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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GUEST TEK INTERACTIVE ENTERTAINMENT LTD.,
Petitioner,

v.

NOMADIX, INC.,
Patent Owner.

Case IPR2019-00253
Patent 8,626,922

PATENT OWNER'S RESPONSE TO PETITION FOR *INTER PARTES* REVIEW

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TABLE OF AUTHORITIES

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Apple Inc. v. Samsung Elecs. Co.,
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DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.,
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General Plastic. *Guest-Tek Interactive Entertainment Ltd. v. Nomadix, Inc.*,
Case IPR2018-01660 (PTAB Apr. 16, 2019) *rehearing denied* (PTAB Aug. 8, 2019).....5

In re Gordon,
733 F.2d 900 (Fed. Cir. 1984) 34, 39

K-TEC, Inc. v. Vita-Mix Corp.,
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In re Kahn,
441 F.3d 977 (Fed. Cir. 2006) 58

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