12/13/12

Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
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Attorneys for Plaintiff Jed Margolin

REC'D & FILED

2012 DEC 14 PM 3:08

ALAN GLOVER
BY _____ CLERK
DEPUTY

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION, a California corporation, OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation, REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, an individual, DOE Companies 1-10, DOE Corporations 11-20, and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

PLAINTIFF'S MOTION FOR SANCTIONS UNDER NRCP 37

Pursuant to NRCP 37(d), Plaintiff JED MARGOLIN ("Margolin") moves this Court for an Order striking Defendant REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI's ("Zandian") General Denial and awarding Margolin his fees and costs incurred in bringing this Motion.

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///

This Motion is based upon the pleadings and papers on file in this matter, the accompanying Memorandum of Points and Authorities, the Declaration of Adam P. McMillen in Support of Plaintiff's Motion for Sanctions NRCP 37(d) ("McMillen Decl."), and any requested oral argument.

DATED this 13th day of December, 2012.

WATSON ROUNDS

By: _____

Matthew D. Francis
Adam P. McMillen
5371 Kietzke Lane
Reno, NV 89511
Telephone: (775) 324-4100
Facsimile: (775) 333-8171
Attorneys for Plaintiff Jed Margolin

MEMORANDUM OF POINTS AND AUTHORITIES

A. BACKGROUND

This action arises from Zandian's and the other corporate Defendants' fraudulent assignment of Margolin's patents.

On July 16, 2012, Margolin served Zandian with Margolin's First Set of Requests for Admission, First Set of Interrogatories and First Set of Requests for Production of Documents. McMillen Decl., ¶ 2, Exhibits 1 and 2. Pursuant to NRCP 33, 34 and 36, responses to these discovery requests were due on August 20, 2012. *Id.* Zandian has never provided any responses or documents. *Id.*

On September 10, 2012, Margolin mailed a meet and confer letter to Zandian demanding that he serve responses and documents to the aforementioned discovery no later than September 17, 2012. McMillen Decl., ¶ 5, Exhibit 4. In the September 10, 2012 letter, Margolin demanded that Zandian "respond, without objection, to the requests for admissions, the requests to produce documents (including the actual production of documents), and the interrogatories no later than September 17, 2012." Exhibit 4. Margolin stated that if Zandian failed to comply with this request, Margolin would file a motion to compel with this Court and seek sanctions. *Id.* Margolin also stated that since Margolin did not respond to Margolin's First Set of Requests for Admissions, those admissions were (and are) deemed admitted. Exhibit 4, *citing Wagner v. Carex Investigations & Sec. Inc.*, 93 Nev. 627, 630, 572 P.2d 921, 923 (1977). Despite Margolin's efforts to meet and confer, Zandian has not served responses or documents pursuant to any of the aforementioned discovery requests, nor has he responded to the September 10, 2012 letter or otherwise contacted Plaintiff's counsel. *See supra*, Exhibit 4.

Based on these facts, and the authority stated below, Margolin's Motion for Sanctions should be granted in full, and sanctions should be levied against Zandian for his willful non-compliance with the Nevada Rules of Civil Procedure.

B. ARGUMENT

NRCP 37(a)(2)(B) states that if a party fails to answer an interrogatory submitted under NRCP 33, or if a party fails to respond to a request for production submitted under NRCP 34,

"the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request." *Id.*

As stated above, Zandian has not served responses or documents in response to Margolin's First Set of Interrogatories to Zandian or Margolin's First Set of Requests for Production to Zandian. *See supra.* Zandian has also not responded to the September 10, 2012 letter requesting that he respond to the written discovery. McMillen Decl., ¶ 5. Therefore, Margolin needs not move to compel responses and may rely upon NRCP Rule 37(d), immediately, to request evidentiary and terminating sanctions for Zandian's failure to respond.

NRCP Rule 37(d)(2) provides that:

> If a party . . . fails (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subparagraphs (A), (B), and (C) of subdivision (b)(2) of this rule.

