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10/20/08

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CAPCOM CO., LTD. and CAPCOM ENTERTAINMENT, INC.,
Plaintiffs,
v.
THE MKR GROUP, INC.,
Defendant.

THE MKR GROUP, INC.,
Counterclaim-Plaintiff and Third-Party Plaintiff,
v.
CAPCOM CO., LTD. and CAPCOM ENTERTAINMENT, INC.,
Counterclaim-Defendants,
and
CAPCOM U.S.A., INC.,
Third-Party Defendant.

Case No. 5:08-CV-00904 (RS) (MED)

**STIPULATION AND ~~(PROPOSED)~~
ORDER TO CONTINUE MEDIATION
DEADLINE**

FILED ELECTRONICALLY

WHEREAS, on February 12, 2008, Capcom Co., Ltd. and Capcom Entertainment, Inc. (collectively, "Capcom") filed their Complaint for Declaratory Relief and the case was assigned to the Hon. Jeffrey S. White;

WHEREAS, on May 15, 2008, MKR filed its Amended Answer, Counterclaims and

STIPULATION TO CONTINUE
MEDIATION

CASE NO. 3:08-CV-00904 (RS)(MED)

1 Third Party Complaint;

2 **WHEREAS**, on May 15, 2008, the parties filed a Stipulation selecting court sponsored
3 mediation as the preferred ADR alternative pursuant to Civil L.R. 16-8 and ADR L.R. 3-5. The
4 parties did not agree on the timing of the mediation; MKR desired mediation within 60 days and
5 Capcom proposed mediation 60 days after the entry of an order on its then-planned motion to
6 dismiss;

7 **WHEREAS**, on May 15, 2008, Judge White entered an Order requiring the parties to
8 participate in court sponsored mediation, and setting the deadline for the completion of the
9 mediation to be 60 days from the date the Court ruled on Capcom's then-planned motion to
10 dismiss;

11 **WHEREAS**, on June 10, 2008, the matter was reassigned from Judge White to the Hon.
12 Richard Seeborg;

13 **WHEREAS**, on June 25, 2008, the Hon. Richard Seeborg held an Initial Case
14 Management Conference, and in an Order dated July 25 and e-filed on July 26, 2008, ordered the
15 parties to complete mediation "within one hundred twenty (120) days, if possible";

16 **WHEREAS**, the current deadline to complete mediation is October 23, 2008, "if
17 possible";

18 **WHEREAS**, on September 3, 2008, the Court heard argument on Capcom's Motion to
19 Dismiss and took the matter under submission;

20 **WHEREAS**, the Court appointed M. Scott Donahey as the court appointed mediator in
21 this matter;

22 **WHEREAS**, prior to the hearing on Capcom's Motion to Dismiss, the parties and Mr.
23 Donahey originally agreed to schedule the mediation for November 12, 2008;

24 **WHEREAS**, MKR's principal representative for the mediation, MKR's president,
25 Richard P. Rubinstein, subsequently learned that he needed to be out of the country on
26 November 12, 2008 due to business obligations;

27 **WHEREAS**, the parties and Mr. Donahey have agreed to reschedule the mediation to
28 November 18, 2008; and

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~~(PROPOSED)~~ ORDER

Pursuant to the above Stipulation, the deadline to complete mediation in this action is extended to November 18, 2008.

SO ORDERED:



Judge Richard Seeborg
United States Magistrate Judge

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