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6 Take Two Interactive Software, Inc.

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 TAKE-TWO INTERACTIVE SOFTWARE,
INC.,

12 Plaintiff,

13 v.

14 ANGELO PAPENHOFF, a/k/a AAP, an
15 individual; THEO MORRA, an individual;
ERAY ORÇUNUS, an individual; ADRIAN
16 GRABER, an individual; DOE 1 a/k/a ASH R.
and ASH 735, an individual; and DOES 2
17 through 10, inclusive,

18 Defendants.

CASE NO. 3:21-CV-6831-TSH

Magistrate Judge Thomas S. Hixson

JOINT RULE 26(f) REPORT

1 Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16-9, Plaintiff Take Two Interactive
2 Software, Inc. (“Plaintiff”), and Defendants Angelo Papenhoff, Theo Morra, Eray Orçunus,
3 Adrian Graber (collectively, “Defendants”), through their respective counsel, jointly submit this
4 Rule 26(f) Report following the conference of counsel required by Rule 26(f) of the Federal Rules
5 of Civil Procedure and Northern District Local Rule 16-9.

6

7 **I. JURISDICTION AND SERVICE**

8 Defendants Angelo Papenhoff, Theo Morra, Eray Orçunus, Adrian Graber have been
9 served. Defendants Theo Morra, Eray Orçunus, and Adrian Graber have consented to personal
10 jurisdiction and venue in this Court. DMCA 17, U.S.C. § 512. The Court has subject matter
11 jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

12

13 **II. FACTS**

14 Plaintiff owns the copyrights to the video games Grand Theft Auto III and Grand Theft
15 Auto: Vice City (collectively the “Games”). Defendants are among the organizers of projects
16 known as “re3” and “reVC,” mods of Plaintiff’s Games. Plaintiff alleges Defendants’ mods
17 contain Take-Two’s original digital content such as text, character dialog, and certain game assets
18 which infringes Plaintiff’s copyrights and/or create an unauthorized derivative work. Defendants
19 deny these allegations.

20

21 **III. LEGAL ISSUES**

22 Whether Defendants have infringed Plaintiff’s copyrights.

23

24 **IV. MOTIONS**

25 There are no pending motions. The Parties anticipate filing motions for summary
26 judgment.

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1 **V. AMENDMENT OF PLEADINGS**

2 The Parties are unsure if the Complaint will be amended, but will endeavor to amend the
3 Complaint, if necessary, promptly.

4
5 **VI. EVIDENCE PRESERVATION**

6 The parties have met and conferred pursuant to Fed. R. Civ. P. 26(f) regarding reasonable
7 and proportionate steps taken to preserve evidence relevant to the issues reasonably evident in this
8 action. *See ESI Guidelines 2.01 and 2.02, and Checklist for ESI Meet and Confer.*

9
10 **VII. DISCLOSURES**

11 The Parties have agreed to exchange Rule 26 Initial Disclosures on February 28, 2022.

12
13 **VIII. DISCOVERY**

14 The Parties have not undertaken discovery and do not propose limitations or modifications
15 of the discovery rules. The Parties will enter into a stipulated e-discovery order and a stipulated
16 protective order. The Parties anticipate written discovery focused on electronic information and
17 code. The Parties do not anticipate needing more depositions that allowed under Fed. R. Civ. P.
18 30(a)(2)(A)(i).

19
20 **IX. CLASS ACTIONS**

21 This case is not a class action.

22
23 **X. RELATED CASES**

24 There are no related cases.

25
26 **XI. RELIEF**

27 The relief sought is set forth in the Complaint.

1 **XII. SETTLEMENT AND ADR**

2 The Parties have agreed to ADR L.R. 3-4 (2).

3

4 **XIII. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

5 The Parties have consented to Judge Hixson for all purposes.

6

7 **XIV. OTHER REFERENCES**

8 The case is not suitable for reference to binding arbitration, a special master, or the Judicial
9 Panel on Multidistrict Litigation.

10

11 **XV. NARROWING OF ISSUES**

12 The Parties do not seek bifurcation or other narrowing of the issues.

13

14 **XVI. EXPEDITED TRIAL PROCEDURE**

15 The Parties do not believe this is the type of case that can be handled under the Expedited
16 Trial Procedure of General Order No. 64.

17

18 **XVII. SCHEDULING**

19 Proposed dates:

20 Initial Disclosures: February 28, 2022

21 Discovery Cutoff: September 26, 2022

22 Expert Disclosures: October 31, 2022

23 Rebuttal Expert Disclosures: December 16, 2022

24 Expert Cutoff: February 3, 2023

25 Hearing of Dispositive Motions: April 20, 2023

26 Pretrial Conference: June 22, 2023

27 Trial: July 28, 2023

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1 **XVIII. TRIAL**

2 The Parties estimate the jury trial will take 4 days.

3

4 **XIX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

5 None of the Parties have any Civil Local Rule 3-15 disclosures, other than themselves.

6

7 **XX. PROFESSIONAL CONDUCT**

8 The attorneys of record for the Parties have reviewed the Guidelines for Professional
9 Conduct for the Northern District of California.

10

11 DATED: January 13, 2022

RESPECTFULLY SUBMITTED,

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KARIN G. PAGNANELLI
MARC E. MAYER
MITCHELL SILBERBERG & KNUPP LLP

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By: /s/ Karin G. Pagnanelli
Karin G. Pagnanelli
Marc E. Mayer
Attorneys for Plaintiff
Take-Two Interactive Software, Inc.

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DATED: January 13, 2022

ERIN RUSSELL

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By: /s/ Erin Russell
Erin Russell
Attorneys for Defendants Angelo Papenhoff,
Theo Morra, Eray Orçunus, Adrian Graber

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Attestation Regarding Signatures-Local Rule 5-1(h)(3)

I, Karin G. Pagnanelli, attest that all signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

DATED: January 13, 2022

/s/ Karin G. Pagnanelli
Karin G. Pagnanelli