

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,

Plaintiff,

v.

2K GAMES, INC. and TAKE-TWO
INTERACTIVE SOFTWARE, INC.,

Defendants.

CASE NO. 1:17-cv-02635-CAB

**SUPPLEMENTAL REPLY IN SUPPORT OF DEFENDANTS
2K GAMES, INC. AND TAKE-TWO INTERACTIVE SOFTWARE, INC.'S
MOTION FOR SUMMARY JUDGMENT**

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Pursuant to this Court’s Order of April 14, 2022, Dkt. 146, Defendants Take-Two Games, Inc. and 2K Games, Inc. (“Take-Two”) submit this supplemental reply brief in support of their Motion for Summary Judgment. Dkt. 95.

I. INTRODUCTION

This Court ordered that Danny Green, LeBron James, and Tristan Thompson be deposed in a “quest for the truth.” Dkt. 146. All three NBA Players have now been deposed, and their testimony confirms that there are no material facts in dispute as to any of Take-Two’s defenses.¹ Not only did the NBA Players verify that the facts in their declarations are true, they even added more undisputed detail. Among other things, each NBA Player testified [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In apparent acknowledgment that the NBA Players’ testimony supports Take-Two’s summary judgment motion, Plaintiff largely ignores Take-Two’s fair use and *de minimis* use defenses in his Supplemental Opposition. *See generally* Dkt. 156 (“Supp. Opp.”). It, however,

¹ Capitalized terms not defined here were defined in Take-Two’s opening, Dkt. 95-01 (“Br.”), or reply briefs, Dkt. 135.

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