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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Nexon America Inc et al.,

Plaintiffs,

v.

Gameanarchy LLC et al.,

Defendants.

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) CASE NO. 2:12-cv-02083-JHN-PLAx  
)  
) **ORDER RE JURY TRIAL**  
) **I. ORDER RE DEADLINES:**  
) (SEE PAGE TWO)  
) **II. ORDER RE TRIAL**  
) **PREPARATION**  
) **III. ORDER GOVERNING**  
) **CONDUCT OF ATTORNEYS**  
) **AND PARTIES**

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**I**  
**DEADLINES**

- A. Adding Parties or Amending Pleadings: November 27, 2012;
  
- B. Discovery Cut-off: February 5, 2013;
  
- C. Expert Witness Exchange Deadline:  
Initial: February 5, 2013;  
Rebuttal: March 5, 2013;  
Cut-off: April 2, 2013;
  
- D. Motion Hearing Cut-off: April 15, 2013;
  
- E. Settlement Conference Cut-off: April 30, 2013;
  
- F. Final Pretrial Conference (and  
hearing on Motions in Limine): June 10, 2013 at 10:30 a.m.;
  
- G. Trial Date: July 9, 2013 at 8:30 a.m.

1           A.     PARTIES/PLEADINGS

2           The Court has established a cut-off date for adding parties or amending  
3 pleadings. All motions to add parties or to amend the pleadings must be noticed  
4 to be heard on or before the cut-off date. All unserved parties will be dismissed at  
5 the time of the pretrial conference pursuant to Local Rule 16-8.1.

6           B.     DISCOVERY AND DISCOVERY CUT-OFF

7           1. Discovery Cut-off: The Court has established a cut-off date for  
8 discovery, including expert discovery, if applicable. This is not the date by which  
9 discovery requests must be served; it is the date by which all discovery, including  
10 all hearings on any related motions, is to be completed.

11           2. Discovery Disputes: Counsel are expected to comply with all Local  
12 Rules and the Federal Rules of Civil Procedure concerning discovery. Whenever  
13 possible, the Court expects counsel to resolve discovery problems among  
14 themselves in a courteous, reasonable, and professional manner. The Court  
15 expects that counsel will adhere strictly to the Civility and Professionalism  
16 Guidelines (which can be found on the Court’s website under Attorney  
17 Information>Attorney Admissions).

18           3. Discovery Motions: Any motion challenging the adequacy of discovery  
19 responses must be filed, served, and calendared sufficiently in advance of the  
20 discovery cut-off date to permit the responses to be obtained before that date if the  
21 motion is granted.

22           4. Depositions: All depositions shall commence sufficiently in advance of  
23 the discovery cut-off date to permit their completion and to permit the deposing  
24 party enough time to bring any discovery motions concerning the deposition  
25 before the cut-off date. Given the requirements to “meet and confer” and to give  
26 notice, in most cases a planned motion to compel must be discussed with opposing  
27 counsel at least six weeks before the cut-off.

28           5. Written Discovery: All interrogatories, requests for production of

1 documents, and requests for admissions must be served sufficiently in advance of  
2 the discovery cut-off date to permit the discovering party enough time to  
3 challenge (via motion practice) responses deemed to be deficient.

4 6. Expert Discovery: All disclosures must be made in writing. The parties  
5 should begin expert discovery shortly after the initial designation of experts. The  
6 final pretrial conference and trial dates will not be continued merely because  
7 expert discovery is not completed. Failure to comply with these or any other  
8 orders concerning expert discovery may result in the expert being excluded as a  
9 witness.

#### 10 C. LAW AND MOTION

11 1. The Court has established a cut-off date for the hearing of motions. All  
12 motions must be noticed so that the hearing takes place on or before the motion  
13 cut-off date. Counsel are advised that the Court may close a hearing date once the  
14 number of motions filed exceeds the maximum number of motions that can  
15 reasonably be heard on that date. Counsel should anticipate that a preferred  
16 hearing date may be unavailable. Therefore, to avoid being unable to file a  
17 motion to be heard by the cut-off date, counsel should file motions sufficiently in  
18 advance of the hearing cut-off date to ensure that a hearing date is available.

19 2. Counsel must provide Chambers with conformed Chambers copies of all  
20 documents. Chambers copies should not be put in envelopes. Counsel should  
21 consult the Court's website at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov)>Judges' Procedures and  
22 Schedules>Hon. Jacqueline H. Nguyen for further information regarding  
23 Chambers copies and motion procedures.

