

1 Steven A. Asher (*Pro Hac Vice*)
 David H. Weinstein (SBN 43167)
 2 Mindee J. Reuben
 3 Jeremy S. Spiegel
 WEINSTEIN KITCHENOFF & ASHER LLC
 4 1845 Walnut Street, Suite 1100
 Philadelphia, Pennsylvania 19146
 5 Phone: (215) 545-7200
 6 Fax: (215) 545-6535
 Email: asher@wka-law.com

7
 8 Karl Olson (SBN 104760)
 RAM & OLSON LLP
 9 555 Montgomery Street, Suite 820
 San Francisco, California 94111
 10 Phone: (415) 433-4949
 Fax: (415) 433-7311
 11 Email: kolson@ramolson.com

12 *Counsel for Plaintiff Bryon Bishop*

13 [Additional Counsel Listed on Signature Page]

14
 15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

	)	CIVIL ACTION NO. CV-09-4128 (CW)
19 BRYON BISHOP, Individually and On Behalf))	
20 of All Others Similarly Situated,))	
21 Plaintiff, )	)	REPLY OF PLAINTIFF BRYON BISHOP
22 v. )	)	TO OPPOSITION OF DEFENDANT
23 ELECTRONIC ARTS, INC., NATIONAL )	)	NCAA TO PLAINTIFF'S MOTION FOR
24 COLLEGIATE ATHLETIC ASSOCIATION )	)	CONSOLIDATION OF BISHOP (CV-09-
and COLLEGIATE LICENSING COMPANY,) )	)	4128(CW)) AND KELLER (CV-09-
25 Defendants. )	)	1967(CW)) ACTIONS PURSUANT TO
	)	FED. R. CIV. P. 42
	)	Date: November 17, 2009
	)	Time: 2:00 p.m.
	)	Judge: Hon. Claudia Wilken
	)	Courtroom: 2, 4 th Floor
)	

28 **PLAINTIFF BISHOP'S REPLY TO NCAA OPPOSITION TO MOTION FOR CONSOLIDATION**
 Case Nos. CV-09-4128 (CW) and CV-09-1967(CW)

1 **ARGUMENT**

2 Plaintiff Bryon Bishop has moved to consolidate his action with the *Keller* action
3 (*Keller* Docket No. 101; *Bishop* Docket No. 10). Defendant NCAA in its “Opposition”
4 does not oppose the consolidation of the *Bishop* and *Keller* actions (NCAA Br. at 1;
5 *Keller* Docket No. 114; *Bishop* Docket No. 23). Rather, the NCAA reiterates its position
6 (previously articulated in its opposition to the motion for consolidation of the *Keller* and
7 *O’Bannon* actions, *Keller* Docket No. 83) that neither the *Bishop* action nor the *Keller*
8 action should be consolidated with the *O’Bannon* action (NCAA Br. at 1-4).

9 Plaintiff Bishop does not seek consolidation of his action with the *O’Bannon*
10 action, and did not so move. Bishop is committed to vindicating the claims set forth in his
11 complaint, and the similar claims set forth in the *Keller* complaint. Bishop believes that
12 these claims are best asserted in a complaint which focuses exclusively on the damages
13 and injury which Bishop, Keller and the proposed class of those similarly situated have
14 sustained by virtue of the unlawful use of their likenesses and images in video games
15 manufactured by defendant Electronic Arts, Inc.

16 **CONCLUSION**

17 For the reasons set forth herein, plaintiff Bryon Bishop respectfully requests that
18 his motion for consolidation of the *Bishop* and *Keller* actions be granted in all respects.

19
20 Dated: November 3, 2009

WEINSTEIN KITCHENOFF & ASHER LLC

21
22 /s/Steven A. Asher (Pro Hac Vice)

Steven A. Asher

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24 Steven A. Asher (*Pro Hac Vice*)
25 David H. Weinstein (SBN 43167)
26 Mindee J. Reuben
27 Jeremy S. Spiegel
28 1845 Walnut Street, Suite 1100
Philadelphia, Pennsylvania 19103
Phone: (215) 545-7200
Fax: (215) 545-6535
Email: asher@wka-law.com

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Karl Olson (SBN 104760)
RAM & OLSON LLP
555 Montgomery Street, Suite 820
San Francisco, California 94111
Phone: (415) 433-4949
Fax: (415) 433-7311
Email: kolson@ramolson.com

Joseph C. Kohn
Robert J. LaRocca
KOHNSWIFT & GRAF, P.C.
One South Broad Street, Suite 2100
Philadelphia, Pennsylvania 19107
Phone: (215) 238-1700
Fax: (215) 238-1968
Email: jkohn@kohmswift.com

Roberta D. Liebenberg
Donald L. Perelman
FINE, KAPLAN AND BLACK, R.P.C.
1835 Market Street, Suite 2800
Philadelphia, Pennsylvania 19103
Phone: (215) 567-6565
Fax: (215) 568-5872
Email: rliebenberg@finekaplan.com

Gerald J. Rodos
Jeffrey B. Gittleman
BARRACK RODOS & BACINE
3300 Two Commerce Square
2001 Market Street
Philadelphia, Pennsylvania 19130
Phone: (215) 963-0600
Fax: (215) 963-0838
Email: grodos@barrack.com

Howard J. Sedran
Austin B. Cohen
LEVIN, FISHBEIN, SEDRAN & BERMAN
510 Walnut Street, Suite 500
Philadelphia, Pennsylvania 19106
Phone: (215) 592-1500
Fax: (215) 592-4663
Email: hsedran@lfsblaw.com

Counsel for Plaintiff Bryon Bishop