NRCP 37(b)(2)(A-C) provides that:

> (A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
>
> (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
>
> (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

NRCP 37(b)(2) also provides that:

> In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

Margolin's First Set of Interrogatories to Zandian and Margolin's First Set of Requests for Production to Zandian seek information and documents relating to the following crucial

topics: why Zandian signed and filed an assignment of the patents at issue; who was involved in the fraudulent assignment; who paid for the fraudulent assignment; the licensing activity Zandian engaged in regarding the patents after he filed the fraudulent assignment; all revenues derived from Zandian's activities related to the patents after filing the assignment. *See* McMillen Decl., Exhibits 1 through 4. All of this information is extremely important to Margolin's liability and damage analysis.

Fundamental notions of fairness and due process require that discovery sanctions be just and that sanctions relate to the specific conduct at issue. *GNLV Corp. v. Serv. Control Corp.*, 111 Nev. 866, 870, 900 P.2d 323, 326 (1995), *citing Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). As discussed above, sanctions may be imposed where there has been willful noncompliance, and the adversary process has been halted by the actions of the unresponsive party. *Fire Ins. Exchange v. Zenith Radio Corp.*, 103 Nev. 648, 652, 747 P.2d 911, 914 (1987). Reasoned and thoughtful analysis dictates that this Court is justified in using its discretion to enter in an order striking Zandian's General Denial and awarding Margolin its attorneys' fees and costs incurred in bringing this Motion.

First, Zandian acted willfully in failing to respond to the aforementioned discovery requests. Nevada Courts have consistently stated the basis for the imposition of sanctions was the failure to complete discovery. *See Havas v. Bank of Nevada*, 96 Nev. 567, 571, 613 P.2d 706, 709 (1980); *Kelly Broadcasting Co. v. Sovereign Broadcast, Inc.*, 96 Nev. 188, 192, 606 P.2d 1089, 1992 (1980). Although Margolin's First Set of Interrogatories to Zandian and Margolin's First Set of Requests for Production were served five months ago, Zandian has failed to serve responses or documents. *See supra.* Furthermore, Zandian has not made any attempt to justify this inexcusable willful neglect, and has not even bothered to contact Margolin's counsel regarding the discovery. *See* McMillen Decl., ¶¶ 5 and 6.

Second, Margolin is being prejudiced by Zandian's failure to respond to the aforementioned discovery requests, and Margolin should not be forced to suffer further prejudice which would result from lesser sanctions. While Margolin believes that liability is established by Zandian failing to respond to the requests for admissions, Margolin believes that responses to

the outstanding discovery will further prove the extent of the Defendants' malfeasance and damage. Margolin has already been forced to delay the case because no discovery has been responded to by Margolin. This alone is sufficient prejudice to justify the entering of a default judgment. *See Fire Ins. Exch.*, 103 Nev. at 651, 747 P.2d at 914.

While Margolin understands and appreciates the nature of the sanctions contained in this Motion, the requested relief is necessitated by Zandian's willful violations of the Nevada Rules of Civil Procedure. Simply put, common law and NRCP 37(d) dictate that Margolin is entitled to an Order striking Zandian's General Denial and awarding Margolin his attorneys' fees and costs incurred in bringing this Motion. *See supra.*, NRCP 37(d)(2-3), NRCP 37(b)(2)(A-C).

C. CONCLUSION

For all of the foregoing reasons, Jed Margolin requests that his Motion be granted in the manner requested.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this ~~13th~~ 14th day of December, 2012.

WATSON ROUNDS

By: _____
Matthew D. Francis
Adam P. McMillen
5371 Kietzke Lane
Reno, NV 89511
Telephone: (775) 324-4100
Facsimile: (775) 333-8171

Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to Rule 5(b), Nevada Rules of Civil Procedure, I hereby certify that I am an employee of WATSON ROUNDS, and on this date a true and correct copy of the foregoing document, **Plaintiff's Motion for Sanctions Under NRCP 37,** will be served on the following by first-class mail through the U.S. Postal Service.

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Reza Zandian
8775 Costa Verde Blvd, Apt. 501
San Diego, CA 92122

Dated: December 14, 2012.

