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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

INTELLECTUAL PIXELS LIMITED,

Plaintiff,

v.

SONY INTERACTIVE
ENTERTAINMENT LLC;

Defendant.

Case No. 8:19-cv-01432-JVS-KES

**STIPULATED COVID-19
ADDENDUM TO PROTECTIVE
ORDER (DOCKET NO. 49)**

Jury Trial Demanded

1 WHEREAS, Plaintiff Intellectual Pixels Limited (“IPL”) and Defendant Sony
2 Interactive Entertainment LLC (“SIE”) (collectively, “the Parties”) have worked
3 together to reconcile the needs of this case with the exigencies of the ongoing public
4 health emergency;

5 WHEREAS, the Parties believe that discovery in this action is likely to involve
6 production of confidential and proprietary source code for which special protection
7 from public disclosure and from use for any purpose other than prosecuting this
8 litigation may be warranted;

9 WHEREAS the Court entered the Parties Stipulated Protective Order on
10 November 15, 2019 (Dkt. No. 49) (“the Protective Order”);

11 WHEREAS, after the Parties entered into the Protective Order, the outbreak of
12 the novel coronavirus (COVID-19) has been declared a global pandemic by the World
13 Health Organization, and the Centers for Disease Control and Prevention has
14 described the outbreak of COVID-19 in the United States as a “rapidly evolving
15 situation” and has recommended social distancing to limit further community spread
16 of COVID-19;

17 WHEREAS, in response to the COVID-19 pandemic, numerous states and
18 localities have issued “shelter-in-place” or “stay-at-home” orders and advisories as
19 part of their efforts to prevent the spread of the disease, including those currently in
20 place in Texas, California, Massachusetts, and Washington, D.C., which vary in scope
21 and duration but generally require businesses not considered “essential” to close their
22 physical offices and continue their operations remotely;

23 WHEREAS, in addition to these orders and advisories, numerous state and
24 federal courts, including the U.S. District Court for the Central District of California,
25 have issued Orders restricting or preventing public access to courthouses given the
26 severity of risk to persons by the spread of COVID-19;

1 WHEREAS, it is not possible to permit the parties to inspect one another's
2 source code pursuant to the in-person review procedures of the existing Protective
3 Order due to the public health orders and advisories summarized above;

4 WHEREAS, solely during this period of national and international public health
5 emergency, and terminating once the in-person inspection provisions the Protective
6 Order can again be followed, SIE is willing to substitute certain important security
7 precautions with alternate provisions intended to approximate as closely as practicable
8 the same level of security while allowing discovery in this action to continue while the
9 public health restrictions are in place; and

10 WHEREAS, Plaintiff acknowledges the exceptional exigencies presented by the
11 international health emergency and will not later argue that SIE's accommodations
12 during this emergency constitute a proper approach in any other circumstances;

13 NOW THEREFORE, it is hereby stipulated among the Parties and ORDERED
14 that:

15 1. **Scope of Order.** This COVID-19 Addendum to the Protective Order
16 shall be effective immediately upon entry and shall continue in effect until the in-
17 person inspection regime of the Protective Order can be reinstated or August 1, 2020,
18 whichever is sooner.

19 2. **Modifications to Paragraph 10 of Protective Order (Dkt. No. 49).**
20 While this COVID-19 Addendum to the Protective Order is in effect, Paragraph 10 of
21 the Protective Order in this action shall be modified as follows:

- 22 (a) Access to a Party's Source Code Material shall be provided only on single
23 "stand-alone" computer (the "Source Code Computer"). The Source Code
24 Computer may not be connected to any network, including a local area
25 network ("LAN"), an intranet, or the Internet. All network and USB ports and
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1 wireless transmitters shall be disabled and the Source Code Computer shall
2 not be connected to a printer in any way. The Source Code Computer may be
3 encrypted and/or protected by two-factor authentication. The Source Code
4 Computer will be shipped (via hand carry, Federal Express, or other similarly
5 reliable courier) by the producing Party to a single location mutually agreed
6 upon by the Parties, which may include the primary residence of the receiving
7 Party's Outside Consultant that has signed the Revised Undertaking Form
8 (Appendix A). The Source Code Computer may not be removed from said
9 single location, except to be returned to Defendant via hand carry, Federal
10 Express, or other similarly reliable courier. The Source Computer shall be
11 returned to Defendant within ten (10) days of the expiration of the COVID-19
12 Addendum to the Protective Order;

