EA and CLC. EA and the plaintiffs in the Underlying NCAA Actions
6 are preparing a long-form written settlement agreement and will submit it to Judge Wilken for
7 approval when it is completed.

8 Plaintiffs and Defendants in this coverage action have reached a settlement in principle as
9 to the Underlying NCAA Actions. This settlement is contingent on final settlement of the
10 Underlying NCAA Actions. Plaintiffs and Defendants are preparing a long-form written
11 settlement agreement. This settlement, when it is concluded, will eliminate the portion of this
12 declaratory relief action that relates to the Underlying NCAA Actions.

13 The settlement of the Underlying NCAA Actions does not affect the Underlying NFL
14 Actions, in which EA is the only named defendant (*Davis v. Electronic Arts, Inc.*, Case No. 10-
15 03328 RS, N.D. Cal; *Brown v. Electronic Arts, Inc.*, Case No. BC 520019, L.A. Sup. Ct.). *Davis*
16 is still stayed pending an appeal to the Ninth Circuit Court of Appeals, and a motion to strike
17 (Anti-SLAPP) the complaint in *Brown* is scheduled to be heard on May 15, 2014.

18 Plaintiffs respectfully request leave to file a motion to lift the stay in this action after the
19 Court approves the settlement of the Underlying NCAA Actions. Once the stay of this matter is
20 lifted, Plaintiffs intend to move for summary judgment seeking a declaration that they are not
21 obligated to defend or indemnify Defendants in connection with the Underlying NFL Actions. In
22 the event that the settlement has not been approved within 90 days from this date, Plaintiffs
23 propose that the parties file another joint status report at that time.

24 EA respectfully opposes Plaintiffs’ request for leave to file a motion to lift the stay after
25 court approval of the settlement of the Underlying NCAA Actions. There have been no
26 developments in the Underlying NFL Actions that affect the status of this declaratory relief
27 action. All the legal and factual issues that justified the stay when it was imposed still exist in the
28 Underlying NFL Actions. The factual record has not been developed and none of the issues

1 identified by the Court as requiring the stay have been resolved. As a result, the summary
2 judgment motion that Plaintiffs describe above would not only be premature, but just as wasteful
3 of judicial resources and prejudicial to EA in the Underlying NFL Actions as the Court found
4 when it first imposed the stay in 2012. EA proposes that the parties file another joint status report
5 in 90 days to inform the Court of the status of all the Underlying Actions.

6 Dated: March 17, 2014

SELVIN WRAITH HALMAN LLP

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8 By: /s/
Gary R. Selvin
Attorneys for Plaintiff
National Union Fire Insurance Company of
10 Pittsburgh, Pa. and The Insurance Company
11 of the State of Pennsylvania

12 Dated: March 17, 2014

FARELLA BRAUN + MARTEL LLP

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14 By: /s/
Tyler C. Gerking
Attorneys for Defendant
15 ELECTRONIC ARTS INC.

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17 Dated: March 17, 2014

KILPATRICK TOWNSEND & STOCKTON
LLP

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19 By: /s/
Brent W. Brouger
Attorneys for Defendant
20 COLLEGIATE LICENSING COMPANY

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23 Any party may file a motion to lift the stay at any time.