Nancy Lindsley

Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION, a California corporation, OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation, REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, an individual, DOE Companies 1-10, DOE Corporations 11-20, and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

DECLARATION OF ADAM P. MCMILLEN IN SUPPORT OF PLAINTIFF'S MOTION FOR SANCTIONS UNDER NRCP 37

I, Adam P. McMillen, do hereby declare and state as follows:

1. I am a lawyer at the law firm of Watson Rounds located at 5371 Kietzke Lane, Reno, Nevada 89511. This declaration is based upon my personal knowledge, and is made in support of Plaintiff's Motion for Sanctions Under NRCP 37 and the Memorandum of Points and Authorities in Support Thereof.

2. On July 16, 2012, JED MARGOLIN ("Margolin") served Defendant REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI's

("Zandian") with Margolin's First Set of Interrogatories to Zandian as well as Margolin's First Set of Requests for Production to Margolin. A true and correct copy of Margolin's First Set of Interrogatories to Zandian is attached hereto as Exhibit 1, and a true and correct copy of Margolin's First Set of Requests for Production to Zandian is attached hereto as Exhibit 2. Pursuant to NRCP 33 and 34, responses to these discovery requests, as well as responsive documents, were due on August 20, 2012. No responses or documents were served on that date or thereafter.

4. Also on July 16, 2012, Margolin served Zandian with Margolin's First Set of Requests for Admissions. A true and correct copy of the First Set of Requests for Admissions is attached hereto as Exhibit 3. Pursuant to NRCP 36, responses to these Requests for Admissions were due on August 20, 2012. No responses were served on that date or thereafter.

5. On September 10, 2012, Margolin emailed and faxed Zandian a meet and confer letter demanding that Zandian serve responses and documents to the aforementioned discovery (and other discovery) no later than September 17, 2012. A true and correct copy of this letter is attached hereto as Exhibit 4. In the September 10, 2012 letter, Margolin demanded that Zandian "respond, without objection, to the requests for admissions, the requests to produce documents (including the actual production of documents), and the interrogatories no later than September 17, 2012." Exhibit 4. Margolin stated that if Zandian failed to comply with this request, Margolin would file a motion to compel with this Court. *Id.* Margolin also stated that since Margolin did not respond to Margolin's First Set of Requests for Admissions, those admissions were (and are) deemed admitted. *Id.* Zandian has not served responses or documents pursuant to the aforementioned discovery requests, nor has he responded to the September 10, 2012 letter. *Id.*

6. I certify that I have in good faith corresponded with Zandian in an effort to resolve this discovery dispute without court intervention. However, my sincere efforts to resolve the dispute have been unsuccessful.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 13th day of December, 2012.

WATSON ROUNDS

By:_____
Matthew D. Francis
Adam P. McMillen
5371 Kietzke Lane
Reno, NV 89511
Telephone: (775) 324-4100
Facsimile: (775) 333-8171
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to Rule 5(b), Nevada Rules of Civil Procedure, I hereby certify that I am an employee of WATSON ROUNDS, and on this date a true and correct copy of the foregoing document, **Declaration of Adam P. McMillen in Support of Plaintiff's Motion for Sanctions Under NRCP 37** will be served on the following by first-class mail though the U.S. Postal Service.

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Reza Zandian
8775 Costa Verde Blvd, Apt. 501
San Diego, CA 92122

Dated: December 14, 2012.

Nancy Lindsley

INDEX OF EXHIBITS

Exhibit 1

Exhibit 1

Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
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Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION, a California corporation, OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation, REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, an individual, DOE Companies 1-10, DOE Corporations 11-20, and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

PLAINTIFF'S FIRST SET OF INTERROGATORIES TO REZA ZANDIAN

Plaintiff Jed Margolin ("Margolin") hereby requests that Defendant Reza Zandian aka Golamreza Zandianjazi, aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi ("Zandian") serve responses to the following Interrogatories within thirty (30) days of service hereof. These Interrogatories are considered continuing and therefore Zandian is required to supplement his answers whenever Zandian obtains different or additional knowledge, information or belief relative to the Interrogatories.

I. DEFINITIONS

A. As used in these Interrogatories, unless otherwise specified, the terms "Zandian," "you," or "your" or "yourself" refers to Reza Zandian aka Golamreza Zandianjazi, aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi and any other aka.