- 13 (b) The receiving Party shall make reasonable efforts to restrict its requests for
14 access to the Source Code Computer to normal business hours, which for
15 purposes of this paragraph shall be 8:00 a.m. through 6:00 p.m. Pacific Time
16 on weekdays, upon five (5) business days' notice. However, upon reasonable
17 notice from the receiving party, the producing Party shall make reasonable
18 efforts to accommodate the receiving Party's request for access to the Source
19 Code Computer outside of normal business hours. At each scheduled date and
20 time for inspection, the producing Party shall provide the receiving Party's
21 representative reviewing the Source Code (the "Reviewer") a time-varying
22 passcode to allow access to the Source Code Computer. At the end of
23 inspection, the Reviewer shall log out and shutdown the Source Code
24 Computer, and is not permitted to access the Source Code Computer outside
25 of agreed-upon times. The producing Party shall be permitted to initiate a
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1 video conferencing session with the Reviewer, using a computer separate
2 from the Source Code Computer, to visually monitor the activities of the
3 Reviewer during the review, but only to ensure that no unauthorized electronic
4 records of the Source Code are being created or transmitted in any way.
5 Notwithstanding anything else in this Order, a single webcam provided by
6 producing Party shall be located near the Source Code Computer and enabled
7 during any review session to allow such monitoring through a video
8 conferencing session. The webcam may be positioned in a manner that avoids
9 revealing any work product by the Reviewer. The Reviewer shall not copy,
10 remove, or otherwise transfer any Source Code Material from the Source
11 Code Computer including, without limitation, copying, removing, or
12 transferring the Source Code Material onto any recordable media or recording
13 device. The Reviewer shall be permitted to take notes relating to the Source
14 Code Material but may not copy the Source Code Material, or any portion of
15 the Source Code Material, into the notes and may not take such notes
16 electronically on the Source Code Computer itself.

- 17 (c) The producing Party shall take reasonable efforts to provide the receiving
18 Party and the Reviewer with information explaining how to start, log on to,
19 and operate the Source Code Computer in order to access the produced Source
20 Code Material on the Source Code Computer, including by providing the
21 time-varying passcode during the scheduled inspection;
- 22 (d) [NO CHANGE] The producing Party will produce Source Code Material in
23 computer searchable format on the Source Code Computer as described
24 above. The receiving Party's outside counsel and/or experts shall have access
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- 1 to the same source code review software and tools as provided to the
2 producing Party's outside counsel and/or experts when reviewing source code;
- 3 (e) [NO CHANGE] Access to Protected Material designated RESTRICTED
4 CONFIDENTIAL SOURCE CODE shall be limited to outside counsel of
5 record in this Action and up to three (3) outside consultants or experts (i.e.,
6 not existing employees of a Party or an affiliate of a Party) retained for the
7 purpose of this litigation and approved to access such Protected Materials
8 pursuant to paragraph 5(e) above. A receiving Party may include excerpts of
9 Source Code Material in a pleading, exhibit, expert report, discovery
10 document, deposition transcript, other Court document, provided that the
11 Source Code Documents are appropriately marked under this Order, restricted
12 to those who are entitled to have access to them as specified herein, and, if
13 filed with the Court, filed under seal in accordance with the Court's rules,
14 procedures and orders;
- 15 (f) [NO CHANGE] To the extent portions of Source Code Material are quoted in
16 a Source Code Document, either (1) the entire Source Code Document will be
17 stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE or
18 (2) those pages containing quoted Source Code Material will be separately
19 stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE;
- 20 (g) [NO CHANGE] No electronic copies of Source Code Material shall be made
21 without prior written consent of the producing Party, except as necessary to
22 create documents which, pursuant to the Court's rules, procedures and order,
23 must be filed or served electronically, subject to the restrictions of Paragraph
24 16;