#### 24 D. SETTLEMENT PROCEDURES

25 A settlement procedure must be identified in every case pursuant to Local  
26 Rule 16-15, et seq. Counsel must complete a settlement conference no later than  
27 the date set by the Court. Not to the exclusion of other procedures, the following  
28 are available:

- 1 (1) a settlement conference before the magistrate  
2 judge assigned to the case;
- 3 (2) a settlement conference or mediation before  
4 an attorney selected from the Attorney  
5 Settlement Panel;
- 6 (3) the employment (at the parties' expense) of  
7 a private judge, mediator, or arbitrator.

8 If a case is selected for the Mandatory ADR Program, the parties may  
9 choose option (3) instead, but may not choose option (1). Judge Nguyen may hold  
10 a settlement conference at the request of the parties in jury trial cases with a trial  
11 estimate of more than four days.

12 No case will proceed to trial unless all parties, including the principals of all  
13 corporate parties, have appeared personally at a settlement conference.

14 **E. FINAL PRETRIAL CONFERENCE**

15 A final pretrial conference date has been set pursuant to Rule 16 of the  
16 Federal Rules of Civil Procedure and Local Rule 16-8. Unless excused for good  
17 cause, each party appearing in this action shall be represented at the final pretrial  
18 conference by the lead trial counsel for that party. Counsel should be prepared to  
19 discuss streamlining the trial, including presentation of testimony by deposition  
20 excerpts or summaries, time limits, stipulations as to undisputed facts, and  
21 qualification of experts by admitted resumes.

22 **II**

23 **ADDITIONAL TRIAL PREPARATION**

24 **A. PRETRIAL DOCUMENTS**

25 1. ALL PRETRIAL DOCUMENT COPIES DELIVERED TO THE  
26 COURT SHALL BE "BINDER-READY" (three-hole punched on the left side,  
27 without blue-backs, and stapled only in the top left corner).

28 2. STRICT COMPLIANCE WITH LOCAL RULE 16 IS REQUIRED.  
THIS ORDER SETS FORTH SOME DIFFERENT AND SOME ADDITIONAL  
REQUIREMENTS. THIS COURT DOES NOT EXEMPT *PRO PER* PARTIES

1 FROM THE REQUIREMENTS OF RULE 16. Carefully prepared memoranda of  
2 contentions of fact and law, witness lists, a joint exhibit list, and a proposed final  
3 pretrial conference order shall be submitted in accordance with the Rules, and the  
4 format of the proposed final pretrial conference order shall conform to the format  
5 set forth in Appendix A to the Local Rules. Failure to comply with these  
6 requirements may result in the final pretrial conference being taken off-calendar or  
7 continued, or in other sanctions.

8 3. The filing schedule for pretrial documents is as follows.

9 a. At least 21 days before final pretrial conference:

- 10 • Memoranda of contentions of fact and law
- 11 • Witness lists
- 12 • Joint exhibit list
- 13 • Motions *in limine*

14 b. At least 14 days before final pretrial conference:

- 15 • Proposed final pretrial conference order lodged
- 16 • Proposed jury instructions
- 17 • Statement of the case
- 18 • Proposed additional voir dire questions, if desired
- 19 • Oppositions to motions *in limine*

20 c. At least 7 days before trial:

- 21 • Trial briefs, if desired

22 4. In addition to the requirements of Local Rule 16, the witness lists must  
23 include a brief description (one or two paragraphs) of the testimony and a time  
24 estimate for both direct and cross-examination (separately stated). See attached  
25 samples.

26 B. MOTIONS IN LIMINE

27 All motions *in limine* must be filed at least three weeks before the final  
28 pretrial conference. Counsel are to meet and confer with opposing counsel to

1 determine whether opposing counsel intend to introduce the disputed evidence and  
2 to attempt to reach an agreement that would obviate the motion. Oppositions must  
3 be filed two weeks before the final pretrial conference. The Court will rule on  
4 motions *in limine* at the final pretrial conference. Motions in *limine* should  
5 address specific issues (e.g., *not* “to exclude all hearsay”). Motions *in limine*  
6 should not be disguised motions for summary adjudication of issues.

7 C. JURY INSTRUCTIONS, STATEMENT OF THE CASE, AND VOIR  
8 DIRE

9 1. Pursuant to Local Rule 16-2, lead trial counsel for each party are  
10 required to meet and confer in person. The Court expects strict compliance with  
11 Local Rule 16-2. Fourteen days before the Local Rule 16-2 meeting, the parties  
12 shall exchange their respective proposed jury instructions and special verdict  
13 forms. Ten days prior to the Local Rule 16-2 meeting, each shall serve objections  
14 to the other’s instructions and verdict forms. Before or at the Rule 16-2 meeting,  
15 counsel are ordered to meet and confer and attempt to come to agreement on the  
16 proposed jury instructions and verdict forms.