B. As used in these Interrogatories, the terms "document," "documents," or "documentation" refer to any and all tangible items or sources of information within the meaning of Rule 34 of the Nevada Rules of Civil Procedure, whether original or non-identical copies of such items, in both final and draft form, of every kind and nature whatsoever, that are within your possession, custody or control, or that are known by you to exist. The terms "document" or "documents" include, but are not limited to, all correspondence, memoranda, records, notes, drafts, proposals, minutes of meetings, books, papers, drawings, telegrams, logs, diaries, computer printouts, computations, ledgers, journals, purchase orders, bills of lading, invoices, vouchers, checks, books of original entry and other books or records; all studies, analyses, or other valuative or interpretive reports; recordings or memoranda of conversations, or any other written, printed, typewritten or other graphic or photographic matter or tangible thing on which any information is affixed; all mechanical, electronic, sound or video recordings or transcripts thereof; all other magnetic recordings or matter existing in any other machine readable form; and all information capable of being retrieved from a computer.

C. As used in these Interrogatories, the terms "communicate" or "communications" refer to all conversations, messages, correspondence, or contacts between any persons, whether in person, in writing, by telephone, or by any other means.

D. As used in these Interrogatories, the terms "person" or "persons" refer to all individuals, associations, partnerships, corporations, and any other business entities.

II. GUIDELINES

A. Whenever the phrase "state in detail" or "describe in detail" is used in these Interrogatories, you are required to set forth every fact, consideration, factor, circumstance,

act, omission, event, transaction, occurrence, or statement which supports, refutes, concerns, relates to, or refers to the matter about which information is sought.

B. Whenever the term "identify" or "identification" is used in these Interrogatories with respect to an individual person, you are required to state: the full name of each such person; his or her last known residential address; his or her last known business address; and his or her present or last known job title, job description, and the dates during which the job position was held. Once a person has been identified in an answer to an interrogatory, it shall be sufficient thereafter when identifying that person merely to state his or her name.

C. Whenever the term "identify" or "identification" is used in these Interrogatories with respect to any corporation, partnership, or business entity, you are required to state: its present or last known full name; all of its previous registered and/or operating business names, if any; its present or last known business address; and the nature of its business. Once a corporation, partnership, or business entity has been identified in an answer to an interrogatory, it shall be sufficient thereafter when identifying such entity merely to state its name.

D. Whenever the term "identify" or "identity" or "identification" is used in these Interrogatories with respect to a document or documents, you are required to:

(1) describe the type of document, e.g., letter, memorandum, report, diary, chart, etc.;

(2) provide the date, if any, of the document;

(3) identify the author(s) of the document;

(4) identify each addressee appearing on the document;

(5) identify each recipient of the document or any copies of the document;

(6) describe the contents of the document;

(7) describe the present location of the document; and

(8) identify the person(s) having possession, control, or custody of the document.

If any such document was, but is no longer in your possession, custody or control, state what disposition was made of it; and if such document was destroyed, or alleged to have been destroyed, state the date of and reason for its destruction, the identity of each person having knowledge of its destruction, and each person responsible for its destruction. For each interrogatory that requests the identification of document(s), you may produce for inspection and copying, true and correct copies of the document(s) as kept in the usual course of business, organized and labeled to correspond with the categories in this request, all in accordance with Rule 33(c) of the Nevada Rules of Civil Procedure, and such production of copies will be accepted as complying with such request.

E. Should you deem any information requested by any of the following Interrogatories to be privileged, you shall specify that a claim of privilege is being made, briefly state the grounds on which the claim of privilege rests, and identify who is making the claim of privilege.

III. INTERROGATORIES

Interrogatory No. 1:

Please describe in detail why on December 5, 2007, you signed and filed an assignment of patent numbers 5,566,073, 5,904,724, 6,377,436 and 5,978,488 (the "patents") with the United States Patent Office.

Interrogatory No. 2:

Please describe in detail whose idea it was to file the assignment of the patents with the United States Patent Office on December 5, 2007.

