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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

GEOFFREY PECOVER and ANDREW OWENS, on behalf of themselves and a class of persons similarly situated,

Plaintiffs,

v.

ELECTRONIC ARTS INC., a Delaware corporation, et al.,

Defendants.

Case No. 08-CV-02820 CW

**STIPULATION AND [~~PROPOSED~~] ORDER
SUPPLEMENTING STIPULATED
PROTECTIVE ORDER REGARDING
CONFIDENTIALITY OF
NON-PARTY NFL PLAYERS'
DOCUMENTS AND MATERIALS**

In order to protect confidential information obtained from non-party National Football League Players Incorporated (“NFL Players”) in connection with the above-captioned action, Plaintiffs and Defendant Electronic Arts, Inc. (“EA,” and collectively with Plaintiffs, the “Parties”), by and through their undersigned attorneys, hereby stipulate as follows:

1. This stipulation supplements the Stipulated Protective Order Regarding Confidentiality of Documents and Materials that was So Ordered by the Court in the above-captioned action on January 20, 2009 (“Protective Order”). *See* ECF No. 32.

1 2. In addition to the provisions and protections contained in the Protective
2 Order, the following shall apply to documents and information produced by NFL Players in
3 connection with this action.

4 3. NFL Players may designate any materials, including interrogatory
5 responses, other discovery responses, or transcripts, as “Confidential – Outside Counsel Only” if
6 it reasonably and in good faith believes that such document contains confidential information so
7 commercially sensitive that the protections afforded by the Protective Order are insufficient to
8 adequately protect the interests of NFL Players.

9 4. The Parties acknowledge and agree that examples of an appropriate
10 “Confidential – Outside Counsel Only” designation include internal NFL Players
11 communications discussing the negotiation of the terms of licensing agreements between NFL
12 Players and EA, as well as the terms of licensing agreements between NFL Players and licensees
13 other than EA.

14 5. Except as expressly provided below, any document produced by NFL
15 Players and designated “Confidential – Outside Counsel Only” may be used only for purposes of
16 this action and shall not be given, shown, made available or communicated in any way to anyone
17 except:

- 18 a. the Court, court personnel and court reporters;
- 19 b. outside litigation counsel of record to the Parties, including the
20 legal associates and clerical or other support staff who are
21 employed by such counsel and are working under the express
22 direction of such counsel;
- 23 c. court reporters who record deposition or other testimony in the
24 litigation;
- 25 d. consultants or experts retained by the Parties;
- 26 e. any person who is indicated on the face of a document to have
27 been an author, addressee or copy recipient thereof;

- 1 f. any person whom NFL Players agrees to in writing prior to any
2 such disclosure.
- 3 g. persons or entities that provide litigation support services (*e.g.*,
4 photocopying; videotaping; translating; preparing exhibits or
5 demonstrations; organizing, storing, retrieving data in any form or
6 medium; etc.) and their employees and subcontractors

7 6. Counsel for the Parties shall obtain from all persons who are given access
8 to any documents produced by NFL Players, including documents designated “Confidential –
9 Outside Counsel Only,” written acknowledgement that such persons have read, understand, and
10 will comply with the terms of the Protective Order and this stipulation supplementing the
11 Protective Order.

12 7. In the event that a party deems it necessary to disclose any document
13 designated as “Confidential – Outside Counsel Only” to any person not specified in Paragraph 5,
14 that party shall notify counsel for NFL Players in writing of: (i) the document it wishes to
15 disclose; and (ii) the persons to whom such disclosure is to be made. The proposed disclosure
16 shall not be made absent written permission from NFL Players, unless the party wishing to make
17 the disclosure obtains an order from the United States District Court for the District of Columbia
18 permitting the proposed disclosure.

19 8. Any document designated as “Confidential – Outside Counsel Only” that
20 is used in connection with any court proceeding shall not lose its outside counsel only status
21 through such use, and the parties shall take all steps reasonably required to protect its
22 confidentiality during such use, including the notice and filing under seal procedures provided in
23 paragraphs 13, 15, and 16 of the Protective Order.

24 9. The parties agree that any documents produced by NFL Players, however
25 designated, will be treated in accordance with the Protective Order and this stipulation
26 supplementing the Protective Order, and will not be shown or in any way provided to any third
27 party, including during the deposition of other third parties, unless the third party otherwise
28 satisfies an exception to gain access to such confidential information.

