

EXHIBIT W

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE NCAA STUDENT-ATHLETE)
NAME & LIKENESS LICENSING)
LITIGATION)

No. 4:09-cv-1967 CW

- HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY -

VIDEOTAPED DEPOSITION OF TODD W. SITRIN

San Francisco, California

Friday, January 25, 2013

Volume I

Reported by:

SUZANNE F. BOSCHETTI

CSR No. 5111

Designation Color Key
Blue = NCAA Affirm Designs.
Orange = Pls' Counter Designs.
Fuchsia = NCAA Rebuttal Designs

1 counsel for EA.

2 MR. WAHL: Suzanne Wahl from Schiff Hardin
3 for the NCAA.

4 MR. HENN: Charles Henn on behalf of
5 Collegiate Licensing Company.

6 VIDEO OPERATOR: Thank you. Our court
7 reporter today is Suzanne Boschetti. At this time
8 will the reporter please swear the witness.

9
10 TODD W. SITRIN,
11 having been administered an oath, was examined and
12 testified as follows:

13
14 VIDEO OPERATOR: Thank you. Please
15 proceed.

16
17 EXAMINATION

18 BY MR. MEDICI:

19 Q Good morning.

20 A Good morning.

21 Q Would you please state your full name for
22 the record.

23 A Todd Wolf Sitrin.

24 Q And can you spell that, please?

25 A S-i-t-r-i-n.

1 inclusive of the products within all of EA Sports.

2 BY MR. MEDICI:

3 Q What titles were there?

4 MR. SLAUGHTER: Objection. Overbroad.

5 THE WITNESS: Many titles. Again from year
6 to year it would change but inclusive of the titles
7 developed in Orlando and Canada.

8 BY MR. MEDICI:

9 Q So from 2007 to the present, you've had
10 responsibility over the NCAA Basketball franchise?

11 MR. SLAUGHTER: Objection. Misstates --
12 assumes facts not in evidence.

13 THE WITNESS: I would say that I had people
14 reporting to me who were responsible for those
15 products.

16 BY MR. MEDICI:

17 Q The same question for football. Have you
18 had responsibility for marketing the NCAA Football
19 franchise from 2007 to the present?

20 MR. SLAUGHTER: Same objection. You can
21 answer.

22 THE WITNESS: Same answer, which is I've
23 had people reporting to me who were responsible for
24 the marketing of those products.

25 BY MR. MEDICI:

1 Q And from 2001 to 2007, did you have
2 responsibility for marketing the NCAA Football
3 franchise?

4 A As in my role of product marketing, I was
5 responsible for the product marketing aspects of
6 NCAA Football.

7 Q Did your role grow in 2007?

8 A My -- can you be more specific about --

9 Q You mentioned that your job title changed
10 in this reorganization.

11 A Mm-hmm.

12 Q Did you have additional responsibilities at
13 that point?

14 A Yes.

15 Q What were they?

16 MR. SLAUGHTER: Objection. Asked and
17 answered. You can answer.

18 THE WITNESS: There was an increase in the
19 number of franchises because I was now responsible
20 for all of the EA Sports properties. It also
21 included an increase in our research and consumer
22 insights organization.

23 There has subsequently been digital
24 marketing aspects that have been added to -- to my
25 responsibilities as well as partnership marketing

1 finish his answers, too, please.

2 MR. MEDICI: Sure.

3 BY MR. MEDICI:

4 Q And what is a likeness?

5 A A likeness is a, you know, photographic
6 face for a person.

7 MR. SLAUGHTER: And I object belatedly
8 to the -- that that question calls for a legal
9 conclusion.

10 BY MR. MEDICI:

11 Q Outside of a photographic face, is there
12 anything else that a likeness is?

13 MR. SLAUGHTER: Objection. Calls for a
14 legal conclusion.

15 THE WITNESS: My understanding is that a
16 likeness is the photographic representation of a
17 face.

18 BY MR. MEDICI:

19 Q Would skin tone be part of a likeness?

20 MR. SLAUGHTER: Objection. Calls for a
21 legal conclusion.

22 THE WITNESS: I -- my knowledge is that a
23 likeness is a photographic representation of a face.

24 BY MR. MEDICI:

25 Q Were likenesses ever used in any of the

1 NCAA video games?

2 MR. SLAUGHTER: Objection. Calls for a
3 legal conclusion. You can answer.

4 THE WITNESS: Photographic likenesses of
5 faces were never used, to my knowledge, in NCAA
6 Football.

7 BY MR. MEDICI:

8 Q From a marketing perspective, what would
9 you say the most important features of the NCAA
10 Football games are over time?

