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10 **IN THE UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 NOMADIX, INC.,
14 Plaintiff,
15 v.
16 GUEST-TEK INTERACTIVE
17 ENTERTAINMENT LTD.,
18 Defendant/Counter-
19 Claimant,
20 v.
21 NOMADIX, INC.,
22 Counter-Defendant.

Case No.: 2:16-cv-08033-AB-FFM

[*Honorable André Birotte Jr.*]

**GUEST-TEK INTERACTIVE
ENTERTAINMENT LTD.'S FIRST
SUPPLEMENTAL OBJECTIONS
AND RESPONSES TO NOMADIX'S
INTERROGATORY NO. 6**

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1 Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Guest-
2 Tek Interactive Entertainment Ltd. (“Guest-Tek”) hereby provides its first
3 supplemental response and objections to Interrogatory No. 6 propounded by
4 Nomadix, Inc. (“Nomadix”).

5 **PRELIMINARY STATEMENT**

6 The responses provided herein are based upon Guest-Tek’s current
7 knowledge, information and reasonable belief. Guest-Tek expressly reserves the
8 right to modify, update, and/or supplement any response and to assert additional
9 objections to these Interrogatories as additional information becomes available to
10 Guest-Tek, including additional information from Nomadix as set forth below, and
11 as otherwise necessary or appropriate.

12 Guest-Tek has responded to these Interrogatories in accordance with its
13 interpretation and understanding of each Interrogatory. If Nomadix subsequently
14 asserts an interpretation of any Interrogatory or part thereof that differs from Guest-
15 Tek’s understanding of that Interrogatory or part thereof, or modifies or supplements
16 any information already provided to Guest-Tek, Guest-Tek reserves the right to
17 supplement its responses and/or objections.

18 **SPECIFIC OBJECTIONS AND RESPONSES**

19 **Interrogatory No. 6:**

20 To the extent that you contend that one or more claims of the License
21 Agreement Patents are invalid, explain the specific facts, legal arguments
22 (including any proposed claim constructions), and evidentiary basis that you will
23 rely on for your contentions, identifying the specific statutory provisions you will
24 rely on (e.g., 35 U.S.C. § 102(a) printed publication versus § 102(b) printed
25 publication versus § 102(b) on-sale bar). For example, to the extent that you
26 contend that a claim is invalid in view of prior art, your response should explain
27 the facts you will rely on to contend that the alleged prior-art references qualify as
28 prior art and should provide charts (or similarly organized information) showing

1 how you contend the alleged prior art discloses or teaches the limitations of the
2 claim in accordance with the applicable legal standard. As another example, to the
3 extent that you contend a claim is invalid for failing to satisfy a requirement of §
4 112, your response should identify the specific claim limitations involved and
5 explain why the legal standard for that requirement of § 112 is not satisfied.

6 **Response to Interrogatory No. 6:**

7 Guest-Tek objects that Nomadix has not established standing to propound
8 this Interrogatory. If Nomadix validly assigned its interests in the License
9 Agreement, in the Licensed Patents, and in this litigation to Gate Worldwide
10 Holdings LLC (“GWH”), then GWH—not Nomadix—is the proper
11 Plaintiff/Counter-Defendant here.

12 Guest-Tek further objects that this Interrogatory calls for legal strategies and
13 other information protected by the attorney-client privilege or the work-product
14 doctrine.

15 Guest-Tek further objects that this Interrogatory is a premature contention
16 interrogatory. As the parties previously agreed, and as this Interrogatory reflects,
17 Guest-Tek’s invalidity defense requires claim construction. Guest-Tek has
18 repeatedly but unsuccessfully sought agreement with Nomadix to modify the case
19 schedule to include a claim construction phase. On March 30, 2018, Guest-Tek
20 moved for an order modifying the case schedule to provide for a claim construction
21 phase, among other modifications. (*See* Doc. 256 at 4.) Until the Court rules on
22 Guest-Tek’s motion, it is too soon for Nomadix to demand Guest-Tek’s claim
23 constructions and invalidity contentions.

24 Guest-Tek further objects that this Interrogatory is an improper compound
25 interrogatory, covering multiple distinct invalidity theories. Guest-Tek need not
26 respond to this Interrogatory unless and until the parties reach agreement on the
27 scope of this Interrogatory and the number of Interrogatories that it contains.
28

1 Subject to and without waiving its objections, Guest-Tek refers Nomadix to
2 the Petitions for *Inter Partes* Review filed in *Guest-Tek Interactive Entertainment,*
3 *Ltd. v. Nomadix, Inc.*, No. IPR2018-00376 and *Guest-Tek Interactive*
4 *Entertainment, Ltd. v. Nomadix, Inc.*, No. IPR2018-00392. Guest-Tek reserves the
5 right to supplement this response, especially after the Court rules on its motion for
6 an order modifying the case schedule.

7 **Supplemental Response to Interrogatory No. 6:**

8 Guest-Tek incorporates its response and objections set forth in its Response
9 to Interrogatory No. 6 above. In addition, subject to and without waiving its
10 objections, Guest-Tek responds that each of the asserted claims of all patents-in-
11 suit are invalid under 35 U.S.C. §§ 102, 103, and 112. Guest-Tek sets forth the
12 following specific contentions with respect to each of the asserted patents. Unless
13 stated otherwise, the cited published patent references qualify as prior art at least
14 under 35 U.S.C. § 102(e), non-patent references qualify as prior art under § 102(a),
15 (b), and commercial activity under § 102(a) and (g). As to publication dates, on-
16 sale dates, and public use dates, Guest-Tek intends to demonstrate those dates for
17 the cited prior art through the evidence cited or incorporated herein (including the
18 petitions and exhibits thereto in the IPRs submitted for the asserted patents and the
19 files with beginning bates numbers NMD0014700, -20534, -41506, and -46770) as
20 well as through other documents, affidavits, and testimony from individuals with
21 knowledge.

22 In addition, Guest-Tek may amend its response to this interrogatory in view
23 of, for example, the Court's claim constructions. For instance, certain prior art
24 may be inapplicable to the claims at issue under the proper claim construction, and
25 Guest-Tek has not necessarily searched for or included such prior art in this
26 response. However, the Court's claim construction may render that prior art
27 applicable. To the extent that occurs, Guest-Tek reserves its rights to amend this
28 response to rely on that prior art or add additional contentions under Section 112.

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