

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WIZARDS OF THE COAST LLC, a
Delaware limited liability company,

Plaintiff,

v.

THOMAS PATRICK NOLAN, an
individual, and STEFAN OSMENA, an
individual,

Defendants.

No. C09-0459 TSZ

**JOINT STATUS REPORT AND
DISCOVERY PLAN**

Plaintiff Wizards of the Coast LLC ("Wizards") and Defendant Thomas Patrick Nolan ("Nolan") hereby submit their Joint Status Report and Discovery Plan as follows. As indicated in Paragraph 15 below, service has not yet been effected on Defendant Stefan Osmena ("Osmena").

1. Nature and Complexity of Case

Wizards is a leading developer and publisher of game-based entertainment products, particularly role-playing games. Wizards owns the rights to Dungeons & Dragons®, one of the most acclaimed role-playing games of all time. On March 17, 2009, Wizards released for sale its highly anticipated Dungeons & Dragons *Player's Handbook*® 2 ("*Player's Handbook 2*").

Wizards alleges that defendants illegally copied and distributed *Player's Handbook 2* by

JOINT STATUS REPORT AND DISCOVERY
PLAN (NO. C09-0459) – 1

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1 uploading an electronic version of the publication to a file-sharing site and/or otherwise making
2 it available for unauthorized download and copying by third parties. Nolan has answered the
3 complaint and denies the alleged infringement. Wizards and Nolan agree that this case does not
4 merit a complex designation.
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8 Defendant Osmena is a resident of the Philippines, and, although he has received the
9 summons and complaint via email, Wizards is advised that formal service may take as long as
10 twelve months to complete.
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14 **2. Alternative Dispute Resolution**

15 Wizards and Nolan agree that mediation is the appropriate method of ADR.
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17 **3. Deadline for Alternative Dispute Resolution**

18 Wizards and Nolan propose a meditation deadline of October 16, 2009.
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20 **4. Deadline for Joining Additional Parties**

21 Wizards and Nolan propose that any additional parties be joined by December 4, 2009.
22 However, if service on Defendant Osmena has not been completed and/or discovery of Osmena
23 is pending as of December 4, 2009, any party may subsequently move for leave to join additional
24 parties identified as a result of service on, or discovery of, Osmena, and any such motion shall
25 not be opposed absent good cause.
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27 **5. Proposed Discovery Plan**

28 (A) FRCP 26(f) Conference and Initial Disclosures. The FRCP 26(f) conference
29 between Wizards and Nolan was held by telephone on June 15, 2009. Rule 26(a) initial
30 disclosures will be exchanged by June 19, 2009.
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32 (B) Subjects of Discovery. Wizards and Nolan anticipate that discovery will proceed
33 with respect to the issues raised in Wizards' Complaint and Nolan's Answer, including the
34 alleged infringement, defenses, and damages. Wizards and Nolan do not believe that discovery
35 should be conducted in phases or limited to or focused on particular issues.
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1 (C) Changes or Limits on Discovery. Wizards and Nolan do not propose any changes
2 to or limitations on discovery as set forth in the federal and local civil rules.

3 (D) Minimization of the Expense of Discovery. Wizards and Nolan agree to
4 cooperate to minimize the expense of discovery.

5 (E) Any Order that Should be Entered. Wizards and Nolan do not seek any orders at
6 this time under FRCP 26(c) or Local Rule CR 16(b) or (c). A protective order to prevent public
7 disclosure of personally identifiable information and other sensitive information may be required
8 in the future.

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17 **6. Discovery Cut-Off Date**

18 Subject to Paragraph 15 below, Wizards and Nolan propose a discovery cut-off date of
19 February 13, 2010.

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23 **7. Appointment of Magistrate**

24 Wizards and Nolan do not consent to appointment of a full-time Magistrate Judge.

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27 **8. Bifurcation**

28 At this time, Wizards and Nolan do not request that this case be bifurcated.

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31 **9. Pretrial Statement and Order**

32 Wizards and Nolan do not request that pretrial statements and the pretrial order be
33 dispensed with, in whole or in part.

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37 **10. Additional Suggestions**

38 Wizards and Nolan have no suggestions at this time for shortening or simplifying the
39 case.

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43 **11. Date Ready for Trial**

44 Subject to Paragraph 15 below, Wizards and Nolan propose that the case will be ready for
45 trial by June 2010.

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49 **12. Jury Trial**

50 Wizards and Nolan agree that no jury demand has been filed.

1 **13. Length of Trial**

2 Wizards and Nolan anticipate a 3-day trial.

3 **14. Contact Information for Trial Counsel**

4 Counsel for Plaintiff Wizards of the Coast LLC:

5 Elizabeth L. McDougall
6 Jeffrey M. Hanson
7 Perkins Coie LLP
8 1201 Third Avenue, Suite 4800
9 Seattle, WA 98101-3099
10 Telephone: 206-359-8000

11 Defendant Thomas P. Nolan is currently proceeding pro se:

12 Thomas Patrick Nolan
13 6923 Cedar Ridge Circle
14 Milton, FL 32570
15 Telephone: (850) 564-5995

16 **15. Service**

17 Defendant Osmena is a resident of the Philippines, and Wizards has not yet effected
18 formal service on Osmena. However, he received an emailed copy of the summons and
19 complaint and apparently has publicly commented on the lawsuit in online forums. Wizards is
20 evaluating its service options and ways to resolve efficiently the dispute with Osmena.
21 Depending on the method of service used, Wizards is advised that completion of service on
22 Osmena may take as long as twelve months. Wizards and Nolan propose that (1) the FRCP 26(f)
23 conference with Osmena occur within fourteen days after service has been effected, and (2)
24 initial disclosures to/from Osmena occur within fourteen days after the FRCP 26(f) conference
25 with Osmena.

26 **16. Scheduling Conference**

27 Neither Wizards nor Nolan requests a scheduling conference prior to entry of a
28 scheduling order.

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2 DATED: June 16, 2009
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4 **PERKINS COIE LLP**
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7 *s/ Jeffrey M. Hanson*

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17 Attorneys for Plaintiff Wizards of the Coast LLC
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