11 MR. SLAUGHTER: Objection. Over broad.
12 Vague and ambiguous.

13 THE WITNESS: It's an extremely broad
14 question, but I would say trying to represent the
15 college experience and trying to represent the team
16 nature of the individual colleges in terms of how
17 they play their game. And the atmosphere and
18 tradition are probably the most important parts.

19 BY MR. MEDICI:

20 Q Is accuracy important?

21 MR. SLAUGHTER: Objection. Vague.

22 THE WITNESS: Accuracy of what?

23 BY MR. MEDICI:

24 Q All those things you just mentioned, the --

25 A It's -- we strive for authenticity at EA

1 Sports. So trying to be authentic is important.

2 Q Is "it's in the game" EA's logo or its
3 slogan?

4 A It is a tag line, and it has varied over
5 time, but the current manifestation is "it's in the
6 game."

7 Q What was it before that?

8 A "If it's in the game, it's in the game."

9 Q Has it changed --

10 A It's changed over time to "it's in the
11 game." I apologize.

12 MR. SLAUGHTER: You guys got to --

13 BY MR. MEDICI:

14 Q There hasn't been anything else besides "if
15 it's in the game, it's in the game" or "it's in the
16 game"?

17 A To my knowledge, no, those are the only
18 two.

19 Q And is that -- is that an internal motto as
20 well, or is that just a tag line for marketing
21 purposes?

22 A I don't know what an internal motto would
23 be. It is a tag line that we've used externally
24 extensively over the years.

25 Q Is it a tag line used internally?

1 more plays, we've had more logos. We've had more of
2 those aspects to the game because of the technology;
3 therefore, I would say that it is more authentic.

4 BY MR. MEDICI:

5 Q Over time do you -- do you feel that the
6 players' avatars, aside from the likenesses as
7 you've defined it, have become more realistic?

8 MR. SLAUGHTER: Object to the form.

9 THE WITNESS: I actually cannot speak to
10 the individual aspects of that part of the game
11 development because I'm not involved in it.

12 BY MR. MEDICI:

13 Q And you don't use that as a marketing tool?

14 A Not to my knowledge, no.

15 Q Do you think it would be easier to sell the
16 games if you had the names on the back of the
17 players' jerseys?

18 MR. SLAUGHTER: Object to the form.

19 THE WITNESS: What does that mean?

20 MR. SLAUGHTER: It means you can answer the
21 question. I'm objecting. I don't think it's a
22 proper question. I think it calls for speculation
23 and lacks foundation, but you can answer to the best
24 you can.

25 THE WITNESS: I believed that if we did

1 player's likeness would add to the authenticity and
2 profitability of a sports video game?

3 MR. SLAUGHTER: Objection. Lacks
4 foundation. Calls for speculation. And it's
5 compound.

6 THE WITNESS: I believe that if we had
7 player likeness, which is a photographic
8 representation of the face, in our games, that
9 there's the opportunity that we might have had
10 greater sales.

11 BY MR. MEDICI:

12 Q And in your role as -- in your marketing
13 role from 2007 forward, did you do anything to get
14 the name and the likeness, as you've defined it, to
15 get greater sales?

16 MR. SLAUGHTER: We're now limiting
17 ourselves to the NCAA games, right?

18 MR. MEDICI: Yes.

19 THE WITNESS: With regard to the NCAA
20 games, I made -- I can recall three presentations in
21 an attempt to see if we could secure player names
22 and likenesses.

23 BY MR. MEDICI:

24 Q Did you do anything else aside from those
25 three presentations?

1 about.