17 2. At the time of filing the proposed final pretrial conference order, counsel  
18 shall file with the Court a JOINT set of jury instructions on which there is  
19 agreement. All blanks in standard forms should be filled in. The Court expects  
20 counsel to agree on the substantial majority of jury instructions, particularly when  
21 pattern or model instructions provide a statement of applicable law. If one party  
22 fails to comply with the provisions of this section, the other party must file a  
23 unilateral set of jury instructions.

24 3. At the same time, each party shall file its proposed jury instructions that  
25 are objected to by any other party. Each disputed instruction must have attached a  
26 short statement (one or two paragraphs), including points and authorities, in  
27 support of the instruction and a brief statement, including points and authorities,  
28 in support of any objections. If applicable, a proposed alternative instruction must

1 be provided.

2 4. When the *Manual of Model Jury Instructions for the Ninth Circuit*  
3 provides an applicable jury instruction, the parties should submit the most recent  
4 version, modified and supplemented to fit the circumstances of this case. Where  
5 California law applies, counsel should use the current edition of *California Jury*  
6 *Instructions—Civil* (“BAJI” or “CACI”). If neither is applicable, counsel should  
7 consult the current edition of O’Malley, et al., *Federal Jury Practice and*  
8 *Instructions*. Each requested instruction shall (a) cite the authority or source of  
9 the instruction, (b) be set forth in full, (c) be on a separate page, (d) be numbered,  
10 (e) cover only one subject or principle of law, and (f) not repeat principles of law  
11 contained in any other requested instruction.

12 Counsel may submit alternatives to these instructions only if counsel has a  
13 reasoned argument that they do not properly state the law or they are incomplete.

14 5. Counsel must provide the documents described in paragraphs 2 and 3 on  
15 a flash drive in Microsoft Word 2003 (or above) format at the time they file their  
16 proposed jury instructions.

17 6. The Court will send one or more copies of the instructions into the jury  
18 room for the jury’s use during deliberations. Therefore, in addition to the copies  
19 described above, the flash drive must contain a “clean” set of jury instructions,  
20 containing only the text of the instruction (one per page) with the caption  
21 “Instruction No. \_\_\_” at the top (eliminating titles, supporting authority, etc.).

22 7. Counsel must provide an index of all instructions submitted, which must  
23 include the following:

- 24 a. the number of the instruction;
- 25 b. the title of the instruction;
- 26 c. the source of the instruction and any relevant case citations; and
- 27 d. the page number of the instruction.

28 For example:



1	<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
2	1	Trademark - Defined	9th Cir. 15.3.2	7
3		(15 U.S.C. § 1127)		

4           8. During the trial and before argument, the Court will meet with counsel  
5 and settle the instructions, and counsel will have an opportunity to make a further  
6 record concerning their objections.

7           9. At the time of filing the proposed final pretrial conference order, counsel  
8 should file a jointly prepared one- or two-page statement of the case to be read by  
9 the Court to the prospective panel of jurors before commencement of voir dire.

10          10. The Court will conduct the voir dire. At the time they file the proposed  
11 final pretrial conference order, counsel for each party may, but are not required to,  
12 submit a list of proposed case-specific voir dire questions.

13           D. TRIAL EXHIBITS

14          1. Exhibits must be placed in three-ring binders indexed by exhibit number  
15 with tabs or dividers on the right side. Counsel shall submit to the Court an  
16 original and one copy of the binders. The spine portion of the binder shall  
17 indicate the volume number and contain an index of each exhibit included in the  
18 volume.

19          2. The Court requires that the following be submitted to the Courtroom  
20 Deputy Clerk (“CRD”) on the first day of trial:

21           a. The binder of original exhibits with the Court’s exhibit tags, yellow  
22 tags for plaintiff and blue tags for defendant, stapled to the front of the exhibit at  
23 the upper right-hand corner with the case number, case name, and exhibit number  
24 placed on each tag.

25           b. One binder with a copy of each exhibit tabbed with numbers as  
26 described above for use by the Court. (Exhibit tags are not necessary on these  
27 copies.)

28           c. Three copies of exhibit lists.

1 d. Three copies of witness lists in the order in which the witnesses may  
2 be called to testify.

3 3. Where a significant number of exhibits will be admitted, the Court  
4 encourages counsel to consider ways in which testimony about exhibits may be  
5 made intelligible to the jury. The Court has an Elmo and other equipment  
6 available for use during trial. Call the CRD if you wish to visit when the Court is  
7 not in session to practice using the equipment. The Court does not permit exhibits  
8 to be “published” by passing them up and down the jury box.

