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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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

Plaintiff,

v.

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

Defendants.

Case No. 4:09-cv-1967 CW

**DECLARATION OF LEONARD W.
ARAGON**

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

Complaint Filed: May 5, 2009

1 I, Leonard W. Aragon, 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. During the litigation, I supervised the collection of Division I¹ football and men's
8 basketball rosters for the *Keller* and *Hart/Alston* right of publicity class periods. Using this
9 information, my team created a database containing roster information for each student-athlete on a
10 team that had a corresponding team in an EA NCAA-Branded videogame. The database is referred
11 to as the Real Roster Database.

12 3. I simultaneously supervised the creation of a second database with roster
13 information pulled from the virtual rosters in EA's NCAA Branded Videogames.² The second
14 database is referred to as the Virtual Roster Database. The Virtual Roster Database includes the
15 same data fields as the Real Roster Database. The Virtual Roster Database is currently incomplete.
16 EA, however, has agreed to produce electronic spreadsheets from its NCAA Branded Videogames
17 that will allow ROP Plaintiffs to complete the virtual database. Plaintiffs currently have virtual
18 data for several games and will complete the Virtual Roster Database once they receive
19 confirmatory discovery.

20 4. The Real Roster Database and the partially complete Virtual Roster Database were
21 merged into a Microsoft Access 2013 database. From the Access database, I am able to run queries
22
23

24 ¹ Division I refers to NCAA Division I (formerly known as "University Division") college or
25 university men's basketball teams, NCAA Football Bowl Subdivision (formerly known as Division
26 I-A) men's football teams, and NCAA Football Championship Subdivision (formerly known as
27 Division I-AA).

28 ² NCAA Football 2004, NCAA Football 2005, NCAA Football 2006, NCAA Football 2007,
NCAA Football 08, NCAA Football 09, NCAA Football 10, NCAA Football 11, NCAA Football
12, NCAA Football 13, NCAA Football 14, NCAA March Madness 2004, NCAA March Madness
2005, NCAA March Madness 06, NCAA March Madness 07, NCAA March Madness 08, NCAA
Basketball 09, and NCAA Basketball 10 (collectively, "EA NCAA Branded Videogames").

1 based on virtual and real-world roster information that allows me to match student-athletes from
2 the Real Roster Database to their virtual counterpart in the Virtual Roster Database.

3 5. The queries produce spreadsheets of student-athletes and their virtual counterparts
4 based on matching uniform number, school, division, sport, position and home state.

5 6. Based on the merged database, there are approximately 77,550 appearances by class
6 members in NCAA Branded football videogames and 18,400 appearances by class members in
7 NCAA Branded men's basketball games. These numbers are only estimates based on the
8 information gathered to date, and are likely to deviate based on information provided by EA. Once
9 EA produces confirmatory discovery, ROP Plaintiffs will update the databases and will provide a
10 supplemental report to the Court.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct. Executed this 29th day of May, 2014 in Phoenix, Arizona.

13
14 /s/ Leonard W. Aragon
LEONARD W. ARAGON