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11 *Attorneys for Plaintiffs John Locke and Damion Perrine and the Putative Class*

12 **IN THE UNITED STATES DISTRICT COURT**  
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 JOHN LOCKE and DAMION PERRINE,  
 15 individually and on behalf of all others  
 similarly situated,

16 *Plaintiffs,*

17 v.

18 SEGA OF AMERICA, INC. a California  
 19 corporation, and GEARBOX SOFTWARE  
 L.L.C., a Texas limited liability company,

20 *Defendants.*

Case No. 13-cv-01962-JSW

**JOINT STATUS REPORT AND  
 STIPULATION TO EXTEND CASE  
 DEADLINES PENDING SETTLEMENT  
 NEGOTIATIONS  
 AND ORDER THEREON AS MODIFIED HEREIN**

Judge: Hon. Jeffrey S. White  
 Action Filed: April 29, 2013

1 Pursuant to Local Rules 6-2 and 7-12, Plaintiffs John Locke and Damion Perrine (the  
2 “Plaintiffs”) and Defendants Sega of America, Inc. and Gearbox Software L.L.C. (the  
3 “Defendants,” together the “Parties”), by and through their undersigned counsel, hereby submit the  
4 following joint status report to provide context for their stipulation to continue the current schedule  
5 of case deadlines, subject to the Court’s approval, as set forth below.

6 While there have been significant developments in the case to date, the Parties now require  
7 a ninety (90) day extension of the current case schedule so as to continue their efforts to mediate  
8 and potentially resolve the litigation and, to the extent resolution does not occur, engage in the  
9 discovery necessary to address the issues of class certification and the merits of the case. Thus, in  
10 support of their stipulation and to apprise the Court of the current status of this case, the parties  
11 state as follows:

12 **I. Case Developments.**

13 On October 11, 2013, the Parties attended an Initial Case Management Conference  
14 (“CMC”), during which the Court adopted, with limited exceptions, the deadlines proposed in the  
15 Parties’ Joint Case Management Statement. (Dkt. No. 42.) Since that time, there have been several  
16 developments in the case both in terms of advancing the litigation, as well as attempts to settle the  
17 lawsuit. With respect to the litigation, following the CMC, the Parties immediately proceeded with  
18 discovery, with Plaintiffs propounding interrogatories and requests for documents on October 4,  
19 2013, Defendants serving notices of deposition for both Mr. Locke and Mr. Perrine on October 14,  
20 2013, and both Parties exchanging their initial disclosures on October 30, 2013.

21 At the same time that they advanced the litigation, the Parties concurrently discussed the  
22 possibility of resolving the case. To that end, in October/November of last year, the Parties  
23 scheduled an in-person mediation before Hon. Rebecca Westerfield (Ret.) of JAMS for January  
24 21, 2014. The Parties also agreed to exchange key information on an informal basis leading up to  
25 the mediation, so as to provide each side with the information necessary to effectively evaluate the  
26 claims and defenses in the case, and ultimately, inform a fair and reasonable settlement of the  
27 dispute. As such, in November 2013 and then again in January 2014 (i.e., before the Parties’

1 mediation), Defendants produced to Plaintiffs information regarding (i) contractual information  
2 underlying the development and production of Aliens: Colonial Marines, (ii) certain factual  
3 information regarding the Defendants' advertising of Aliens: Colonial Marines over the course of  
4 the game's development, and (iii) additional information concerning the scope and size of the  
5 putative class, as defined by the First Amended Complaint. Additionally, in January 2014, the  
6 Parties exchanged mediation briefs, wherein both sides addressed the facts of the case known to  
7 them, along with their views on the overall litigation and possibility of settlement.

8 On January 21, 2014, the Parties engaged in an all-day mediation presided over by Judge  
9 Westerfield at JAMS' San Francisco offices. While both sides negotiated in good faith, no  
10 agreement was reached at the mediation. Nevertheless, settlement negotiations are on-going in that  
11 Defendants are currently considering Plaintiffs' last settlement proposal, and have requested three  
12 weeks from the date of the mediation to make a decision regarding the same. At the same time, the  
13 Parties are mindful of the fact that several deadlines in this case are approaching and believe it  
14 prudent to extend those deadlines in the event that the case does not resolve, so as to avoid  
15 prejudice to either Party.