2 Q That is what I'm asking about. I'm asking
3 about your recollection.

4 A So I do not recollect -- recall what was
5 the specifics of the morning executive session.

6 Q After the morning executive session, if you
7 flip to the next page ending in 49, from 11:45 to
8 1:30 there's a working lunch meeting, and from 2:00
9 to 2:30 there's a wrap-up and follow-up goals.

10 Do you see that you're a participant in
11 both of those meeting schedule items?

12 A I see that my name is listed in -- in both
13 of those --

14 Q Do you remember --

15 A -- portions.

16 Q Sorry.

17 Do you remember participating in those
18 sessions?

19 A Again, I remember going to Indianapolis to
20 present to the NCAA. I do not remember the
21 specifics of each part of the day.

22 (Deposition Exhibit 929 marked by the court
23 reporter.)

24 BY MR. MEDICI:

25 Q The court reporter has handed you a

1 relatively large document bearing the Bates stamp
2 EA0026930, ending in 27015. It's Exhibit 929.

3 Please take a moment to review this
4 document, and let me know when you've had a chance
5 to look it over.

6 MR. SLAUGHTER: Carmen, I'll just note for
7 the record that pages 1 through 58 of this deck I am
8 familiar with it. It's obviously been a depo
9 exhibit before. I've seen this document before.
10 But you've also attached behind that a bunch of
11 other documents that -- I mean, what -- you can ask
12 the witness the questions, but don't appear to be
13 related. Maybe they are. And I just want to know
14 why you put these together as one document.

15 Do you have reason to believe that they are
16 one document? I mean, just because they're
17 consecutive -- and I see that they're consecutively
18 Bates labeled, but obviously lots of things are
19 consecutively Bates labeled.

20 MR. MEDICI: Yeah. I'd like to know if
21 this is the underlying data that was relied on to
22 create the presentation.

23 MR. SLAUGHTER: Okay. Well, you -- why
24 don't you --

25 THE WITNESS: I'll get there.

1 MR. SLAUGHTER: -- look at it.

2 THE WITNESS: Okay.

3 BY MR. MEDICI:

4 Q Have you had a chance to review
5 Exhibit 929?

6 A I have.

7 Q Do you recognize this document?

8 MR. SLAUGHTER: I'll state my objection
9 that the question implies that it's one document. I
10 don't think that we've established that it is.

11 THE WITNESS: I recognize the PowerPoint
12 portion of the document.

13 MR. MEDICI: So I'll -- I'll represent for
14 the record that this is a few documents that are put
15 together. 26987 is the ending of the PowerPoint
16 presentation. The remainder of the document is
17 something else, but it was produced to us in this
18 order.

19 BY MR. MEDICI:

20 Q Would you please flip to page 26988.

21 A 26988?

22 Q Yes.

23 MR. SLAUGHTER: This page? This one? The
24 first page, substantive page past the PowerPoint
25 document?

1 not final about this presentation?

2 A I don't have a recollection of every
3 version that I may have gone through at that time,
4 so I can't tell you.

5 Q Was this the presentation that was made at
6 the Indianapolis meeting referenced in Exhibit 928?

7 A The dates coincide between the date of the
8 meeting and the date on the title page, so I will
9 assume that the answer is yes.

10 Q Do you remember any of the attendees at
11 this meeting?

12 A I do.

13 Q Who was there?

14 A Myself, Joel Linzner, Larry Probst, Nancy
15 Smith, Myles Brand and the other names that are on
16 the agenda that you just showed me ten minutes ago,
17 but I don't remember those names specifically.

18 Q Do you -- you do specifically remember them
19 being there, though?

20 A Who?

21 MR. SLAUGHTER: Exactly. I'm sorry. Vague
22 as to who. He listed the people who he
23 specifically -- I'll let him testify.

24 THE WITNESS: Yes, I listed the names of
25 the people I personally remember being there.

1 anybody else at the meeting specifically.