1 (h) The receiving Party shall be permitted to request a reasonable number of
2 printouts and photocopies of Source Code Material, all of which shall be
3 designated and clearly labeled “RESTRICTED CONFIDENTIAL SOURCE
4 CODE,” and the receiving Party shall maintain a log of all such files that are
5 printed or photocopied; printouts of Source Code that exceed 60 contiguous
6 pages or 20% or more of a specific software release will be presumed to be
7 unreasonable unless the receiving Party provides a compelling justification
8 that such printed portions are necessary. The burden will be on the receiving
9 Party to demonstrate that such portions are no more than is reasonably
10 necessary for a permitted purpose, and not merely for the purpose of review
11 and analysis in another location. To request printouts of Source Code
12 Material, the receiving Party shall identify to the producing Party by file name
13 and line number the requested files to be printed. The producing Party will
14 prepare paper copies of the requested printouts and send the paper copies to an
15 agreed-upon address pursuant to Paragraph 10(k) within ten (10) business
16 days.

17 (i) [NO CHANGE] A receiving Party of any paper copies of Source Code
18 Material must always keep the paper copies of the Source Code at the office
19 of the receiving Party’s outside counsel of record or experts, and in a locked
20 storage container at the office of the receiving Party’s outside counsel of
21 record or experts when the paper copies of the Source Code are not in use.
22 The receiving Party may not reproduce the paper copies of the Source Code,
23 absent written agreement of the producing Party;

24 (j) The Parties acknowledge that depositions may be scheduled during the scope
25 of the COVID-19 Addendum. Should a Receiving Party wish to use any
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1 printouts of Source Code designated as “RESTRICTED CONFIDENTIAL
2 SOURCE CODE” at a deposition during the scope of the COVID-19
3 Addendum, the Receiving Party must notify the Producing Party in writing at
4 least five (5) calendar days before the date of the deposition identifying by
5 Bates production number the specific page(s) that the Receiving Party intends
6 to actually mark at the deposition. For requests of Source Code that in the
7 aggregate total 100 pages or more, the Receiving Party shall notify the
8 Producing Party in writing at least ten (10) calendar days before the date of
9 deposition. The Producing Party will then make printed copies of the
10 identified Bates page(s) available to the Receiving Party at the deposition by
11 providing printed copies to the witness and examining attorney. Copies of
12 Source Code designated as “RESTRICTED CONFIDENTIAL SOURCE
13 CODE” that are marked as deposition exhibits must not be provided to the
14 court reporter or attached to deposition transcripts; rather the deposition
15 record will identify such an exhibit by its production numbers. All printouts
16 of Source Code designated as “RESTRICTED CONFIDENTIAL SOURCE
17 CODE” used during a deposition must be destroyed by the Receiving Party at
18 the conclusion of the deposition;

- 19 (k) [NO CHANGE] A producing Party’s Source Code Material may only be
20 transported by the receiving Party by a person authorized under paragraph
21 10(e) above to another person authorized under paragraph 10(e) above, on
22 paper via hand carry, via Federal Express, or via other similarly reliable
23 courier with tracking capabilities provided that the receiving party does not
24 transport more than 50 pages of Source Code Material in the same package.
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1 Source Code Material may not be transported or transmitted electronically
2 over a network of any kind, including a LAN, an intranet, or the Internet.

3 **3. Effect on Other Paragraphs of Protective Order.** All terms of the Protective
4 Order remain in full effect to the extent they are not expressly modified in this
5 COVID-19 Addendum to the Protective Order.