Interrogatory No. 3:

If it was not your idea to file the assignment of the patents with the United States Patent Office on December 5, 2007, then please describe in detail whose idea it was, including the name(s) and contact information (address, phone number, email address, etc.) of anyone involved in the decision making process.

Interrogatory No. 4:

Please describe in detail John Peter Lee Ltd's involvement in the December 5, 2007 assignment of the patents including but not limited to the following John Peter Lee Ltd members: John Peter Lee, John C. Courtney, and Paul C. Ray.

Interrogatory No. 5:

Please describe in detail Greenberg Traurig LLP's involvement in the December 5, 2007 assignment of the patents, including but not limited to the following Greenberg Traurig LLP members: Scott J. Bornstein, Allan A. Kassenoff, E. Jeffrey Walsh and Paul J. Sutton.

Interrogatory No. 6:

Please describe in detail whose credit card was used to pay for the December 5, 2007 assignment of the patents with the United States Patent Office, with the last four numbers of the credit card being 1004 and the expiration date being 01/09; please include the name of the credit card holder and why the credit card was used for the December 5, 2007 assignment of the patents.

Interrogatory No. 7:

Please describe in detail who the officers and directors of Optima Technology Corporation, a California Corporation, were at the time you filed the assignment of the patents with the United States Patent Office on December 5, 2007.

Interrogatory No. 8:

Please describe in detail who the officers and directors of Optima Technology Corporation, a Nevada Corporation, were at the time you filed the assignment of the patents with the United States Patent Office on December 5, 2007.

Interrogatory No. 9:

Please describe in detail why John Peter Lee's name and address was associated with and used for Optima Technology Corporation (NV) in the patents' assignment documents you filed with the United States Patent Office on December 5, 2007.

Interrogatory No. 10:

Please describe in detail what "Jed Margolin based on Power of Attorney, dated July 20, 2004 to: Optima Technology Corporation (CA)" means as detailed in the assignment of the patents, dated December 5, 2007, attached hereto as Exhibit A.

Interrogatory No. 11:

Please describe in detail what the Power of Attorney, dated July 20, 2004 is, as detailed on the assignment documents filed with the United States Patent Office on December 5, 2007 and how you obtained a copy of said Power of Attorney. See Exhibit A.

Interrogatory No. 12:

Please describe in detail the knowledge you had of the contract between Jed Margolin and Optima Technology Group, a Cayman Islands Corporation, at the time you filed the assignment of the patents on December 5, 2007.

Interrogatory No. 13:

Please describe in detail the licensing activity you engaged in regarding the patents after you filed the assignment of the patents on December 5, 2007.

Interrogatory No. 14:

Please describe in detail any and all activities you engaged in regarding the patents after you filed the assignment on December 5, 2007.

Interrogatory No. 15:

Please describe in detail all revenues derived from your activities related to the patents after filing the assignment of the patents on December 5, 2007.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: July 16, 2012

WATSON ROUNDS

BY: /s/ Adam McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Plaintiff's First Set of Interrogatories to Reza Zandian**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Dated: July16, 2012

/s/
Carla Ousby

Exhibit 2

Exhibit 2

Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION, a California corporation, OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation, REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, an individual, DOE Companies 1-10, DOE Corporations 11-20, and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO REZA ZANDIAN

Plaintiff Jed Margolin ("Margolin") Pursuant to Rules 26 and 34 of the Nevada Rules of Civil Procedure, hereby requests that Defendant Reza Zandian aka Golamreza Zandianjazi, aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi ("Zandian") serve responses and documents to the following Requests for Production within thirty (30) days of service hereof. These Requests are considered continuing and therefore Zandian is required to supplement his responses and document

production whenever Zandian obtains different or additional knowledge, information or belief relative to the Requests.

I. DEFINITIONS AND GUIDELINES

Margolin incorporates by reference the Definitions and Guidelines set forth in Margolin's First Set of Interrogatories to Reza Zandian.

II. DOCUMENT REQUESTS

REQUEST NO. 1:

Any and all documents identified in and/or supporting your responses to Plaintiff's first set of interrogatories served upon you.

REQUEST NO. 2:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email and attachments containing or referring to communications between yourself and NASA.