2 Q Was there anybody else in the room?

3 A There were many people in the room.

4 Q More than 15?

5 A I have -- I have no exact memory of the
6 number of people that were in the room.

7 Q Do you know what the college basketball
8 partnership is?

9 A No, not specifically.

10 Q Did you take notes at this meeting?

11 A I have no idea if I took notes or not.

12 Q Do you customarily take notes when you go
13 to meetings?

14 MR. SLAUGHTER: Objection. Vague.
15 Overbroad.

16 THE WITNESS: It depends what meeting it
17 is. But, yes, I take notes at meetings.

18 BY MR. MEDICI:

19 Q Turning to Exhibit 929, I can represent to
20 you that this came from your custodial files.

21 MR. HENN: All of them?

22 MR. MEDICI: Yes, all of it.

23 BY MR. MEDICI:

24 Q What was the purpose for which you prepared
25 this presentation?

1 Q Do you remember anyone in specific that
2 asked you any questions?

3 A Well, I don't remember any specific person
4 asking me questions.

5 Q Do you remember any -- remember any
6 specific questions?

7 A No.

8 Q Can you please turn to page 45 in the
9 PowerPoint. It ends in the Bates No. ending in 74.
10 The first bullet point reads:

11 "No player names and likenesses."

12 And then it has three sub points. Can you
13 tell me what you meant by that bullet point?

14 A The deck references several times that --
15 that as we move into next generation, there's a
16 desire for greater authenticity; that the NCAA games
17 did not have player names, nor did it have
18 likenesses; and because our Madden NFL games and our
19 NBA Live professional games had both player names
20 and likenesses, meaning the facial representation,
21 photographic representation of the face, they had a
22 tremendous competitive advantage versus their
23 college counterparts.

24 So, for instance, when a quarterback would
25 drop back in -- in Madden, it would be Peyton

1 Manning. It would have his face, and it would have
2 his name. But in our college game, it would be a
3 generic quarterback 18, and it would not have a
4 face. And the same thing with basketball with the
5 example of LeBron James.

6 So it was showing the disparity between the
7 games in which we had no player names or likenesses
8 and the ones in which we did, meaning the
9 professional ones.

10 Q Do you agree that the second bullet point
11 stands for the same idea?

12 MR. SLAUGHTER: Objection. Vague.

13 THE WITNESS: I can describe what I think
14 the second point --

15 BY MR. MEDICI:

16 Q Please -- please do. Sorry, I was just
17 trying to shortcut that.

18 A The second bullet point is referring to the
19 fact that our brand, as you asked earlier, has a tag
20 line of "if it's in the game, it's in the game,"
21 meaning if it's in the real world of sport, then it
22 is inside of our video game.

23 And what was very obvious to consumers and
24 media and retailers is that as it related to our
25 NCAA game, that the real world was not being

1 replicated because we did not have player names or
2 likenesses.

3 As a result of that, consumers had a
4 limited or less emotional connection to the game,
5 and they felt like they were playing, and they were
6 playing with fantasy players, and, therefore, as the
7 next generation technology continued to advance
8 greater reality, the NCAA games, because we didn't
9 have players' names or the player likenesses, would
10 fall further and further behind, and that would hurt
11 the sales potential for the product.

12 Q Why would you share this information in
13 slide 45 of this deck with the CLC and the NCAA?

14 A We were proposing to them that there would
15 be a new way in which we would work, meaning that we
16 would -- we were desiring to have player names and
17 likenesses, and we were illustrating an advantage if
18 we had that. And it was our belief that having a
19 product that would have greater sales would be of
20 interest to them.

21 Q Why would having a product that would have
22 greater sales be of interest to the NCAA?

23 MR. SLAUGHTER: Objection. Lacks
24 foundation. Calls for speculation. You can answer
25 based upon your knowledge.

1 THE WITNESS: Based upon my knowledge of
2 working with licensors, of which we pay a royalty,
3 they normally are interested in greater revenue. As
4 I learned at this meeting, they were not. That was
5 not their primary reason.

6 BY MR. MEDICI:

7 Q Was it a secondary reason?

8 A I do not know.

9 Q Flip to the next page, please.

10 Do you know where the underlying
11 information came from to make slide 46?

12 A I don't know specifically, but I assume it
13 was either quantitative and/or qualitative research
14 done on the previous year's game.