9 E. COURT REPORTER

10 Any party requesting special court reporter services for any hearing (i.e.,  
11 real time transmission, daily transcripts) shall notify the reporter at least 2 weeks  
12 before the hearing date.

13 F. JURY TRIAL

14 1. On the first day of trial, court will commence at 9:00 a.m. and conclude  
15 at approximately 4:30 p.m. with a one-hour lunch break. On the first day of trial,  
16 counsel must appear at 8:30 a.m. to discuss preliminary matters with the Court.  
17 After the first day of trial, trial days are Tuesday through Friday from 9:00 a.m. to  
18 approximately 4:00 p.m. with two fifteen-minute breaks and a one-hour lunch  
19 break.

20 2. On the first day of trial, the jury panel will be called when the Court is  
21 satisfied that the matter is ready for trial. Jury selection usually takes only a few  
22 hours. Counsel should be prepared to proceed with opening statements and  
23 witness examination immediately after jury selection.

24 3. In most cases the Court will conduct its initial voir dire of 14 prospective  
25 jurors who will be seated in the jury box. Generally the Court will select seven or  
26 eight jurors.

27 4. Each side will have three peremptory challenges. If 14 jurors are seated  
28 in the box and all six peremptories are exercised, the remaining eight jurors will

1 constitute the jury panel. If fewer than six peremptories are exercised, the eight  
2 jurors in the lowest-numbered seats will be the jury. The Court will not  
3 necessarily accept a stipulation to a challenge for cause. If one or more challenges  
4 for cause are accepted and all six peremptories are exercised, the Court may  
5 decide to proceed with six or seven jurors.

### 6 III

#### 7 CONDUCT OF ATTORNEYS AND PARTIES

##### 8 A. OPENING STATEMENTS, EXAMINING WITNESSES, AND 9 SUMMATION

- 10 1. Counsel must use the lectern.
- 11 2. Counsel must not consume time by writing out words, drawing charts or  
12 diagrams, etc. Counsel may prepare such materials in advance.

##### 13 B. OBJECTIONS TO QUESTIONS

- 14 1. Counsel must not use objections for the purpose of making a speech,  
15 recapitulating testimony, or attempting to guide the witness.
- 16 2. When objecting, counsel must rise to state the objection and state only  
17 that counsel objects and the legal ground of objection. If counsel wishes to argue  
18 an objection further, counsel must ask for permission to do so.

##### 19 C. GENERAL DECORUM

- 20 1. Counsel should not approach the CRD or the witness box without  
21 specific permission and must return to the lectern when the purpose for  
22 approaching has been accomplished.
- 23 2. Counsel should rise when addressing the Court, and when the Court or  
24 the jury enters or leaves the courtroom.
- 25 3. Counsel should address all remarks to the Court. Counsel are not to  
26 address the CRD, the court reporter, persons in the audience, or opposing counsel.  
27 If counsel wish to speak with opposing counsel, counsel must ask permission to  
28 do so. Any request for the re-reading of questions or answers shall be addressed

1 to the Court. Requests may not be granted.

2 4. Counsel should not address or refer to witnesses or parties by first names  
3 alone, with the exception of witnesses under 14 years old.

4 5. Counsel must not offer a stipulation unless counsel have conferred with  
5 opposing counsel and have verified that the stipulation will be acceptable.

6 6. While Court is in session, counsel must not leave counsel table to confer  
7 with any person in the back of the courtroom unless permission has been granted  
8 in advance.

9 7. Counsel should not by nonverbal conduct exhibit any opinion  
10 concerning testimony being given by a witness. Counsel should admonish  
11 counsel's own clients and witnesses to avoid such conduct.

12 8. Counsel should not talk to jurors at all, and should not talk to co-  
13 counsel, opposing counsel, witnesses, or clients where the conversation can be  
14 overheard by jurors. Each counsel should admonish counsel's own clients and  
15 witnesses to avoid such conduct.

16 9. Where a party has more than one lawyer, only one may conduct the  
17 direct or cross-examination of a particular witness, or make objections as to that  
18 witness.

19 **D. PROMPTNESS OF COUNSEL AND WITNESSES**

20 1. Promptness is expected from counsel and witnesses. Once counsel are  
21 engaged in trial, this trial is counsel's first priority. The Court will not delay the  
22 trial or inconvenience jurors.

23 2. If a witness was on the stand at a recess or adjournment, counsel who  
24 called the witness shall ensure the witness is back on the stand and ready to  
25 proceed when trial resumes.

