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14 Class Counsel

15
 16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 OAKLAND DIVISION

19 GEOFFREY PECOVER and ANDREW)
 OWENS, on behalf of themselves and a class of)
 20 person similarly situated,)
)
 21 Plaintiffs,)
)
 22 v.)
)
 23 ELECTRONIC ARTS INC., a Delaware)
 Corporation,)
 24)
 Defendant.)
 25 _____)

No. 08-cv-02820 CW
 STIPULATION AND ~~PROPOSED~~
 ORDER RE PRODUCTION OF
 DOCUMENTS BY COLLEGIATE
 LICENSING COMPANY IN *IN RE*
NCAA STUDENT-ATHLETE NAME &
LIKENESS LICENSING LITIGATION
 ACTION FILED: June 5, 2008

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1 WHEREAS the Collegiate Licensing Company is a defendant in the related action, *In re*
2 *NCAA Student-Athlete Name & Likeness Licensing Litigation*, Case No. 4:09-cv-1967 CW
3 (NC)(the “NCAA action”);

4 WHEREAS Plaintiffs in *Pecover v. Electronic Arts Inc.* have issued a number of subpoenas
5 requesting production of documents to the Collegiate Licensing Company;

6 WHEREAS the subject matter of the documents produced in *In re NCAA Student-Athlete*
7 *Name & Likeness Licensing Litigation* overlap to some extent with the document requests by
8 Plaintiffs in the *Pecover* litigation;

9 WHEREAS rather than requiring third party Collegiate Licensing Company to re-review
10 and produce documents in the *Pecover* litigation;

11 1. It is hereby stipulated by and between the Plaintiffs and third-party Collegiate
12 Licensing Company in this action that all documents produced by Collegiate Licensing Company
13 in the *In re NCAA Student-Athlete Name & Likeness Licensing Litigation*, Case No. 4:09-cv-1967
14 CW (NC) will be deemed produced in the *Pecover* litigation and may be used in that litigation as if
15 produced in that litigation. This stipulation is conditioned on Plaintiffs entering into a stipulation
16 with all other parties to the *Pecover* action, including Electronic Arts, to supplement the Protective
17 Order in the *Pecover* action, and the Court entering an order supplementing the *Pecover* Protective
18 Order, to allow CLC’s materials produced in the NCAA action to be subject to the same
19 protections and confidentiality designations as apply in the NCAA action. A copy of the proposed
20 Stipulation and Proposed Order re Confidentiality of CLC Documents and Materials is attached
21 hereto as **Exhibit 1**.

22 2. Plaintiffs and CLC agree that any confidentiality designation made in *In re NCAA*
23 *Student-Athlete Name & Likeness Licensing Litigation*, Case No. 4:09-cv-1967 CW (NC) shall be
24 deemed made in the *Pecover* litigation.

25 3. Any materials designated by CLC as CONFIDENTIAL in the NCAA case will be
26 treated as CONFIDENTIAL in accordance with the Protective Order entered in the *Pecover*
27 litigation. Such materials will be deemed produced in the *Pecover* litigation without any further
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1 supplementation of the *Pecover* Protective Order or stipulation among the parties in *Pecover*.

2 4. Plaintiffs and CLC further agree that any CLC materials produced in NCAA action
3 and designated as COUNSEL ONLY will not be deemed to be produced in *Pecover* unless and
4 until the Court supplements the *Pecover* Protective Order, pursuant to the proposed Stipulation
5 attached as **Exhibit 1**, to afford these materials the same protections in the *Pecover* action as they
6 are afforded in the NCAA action.

7 IT IS SO STIPULATED

8 DATED: February 16, 2012

HAGENS BERMAN SOBOL SHAPIRO LLP

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10 By _____ /s/ Shana E. Scarlett
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DATED: February 16, 2012

KILPATRICK TOWNSEND & STOCKTON LLP

By /s/ Peter M. Boyle
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Washington, D.C. 20005-2018
pboyle@kilpatricktownsend.com

Attorneys for Third-Party Collegiate Licensing
Company

* * *

IT IS SO ORDERED.

DATED: February 16, 2012



HONORABLE BERNARD ZIMMERMAN
UNITED STATES MAGISTRATE JUDGE

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 16, 2012, I electronically filed the foregoing document
3 using the CM/ECF system which will send notification of such filing to the e-mail addresses
4 registered in the CM/ECF system, as denoted on the Electronic Mail Notice List, and I hereby
5 certify that I have mailed a paper copy of the foregoing document via the United States Postal
6 Service to the non-CM/ECF participants indicated on the Manual Notice List generated by the
7 CM/ECF system.