15 Q And would this have been done at your
16 request?

17 MR. SLAUGHTER: Objection. Calls for
18 speculation.

19 THE WITNESS: It would have been done at
20 the request of people who were managing the NCAA
21 business directly.

22 BY MR. MEDICI:

23 Q Do you have any reason to doubt that these
24 numbers are accurate?

25 MR. SLAUGHTER: Objection. Vague and

1 ambiguous. Lacks foundation.

2 THE WITNESS: I have no reason to believe
3 that this customer survey that's cited had those
4 numbers on it -- within them.

5 BY MR. MEDICI:

6 Q Can you flip ahead to page 48.

7 MR. SLAUGHTER: Slide 48 you mean?

8 BY MR. MEDICI:

9 Q Slide 48. It's a Bates No. ending in
10 26977.

11 What does this slide represent?

12 A This section of the presentation was trying
13 to show that this was not just EA saying that people
14 demand -- there would be greater demand. This was
15 trying to illustrate through many different aspects,
16 consumer quotes, research, etc., retailers, college
17 player -- former college players, etc., that there
18 was a desire by consumers to have real player names
19 and likenesses.

20 This particular slide was to show that
21 people were going to great extents to have this in
22 the games, and I was showing it as an extreme way to
23 show the interest in this type of capability in the
24 games which we didn't have.

25 Q Did EA ever try to stop people from

106; 402

1 downloading rosters?

106; 402

2 MR. SLAUGHTER: Objection. Lacks
3 foundation. Calls for speculation.

4 THE WITNESS: I don't know what action we
5 may have taken, but clearly I was informing the NCAA
6 and CLC of its existence.

106; 402

7 BY MR. MEDICI:

8 Q Can you flip to the next page.

9 Do you know where these quotes came from,
10 how they ended up in your PowerPoint presentation?

11 A I believe that these are all at the time
12 professional football players who we had a
13 relationship through, through the Madden game, and I
14 think we went out and asked them their opinion as
15 recent student athletes but currently professional
16 athletes what they thought about this topic.

17 Q Do you know who's -- who's reaching out and
18 talking to these athletes?

19 A My guess would be our --

20 MR. SLAUGHTER: I don't think he wants you
21 to guess or speculate. If you have a reason --

22 THE WITNESS: Sorry. I have a reason -- I
23 have a reason to believe it was our director of
24 athlete relations.

25 BY MR. MEDICI:

1 I remember that I went to Indianapolis with
2 Joel Linzner, Larry Probst and Nancy Smith and that
3 I made a presentation.

4 BY MR. MEDICI:

5 Q And that Myles Brand was there?

6 A And I remember Myles Brand being there.

7 MR. MEDICI: Can we go off the record for a
8 minute?

9 VIDEO OPERATOR: This marks the end of disk
10 No. 2 in the deposition of Todd Sitrin. The time is
11 1:45 p.m., and we're off the record.

12 (Recess.)

13 VIDEO OPERATOR: This marks the beginning
14 of disk No. 3 in the deposition of Todd Sitrin. The
15 time is 2:01 p.m., and we are back on the record.

16 (Deposition Exhibit 930 marked by the court
17 reporter.)

18 BY MR. MEDICI:

19 Q The court reporter has handed you what has
20 been marked as Exhibit 930. It is an email and an
21 attachment beginning with Bates No. EA0192807.

22 Have you had a chance to review this
23 document?

24 A I have.

25 Q Can you identify for the record what this

1 document is?

2 A It is an email exchange between Erika
3 Austin at the NCAA and Joel Linzner and Steve Chiang
4 with an attachment of a letter from Erika on
5 follow-up correspondence to the April 15 meeting.

6 Q Is this the type of email you would receive
7 in the regular course of business?

8 A I would receive emails from Steve Chiang
9 and Joel Linzner.

10 Q Do you have any reason to doubt that you
11 received this email?

12 A I don't.

13 Q Does the attachment refresh your
14 recollection that Erika Austin was at the April 15th
15 meeting?

16 A No, it does not.

17 Q The very top email from Steve Chiang,
18 you're cc'd on the email, he says:

19 "Here is some of the stuff the NCAA
20 would like us to do in an effort to push
21 their brand so we can get player names."