REQUEST NO. 3:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email communications between yourself and the law firm of Greenberg Traurig LLP including the following Greenberg Traurig LLP members:

Scott J. Bornstein

Allan A. Kassenoff

E. Jeffrey Walsh

Paul J. Sutton

REQUEST NO. 4:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email and attachments containing or referring to communications between yourself and the law firm of John Peter Lee Ltd (Las Vegas) including, but not limited to, the following John Peter Lee Ltd members:

John Peter Lee

John C. Courtney

Paul C. Ray

REQUEST NO. 5:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email and attachments containing or referring to communications between yourself and the law firm of Chandler Udall Law Firm LLP, Udall Law Firm LLP, Udall Law IP LLP (all in Arizona) including but not limited to the following:

Edward Moomjian II

Jeanna Chandler Nash

Ryan Redmon

REQUEST NO. 6:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email and attachments containing or referring to communications between yourself and the United States Patent Office ("PTO") regarding the December 5, 2007 assignment of patents you filed with the PTO relating to patent numbers 5,566,073, 5,904,724, 6,377,436 and 5,978,488 (the "patents").

REQUEST NO. 7:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email and attachments containing or referring to communications between you and any other person or entity relating to the patents.

REQUEST NO. 8:

Please provide a complete copy of any and all documents, correspondence, memoranda, electronic email and attachments containing or referring to communications between you and any other person or entity relating to the licensing of the patents.

REQUEST NO. 9:

Please provide a complete copy of any and all documents related to all revenues derived from your activities related to the patents after filing the assignment of the patents on December 5, 2007.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: July 16, 2012

WATSON ROUNDS

BY: /s/ Adam McMillen

Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Plaintiff's First Set of Requests for Production of Documents Interrogatories to Reza Zandian**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Dated: July 16, 2012

/s/
Carla Ousby

Exhibit 3

Exhibit 3

Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
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Attorneys for Plaintiff Jed Margolin

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION, a California corporation, OPTIMA TECHNOLOGY CORPORATION, a Nevada corporation, REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI aka G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, an individual, DOE Companies 1-10, DOE Corporations 11-20, and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS TO REZA ZANDIAN

Pursuant to NRCP 26 and NRCP 36, Plaintiff Jed Margolin ("Margolin") hereby requests that Defendant Reza Zandian aka Golamreza Zandianjazi, aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi ("Zandian") serve responses to the following Requests for Admission within thirty (30) days of service hereof. These Requests are considered continuing and therefore Zandian is required to supplement his responses whenever Zandian obtains different or additional knowledge, information or belief relative to the Requests for Admissions.

I. DEFINITIONS

A. As used in these Interrogatories, unless otherwise specified, the terms "Zandian," "you," or "your" refers to Reza Zandian aka Golamreza Zandianjazi, aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi and any other aka.

B. As used in these Requests, the terms "document," "documents," or "documentation" refer to any and all tangible items or sources of information within the meaning of Rule 34 of the Nevada Rules of Civil Procedure, whether original or non-identical copies of such items, in both final and draft form, of every kind and nature whatsoever, that are within your possession, custody or control, or that are known by you to exist. The terms "document" or "documents" include, but are not limited to, all correspondence, memoranda, records, notes, drafts, proposals, minutes of meetings, books, papers, drawings, telegrams, logs, diaries, computer printouts, computations, ledgers, journals, purchase orders, bills of lading, invoices, vouchers, checks, books of original entry and other books or records; all studies, analyses, or other valuative or interpretive reports; recordings or memoranda of conversations, or any other written, printed, typewritten or other graphic or photographic matter or tangible thing on which any information is affixed; all mechanical, electronic, sound or video recordings or transcripts thereof; all other magnetic recordings or matter existing in any other machine readable form; and all information capable of being retrieved from a computer.

C. As used in these Requests, the terms "communicate" or "communications" refer to all conversations, messages, correspondence, or contacts between any persons, whether in person, in writing, by telephone, or by any other means.

D. As used in these Requests, the terms "person" or "persons" refer to all individuals, associations, partnerships, corporations, and any other business entities.

