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10 Attorneys for Plaintiffs

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 13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**
 15 **OAKLAND DIVISION**

16 SAMUEL MICHAEL KELLER, on behalf of
 17 himself and all others similarly situated,,

18 Plaintiff,

19 v.

20 ELECTRONIC ARTS, INC.; NATIONAL
 COLLEGIATE ATHLETICS ASSOCIATION;
 21 COLLEGIATE LICENSING COMPANY,

22 Defendants.

Case No. 4:09-cv-1967 CW

**DECLARATION OF STEVE W.
 BERMAN**

Judge: Hon. Claudia Wilken
 Courtroom: 2, 4th Floor

Complaint Filed: May 5, 2009

1 I, Steve W. Berman, declare as follows:

2 1. I am a partner at Hagens Berman Sobol Shapiro LLP. The Court has appointed my
3 law firm as Co-Lead Counsel with principal responsibility for the Right of Publicity claims. I
4 submit this Declaration in Support of Plaintiffs' Motion for Preliminary Approval of Class Action
5 Settlement. Unless otherwise stated, I have personal knowledge of the information set forth in this
6 Declaration.

7 2. Counsel for the Antitrust Plaintiffs, the Keller Right of Publicity Plaintiffs,
8 Electronic Arts Inc. ("EA") and Collegiate Licensing Company ("CLC") first engaged in
9 settlement discussions in November 2011 before retired Judge Edward Infante. Those discussions
10 did not lead to a resolution.

11 3. Counsel for the Antitrust Plaintiffs, the Keller Right of Publicity Plaintiffs, and EA
12 agreed to engage in settlement discussions again in the fall of 2013, this time including then-
13 counsel for the Hart Right of Publicity Plaintiffs. The parties participated in mediation before
14 Randy Wulff ("Wulff") of Wulff Quinby Sochynsky, a dispute resolution firm, on September 10,
15 2013. The basic parameters of the settlement were agreed upon at that session, and the parties
16 proceeded to draft a term sheet, which was executed on September 26, 2013. The parties then
17 began negotiating a long-form settlement agreement.

18 4. In or around October 2013, Hart replaced his counsel and the substitute counsel,
19 Lum, Drasco & Positan, LLC ("LDP") and McKenna Law Firm LLC ("McKenna"), undertook an
20 independent review of the term sheet and draft long-form settlement agreement. Hart's counsel
21 ultimately consented to the then-agreed to terms.

22 5. Over the course of the next several months, counsel for the parties participated in
23 numerous arm's-length and hard-fought, telephonic negotiating sessions and exchanged drafts and
24 redlines of the long-form settlement agreement.

25 6. By April 2014, issues remained about how to allocate the proposed settlement fund,
26 which were resolved in a multiple sessions with Wulff held in April 2014. Thereafter, the parties
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1 continued to negotiate the final details of the long-form settlement agreement and its respective
2 exhibits. The settlement agreement was executed on May 15, 2014.

3 7. The settlement discussions and negotiations were always at arm's length, non-
4 collusive, and in good faith. All parties vigorously negotiated their respective positions on all
5 material terms of the Settlement Agreement. Plaintiffs' counsel zealously advanced their respective
6 positions and were fully prepared to continue to litigate rather than to accept a settlement that was
7 not in the best interests of the Class.

8 8. In connection with these settlement negotiations, Counsel for the Right of Publicity
9 Plaintiffs were informed of the facts concerning liability and damages and the relative strengths
10 and weaknesses of each party's litigation position. We analyzed and evaluated many contested
11 legal and factual issues posed by the litigation so that adequate demands and accurate evaluation of
12 EA's positions could be made.

13 I declare under penalty of perjury under the laws of the United States that the foregoing is
14 true and correct. Executed this 29th day of May, 2014 in Seattle, Washington.

15
16 /s/ Steve W. Berman
17 STEVE W. BERMAN