

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE NCAA STUDENT-ATHLETE  
NAME & LIKENESS LICENSING  
LITIGATION

No. C 09-1967 CW

ORDER CONSOLIDATING  
CASES, ADDRESSING  
DISCOVERY MATTERS,  
MODIFYING CASE  
SCHEDULE, AND  
REQUIRING PARTIES  
TO PROVIDE AN  
ESTIMATE OF THE  
LENGTH OF TRIAL

ISHMAEL THROWER, on behalf of  
himself and all others similarly  
situated,

No. C 10-632 CW

Plaintiff,

v.

NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION, also known as NCAA;  
and COLLEGIATE LICENSING COMPANY,  
also known as CLC,

Defendants.

OSCAR P. ROBERTSON; TATE GEORGE;  
and RAY ELLIS, on behalf of  
themselves and all others  
similarly situated,

No. C 11-388 CW

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION, also known as NCAA;  
COLLEGIATE LICENSING COMPANY,  
also known as CLC; and ELECTRONIC  
ARTS, INC.,

Defendants.

1 WILLIAM F. RUSSELL, on behalf of  
2 himself and all others similarly  
3 situated,

No. C 11-4938 CW

4 Plaintiff,

5 v.

6 NATIONAL COLLEGIATE ATHLETIC  
7 ASSOCIATION, also known as NCAA;  
8 COLLEGIATE LICENSING COMPANY,  
9 also known as CLC; and ELECTRONIC  
10 ARTS, INC.,

11 Defendants.

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13 With the agreement of all parties, the Court finds that the  
14 above-captioned actions share a common question of law or fact and  
15 meet the standard for consolidation pursuant to Federal Rule of  
16 Civil Procedure 42. The Court therefore ORDERS that Thrower v.  
17 National Collegiate Athletic Association, Case No. 10-632,  
18 Robertson v. National Collegiate Athletic Association, Case No.  
19 11-388, and Russell v. National Collegiate Athletic Association,  
20 Case No. 11-4938, be consolidated onto the docket of In re NCAA  
21 Student-Athlete Name & Likeness Licensing Litigation, Case No.  
22 09-1967, to proceed with the Antitrust Plaintiffs. This  
23 consolidation is without prejudice to a later determination as to  
24 whether the cases should be tried together.

25 The Clerk shall administratively close the dockets for  
26 Thrower, Robertson and Russell, and future filings in these cases  
27 shall be made in the docket of the consolidated case. Nothing  
28 contained in this Order shall be considered a dismissal or  
disposition of these actions, and, should further proceedings in  
this litigation become necessary or desirable, any party may

1 initiate it in the same manner as if this Order had not been  
2 entered.

3 The Court VACATES its May 2, 2011 Order to the extent that it  
4 required Publicity and Antitrust Plaintiffs to serve joint  
5 deposition notices and prevented Antitrust Plaintiffs from serving  
6 deposition notices upon Electronic Arts, Inc. The Court declines  
7 to lift the stay on discovery upon Electronic Arts, Inc. by  
8 Publicity Plaintiffs. After the Ninth Circuit's resolution of the  
9 pending appeal in Keller v. Electronic Arts, Inc., Case No. 10-  
10 15387 (9th Cir.), Publicity Plaintiffs may move to take a second  
11 deposition of witnesses from NCAA and CLC, provided that  
12 Plaintiffs are able to show that they have actual questions for  
13 these witnesses that they could not have asked during the initial  
14 deposition and that they now need to ask because of an intervening  
15 change in circumstances. In such circumstances, the Court may  
16 order alternatives to in-person depositions, such as requiring the  
17 parties to propound such questions by interrogatory or to  
18 participate in telephonic depositions, to reduce the burden on  
19 witnesses of second depositions.

20 The Court VACATES the schedule set in the March 29, 2012  
21 Order as to the claims brought by Publicity Plaintiffs only; the  
22 dates shall be reset following the Ninth Circuit's resolution of  
23 the appeal in Keller v. Electronic Arts, Inc., Case No. 10-15387.