II. GUIDELINES

1. Each matter is admitted unless, within 30 days after service of this request, Zandian serves a written answer or objection addressed to the matter.

2. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why Zandian cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that Zandian qualify an answer or deny only a part of the matter of which an admission is requested, it shall specify so much of it as is true and qualify or deny the remainder.

3. Zandian may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that information known or readily obtainable by him is insufficient to enable him to admit or deny.

4. If Zandian does not admit an item, he shall:

(a) Produce to Plaintiff all documents concerning the requested admission in his possession, custody or control;

(b) State, with particularity, the factual basis upon which his response is based; and

(c) Identify each and every person with knowledge of the requested admission.

5. These requests for admissions are continuing. Zandian shall promptly supply by way of supplemental responses any and all additional information that may become known prior to any hearing in or trial of this action.

III. REQUESTS

REQUEST FOR ADMISSION NO. 1:

Admit that on December 5, 2007, you signed and filed the assignment of patent numbers 5,566,073, 5,904,724, 6,377,436 and 5,978,488 (the "patents") with the United States Patent Office, as attached hereto as Exhibit A.

REQUEST FOR ADMISSION NO. 2:

Admit that you falsely represented to the United States Patent Office that "Jed Margolin based on a Power of Attorney dated July 20, 2004 to: Optima Technology Corporation (CA)" was conveying its rights to the patents to Optima Technology Corporation (NV). See Exhibit A.

REQUEST FOR ADMISSION NO. 3:

Admit that you knew when you submitted the assignment of the patents on December 5, 2007 that you did not have the power or the authority to assign the patents to Optima Technology Corporation (NV) and therefore you knew your representation to the United States Patent Office was false.

REQUEST FOR ADMISSION NO. 4:

Admit that when you filed the assignment for the patents on December 5, 2007 that you intended to fraudulently induce the United States Patent Office to record the assignment of the patents.

REQUEST FOR ADMISSION NO. 5:

Admit that by fraudulently signing and filing the assignment of the patents with the United States Patent Office on December 5, 2007, you wrongfully exerted dominion over the patents and thereby knowingly deprived Jed Margolin of his rights and use of the patents.

REQUEST FOR ADMISSION NO. 6:

Admit that you knew you were unjustified in signing and filing the assignment of the patents with the United States Patent Office on December 5, 2007.

REQUEST FOR ADMISSION NO. 7:

Admit that you knew that by filing the December 5, 2007 patents' assignment with the United States Patent Office that you would interfere with Jed Margolin's patent rights, including the royalties due to him under the patents.

REQUEST FOR ADMISSION NO. 8:

Admit that at the time you signed and filed the assignment of patents with the United States Patent Office on December 5, 2007, you knew Jed Margolin had a valid contract with

Optima Technology Group where Optima Technology Group promised to pay Jed Margolin patent royalties to Jed Margolin based on the license of the 5,566,073 and 5,904,724 patents.

REQUEST FOR ADMISSION NO. 9:

Admit intentionally filed the assignment of the patents on December 5, 2007 with the United States Patent Office with the intent and design to disrupt and interfere with the contractual relationship that Jed Margolin had with Optima Technology Group.

REQUEST FOR ADMISSION NO. 10:

Admit that you were aware of Jed Margolin's prospective business relations with licensees of the patents.

REQUEST FOR ADMISSION NO. 11:

Admit that you purposely, willfully and improperly attempted to induce Jed Margolin's prospective licensees to refrain from engaging in business with Jed Margolin.

REQUEST FOR ADMISSION NO. 12:

Admit that on and after December 5, 2007 you purposely, willfully and improperly induced Jed Margolin's prospective licensees to refrain from engaging in business with Jed Margolin.

REQUEST FOR ADMISSION NO. 13:

Admit that on December 5, 2007 you wrongfully obtained record title to the patents, without any justification.

REQUEST FOR ADMISSION NO. 14:

Admit that on December 5, 2007 you knew and were aware that record title to the patents was valuable and that there were benefits to be derived from having record title.

REQUEST FOR ADMISSION NO. 15:

Admit that you unjustly benefitted from the use of the patents, which were the property of Jed Margolin, and you did not compensate Jed Margolin for such wrongful use.

