

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

9
10 **IN RE NCAA STUDENT-ATHLETE**
11 **NAME & LIKENESS LICENSING**
12 **LITIGATION**

Case No. 09-cv-01967 CW (NC)
Related to 11-mc-80300 CW (NC)
Related to 11-mc-80020 CW (NC)

13 **TENTATIVE RULING RE:**
14 **PLAINTIFFS' MOTIONS TO**
15 **COMPEL PRODUCTION OF**
16 **DOCUMENTS**

17 Plaintiffs served a subpoena requesting documents under Rule 45 on each of the
18 following non-parties: (1) The Big Ten Conference, 11-mc-80300 CW (NC), Dkt. No. 2; (2)
19 The Big Ten Network, 11-mc-80300 CW (NC), Dkt. No. 26; and (3) Fox Broadcasting
20 Company, 11-mc-80020 CW (NC), Dkt. No. 2. As none of the subpoenaed parties has
21 produced any documents in response to Plaintiffs' requests, Plaintiffs move to compel each of
22 the non-parties to produce several categories of documents.

23 This order provides the parties with a tentative ruling on each category of documents
24 currently at issue.¹ The parties are encouraged to meet and confer prior to tomorrow's hearing
25 and attempt in good faith to reach a compromise on the scope of each document request in light
26

27 ¹ The subpoenas Plaintiffs served on the non-parties contained many more categories of
28 documents than are addressed in this order. Because Plaintiffs agreed to reduce the scope of their
subpoenas during the meet-and-confer process, only the categories of documents that fall within
this reduced scope are at issue here.

1 of the following tentative rulings:

2 **Category 1:** All television or broadcast contracts affecting or concerning men’s Division I
3 basketball or Division I football.

4 Tent. Ruling: Denied. The Court finds that the documents responsive to this request are
5 irrelevant to the claims and defenses in this case.

6
7 **Category 2:** All licensing agreements with “major entities” and “outside” licensing entities in
8 which the license granted includes rights to the name, image, or likeness of
9 student athletes and “related documents,” including revenue or royalty reports.

10 Tent. Ruling: Denied. The Court finds that the documents responsive to this request are
11 irrelevant to the claims and defenses in this case.

12
13 **Category 3:** All documents relating to the rights to continue to license, use, or sell products
14 containing images of former student athletes, including all exemplar releases or
15 consent forms administered by the requested party.

16 Tent Ruling: Denied. The Court finds that this document request is overly broad and therefore
17 is unduly burdensome.

18
19 **Category 4:** All documents relating to policies regarding copyright, ownership, or licensing of
20 products incorporating the name, image, likeness of student athletes.

21 Tent. Ruling: Denied. The Court finds that this document request is overly broad and therefore
22 is unduly burdensome.

23
24 **Category 5:** All documents relating to EA sports games and information on payments by EA
25 to the requested party.

26 Tent. Ruling: Denied in part. The Court finds that this document request is overly broad
27 because at least some of the responsive documents can be obtained from EA,
28 which is a party to this action.

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

Category 6: All documents referencing or referring to this litigation, including documents relating to the subpoenas Plaintiffs served on third parties.

Tent. Ruling: Denied. The Court finds that this document request is overly broad and therefore is unduly burdensome.

Category 7: All documents relating to the requested party's attendance at any trade association meeting during which the rights to student athletes' photos or images were discussed [applies to The Big Ten Conference only].

Tent. Ruling: Denied. The Court finds that this document request is overly broad and therefore is unduly burdensome.

Category 8: All documents concerning the amateur status of student athletes, including any proposed changes to that status [applies to The Big Ten Conference only].

Tent Ruling: Denied. The Court finds that this document request is overly broad and therefore is unduly burdensome.

IT IS SO ORDERED.

DATED: February 7, 2012


NATHANAEL M. COUSINS
United States Magistrate Judge