24 The Court CONFIRMS the following schedule set in the March  
25 29, 2012 Order as to the claims brought by Antitrust Plaintiffs:

26 Deadline to file Antitrust Plaintiffs' motion 27 for class certification and to disclose 28 Antitrust Plaintiffs' class certification experts	August 31, 2012
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1	Deadline to depose Antitrust Plaintiffs' class certification experts	October 1, 2012
2	Completion of fact discovery	October 31, 2012
3	Deadline to file Defendants' Oppositions to Antitrust Plaintiffs' motion for class certification and Defendants' <u>Daubert</u> motions on Antitrust Plaintiffs' class certification experts, and to disclose Defendants' class certification experts	October 31, 2012
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7	Each Defendant shall address these matters in a single brief. To the extent possible, Defendants shall file a single joint brief on behalf of more than one, or all, Defendants.	
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9	Deadline to depose Defendants' class certification experts	November 30, 2012
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11	Parties to exchange opening expert reports on merits	November 30, 2012
12	Deadline to file Antitrust Plaintiffs' reply in support of their motion for Class Certification, Antitrust Plaintiffs' opposition to Defendants' class certification <u>Daubert</u> motion, and Antitrust Plaintiffs' <u>Daubert</u> motions on Defendants' class certification experts	December 13, 2012
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16	Antitrust Plaintiffs shall address these matters in a single brief.	
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18	Deadline to file Defendants' replies in support of their class certification <u>Daubert</u> motions and Defendants' oppositions to Antitrust Plaintiffs' class certification <u>Daubert</u> motions	January 17, 2013
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20	Each Defendant shall address these matters in a single brief. To the extent possible, Defendants shall file a single joint brief on behalf of more than one, or all, Defendants.	
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22	Deadline to depose parties' liability experts	January 31, 2013
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24	Deadline to file Antitrust Plaintiffs' replies in support of their class certification <u>Daubert</u> motions	February 1, 2013
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26	Antitrust Plaintiffs shall address these matters in a single brief.	
27	Deadline to disclose rebuttal expert reports	February 8, 2013
28	Hearing on Antitrust Plaintiffs' class certification motion and all parties' <u>Daubert</u>	Thursday, March 7, 2013, at 2:00

1	motions on class certification experts, and further case management conference	p.m.
2	Deadline to dispose rebuttal experts	March 22, 2013
3	Deadline for Antitrust Plaintiffs to file their dispositive motion and <u>Daubert</u> motions on	June 12, 2013
4	Defendants' merits experts	
5	Antitrust Plaintiffs shall address these matters in a single brief.	
6	Deadline for Defendants to file their	July 17, 2013
7	oppositions to Antitrust Plaintiffs' dispositive motion and <u>Daubert</u> motions, their	
8	dispositive cross-motions, and their <u>Daubert</u> motions on Antitrust Plaintiffs' merits experts	
9	Each Defendant shall address these matters in a single brief. To the extent possible,	
10	Defendants shall file a single joint brief on behalf of more than one, or all, Defendants.	
11	Deadline for Antitrust Plaintiffs to file their	August 21, 2013
12	reply in support of their dispositive motion and <u>Daubert</u> motions, and oppositions to	
13	Defendants' dispositive cross-motions and <u>Daubert</u> motions	
14	Antitrust Plaintiffs shall address these matters in a single brief.	
15	Deadline for Defendants to file replies in support of their dispositive cross-motions and	September 20, 2013
16	<u>Daubert</u> motions	
17	Each Defendant's replies shall be contained in a single brief. To the extent possible,	
18	Defendants shall file a single joint brief on behalf of more than one, or all, Defendants.	
19	Hearing on dispositive motions and further case management conference	Thursday, November 7, 2013, at 2:00 p.m.
20	Final pretrial conference	Wednesday, February 12, 2014, at 2:00 p.m.
21	Pretrial documents shall be filed in accordance with the Court's Order for Pretrial Preparation.	
22	Jury Trial	Monday, February 24, 2014, at 8:30 a.m.
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In the March 29, 2012 Order, the Court noted that it had no estimate of the length of the trial for its calendar purposes, and directed the parties to file a notice providing the number of court days that they would request for trial. The parties have failed to do so. The Court ORDERS the parties to discuss the number of court days they request for a trial of the claims in the Antitrust case only, and to advise the Court of their joint or separate positions by a filed notice within seven days of the date of this Order.

IT IS SO ORDERED.

Dated: 5/21/2012

  
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CLAUDIA WILKEN  
United States District Judge