22 Where did that idea come from?

23 MR. SLAUGHTER: Objection. Foundation.

24 THE WITNESS: You'd have to ask Steve
25 Chiang. I didn't write that email.

104a; 402

104a;
402

1 BY MR. MEDICI:

2 Q I'm not talking about the email in
3 particular. I'm talking about the idea behind the
4 email, in particular, the "in an effort to push
5 their brand so we can get player names." Were there
6 any internal discussions about this -- this
7 trade-off that's described here in the second half
8 of Steve Chiang's email?

9 MR. SLAUGHTER: Objection. Vague. Assumes
10 facts.

11 THE WITNESS: Yeah, I don't -- I don't -- I
12 wouldn't characterize it as a trade-off, nor would
13 I -- nor do I remember any such trade-off language
14 being spoken at EA.

15 BY MR. MEDICI:

16 Q Do you remember at all any effort to push
17 their brands so that EA could get player names?

18 A I remember that at the April 15th meeting
19 it became clear that what was of very high
20 importance to the NCAA was the promotion of their --
21 their values, their core values, and that they asked
22 us and subsequently I remember that we added many
23 different features to the game that had -- that were
24 aligned with those core values.

25 Q And in your recollection, was that

1 something that you were pushing so that you could
2 get player names in the EA line of NCAA Sports
3 games?

4 MR. SLAUGHTER: Same objection. Overbroad.
5 Vague.

6 THE WITNESS: I didn't see a direct
7 connection. I saw that we were asking the NCAA per
8 the presentation on April 15th that we were
9 interested in getting player names and likenesses.
10 They were asking for us to do several things that
11 they wanted. And this was a formal note from Erika
12 to Joel to say here are the things that are
13 important to us.

14 BY MR. MEDICI:

15 Q Do you disagree with what Steve Chiang said
16 here?

17 MR. SLAUGHTER: Objection. Lacks
18 foundation. Vague.

19 BY MR. MEDICI:

20 Q In the second half of the sentence in
21 particular where --

22 MR. SLAUGHTER: Sorry. Go ahead.

23 THE WITNESS: I don't agree that there was
24 a direct connection between the two. I agree that
25 we were asking for the rights to have player names

1 and likenesses, and I agreed with the fact that the
2 NCAA showed that -- at the April 15th meeting that
3 what was of top importance to them was to promote
4 their core values.

5 BY MR. MEDICI:

6 Q Would you say after the April 15th meeting
7 the EA and the NCAA continued their communications?

8 MR. SLAUGHTER: Objection. Vague.
9 Overbroad.

10 THE WITNESS: Communications relative to
11 what? We have, in the course of business,
12 communications between EA Sports and the teams at
13 Tiburon and NCAA and CLC.

14 BY MR. MEDICI:

15 Q Regarding follow-up to that meeting?

16 A I don't remember specific correspondence.

17 Q Who's -- this very top email --
18 dbaker@videobicycling?

19 A My belief would be is that that's Dan
20 Baker. I don't know why that was the email address
21 used.

22 Q Okay. You can set that aside.

23 (Deposition Exhibit 931 marked by the court
24 reporter.)

25 THE WITNESS: Okay.

1 of 2006?

2 MR. SLAUGHTER: Objection. Vague and
3 ambiguous. It's unintelligible as phrased. And
4 lacks foundation.

5 THE WITNESS: The NCAA doesn't tell me
6 about their conversations, so the answer would be
7 no.

8 BY MR. MEDICI:

9 Q You didn't hear it from any coworkers at
10 EA?

11 A I don't remember specifically.

12 Q Do you remember generally?

13 A It's very clear that from April 15th and
14 onward, we were discussing the -- you know, the
15 ability to get player names and likenesses in NCAA.
16 So the fact that we may have discussed it at that
17 time would not surprise me. But I do not remember a
18 specific set of conversations.

19 Q Did you have the sense that internally the
20 NCAA was supportive of EA's efforts to be able to
21 use the names and likenesses?

