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14 Attorneys for Defendants  
THE UPPER DECK COMPANY (CA & NV) and RICHARD MCWILLIAM

15 UNITED STATES DISTRICT COURT  
16 SOUTHERN DISTRICT OF CALIFORNIA  
17

18 UPPER DECK INTERNATIONAL B.V., a  
19 Netherlands corporation,

20 Plaintiff,

21 v.

22 THE UPPER DECK COMPANY, a California  
corporation; THE UPPER DECK COMPANY, a  
23 Nevada Corporation; RICHARD McWILLIAM,  
an Individual; and Does 1-10,

24 Defendants.  
25

26 AND RELATED COUNTERCLAIMS.  
27  
28

Case No. 11CV1741 LAB (KSC)

**STIPULATION AND JOINT MOTION  
TO EXTEND DISCOVERY AND OTHER  
PRE-TRIAL PROCEEDINGS**

Hon. Magistrate Judge Karen S. Crawford

Complaint Filed: 08/04/2011

1 WHEREAS, on July 27, 2012, the Court issued a Scheduling Order Regulating Discovery  
2 and Other Pre-trial Proceedings (“the July 27, 2012 Scheduling Order”), which set several discovery  
3 and pre-trial deadlines;

4 WHEREAS, on October 25, 2012, the Court issued an Order (pursuant to the parties’  
5 stipulation) amending paragraph 2 of the July 27, 2012 Scheduling Order regarding the cutoff for  
6 fact discovery in this case;

7 WHEREAS, this case involves an international dispute (plaintiff UDI is a Netherlands  
8 corporation) involving multiple, potential witnesses both within the United States and located  
9 overseas, including in the Netherlands, Spain, France, and Australia, who a party or parties may  
10 seek to depose, if necessary, through international conventions like the Hague Convention.  
11 Defendants, for example, have submitted two applications for letters rogatory, which are currently  
12 pending before this Court, seeking discovery in Europe and Australia. Further, conducting such  
13 discovery of foreign witnesses may require the parties to spend time locating and securing  
14 appropriate local counsel in such jurisdictions;

15 WHEREAS, on January 5, 2013, Defendant Richard McWilliam passed away, which has  
16 impeded Defendants’ ability to coordinate the appropriate efforts necessary to vigorously defend  
17 this lawsuit;

18 WHEREAS, given the above, the parties believe that more time is necessary to allow them  
19 to complete discovery and all other pre-trial proceedings; also, considering Defendant Mr.  
20 William’s passing, the parties also wish to schedule a settlement conference with Magistrate Judge  
21 Crawford at the end of February 2013, to determine whether at this stage the parties’ dispute can be  
22 settled and much of the further costs of further litigation and discovery may be avoided;

23 WHEREFORE, the parties hereby stipulate and respectfully request that the Court order that  
24 the respective dates for discovery and pre-trial proceedings be continued and reset as follows:

25 1. Within five (5) business days of this stipulation being filed, the parties will meet and  
26 confer regarding dates of availability for a settlement conference before Magistrate Judge Crawford  
27 to take place at the end of February 2013, or, if no dates are available on the Court’s calendar, on  
28 the soonest available date thereafter on which the parties and the Court are available. All parties

1 shall submit confidential settlement briefs directly to chambers no later than one week before the  
2 settlement conference.

3 2. Paragraph 2 of the July 27, 2012 Scheduling Order be amended to provide that all  
4 fact discovery shall be completed by all parties on or before June 27, 2013.

5 3. Paragraph 3 of the July 27, 2012 Scheduling Order be amended to provide that the  
6 parties' deadline to designate their respective experts in writing shall be April 15, 2013. Further,  
7 the date for exchange of rebuttal experts shall be on or before April 29, 2013.

8 4. Paragraph 4 of the July 27, 2012 Scheduling Order be amended to provide that, on or  
9 before May 30, 2013, each party shall comply with the disclosure provisions in Rule 26(a)(2)(A)  
10 and (B) of the Federal Rules of Civil Procedure.

11 5. Paragraph 5 of the July 27, 2012 Scheduling Order be amended to provide that any  
12 party shall supplement its disclosure regarding contradictory or rebuttal evidence under Rule  
13 26(a)(2)(c) on or before June 13, 2013.

14 6. Paragraph 6 of the July 27, 2012 Scheduling Order be amended to provide that all  
15 expert discovery shall be completed by all parties on or before June 27, 2013.

16 7. Paragraph 8 of the July 27, 2012 Scheduling Order is be amended to provide that a  
17 Mandatory Settlement Conference shall be conducted in September July 2013 in the Chambers of  
18 Magistrate Judge Karen S. Crawford at a date and time convenient for this Court. All parties shall  
19 submit confidential settlement briefs directly to chambers no later than one week before the  
20 settlement conference.

21 8. Paragraph 9 of the July 27, 2012 Scheduling Order be amended to provide that all  
22 other pretrial motions must be filed on or before August 15, 2013.

23 9. Paragraph 11 of the July 27, 2012 Scheduling Order be amended to provide that  
24 counsel shall comply with the pre-trial disclosure requirements of Federal Rule of Civil Procedure  
25 26(a)(3) on or before October 29, 2013.

26 10. Paragraph 12 of the July 27, 2012 Scheduling Order be amended to provide that  
27 counsel shall meet and take the action required by Local Rule 16.1(f)(4) on or before November 5,  
28 2013.

1           11. Paragraph 13 of the July 27, 2012 Scheduling Order be amended to provide that on  
2 or before November 12, 2013, plaintiff's counsel must provide opposing counsel with the proposed  
3 pretrial order for review and approval.

4           12. Paragraph 14 of the July 27, 2012 Scheduling Order be amended to provide that the  
5 Proposed Final Pretrial Conference Order, including objections to any other parties' Federal Rule  
6 26(a)(3) Pretrial Disclosures shall be prepared, served and lodged with the assigned District Judge  
7 on or before November 19, 2013.

8           13. Paragraph 15 of the July 27, 2012 Scheduling Order be amended to provide that the  
9 final Pretrial Conference is scheduled on the calendar of Judge Burns in December 2013 at a date  
10 and time convenient for this Court.

11           **IT IS SO STIPULATED.**

12  
13 Dated: January 31, 2013

NICHOLAS & BUTLER, LLP

14  
15 By s/ Mei-Ying M. Imanaka

Craig M. Nicholas, Esq.  
Alex Tomasevic, Esq.  
Mei-Ying Imanaka, Esq.

17 Attorneys for Defendants  
18 THE UPPER DECK COMPANY (CA & NV)  
and RICHARD MCWILLIAM

19  
20 Dated: January 31, 2013

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POPEO PC

21  
22 By s/ Nathan R. Hamler

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Andrew D. Skale, Esq.

24 Attorneys for Plaintiff  
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