1 Dated: May 21, 2020

2 By: /s/ Kalpana Srinivasan
3 Kalpana Srinivasan
4 Max L. Tribble, Jr.
5 Krysta Kauble Pachman
6 Jesse-Justin Cuevas
7 **SUSMAN GODFREY L.L.P.**
8 1900 Avenue of the Stars, 14th Floor
9 Los Angeles, CA 90067
10 ksrinivasan@susmangodfrey.com
11 mtribble@susmangodfrey.com
12 kpachman@susmangodfrey.com
13 jcuevas@susmangodfrey.com
14 Telephone: (310) 789-3100
15 Facsimile: (310) 789-3150

16 Michael F. Heim
17 Eric Enger
18 Blaine Larson
19 William B. Collier, Jr.
20 **HEIM, PAYNE & CHORUSH, LLP**
21 1111 Bagby St., Suite 2100
22 Houston, Texas 77002
23 mheim@hpcllp.com
24 eenger@hpcllp.com
25 blarson@hpcllp.com
26 Telephone: (713) 221-2000
27 Facsimile: (713) 221-2021

28 Attorneys for Plaintiff Intellectual Pixels
Limited

1 Dated: May 21, 2020

By: /s/ Mark. D Flanagan

2 Mark D. Flanagan

3 Joseph F. Haag

4 S. Dennis Wang

WILMER CUTLER PICKERING

HALE AND DORR LLP

5 950 Page Mill Road

6 Palo Alto, CA 94304

7 Telephone: (650) 858-6000

8 Facsimile: (650) 858-6100

9 James M. Dowd

WILMER CUTLER PICKERING

HALE AND DORR LLP

10 350 South Grand Ave., Suite 2100

11 Los Angeles, CA 90071

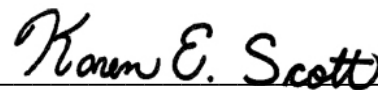
12 Telephone: (213) 443-5393

13 Facsimile: (213) 443-5400

14 Attorneys for Defendant Sony Interactive
15 Entertainment LLC

16
17
18 **IT IS SO ORDERED.**

19
20 Dated: May 21, 2020



21 Karen E. Scott

22 United States Magistrate Judge

1 **UNITED STATES DISTRICT COURT**
2 **CENTRAL DISTRICT OF CALIFORNIA**
3 **SOUTHERN DIVISION**

4 INTELLECTUAL PIXELS LIMITED,

5
6 Plaintiff, Case No. 8:19-cv-01432-JVS-KES

7
8 v.

9
10 SONY INTERACTIVE
11 ENTERTAINMENT LLC;

12
13 Defendant.
14

15 **APPENDIX A**
16 **UNDERTAKING OF RECIPIENT OF SOURCE CODE COMPUTER UNDER**
17 **COVID-19 ADDENDUM TO PROTECTIVE ORDER**

18 I, _____, declare that:

19 1. My address is _____.

20 My current employer is _____.

21 My current occupation is _____.

22 2. I have received a copy of the Protective Order and the COVID-19 Addendum to
23 the Protective Order in this action. I have carefully read and understand the
24 provisions of the Protective Order and the COVID-19 Addendum to the Protective
25 Order.

1 3. I will comply with all of the provisions of the Protective Order and the COVID-
2 19 Addendum to the Protective Order. I will hold in confidence, will not disclose to
3 anyone not qualified under the Protective Order, and will use only for purposes of this
4 action any information designated as “CONFIDENTIAL,” “RESTRICTED --
5 ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE
6 CODE” that is disclosed to me.

7 4. Promptly upon termination of this action, I will return all documents and things
8 designated as “CONFIDENTIAL,” “RESTRICTED -- ATTORNEYS’ EYES
9 ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” that came into my
10 possession, and all documents and things that I have prepared relating thereto, to the
11 outside counsel for the party by whom I am employed and in the case of designated
12 electronic data I have received in this action, I will promptly delete it and retain no
13 copies upon termination of this action.

14 5. I hereby submit to the jurisdiction of this Court for the purpose of enforcement
15 of the Protective Order in this action. I understand that my obligations under the
16 COVID-19 Addendum to the Protective Order and this Undertaking continue after the
17 term of the COVID-19 Addendum to the Protective Order expires.

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19 I declare under penalty of perjury that the foregoing is true and correct.

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21 Signature:

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23 Date:
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