

Exhibit A

1 GLENN D. POMERANTZ (State Bar No. 112503)
glenn.pomerantz@mto.com
2 KELLY M. KLAUS (State Bar No. 161091)
kelly.klaus@mto.com
3 CAROLYN HOECKER LUEDTKE (State Bar No. 207976)
carolyn.luedtke@mto.com
4 ROHIT K. SINGLA (State Bar No. 213057)
rohit.singla@mto.com
5 MUNGER, TOLLES & OLSON LLP
560 Mission Street
6 Twenty-Seventh Floor
San Francisco, California 94105-2907
7 Telephone: (415) 512-4000
Facsimile: (415) 512-4077
8

GREGORY L. CURTNER (*Pro Hac Vice*)
9 gcurtner@schiffhardin.com
ROBERT J. WIERENGA (State Bar No. 183687)
10 rwierenga@schiffhardin.com
SCHIFF HARDIN LLP
11 350 Main St., Suite 210
Ann Arbor, MI 48104
12 Telephone: (734) 222-1500
Facsimile: (734) 222-1501
13

Attorneys for Defendant
14 National Collegiate Athletic Association

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

18 EDWARD O'BANNON, *et al.*,

19
20 Plaintiffs,

21 v.

22 NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION; COLLEGIATE
23 LICENSING COMPANY; and
ELECTRONIC ARTS INC.,
24

Defendants.
25
26
27
28

Case No. 09-CV-3329-CW

**DECLARATION OF CAROLYN
HOECKER LUEDTKE IN SUPPORT OF
STIPULATION REGARDING
ADMISSION OF EXHIBITS**

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

1 I, CAROLYN HOECKER LUEDTKE, declare as follows:

2 1. I am an attorney admitted to practice before this Court and a member of the law
3 firm of Munger Tolles & Olson LLP, counsel of record for Defendant National Collegiate
4 Athletic Association (“NCAA”) in this action. I make this declaration of my own personal
5 knowledge, and, if called to do so, could testify competently to the facts stated herein under
6 oath.

7 2. Exhibit 1028 contains true and correct copies of seven photographs taken of the
8 images appearing on a television screen while playing EA Sports NCAA Football14 videogame
9 for the XBox 360 platform.

10 3. I took these photographs in October 2013 in advance of taking the deposition of
11 Chase Garnham in the above-captioned litigation. I worked with Zachary Zaharoff, a litigation
12 analyst on our litigation team, to play the EA Sports NCAA Football videogame on a large
13 television screen, to bring up the default avatar for various players, and then to edit that avatar.
14 Throughout this process, I took pictures of the screen with my i-phone and emailed those
15 pictures to Mr. Zaharoff, who under my direction printed the images and I used true and correct
16 copies of those images at the deposition of Mr. Garnham and then during his cross examination
17 at trial. The images were marked at the deposition and at trial as Exhibit 1028.

18 4. The roster, statistical and biographical information, as well as the avatar images,
19 on pages 1028-1 and 1028-8, were not modified by me or anyone else playing the game with me
20 prior to my taking the photographs that appear on those pages.

21 5. I did modify the image of the avatar on page 1028-6 prior to taking the screenshot
22 that appears on that page. Specifically, I worked with Mr. Zaharoff to use the “edit player”
23 feature of the EA videogame to change features of the avatar such as the weight and skin tone of
24 Vanderbilt MLB #36 from the avatar whose image appears (unedited) on page 1028-1.

25
26 ///

27 ///

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed this 26th day of June 2014, at Oakland, California.

/s/ Carolyn Hoecker Luedtke
CAROLYN HOECKER LUEDTKE