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14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 KONAMI GAMING, INC., a Nevada  
corporation,  
17  
Plaintiff,  
18  
v.  
19 MARKS STUDIOS, LLC d/b/a Gimmie  
20 Games, a Georgia limited liability company,  
21  
Defendant.

CASE NO.: 2:14-cv-01485-JAD-CWH  
Honorable Jennifer A. Dorsey  
Magistrate Judge Carl W. Hoffman

**STIPULATION AND [PROPOSED]  
ORDER TO MODIFY SCHEDULING  
ORDER  
(FIRST REQUEST)**

22 Pursuant to Local Rules 6-1 and 26-4. Plaintiff Konami Gaming, Inc. (“Konami” or  
23 “Plaintiff”) and Defendant Marks Studios, LLC d/b/a Gimmie Games (“Marks Studios” or  
24 Defendant”) hereby stipulate as follows:

25 **WHEREAS**, the parties to this action filed a proposed joint Discovery Plan and  
26 Scheduling Order (the “Scheduling Order”) on December 30, 2014, which included a *Markman*  
27 schedule with proposed dates, pursuant to Local rules 16.1-6 to 16.1-18 (*docket no. 24*);  
28

1           **WHEREAS**, the Scheduling Order provided that Plaintiff Konami Gaming, Inc.  
2 (“Konami”) would serve its Disclosure of Asserted Claims and Infringement Contentions  
3 (“Claims and Contentions”), along with supporting documents, by January 14, 2015 (*docket no.*  
4 24.);

5           **WHEREAS**, the Court so ordered the Scheduling Order on January 27, 2015 (*docket no.*  
6 31);

7           **WHEREAS**, to date, the Plaintiff and Defendants have made their Initial Disclosures  
8 pursuant to Federal Rule of Civil Procedure 26(a)(1) and have filed the Stipulated Protective  
9 Order required under Local Rule 16.1-4;

10           **WHEREAS**, pursuant to the Scheduling Order, discovery is partially stayed until the  
11 Court issues a *Markman* order on claim construction. Until that time, the only permitted  
12 discovery: (a) the substantive disclosures included in section C (“Markman schedule”) of the  
13 Scheduling Order; (b) Defendant’s deposition of the inventor(s), (c) Plaintiff’s deposition of a  
14 technical person knowledgeable concerning operation of Defendant’s games, (d) Plaintiff’s and  
15 Defendant’s discovery relating to claim construction and the validity of the patents in suit, and  
16 (e) expert discovery;

17           **WHEREAS**, on January 14, 2015, Plaintiff made its Disclosure of Asserted Claims and  
18 Infringement Contentions pursuant to LR 16.1-6, Defendant is challenging the sufficiency of  
19 certain disclosures with Local Rule 16.1-6(a) and (d), and the production of documents under  
20 Local Rule 16.1-7,;

21           **WHEREAS**, while Plaintiff disagrees with Defendant’s challenges, in the interest of  
22 judicial economy and for convenience of the Parties Plaintiff has agreed to supplement its  
23 Disclosure of Asserted Claims and Infringement Contentions pursuant to LR 16.1-6 and further  
24 to produce the documents under Local Rule 16.1-7, for which has taken additional time;

25           **WHEREAS**, the parties have agreed to amend the *Markman* schedule to provide at least  
26 an additional four weeks from the current schedule for Defendant to file its Initial Disclosure of  
27 Non-Infringement, Invalidity and Unenforceability Contentions due to the delays in resolving the  
28 disclosure issues and to allow Defendant sufficient time to respond;

1           **WHEREAS**, this is the parties' first request to modify the Scheduling Order.

2           **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned  
 3 counsel for the named parties hereto, that the *Markman* schedule in the Scheduling Order will be  
 4 amended as follows solely as to the dates for (1) Disclosure of Asserted Claims and Infringement  
 5 Contentions - LR 16.1-6, (2) Initial Disclosure of Non-Infringement, Invalidity and  
 6 Unenforceability Contentions - LR 16.1-8, and (3) Response to Initial Non-Infringement,  
 7 Invalidity and Unenforceability Contentions - LR 16.1-10:

| 8 <b>Event</b>   | <b>Basis</b> | <b>Proposed Date</b>   |
|--|--------------|--|
| 9   Disclosure of Asserted Claims and Infringement<br>10   Contentions   | LR 16.1-6    | January 14, 2015<br>Supplemental<br>Disclosure Date:<br>February 9, 2015 |
| 11   Initial Disclosure of Non-Infringement, Invalidity<br>12   and Unenforceability Contentions                         | LR 16.1-8    | March 26, 2015   |
| 13   Response to Initial Non-Infringement, Invalidity<br>14   and Unenforceability Contentions                           | LR 16.1-10   | April 9, 2015  |
| 15   Exchange of Proposed Terms for Claim<br>16   Construction   | LR 16.1-13   | April 28, 2015   |
| 17   Exchange of Preliminary Claim Construction and<br>18   Extrinsic Evidence   | LR 16.1-14   | May 28, 2015   |
| 19   Parties to Meet and Confer regarding terms<br>20   requiring construction and proposed meaning of the<br>21   terms | LR 16.1-14   | June 1-8, 2015   |
| 22   Joint Claim Construction Statement  | LR 16.1-15   | June 5, 2015   |
| 23   Opening Claim Construction Brief  | LR 16.1-16   | July 13, 2015  |
| 24   Responsive Claim Construction Brief   | LR 16.1-16   | July 27, 2015  |
| 25   Reply Claim Construction Brief  | LR 16.1-16   | August 3, 2015   |

26           **IT IS FURTHER STIPULATED AND AGREED** that in no event shall the return date  
 27 for Defendant's Initial Disclosure of Non-Infringement, Invalidity and Unenforceability  
 28 Contentions be fewer than the 45 days after completed service of documents in support of  
 Konami's Claims and Contentions, as afforded under LR 16.1-8;

1           **IT IS FURTHER STIPULATED AND AGREED** that the Discovery plan remains  
2 unchanged and that this Stipulation is made in good faith and not for the purpose of delay.

3           **IT IS SO STIPULATED THROUGH COUNSEL OF RECORD,**

4 Dated: February 6, 2015

Dated: February 6, 2015

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*Attorneys for Plaintiff Konami Gaming, Inc.*

*Attorneys for Defendant Marks Studios, LLC*

21           **ORDER**

22           **PURSUANT TO THE STIPULATION, IT IS SO ORDERED:**

23 Dated: February 9, 2015

24  
25   
26 \_\_\_\_\_  
27 Carl W. Hoffmann  
28 United States Magistrate Judge