22 MR. SLAUGHTER: Objection. Vague and
23 ambiguous. Lacks foundation.

24 THE WITNESS: I knew that over a period of
25 time we made -- I made personally three

1 presentations to the NCAA and/or CLC trying to get
2 player names and likenesses and that each time we
3 never did. So I guess my conclusion would be that
4 we were not getting player names and likenesses.

5 BY MR. MEDICI:

6 Q Did you have anything, aside from conduct,
7 to base that conclusion on; any kind of
8 communications, emails, conversations with people at
9 the NCAA or any other communications?

10 A I had very little conversations directly.
11 It was mostly in the form of presentations.

12 (Deposition Exhibit 933 marked by the court
13 reporter.)

14 (Deposition Exhibit 934 marked by the court
15 reporter.)

16 BY MR. MEDICI:

17 Q All right. Yes --

18 MR. SLAUGHTER: Hang on. The December 1 is
19 933 and December 11 is 934.

20 THE WITNESS: Okay.

21 BY MR. MEDICI:

22 Q The court reporter has handed you Exhibits
23 933 and 934. Can you please read into the record
24 the Bates number on Exhibit 933?

25 A EA0144165.

1 Q Okay. You can set that aside.

2 Are you familiar with a partnership between
3 EA and CBS Sports to promote NCAA Football 10?

4 MR. SLAUGHTER: Objection. Assumes facts.

5 THE WITNESS: I'm not.

6 BY MR. MEDICI:

7 Q Who would be?

8 MR. SLAUGHTER: Objection. Assumes facts.

9 THE WITNESS: I would assume people who
10 work directly on the marketing of NCAA Football 10.

11 (Deposition Exhibit 938 marked by the court
12 reporter.)

13 THE WITNESS: Okay.

14 BY MR. MEDICI:

15 Q The court reporter has handed you what's
16 been marked Exhibit 938. It's a one-page email
17 attaching a PowerPoint presentation, bearing the
18 Bates stamp EA0017312.

19 Could you please identify this document for
20 the record?

21 A It is an email exchange between Joel,
22 Jordan and myself concerning NCAA Basketball and
23 Football with an attached PowerPoint from the
24 presentation I made in April of 2005.

25 Q Do you remember sending this email?

1 A I don't.

2 Q Do you remember discussing about just --
3 excuse me.

4 Do you remember discussing the issue --
5 let's do it this way.

6 Can you tell me what the -- what this email
7 you sent is about?

8 MR. SLAUGHTER: You mean the top email?

9 MR. MEDICI: Yes.

10 THE WITNESS: The top email is referring --
11 well, I've been requested by Jordan, who was looking
12 at how to analyze the potential impact with player
13 names and likenesses on NCAA Basketball. He was
14 reaching out to me to see if I had done anything. I
15 responded that I had not done anything in a hard
16 core way. And I shared with him what I had done two
17 years previously, which was to look at player names
18 and ratios. Sorry, to look at pro and college
19 ratios in different categories to try to understand
20 the impact that it might have.

21 But it's very clear that I knew that it was
22 a -- analysis was probably a stretch. I called it
23 the very high analysis, and I referred to the fact
24 that they didn't laugh me off the stage, so I
25 obviously understood that it was rough at best. But

1 it was the best that I could come up with.

2 BY MR. MEDICI:

3 Q You wrote:

4 "With regard to the exclusive, 2K
5 will, of course, throw money at NCAA and
6 will make the case that their games are
7 better than EA's. As I've learned now
8 from several meetings with the NCAA,
9 making more money isn't high up on their
10 list of things they desire. However,
11 promoting NCAA values is high up on
12 their list."

13 You said you had several meetings with the
14 NCAA. Can you remember any other meetings now aside
15 from the two that we've discussed earlier?

16 A No, I can't. And I may have been using the
17 term "meetings" in a very loose term meaning
18 conversations, emails or phone calls.

19 Q Do you have any idea why this issue came to
20 the forefront again in July of 2007, over two years
21 since the last time -- or since you gave the
22 presentation that's attached?