8
9 /s/ Shana E. Scarlett
SHANA E. SCARLETT

EXHIBIT 1

1 Shana E. Scarlett (217895)
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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION

19 GEOFFREY PECOVER and ANDREW) No. 08-cv-02820 CW
OWENS, on behalf of themselves and a class of)
20 person similarly situated,)
21) Plaintiffs,)
22 v.)
23 ELECTRONIC ARTS INC., a Delaware)
Corporation,)
24) Defendant.)
25 _____) ACTION FILED: June 5, 2008

1 In order to protect confidential information obtained from non-party The Collegiate
2 Licensing Company (“CLC”) in connection with the above-captioned action, Plaintiffs and
3 Defendant Electronic Arts, Inc. (“EA,” and collectively with Plaintiffs, the “Parties”), by and
4 through their undersigned attorneys, hereby stipulate as follows:

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

8 2. In addition to the provisions and protections contained in the Protective Order, the
9 following shall apply to documents and information produced by CLC in connection with this
10 action.

11 3. CLC may designate any materials, including interrogatory responses, other
12 discovery responses, or transcripts, as “COUNSEL ONLY” if it reasonably and in good faith
13 believes that such document contains confidential information so commercially sensitive that the
14 protections afforded by the Protective Order are insufficient to adequately protect the interests of
15 CLC.

16 4. The Parties acknowledge and agree that examples of an appropriate “COUNSEL
17 ONLY” designation include internal CLC communications discussing the negotiation of the terms
18 of licensing agreements between CLC and EA, as well as the terms of licensing agreements
19 between CLC and licensees other than EA.

20 5. Except as expressly provided below, any document produced by CLC and
21 designated “COUNSEL ONLY” may be used only for purposes of this action and shall not be
22 given, shown, made available or communicated in any way to anyone except:

- 23 a. the Court, court personnel and court reporters;
- 24 b. outside litigation counsel of record to the Parties, including the legal
25 associates and clerical or other support staff who are employed by such
26 counsel and are working under the express direction of such counsel;
- 27 c. court reporters who record deposition or other testimony in the litigation;

- d. consultants or experts retained by the Parties;
- e. any person who is indicated on the face of a document to have been an author, addressee or copy recipient thereof;
- f. any person whom CLC agrees to in writing prior to any such disclosure.
- g. persons or entities that provide litigation support services (*e.g.*, photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors

6. Counsel for the Parties shall obtain from all persons who are given access to any documents produced by CLC, including documents designated “COUNSEL ONLY,” written acknowledgement that such persons have read, understand, and will comply with the terms of the Protective Order and this stipulation supplementing the Protective Order.

7. In the event that a party deems it necessary to disclose any document designated as “COUNSEL ONLY” to any person not specified in Paragraph 5, that party shall notify counsel for CLC in writing of: (i) the document it wishes to disclose; and (ii) the persons to whom such disclosure is to be made. The proposed disclosure shall not be made absent written permission from CLC, unless the party wishing to make the disclosure obtains an order from the United States District Court for the District of Columbia permitting the proposed disclosure.

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

9. The parties agree that any documents produced by CLC, however designated, will be treated in accordance with the Protective Order and this stipulation supplementing the Protective Order, and will not be shown or in any way provided to any third party, including during the

1 deposition of other third parties, unless the third party otherwise satisfies an exception to gain
2 access to such confidential information.

3 **IT IS SO STIPULATED.**

4 DATED: February 16, 2012

HAGENS BERMAN SOBOL SHAPIRO LLP

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6 By _____
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DATED: February 16, 2012

LATHAM & WATKINS

By _____
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Attorney for Defendant Electronic Arts Inc.

DATED: February 16, 2012

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*Attorneys for Third-Party Collegiate Licensing
Company*

* * *

IT IS SO ORDERED.

DATED: _____

HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT COURT JUDGE

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 16, 2012, I electronically filed the foregoing document
3 using the CM/ECF system which will send notification of such filing to the e-mail addresses
4 registered in the CM/ECF system, as denoted on the Electronic Mail Notice List, and I hereby
5 certify that I have mailed a paper copy of the foregoing document via the United States Postal
6 Service to the non-CM/ECF participants indicated on the Manual Notice List generated by the
7 CM/ECF system.

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SHANA E. SCARLETT