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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 NOMADIX, INC.,

16 Plaintiff,

17 v.

18 GUEST-TEK INTERACTIVE
19 ENTERTAINMENT LTD.,

20 Defendant.
21

Case No.

CV16-08033 AB (FFMx)

**NOMADIX'S RESPONSES TO
GUEST-TEK'S FIRST SET OF
INTERROGATORIES**

Honorable André Birotte Jr.
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1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff
2 Nomadix hereby responds to Defendant Guest-Tek Interactive Entertainment's
3 First Set of Interrogatories.

4 **PRELIMINARY STATEMENT**

5 Nomadix bases its responses to these interrogatories on information
6 currently available to Nomadix and located by Nomadix after a reasonable
7 investigation. Discovery is ongoing, and Nomadix may supplement or otherwise
8 amend its responses as more information becomes available. For example, Guest-
9 Tek has not produced complete source code. In general, Guest-Tek's responses to
10 Nomadix's outstanding discovery requests may change Nomadix's responses to
11 these interrogatories.

12 Nomadix will respond to the unobjectionable portions of each interrogatory.
13 In doing so, Nomadix may provide information also responsive to objectionable
14 portions of an interrogatory; but Nomadix maintains its objections and does not
15 agree to provide further information responsive to the objectionable portions. More
16 generally, by responding to an interrogatory, Nomadix does not waive any of its
17 objections, and in particular, Nomadix does not concede that Guest-Tek is entitled
18 to further discovery on the matters to which the interrogatory pertains. Likewise,
19 by responding to an interrogatory, Nomadix does not concede any factual or legal
20 assertions set forth or assumed in the interrogatory. Moreover, Nomadix does not
21 waive any evidentiary objections at trial.

22 **OBJECTIONS APPLICABLE TO ALL INTERROGATORIES**

23 1. Nomadix objects to Guest-Tek's discovery requests to the extent that
24 they seek information protected by the attorney-client privilege, information
25 protected as work product or trial-preparation material, or information protected by
26 any other applicable privilege or immunity. The specific objections stated below
27 invoking the attorney-client privilege, work-product or trial-preparation protection,
28

1 or any other applicable privilege or immunity do not limit the generality of this
2 objection in any way.

3 2. Nomadix objects to Guest-Tek's requests to the extent that they
4 incorporate Guest-Tek's instructions concerning identification of privileged and
5 otherwise-protected materials. Guest-Tek's instructions would impose obligations
6 beyond those that the Federal Rules of Civil Procedure and the parties' stipulated
7 discovery order impose.

8 **SPECIFIC RESPONSES**

9 **INTERROGATORY 1:**

10 Identify each Network Service and Network Device which you contend
11 constitutes a Licensed Network Device or Licensed Network Service under the
12 License Agreement. This identification shall be as specific as possible. Each
13 product, device, and apparatus shall be identified by name and model number.
14 Each method or process shall be identified by name or by the product, device, or
15 apparatus which, when used, allegedly results in the practice of the claimed
16 method or process.

17 **RESPONSE TO INTERROGATORY 1:**

18 Nomadix incorporates its Objections Applicable to All Interrogatories.
19 Nomadix further objects to this interrogatory to the extent that it seeks information
20 protected from disclosure by the attorney-client privilege or work-product
21 immunity, including the protections of Rules 26(b)(3) and (4). Guest-Tek's
22 production of technical documents is incomplete, and Guest-Tek has not yet
23 responded to Nomadix's interrogatories. Nomadix needs at least that discovery to
24 respond to this interrogatory. The foregoing objections and Nomadix's Preliminary
25 Statement qualify the following:

26 The following are Licensed Network Devices and their processes are
27 Licensed Network Services:

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- 1 • all versions of OneView Internet at any U.S. property during any
2 License Quarter;
- 3 • all versions of RendezView at any U.S. property during any License
4 Quarter;
- 5 • all versions of Mercury at any U.S. property during any License
6 Quarter;
- 7 • all Head-End Processors (HEPs) installed at any U.S. property at the
8 time of, or after, Guest-Tek's acquisition of assets of iBAHN General
9 Holdings Corporation or other iBAHN entities; and
- 10 • all Golden Tree or GTC devices at any U.S. property during any
11 License Quarter.

12 **INTERROGATORY 2:**

13 For each Network Device and Network Service identified in response to
14 Interrogatory No. 1, identify each claim of each patent that you contend reads on
15 the Network Device or Network Service's structure, functionality, or operation,
16 either literally or under the doctrine of equivalents.

17 **RESPONSE TO INTERROGATORY 2:**

18 Nomadix incorporates its Objections Applicable to All Interrogatories.
19 Nomadix further objects to this interrogatory to the extent that it seeks information
20 protected from disclosure by the attorney-client privilege or work-product
21 immunity, including the protections of Rules 26(b)(3) and (4). Guest-Tek's
22 production of technical documents is incomplete, and Guest-Tek has not yet
23 responded to Nomadix's interrogatories. Nomadix needs at least that discovery to
24 respond to this interrogatory. In particular, Guest-Tek has not produced HEP,
25 Mercury, or GTC source code; and Guest-Tek has yet to identify any quarters
26 corresponding to the RendezView code it has produced. Depending on Guest-
27 Tek's response to Nomadix's interrogatories 2 and 3, Nomadix may identify
28 additional patent claims in response to this interrogatory. To the extent this

1 interrogatory concerns any patent that is not a Licensed Patent or a Bandwidth
2 Management Patent and that does not belong to a Patent Family (as those terms are
3 defined in the License Agreement), it seeks information that is neither relevant to
4 the claims or defenses pleaded in this case nor proportional to the needs of the
5 case. To the extent this interrogatory asks Nomadix to identify patent claims in
6 connection with devices or services (1) whose status as a Licensed Network
7 Device or Licensed Network Service is not disputed or (2) with respect to which
8 royalties are not disputed based on claim scope, the interrogatory seeks
9 information that does not change the outcome of the case and that is therefore
10 neither relevant to the claims or defenses pleaded in this case nor proportional to
11 the needs of the case. For example, as far as Nomadix is aware, Guest-Tek has not
12 disputed that at least RendezView and GTC are each a Licensed Network Device
13 or Licensed Network Service; accordingly Nomadix objects to identifying claims
14 from the Licensed Patents for these devices and services that would not affect the
15 royalty analysis. Similarly, when Guest-Tek has identified properties with HEPs in
16 quarterly reports (Schedule B), it has not disputed that it owes full royalties under
17 clause 2.4 of the License Agreement; accordingly Nomadix objects to identifying
18 claims from the Licensed Patents for these devices and services that would not
19 affect the royalty analysis. Nomadix needs Guest-Tek to complete its document
20 production and to respond to Nomadix's interrogatories so that it can assess the
21 extent to which there is any royalty dispute based on claim scope for RendezView,
22 HEP, and GTC. The foregoing objections and Nomadix's Preliminary Statement
23 qualify the following:

24 At least the following claims read on OneView Internet:

Patent	Claims
U.S. Patent No. 8,266,266	1, 24
U.S. Patent No. 8,725,899	1, 10

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