23 MR. SLAUGHTER: Objection. Lacks
24 foundation. Calls for speculation.

25 THE WITNESS: Which issue?

602

1 Would you like to go off?

2 MR. MEDICI: No, that's okay. We can
3 just --

4

5 EXAMINATION

6 BY MS. WAHL:

7 Q Mr. Sitrin, my name is Suzanne Wahl, and
8 I'm here from the NCAA today, and I just have a few
9 more questions for you.

10 Does EA include photos of athletes on the
11 cover of its NCAA-themed video games?

12 A We include photos on the cover.

13 Q Do you know if those athletes are current
14 or former student athletes --

15 A They're all -- they're all -- sorry.
16 Complete your question.

17 Q I was just going to say on the NCAA video
18 games.

19 A Yeah, they're all former athletes.

20 Q Do you know, does NC -- does -- excuse me,
21 -- did EA enter into agreements with those former
22 student athletes who appear on the cover of the
23 NCAA-themed video games?

24 A We have an agreement or arrangement with
25 those former athletes.

1 Q Does EA pay those former student athletes?

2 A Yes.

3 Q And what does EA pay them for?

4 MR. MEDICI: Objection.

5 MR. SLAUGHTER: You can answer.

6 THE WITNESS: We pay them for their time,
7 their assistance in the PR of our products and any
8 other sort of marketing activities related to their
9 association with us.

10 BY MS. WAHL:

11 Q So it's more than just for the photograph?

12 A Absolutely.

13 Q Is the NCAA involved at all in the
14 transaction between the former student athletes who
15 appear on the covers and EA?

16 A No.

17 Q Is -- is the CLC involved in those
18 transactions?

19 A No.

20 Q Is the amount paid to each former student
21 athlete the same or does it vary from athlete to
22 athlete?

23 A It varies from athlete to athlete.

24 Q What causes the amount of money to differ?

25 A It would differ based upon the type of

1 marketing use of that athlete. It would also -- so
2 if we were going to use something more in our PR, we
3 would pay them more. It would also differ in terms
4 of the relevancy of that athlete at the time,
5 popularity, for instance, where we might pay more
6 for a more popular athlete.

7 Q Do you know if those agreements are
8 directly with the former student athletes or could
9 they be, for example, through the NFL PA?

10 MR. MEDICI: Object to form.

11 THE WITNESS: I don't know specifically. I
12 know that some of them were directly with the -- the
13 players, but I don't know specifically.

14 BY MS. WAHL:

15 Q Do you know if the terms of all those
16 agreements were the same or if they varied?

17 A The terms would vary. As I mentioned
18 before, there would be different amounts that would
19 be paid as well as different requests for their
20 time.

21 MS. WAHL: That's all I have. Thanks.

22 MR. SLAUGHTER: I have a few questions,
23 follow-up questions.

24 MR. HENN: You want to switch sides so the
25 video --

1 college players. Why not?

2 MR. SLAUGHTER: Objection. Misstates his
3 testimony.

4 THE WITNESS: I said that we -- the
5 question that was asked was whether we had used any
6 current student athletes or former athletes. I said
7 that we've only used former.

8 BY MR. MEDICI:

9 Q Is payment feasible to college players on a
10 group license basis?

11 MR. SLAUGHTER: Objection. Lacks
12 foundation. Calls for speculation. Calls for legal
13 conclusion.

14 THE WITNESS: My understanding is no.

15 BY MR. MEDICI:

16 Q Why not?

17 MR. SLAUGHTER: Objection. Lacks
18 foundation. Calls for legal conclusion. Calls for
19 speculation.

20 THE WITNESS: The NCAA rules.

21 BY MR. MEDICI:

22 Q In your marketing role, have you ever
23 reviewed one of the cover athlete's contracts?

24 A At some point, yes, I probably looked at
25 them, but usually it was a summary of the deal terms

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were duly sworn; that a record
8 of the proceedings was made by me using machine
9 shorthand which was thereafter transcribed under my
10 direction; that the foregoing transcript is a true
11 record of the testimony given.

12 I further, certify I am neither financially
13 interested in the action nor a relative or employee
14 of any attorney or party to this action.

15 IN WITNESS WHEREOF, I have this date
16 subscribed my name.

17
18 Dated: February 5, 2013
19
20

SUZANNE F. BOSCHETTI

CSR No. 5111