

MEMO ENDORSED

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

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Dale M. Cendali
To Call Writer Directly:
+1 212 446 4846
dale.cendali@kirkland.com

601 Lexington Avenue
New York, NY 10022
United States

+1 212 446 4800

www.kirkland.com

Facsimile:
+1 212 446 4900

April 23, 2020

VIA ECF

Hon. Valerie Caproni
United States District Court for the
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

Re: *Take-Two Interactive Software, Inc. v. Wyckoff*, No. 1:19-cv-11818-VEC

Dear Judge Caproni:

We represent Plaintiff Take-Two Interactive Software, Inc. (“Take-Two”) in the above-referenced litigation. We write jointly with counsel for Defendant Johnathan Wyckoff (“Defendant”) to request that, while the parties arbitrate their dispute, the Court stay this litigation pursuant to 9 U.S.C. § 3 and vacate all pending deadlines. As Your Honor is aware, the Court previously entered a preliminary injunction enjoining Defendant, Dkt. No. 29, and the parties previously indicated that they likely would seek to pursue their claims through arbitration if settlement negotiations failed. Dkt. No. 34, at 3. The parties’ settlement negotiations have not been successful.

Thus, on April 22, 2020, Take-Two submitted its demand for arbitration to Judicial Arbitration and Mediation Services (“JAMS”). Although the arbitrator will decide the parties’ respective claims and defenses, Take-Two would like to ensure that the preliminary injunction against Defendant stays in place while the arbitration proceeds. This is consistent with the End User License Agreement at issue in this dispute, which provides that the parties “shall have the right to seek an injunction . . . in court in order to preserve the status quo while an arbitration proceeds.” Dkt. No. 1-4, at 6. Defendant consents to this procedure. Accordingly, the parties respectfully and jointly request that the preliminary injunction stay in place, this case be stayed pursuant to 9 U.S.C. § 3, and all pending deadlines be vacated until the arbitration is decided, at which point the parties will write jointly to the Court to resolve any remaining matters.

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Respectfully submitted,


Dale M. Cendali

cc: Counsel of record (via ECF)

Application GRANTED. The preliminary injunction will remain in place. This case is STAYED pending arbitration. The parties must provide joint quarterly status reports, with the first one due on **July 1, 2020**.

SO ORDERED.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

4/23/2020