REQUEST FOR ADMISSION NO. 16:

Admit that by filing the December 5, 2007 assignment of the patents that you knowingly and intentionally interfered with the business relationships of Jed Margolin without

any consent or authority from Jed Margolin.

REQUEST FOR ADMISSION NO. 17:

Admit that you intentionally interfered with and disrupted Jed Margolin's contract with Optima Technology Group.

REQUEST FOR ADMISSION NO. 18:

Admit that you knowingly and intentionally made false representations to the United States Patent Office regarding the assignment of the patents on December 5, 2007 and therefore you knowingly and willfully committed unfair and deceptive trade practices under NRS 598.0915 et seq.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: July 16, 2012

WATSON ROUNDS

BY: */s/ Adam McMillen*
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Plaintiff's First Set of Requests for Admissions to Reza Zandian**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Dated: July 16, 2012

/S/
Carla Ousby

Exhibit 4

Exhibit 4

WATSON
WR
ROUNDS

MICHAEL D. ROUNDS [1]
MATTHEW D. FRANCIS [2]

ARTHUR A. ZORIO [1]
RYAN E. JOHNSON
MATTHEW G. HOLLAND
ADAM P. McMILLEN [2]
ADAM YOWELL [1]
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OF COUNSEL-
KELLY G. WATSON [1]
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[1] Also licensed in California
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Reply to: Reno 1

September 10, 2012

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Re: *Margolin v. Zandian, et al.*
First Judicial District Court, Case No. 090C00579 1B

Dear Mr. Zandian:

On July 16, 2012, we served you with Plaintiff's First Set of Requests for Admission. Your responses to those requests were due on or before August 20, 2012. However, you have not yet responded. "The sanction for failure to serve timely answers or objections to requests for admissions is that all matters in the request are deemed admitted." *Wagner v. Carex Investigations & Sec. Inc.*, 93 Nev. 627, 630, 572 P.2d 921, 923 (1977).

Also, on July 16, 2012, we served you with Plaintiff's First Set of Interrogatories. Since you did not respond to the interrogatories, any objections to the interrogatories are deemed waived. *See* NRCP 33(b)(4). In addition, as the requesting party, we "may seek an order compelling discovery if the other party 'fails to answer an interrogatory submitted under Rule 33.'" *United States v. Parker*, 2:08-CV-01200-LDG, 2011 WL 5325475 (D. Nev. 2011) (*citing* Rule 37(a)(3)(B)(iii)). "An evasive or incomplete response must be treated as a failure to respond." *Id.* (*citing* Rule 37(a)(4)).

Also, on July 16, 2012, we served you with Plaintiff's First Set of Requests for Production of Documents. You did not respond to these requests either. "Rule 34 permits each party to serve the opposing party with document requests, and states that the party 'to whom the request is directed must respond in writing within 30 days after being served,' unless the parties stipulate or the court permits a shorter or longer time period." *Haddad v. Interstate Mgmt. Co., LLC*, 2:11-CV-01265-PMP, 2012 WL 398764 (D. Nev. 2012) (*citing* Fed. R. Civ. P. 34(a) and (b)(2)(A)). "If a party fails to file timely objections to [discovery] requests, such failure constitutes a waiver of any objections which a party might have to the requests." *Ramirez v. County of Los Angeles*, 231 F.R.D. 407, 409 (C.D. Cal. 2005) (*quoting* Krewson v. City of Quincy, 120 F.R.D. 6, 7 (D. Mass 1988)); *see also Richmark Corp v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) (holding that the "failure to object to

discovery requests within the time required constitutes a waiver of any objection.").

It is hereby demanded that you respond, without objection, to the requests for admissions, the requests to produce documents (including the actual production of documents), and the interrogatories no later than September 17, 2012. If you do not provide proper responses to these requests by September 17, 2012, we will be forced to immediately file a motion to compel such responses. *See* Rule 37(a)(3)(B)(iii) and (iv).

Please call me with any questions.

Sincerely,

Adam P. McMillen

WATSON ROUNDS
A Professional Corporation