26 3. Counsel must notify the CRD in advance if any witness should be  
27 accommodated based on a disability or for other reasons.

28 4. No presenting party may be without witnesses. If a party's remaining

1 witnesses are not immediately available and there is more than a brief delay, the  
2 Court may deem that party to have rested.

3 5. The Court attempts to cooperate with professional witnesses and will,  
4 except in extraordinary circumstances, accommodate them by permitting them to  
5 be called out of sequence. Counsel must anticipate any such possibility and  
6 discuss it with opposing counsel. If there is an objection, counsel must confer  
7 with the Court in advance.

8 E. EXHIBITS

9 1. Each counsel should keep counsel's own list of exhibits and should note  
10 when each has been admitted into evidence.

11 2. Each counsel is responsible for any exhibits that counsel secures from  
12 the CRD and must return them before leaving the courtroom at the end of the  
13 session.

14 3. An exhibit not previously marked should, at the time of its first mention,  
15 be accompanied by a request that it be marked for identification. Counsel must  
16 show a new exhibit to opposing counsel before the court session in which it is  
17 mentioned.

18 4. Counsel are to advise the CRD of any agreements with respect to the  
19 proposed exhibits and as to those exhibits that may be received without further  
20 motion to admit.

21 5. When referring to an exhibit, counsel should refer to its exhibit number.  
22 Witnesses should be asked to do the same.

23 6. Counsel must not ask witnesses to draw charts or diagrams nor ask the  
24 Court's permission for a witness to do so. Any graphic aids must be fully  
25 prepared before the court session starts.

26 F. DEPOSITIONS

27 1. All depositions to be used at trial, either as evidence or for impeachment,  
28 must be lodged with the CRD on the first day of trial or such earlier date as the

1 Court may order. Counsel should verify with the CRD that the relevant deposition  
2 is in the CRD's possession.

3 2. In using depositions of an adverse party for impeachment, either one of  
4 the following procedures may be adopted:

5 (a) If counsel wishes to read the questions and answers as alleged  
6 impeachment and ask the witness no further questions on that subject, counsel  
7 shall first state the page and line where the reading begins and the page and line  
8 where the reading ends, and allow time for any objection. Counsel may then read  
9 the portions of the deposition into the record.

10 (b) If counsel wishes to ask the witness further questions on the subject  
11 matter, the deposition shall be placed in front of the witness and the witness told  
12 to read the relevant pages and lines silently. Then counsel may either ask the  
13 witness further questions on the matter and thereafter read the quotations, or read  
14 the quotations and thereafter ask further questions. Counsel should have an extra  
15 copy of the deposition for this purpose.

16 3. Where a witness is absent and the witness's testimony is offered by  
17 deposition, counsel may (a) have a reader occupy the witness chair and read the  
18 testimony of the witness while the examining lawyer asks the questions, or (b)  
19 have counsel read both the questions and answers.

20 G. USING NUMEROUS ANSWERS TO INTERROGATORIES AND  
21 REQUESTS FOR ADMISSIONS

22 Whenever counsel expects to offer a group of answers to interrogatories or  
23 requests for admissions extracted from one or more lengthy documents, counsel  
24 should prepare a new document listing each question and answer and identifying  
25 the document from which it has been extracted. Copies of this new document  
26 should be given to the Court and opposing counsel.

27 H. ADVANCE NOTICE OF UNUSUAL OR DIFFICULT ISSUES

28 If any counsel have reason to anticipate that a difficult question of law or

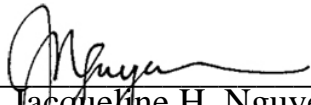
1 evidence will necessitate legal argument requiring research or briefing, counsel  
2 must give the Court advance notice. Counsel are directed to notify the CRD at the  
3 day's adjournment if an unexpected legal issue arises that could not have been  
4 foreseen and addressed by a motion *in limine*. See Fed. R. Evid. 103. Counsel  
5 must also advise the CRD at the end of each trial day of any issues that must be  
6 addressed outside the presence of the jury, so that there is no interruption of the  
7 trial. THE COURT WILL NOT KEEP JURORS WAITING.

8

9 IT IS SO ORDERED.

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11 DATED: May 4, 2012



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Jacqueline H. Nguyen  
United States District Judge

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Plaintiff(s),  
vs.  
Defendant(s).  
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) Case No. -JHN-x  
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) **WITNESS LIST**  
)  
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)  
) *SAMPLE FORMAT*  
)

WITNESSES FOR PLAINTIFF	DATES OF TESTIMONY
	<i>(to be filled in during trial)</i>
WITNESSES FOR DEFENDANT	