## 16 **II. Proposed Changes to Case Deadlines.**

17 Based on the foregoing, the Parties believe that a ninety (90) day extension of the current  
18 case deadlines is appropriate. Such an extension will assist in the Parties' ongoing mediation and  
19 discovery efforts, and also conserve resources by avoiding, *inter alia*, the need to proceed with  
20 expert discovery, class certification, and dispositive motion practice now—which would be  
21 unnecessary if the Parties are ultimately able to resolve the case. Notwithstanding, because they  
22 have actively pursued discovery, the Parties will be prepared to move forward in the litigation  
23 without delay should they be unable to reach a settlement.

24 For these reasons, good cause exists<sup>1</sup> to extend the current schedule of deadlines set forth in  
25 the Court's October 15, 2013 Civil Management Order (Dkt. No. 42), as follows:

26 \_\_\_\_\_  
27 <sup>1</sup> Fed. R. Civ. P. 6(b) provides that the Court may, for good cause shown, extend the time to  
complete any required act.

- 1. Plaintiffs to serve disclosures pursuant to Fed. R. Civ. P. 26(a)(2) relating to class certification..... **May 6, 2014**
- 2. Defendants to serve disclosures of rebuttal expert witnesses and reports relating to class certification ..... **June 5, 2014**
- 3. Defendants’ deadline to depose Plaintiffs’ experts and the Parties’ other witnesses related to class certification..... **June 12, 2014**
- 4. Plaintiffs’ deadline to depose rebuttal experts related to class certification ..... **July 14, 2014**
- 5. Plaintiffs to file motion and memorandum in support of class certification ..... **Sept. 11, 2014**
- 6. Defendants to file opposition to class certification and all supporting materials..... **Oct. 9, 2014**
- 7. Plaintiffs to file reply in support of motion for class certification ..... **Oct. 23, 2014**
- 8. Hearing on motion for class certification ..... **Nov. 13, 2014** (or at Court’s convenience)
- 9. Joint Supplemental Case Management Statement ..... **Nov. 27, 2014**
- 10. Further case management conference..... **Dec. 4, 2014** (or at Court’s convenience)

NOW THEREFORE, IT IS HEREBY STIPULATED and AGREED that:

- 1. All case deadlines are hereby continued by ninety (90) days and re-set as set forth above; and
- 2. The parties shall submit a status report within thirty (30) days to update the Court regarding the status of the Parties’ settlement discussions.

IT IS SO STIPULATED.

**JOHN LOCKE and DAMION PERRINE**,  
individually and on behalf of all others similarly  
situated,

Dated: February 3, 2014

By: s/ Benjamin S. Thomassen  
One of Plaintiffs’ Attorneys

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8 **SEGA OF AMERICA, INC., and GEARBOX**  
9 **SOFTWARE, L.L.C.,**

10 Dated: February 3, 2014

By:           s/ Rodger R. Cole            
One of Defendants' Attorneys

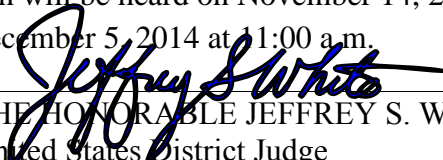
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22 *Attorneys for Defendants*

23  
24 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

25 The hearing on the motion for class certification will be heard on November 14, 2014 at 9:00 a.m. The further  
26 case management conference will be set for December 5, 2014 at 11:00 a.m.

27 DATED: February 4, 2014

28   
THE HONORABLE JEFFREY S. WHITE  
United States District Judge

29 The parties are advised that after April 4, 2014, the Court will be relocating to the Oakland Courthouse and all  
30 further hearings will be held in Courtroom 5, 2d Floor, 1301 Clay Street, Oakland, California.

31 The parties also are admonished to familiarize themselves with the dates and times on which the Court holds  
32 its law and motion and case management calendars.